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RICHMOND, VIRGINIA

IN THE SUPREME COURT OF VIRGINIA

M. A. CRAMER, M. G. MURPHY, LARRY C. MOYER, JOHN B. PURCELL, WILLIAM J. RHOADES, AND ROY B. SCHERER appellants,	:	Record No. 730336
V.	:	
THE COMMONWEALTH OF VIRGINIA appellee	:	

APPENDIX TO THE BRIEFS

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COUNSEL FOR APPELLANTS

20 October, 1973

IN THE SUPREME COURT OF VIRGINIA

M.A. CRAMER, M.G. MURPHY, LARRY C. MOYER, JOHN B. PURCELL, WILLIAM J. RHOADES, and ROY B. SCHERER appellants,	:	Record No. 730336
v.	:	
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v.	:	
THE COMMONWEALTH OF VIRGINIA, appellee	:	

APPENDIX TO THE BRIEFS

TABLE OF CONTENTS

page:

Initial Pleading--Order to Show Cause 1

Order and Judgment Appealed From..... 2

Notice of Appeal and Assignments of Error..... 3

Appellants' Exhibits:

1- Information About The Universal Life Church, Inc., ... 6

2- Credentials of Ministry, (pocket card) 10

3- Amended Certificate of Incorporation 11

4- Publication "Universal Life", Vol VII, No. 12., Fall, 1972, article excerpted: "An Emerging, New Role For Religion", by Neil R. Coombs, M.A. 12

5- Petition for Roy Scherer.....15

6- Petition for Mark G. Murphy.....16

7- Charter-ULC Richmond 17

8- Petition for Larry Moyer 18

9- Petition for M.A. Cramer 19

10- Petition for John B. Purcell.....20

Excerpts From Reporter's Transcript.....21

Initial Comments By the Court 21

Robert S. Alley, Direct 23

Qualifications 26

History of §20-23 36

On Ordination.....39

Bond Requirements 42

Cross.....43

By the Court.....54

Redirect.....67

By the Court.....68

Redirect 73

George F. Ricketts.....76

Cross.....78

By the Court.....86

William J. Rhoades.....94

Cross.....97

By the Court.....112

Redirect.....124

By the Court.....128

Recross.....130

By the Court 131

Roy B. Scherer 132

Cross.....134

By the Court.....139

Recross.....148

Objection as to Questions concerning beliefs.....150

Mark Gary Murphy, Direct.....153
Cross.....156
By the Court.....167
Jeffrey Eugene Kelso, direct.....172
Cross.....180
By the Court.....187
Recross.....192
By the Court.....196
Redirect.....197
Recross.....198
By the Court.....199
Larry C. Moyer, direct.....205
Cross.....207
By the Court.....208
Morris Ashton Cramer, Direct.....208
Cross.....210
By the Court.....214
John B. Purcell, direct.....215
Cross.....218
By the Court.....224
Richard A. Turner, direct.....225
By the Court.....235
Mary Lacy, by the Court.....237
By the Commonwealth.....239
Ruling of the Court.....240
Motions after Judgment.....246

INITIAL PLEADING - ORDER TO SHOW CAUSE
December 11, 1972

Pleas at the Courthouse of the City of Richmond, before the Hustings Court of the said City, on the 1st day of March, 1973.

Be it remembered that heretofore, to-wit, on on the 11th day of December, 1972, the following order was entered:

It is ordered that a Rule be issued for the following persons to show cause, if any they can, why their authorization to celebrate the rites of matrimony in the State of Virginia, heretofore granted by the Court, should not be revoked: Daniel Bond, Michael Kennedy, Jeffrey Eugene Kelso, M. A. Cramer, Juliam B. Vaden, Roy B. Scherer, J. T. Harris, William J. Rhoades, John Bolling Purcell, Larry Conway Moyer, Mark G. Murphy and Thomas R. Morris, said rule made returnable on January 4, 1973, at 2:00 p.m.

ORDER AND JUDGMENT
January 5, 1973

And at the same Hustings Court held for the City of Richmond, at the Courthouse, on the 5th day of January, 1973, the following order was entered:

This day came Mark G. Murphy, M. A. Cramer, Larry Conway Moyer, William J. Rhoades, John Bolling Purcell, Jeffrey Eugene Kelso, in person, and were represented by Attorneys David Thelen and Robert A. Pustilnik, and Roy B. Scherer not appearing but was represented by said counsel, and the Commonwealth was again represented by J. R. Davila, Jr. The hearing resumed, having been continued from January 4, 1973, and the Court having heard all of the evidence and arguments of counsel for the respondents and the Commonwealth, the Court doth Adjudge, Order and Decree that the authority of the above named respondents to celebrate the rites of matrimony in this State, heretofore granted by this Court, be and the same is hereby rescinded, and all orders of this Court, heretofore entered granting such authority, are hereby adjudged null and void.

The respondents by counsel moved the Court to set aside its judgements as contrary to the law and evidence, which motion the Court doth overrule and an exception was duly noted.

It is hereby ordered that the Clerk certify copies of this order to each of the respondents, Attorney for the respondents and the Attorney for the Commonwealth.

NOTICE OF APPEAL AND ASSIGNMENTS OF ERROR
February 5, 1973

Notice is hereby given that M. A. Cramer, M. G. Murphy, Larry C. Moyer, John B. Purcell, William J. Rhoades, and Roy B. Scherer appeal from a final judgment rendered by this court on the 5th day of January, 1973 and announce their intention of applying for a Writ of Error and Supersedeas to the Supreme Court of Virginia.

ASSIGNMENT OF ERROR

The Trial Court erred in overruling the Respondent's Motion to set aside the verdict of the Court as contrary to the law and the evidence in this case because:

1) The judgement violates the establishment and free exercise clauses of the First Amendment to the Constitution of the United States;

2) The judgment violates Article 1, Section 16 of the Virginia Constitution;;

3) Revocation of Universal Life Church Ministers' bonds and licenses to perform marriages and failure to revoke similar bonds of other ministers of other denominations denies the Universal Life Church Ministers the Equal Protection of the law protected by the United States Constitution and the Constitution and the Constitution of the Commonwealth of Virginia.

4) The Universal Life Ministers as respondents were shown by uncontroverted expert testimony to fit within the requirements of Section 20-23 of the Code of Virginia (1950) as amended, and thus are entitled, under the law, to be licensed and bonded to perform marriages by this Court.

5) The respondents proved by their uncontroverted testimony that they were duly ordained ministers of the Universal Life Church, Inc., shown by uncontroverted expert testimony to be a Religious Denomination within the meaning of the statute, and further proved regular communion with their Religious denomination and/or congregation as required by the statute in order to be licensed and bonded to perform marriages.

6) Virginia Code Section 20-23, as applied to the respondents are required to meet a definitional test of "Minister" of a "religious denomination" that the State is constitutionally barred from promulgating and enforcing.

7) Virginia Code Section 20-23 is unconstitutional as applied to the respondents in that it requires "proof of ordination", an imposition of a constitutionally forbidden religious test.

8) Virginia Code Section 20-23 is unconstitutionally vague in that it requires a minister to be in "regular communion with the religious society of which he is a member" without defining "regular" or "communion".

9) Virginia Code Section 20-23 is unconstitutional on its face in that it requires a legal definition of "Religion", "religious society or denomination", "ordination", and "minister", which definitions operate to deny respondents and others similarly situated the rights secured by the First Amendment to the Constitution of the United States, and Article 1, Section 16 of the Constitution of Virginia.

10) The Court erred in holding that respondents were not duly ordained ministers of a religious denomination within the meaning of the statute.

11) The Court erred in holding that the respondents were not in regular communion with their religious society within the meaning of the statute.

12) The Court erred in requiring unity of belief to qualify as a religious denomination under the law.

13) The Court erred in denying respondents' motion to leave one Universal Life Church member bonded and licensed to performed marriages pending this appeal.

14) The Court erred in overruling respondents' objection to questioning upon the substance of their religious beliefs.

Appellants' Exhibit No. 1

INFORMATION ABOUT
THE UNIVERSAL LIFE CHURCH, INC.

Congratulations on becoming a ULC minister, enclosed is your Minister's License and also your Pocket Card. This is your License and Ordination paper. Fill your name in on the first line, then the city in which you live, the State or Province, then the date. One can perform the same services with this license that a minister of any church can perform, i.e. wedding ceremonies, funerals, baptisms, etc. You, as a ULC minister, may ordain other ministers. Simply send us their name and address and we will register them and send their credentials.

1. The ULC has no traditional doctrine. It only believes in that which is right. We believe that everyone has a right to his own conviction and a right to express it. We recognize everyone's belief.

2. The UNIVERSAL LIFE CHURCH is a legal organization. It is incorporated in California and filed in many other States and will shortly be filed in ALL States. We will ordain anyone without question of their faith, for life for a free-will offering.

3. If anyone would like to start a church, we will be happy to furnish them with a charter for a free-will offering of $1.00 per month. The Headquarters of UNIVERSAL LIFE CHURCH will keep the records of your church - all you have to do is to report your activities to Headquarters quarterly. When a church is established, they decide on the types of meetings they wish to have. We have no control over the way you conduct your church services. We recognize everyone's belief. One needs only a Pastor, a Secretary and a Treasurer to have a legal church.

We publish a newspaper and this paper is the way we get information to our people. The Church is so large, it is impossible for us to answer all the mail individually, so we

use the paper for our communication. This will keep you informed with what is going on with the Church. If you would like to have this paper, send $2.00 for one year.

There are now over 1,000,000 ministers and over 9,000 churches under the UNIVERSAL LIFE CHURCH. These ministers and churches are in most of the free world.

"HIGHLIGHTS OF HENSLEY'S LIFE". Read all about Rev. Hensley's life - the important events that brought him to where he is today. This booklet will be mailed to you for a donation to help defray publication expense. Included with your order will be an autographed 8 x 10 glossy picture of Rev. Kirby J. Hensley, absolutely FREE!

"HOLY SMOKE" - Hensley's new record. This album contains an enlightening sermon by Rev. Hensley plus the song, "Holy Smoke". Be sure to get your copy now. We will send this album to you for a free-will offering of only $1.95!

The beautiful new white and gold Universal Flag is the one symbol that all people can identify with the stands for a principle that all people readily adopt, "Peace and Prosperity" here and now. We wish we could give this flag to everyone, however, the cost of making this flag makes this impossible. Your donation of $3.00 or more will help pay the costs.

Now available is the beautiful new Universal Life Church marriage certificate, printed in gold and black. A marriage record is sent with each marriage certificate. The record is to be filled out after each marriage that is performed and sent to church headquarters where a permanent record of all ULC

marriages will be kept. Any ULC ordained minister may perform marriage ceremonies - using the ULC marriage certificate - there is no waiting period and county and state licenses are not necessary. Order a marriage certificate today for a free will offering of $3.00 each.

Order your Flag, Bookley, Album and Marriage License today - UNIVERSAL LIFE CHURCH, 601 3rd Street, Modesto, California 95351.

* * * * * * * * * *

ULC Department of Education

We have a school in Phoenix, Arizona where you can receive a course in American Church Law and Parliamentary Procedure for a free-will offering of $40.00. When you complete this course, you will be awarded a Doctor of Religious Humanities Degree which is an earned degree.

The school in Arizona also offers an honorary Doctor of Divinity Degree. This course consists of 10 lessons and is available for a free-will offering of $20.00. This Degree cannot be awarded to any resident of the State of California.

To obtain these degrees, write to:

Universal Life Church, Inc.
Department of Education
P.O. Box 3528
Phoenix, Arizona 85030

* * * * * * * * * * *

You are now a part of the fastest growing church movement in the world - you can help us attain our goal of one million ministers by telling others about the Universal Life Church

UNIVERSAL LIFE CHURCH, INC.
World Headquarters
601 Third Street
Modesto, California 95351

Respondents Exhibit # 1
1-4-73
/s/ C/W US JRT

Appellants' Exhibit No. 2

(Pocket Card - Face side, Backside)

UNIVERSAL LIFE CHURCH, INC.

Credentials of Ministry

This is to certify that the bearer hereof
NAME _____
ADDRESS _____
SEAL CITY _____ STATE _____ ZIP _____
is ordained by Universal Life Church, Inc.

_____
President - Kirby J. Hensley, D.D.

UNIVERSAL LIFE CHURCH, INC.
601 Third St. Modesto, Calif. 95351
Telephone (209) 537-0053

The Universal Life Church, Inc. certifies that the bearer of this credential, whose name and address appears on the face of this card, is a legally ordained minister in the Universal Life Church, Inc. This certificate of ordination is granted for life, and the holder hereof is entitled to perform all ministerial services, such as: baptismals, marriages, funerals, and to conduct church meetings. The holder is entitled to all privileges and considerations usually granted a minister.

The Universal Life Church, Inc. assumes no responsibility for actions by the holder hereof, for use of this credential for any purpose other than for which it is issued.

Respondents Ex. #2
1-4-73
/s/ C/W Us. JRT

Appellants' Exhibit No. 3

STATE OF CALIFORNIA

Office of the Secretary of State

(Photocopy Certification)

I, EDMUND G. BROWN JR., Secretary of State of the State of California, hereby certify:

That the photographic reproduction hereunto annexed was prepared by and in this office from the record on file of which it purports to be a copy, and that it is full, true and correct.

SEAL

OF

THE

STATE OF CALIFORNIA

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this Dec. 5, 1972

/s/ Edmund G. Brown Jr.

Appended Certificate of Incorporation;
Amendments in material part:
November 16, 1966

. . . "This corporation is one which does not contemplate pecuniary gain or profit to the members thereof and it is organized solely for non-profit purposes. Upon the winding up and dissolution of this corporation, after paying or adequately providing for the debts and obligations of the corporation, the remaining assets shall be distributed to a non-profit fund, foundation or corporation which is organized and operated exclusively for charitable, religious and/or scientific purposes, and which has established its tax-exempt status under Section 501 (c) (3) of the Internal Revenue Code. If this corporation holds any assets on trust, such assets shall be disposed of in such a manner as may be directed by decree of the superior court of the county in which Attorney General or by any person concerned in the liquidation." . . .

Respondents Ex. #3
1-4-73
/s/ C/W Us. JRT

Appellants' Exhibit No. 4

UNIVERSAL LIFE
Vol. VII, No. 12
Fall, 1972
p. 5

AN EMERGING, NEW ROLE FOR RELIGION
By Neil R. Coombs, M.A.

The appearance of the Universal Life Church on the spiritual horizon of American ecclesiastical life marks a bright, new beginning in religious and social affairs. It is, at the same time, a refreshing return to the rudimentary tenets of the founder of Christianity. Through the centuries, many of the teachings of Jesus of Nazareth have been de-emphasized by the entrenched, institutional churches which have been engaged in a scramble for worldly goods; they have failed to say, "get thee behind me Satan" when tempted with wealth. They have been, and still are, rapturously engaged in the real estate business, and in other tax-exempt enterprise instead of the unprofitable, pastoral duties which Jesus commends to them.

For many Christians, a new religious role is emerging for the church and clergy; its message is that people are more important than property, and that true wealth in this and in the next kingdom is not to be measured by a Dunn and Bradstreet rating, but by a resolve to meet human material and spiritual needs. After two thousand years the establishment churches have contributed little to the solution of socio-economic problems. It is, therefore, time for a new theology which is human centered and action orientated. Employment, education, privacy,

housing, economic freedom, and peace are inalienable rights to which every citizen is entitled. The right to a political vote is weakened in a society which operates on an economic level, and in which the focus of power lies in an inadequately regulated economy.

There exists in our blessed country an international, financial empire which is not subject to the will of the popular majority. It is a government within a government presided over not by our elected representatives, but by industrial leaders whose decisions are directed toward making huge profits; the public good is not foremost in the minds of these businessmoguls. Indeed, it is not even considered. Consequently, our country is constantly afflicted with unemployment, pollution, adulterated foods, cheap appliances and inferior merchandise. The super-corporations are not eager to preserve the environment, insure full employment, or produce quality goods. Pride in workmanship has disappeared along with clean air; only profits remain. If our rivers and lakes have to be sacrificed for this purpose, it is deemed permissible; if it means lay-offs for large numbers of people, that is condoned. All human values are subordinated to profits. Small businesses and family farms, once the pride and backbone of American economic life, have been gradually taken over by gigantic, powerful corporations. While there is nothing wrong with making a fair profit, it is morally reprehensible to do so at the cost of human and ecological values.

An alive church and clergy must be involved in the quest for economic justice and security for all Americans.

Employment is sine qua non to being person. Without it there is no self-esteem, no housing, no education, no medical care, no vacation, no medical care, no pursuit of happiness, no life and liberty, and no equal protection of the law. Whether a person has a job or not should not be left to the whim and chance of an impersonal corporation; employment is a God given right of every citizen who wishes it. The individual American is helpless when confronted by the overwhelming financial might of international, corporate feudalism.

For centuries many churches have lulled their adherents into passivity by telling them that their reward would come in the next world. By so doing the status quo was tolerated, and economic suffering endured. Today, however it is advocated that man has every right to enjoy nature and God's creation in this life, and that the Almighty's gifts of love, life, abundance, and happiness belong to all men by birth. The world was put here for all of God's people, and not just for the strip miners, the despoilers of the forest, and the oil drillers. It is time to drive the money lenders from the temple again.

Long Beach, California

* * * * * * * * * *

Respondent #4
1-4-73
s/s C/W US. JRT

Appellants' Exhibit No. 5

We the undersigned, do hereby declare that Rev. Roy Scherer is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Rev. Scherer be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

	NAME	ADDRESS
1.	/s/ Joyce H. Stancil	3024 Stuart Avenue #2
2.	/s/ Jim Sensenbaugh	1844 W. Grace #6
3.	/s/ Debra G. Stamatas	3322 Ellwood Avenue #C
4.	/s/ Betty E. Kane	6807 Hermitage Road
5.	/s/ Barbara Epperley	1103 Grove Avenue #5
6.	/s/ Becky Dowdy	2220 Chalfont Drive Apt. #3
7.	/s/ Margaret C. Bradshaw	2105 Floyd Ave. (work) Schwartzchild Bros, Inc.
8.	/s/ Richard D. Chadick	5716 Crenshaw Road
9.	/s/ Catherine L. Hill	4205 W. Grace St. 23280
10.	/s/ Debra Kay Cavendesh	6415 Millhusen Ave. 23226
11.	/s/ Gerald Gill	7616 B. Village Drive 23228

Respondents Ex. #5
1-4-73
/s/ C/W US.

We, the undersigned do hereby declare that Rev. Mark G. Murphy is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Rev. Mark G. Murphy be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

	NAME	ADDRESS
1.	/s/ Linda N. Todd	1609 Park Ave.
2.	/s/ Joseph P. Kelly	2339 W. Grace Street
3.	/s/ Madeline M. David	3029 Hanover Avenue
4.	/s/ Mrs. T. S. Cramer Baker	414 Park Avenue
5.	/s/ Wendy Bustard	205 N. Rowland Street
6.	/s/ Vernon L. Stant	6826 Montauk Drive

Respondents Ex. #6
1-5-73
/s/ C/W Us. JRT

Appellants' Exhibit No. 7

(Certificate)

UNIVERSAL LIFE CHURCH, INC.

Headquarters: 1766 Poland, Modesto, Calif. 95351 537-0553

CHARTER

This is to certify that UNIVERSAL LIFE CHURCH of RICHMOND State or Province of VIRGINIA has been granted by Universal Life Church, Inc. Modesto

This day

23 October 1969

Board Members

Auddie A. Gardner
S. L. Jamison, D.V.M.
Rt. Rev. Ralph S. Pyle
Lida G. Hensley, Secretary

SEAL

No. 4924

Respondents Ex. #7
1-5-73
/s/ C/W/ Us. JRT

Appellants Exhibit No. 8

We, the undersigned, do hereby declare that Rev. Larry Moyer is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Rev. Larry Moyer be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

	NAME	ADDRESS
1.	/s/ Joseph R. Owen	Rt. 2, Box 115, Richmond
2.	/s/ M. A. Cramer	5203 Devonshire Rd.
3.	/s/ Edith Trudy Mahone	1108 W. Franklin Street, Apt. 103
4.	/s/ R. O. Warren	3406 W. Grace St. Apt. 6, Richmond
5.	/s/ Cheryl Drake	2014 Stuart Avenue, Richmond
6.	/s/ George Augustes Halsach	2305 Spencer Road #3 Richmond
7.	Mack G. Murphy	1507 Grove Ave. Richmond

Respondents Ex. #5
1-5-73
/s/ C/W Us. JRT

Appellants Exhibit No. 9

We, the undersigned, do hereby declare that Rev. M. A. Cramer is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Rev. M. A. Cramer be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

	NAME	ADDRESS
1.	/s/ Michael Barry Pulstein	907 Hilltop Drive
2.	/s/ Larry Conway Meyer	2317 Park Avenue
3.	/s/ Kenneth Reveley Hoen	309 Dundee Avenue
4.	/s/ Edwina Hill Hoen	309 Dundee Avenue
5.	/s/ Raymond E. Ryan Jr.	309 Dundee Avenue
6.	/s/ W. Arlene Moore	309 Dundee Avenue
7.	/s/ Robert S. Bouce Jr.	1711 Hanover #5

Respondents Ex. #9
1-5-73
/s/ C/W Us. JRT

Appellants' Exhibit No. 10

We, the undersigned, do hereby declare that Rev. John B. Purcell is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Rev. John B. Purcell be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

	NAME	ADDRESS
1.	/s/ M. Mason McConnaughey	106 N. Allew Avenue
2.	/s/ Wayne Peterson	838 W. Grace Street
3.	/s/ Owen Yate	2703 Seminary Avenue
4.	/s/ Elaine Bragg	1006 Park Avenue #3 City
5.	/s/ Dale Long	1006 Park Avenue #3 City

Respondents Ex. #10
1-5-73
/s/ C/W Us.

EXCERPTS FROM REPORTER'S TRANSCRIPT

[5]

THE COURT: You gentlemen represent Messrs. Murphy, Scherer, Dr. Rhoades and Mr. Purcell, is that correct? Now, gentlemen, before we hear evidence, the Court would like to make a statement for the record, if it may, to simplify the issue to some extent.

First of all, I'd like to say to you representing these four and to all other persons who are here to represent themselves that you are asked to appear here to show cause why the authorization previously granted to you by the Court to celebrate the rights of matrimony in this State should not be rescinded; that for the record the Court would like to note that it has just recently come to the attention of the Court that a number of such authorizations have been granted by the Clerk's Office during recent years without knowledge of the Court; that in the light of the facts now known to it, the Court is questioning whether the so-called ministers of Universal Life Church meet the criteria of Section 20-23 of the Code and whether the orders

[6]

previously entered authorizing the respondents to perform marriages in Virginia should not be rescinded. Section 20-23 makes it clear that the Court has the power to rescind, that we want -- have called you in here to give you an opportunity to show, if you can, that you do qualify under Section 20-23.

I want to call it to the attention of all of you that the burden on a show-cause order is upon you to go forward with the evidence.

I think the issues might be clarified to some extent by telling you at the outset what the Court thinks you need to prove in order to meet the requirements of Section 20-23:

The Court feels you must prove that within the meaning of the statute, one -- and I'll do this slowly so counsel can get these down -- that the Universal Life Church is a religious denomination within the meaning of the statute; two, that the respondents who are duly ordained ministers of that denomination; three, that the respondents here are members of a

[7]

religious society, I think, or congregation -- the word congregation is not used in the statute but I think that's the sense in which religious society is used -- if you are a member of a religious society or congregation which is part of the religious denomination; and, four, that each of the respondents is in regular communion with this religious society or congregation.

* * * * * *

[11]

ROBERT S. ALLEY, introduced on behalf of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Doctor Alley, would you state your full name to the Court, please?

A Robert Sutherland Alley.

Q Are you -- will you state your occupation to the Court?

A I'm Associate Professor of Religion at the University of Richmond.

Q Are you an ordained minister and, if so, of what church?

[12]

A I'm an ordained minister, ordained by the First Baptist Church, of Richmond, Virginia.

Q Do you hold a certificate to perform marriages, bonds entered in Court, if so, what Court?

A Yes, here in this

Q In the Hustings Court

A City.

Q of the City of Richmond?

A Yes, that's correct.

* * * * * *

Q Have you -- how long have you been a Professor of Religion at the University of Richmond?

A Ten years.

Q Where did you receive your doctorate?

A Princeton University.

Q In what field?

A In the field of American Religious and Political Thought, Eighteenth Century.

Q Then you are familiar with the legislative history of the Virginia Bill for religious freedom and the statutes now in question?

A Yes, my work towards the doctorate degree included dissertation in this area, yes, sir.

[13]

Q Could you list some of your publications in this area for the Court?

A I have written several articles on the question of Church and State separation in dealing with the matter of prayer amendments proposed in the Federal Congress and as well, have written a book on the question of religion and the presidency entitled, So Help Me, God, which is just recently published.

THE COURT: Mr. Thelen, I -- it may save us some time by saying the Court doesn't question the constitutional principle of the separation of Church and State.

MR. THELEN: Yes, Your Honor.

THE COURT: I don't know how -- whether this is what you're trying to develop through the witness but there's no question about this.

MR. THELEN: Thank you, Your Honor. I would move then that he qualify as an expert witness in this Court.

THE COURT: All right, does the Commonwealth agree that this gentleman's qualified -- I don't know in what field you are

MR. DAVILA: That's my question,

[14]

what field would he qualify in.

MR. THELEN: As an expert

THE COURT: Theology?

MR. THELEN: of the statutes in question as well as on that -- the question of the legal duties of a minister in performing marriage.

THE COURT: Well, I don't think the Commonwealth particularly -- Mr. Davila can speak for himself, I don't think he would dispute he's an expert in the field of theology probably, but -- Mr. Davila, you may speak for yourself.

MR. DAVILA: All right, may I interrogate the witness?

THE COURT: Yes.

BY MR. DAVILA:

Q Dr. Alley, you say you did a dissertation in this area, is that -- what area are you speaking of now, religion in general, or what particular area?

[14]

A Eighteenth century Virginia political and religious history.

Q Eighteenth century?

[15]

A That's correct.

Q All right, sir, did that entail any specific instruction on your behalf or research regarding statutory codified provisions?

A It involved a study both of the development of the whole matter of religious freedom and religious liberty in Virginia and the development of statutes in the General Assembly relating to questions such as marriage and the establishment of the Church.

Q What specific sections do you recall related to marriage?

A Well, I am dealing now with the statute which was passed in December of 1780 in the State of Virginia by the General Assembly and again in 1784 in a broader perspective, which gave -- finally produced freedom of all denominations, not only the Anglican Church to perform marriages in the State of Virginia.

Q Yes, sir, are you familiar with the statutory provision that's confronting the Court today?

[15]

A Yes, I read it, I have not --

Q When did you read it, sir?

A I read it today.

Q And is that the first time you've read it, sir?

[16]

A That particular statute, yes.

Q All right, sir, then you are not familiar with the history behind this statute as far as enactment is concerned, are you?

A I am familiar with the enactment of the statute respecting the matter of marriage in the Eighteenth century that brought equality to all denominations, that is --

Q I don't question your qualification --

A I do not contend any expertise in the legal development of the statutes of Virginia in the nineteen and twentieth centuries, if that's what you are asking.

* * * * * *

Q So, Dr. Alley, the first time you've read the particular statute that is confronting the Court today was today?

[17]

A That's correct.

Q All right, sir. And had you talked to any of the proposed sponsors of this particular codified provision when it was originally enacted, number one, or, number two, when it was amended?

A No, I have not.

Q Do you know if there have been any amendments to this codified section?

A From my reading this morning I assume that there have been from time to time amendments.

Q Would that -- would that be because you read it in the back of the Code or did you have the Code in your hands

A Yes.

Q at the time? And did you go to the back pocket supplement?

A Yes.

Q And would you assume that there was an amendment because of that?

A That was an assumption which I made, which may be an error, as I say I do not contend to be an expert on twentieth Virginia law.

[17]

Q You do not pretend to be an expert on Twentieth century

[18]

A Virginia law.

Q marriage law?

A That's correct.

Q But you do pretend to be an expert on eighteenth century marital law?

A I do not pretend to be an expert, I am an expert

Q All right, I'll check that,

A in the area of --

Q but now the eighteenth century, the eighteenth century, sir, is that in fact the eighteenth century you are speaking of?

A The eighteenth century in Virginia, seventeen hundreds, yes.

Q All right, and behind that or the nineteenth century and the twentieth century, you're not familiar with?

A I am not familiar with the statutory developments in Virginia law since -- in the nineteenth and twentieth centuries, that's correct.

[18]

Q When did you --

A any more than a general way, I'm aware --

Q When did you post your bond and

[19]

receive your license to marry?

A It's been two years, I think.

Q Two years ago?

A Yes, sir.

Q Did you at any time go into depth of study, as far as performances which you were supposed to do in the performing of marriages?

A Yes, I'm familiar with the marriage ceremonies of the tradition of which I am a part.

Q And that's in the Baptist faith?

A Well, in a broader context within the Christian tradition, yes, sir.

Q Now, you say you are an ordained minister?

A That's correct.

Q Would you tell the Court, please, how you became an ordained minister?

[19]

A I was ordained by the First Baptist Church of Richmond in the spring of 1956, because I was a member of that church and requested ordination of that church.

Q Was this as a result of -- result of some academic, formalized training, sir?

A That's correct.

Q And would it be fair to say that they

[20]

accepted you on your academic background plus your knowledge in theology

A Yes.

Q and your personality?

A Yes, that --

Q Sir, I have no further questions.

MR. DAVILA: I submit to the Court, if Your Honor please, that with reference to the issue before the Court today, 20.23, this man does not qualify as an expert.

MR. THELEN: Your Honor, might I argue that Section 20-23 is a direct result through the years of the Statute for Religious Freedom and the political battles of which Dr. Alley is an acknowledged expert that took place

[20]
in the eighteenth century and that in fact, the legislative history of those particular statutes which are remarkably similar and have been carried forward and in fact into the new Virginia constitution would make him an expert on the legislative history of the present statute.

THE COURT: Well, Dr. Alley obviously isn't qualified to testify that 20-23 arose from statutes with which he is familiar, he said he

[21]
never saw 20-23 till this morning. This would certainly be the Court's conclusion, that he's not qualified to testify what the origins of 20-23 are.

I don't want to go into a whole lot of philosophical history that doesn't pertain to the issue at hand, that's what I -- I'm trying to keep this thing narrowed down to the issue we're dealing with, religious history is very interesting but we must get on to the issue here.

MR. THELEN: As I understand the issue in 20-23, Your Honor, the question is

[21]

whether or not there is to be discrimination among religions or whether a particular religion can qualify. The legislative history here, I think, here bears considerable import on the meaning of many of the words in the whole phraseology of 20-23 --

THE COURT: Well, if the testimony goes to the phraseology of 20-23, I'll -- I'll hear such testimony as relates to that, because that's what we're talking about, the interpretation of certain phrases in20-23, but I'll ask

[22]

you to confine Doctor Alley's testimony to that.

MR. THELEN: Might he also testify as to his experience as a minister and

THE COURT: Certainly.

MR. THELEN: requirements of an ordained minister in -- in legal requirements

. . . . . .

THE COURT: Yes -- you mean in his own church, or is he a United Life Church?

MR. THELEN: In his own experience.

[22]

THE COURT: What's that?

MR. THELEN: In his own experience.

THE COURT: But I mean, are you asking that he be allowed to testify as to experience as an ordained minister qualified to perform marriages in his own church, or has he been a United Life Church member, and is this what you're talking about?

MR. THELEN: No, Your Honor, in -- in his own church.

THE COURT: Yes, you may proceed along those lines.

* * * * * *

[23]

THE COURT: What -- what we want to know is whether they are a recognized religious

[24]

A Yes,

THE COURT: denomination, meeting the other

A right,

THE COURT: criteria

A I -- I understand that, I --

[24]

THE COURT: of the statute, we want to keep this confined

A Right.

THE COURT: to the statute because that's what we're dealing with.

A If I can -- very quickly, in 1776, in the colony born State of Virginia, the Anglican Church, or the Episcopal Church could solemnize marriages, dissenters could not, under the statutes of Virginia. After long and arduous effort on the part of dissenter -- dissenting ministers and dissenting laity, urging the change of the statutes, finally, in 1780, the statute was altered so as to allow all dissenters in the Colony or State of Virginia to perform marriages, but with certain restrictions still there retained with respect to how many could perform marriages in a given area, whereas this was not the case with the Anglican Church. In 1784, in conjunction with the disestablishment of the Anglican Church, there was at the same time a bill on December

[25]

the 15th, 1784, passed in the General Assembly on third reading which gave equal treatment to all dissenting groups in Virginia with respect to solemnizing marriages.

[25]

Now, the point that I would make as historian is that Baptists and Quakers and Mennonites in Virginia, from the period 1776 or prior to that for that matter, but taking that date as starting point, until 1784, were discriminated against on the ground that their ordination did not fit within the State's view of what ordinations should be, and that the final decision in 1784 to give equal treatment to all denominations followed quickly by the Jeffersonian bill for establishment of religious freedom incorporated in the present Constitution in Section 16 of Article 1, that that, in conjunction -- those two in conjunction, say to me that historically in Virginia, once the State of Virginia determines that any minister or any participant in a religious group can perform a marriage, it is no longer the prerogative of the State to determine anything other about that group if it says it be a religious denomination, and that this was the issue -- this was the issue in 1784, and as I read it, is the issue presently, that once the door is open with respect to this matter, there is nothing that can be done other than to say, if you qualify as a denomination or a sect, there can be no discrimination, no adverse action that would suggest that

[26]

one sect has legitimacy over another.

[26]

This group presently contends to be a sect or denomination and from my understanding of theology and history they so qualify, therefore, there is no reason, under the history of Virginia law, to do other than to follow the same precedent that the Baptists and Quakers of 1784 experienced.

Q You would then liken the Universal Life Church of 1972 to the Baptist or Quakers of the eighteenth century?

A Yes, in the sense that they are somewhat out of line with the standard norms that are perceived to be the norms of the community.

Q But you believe that the legislative intent in -- in 1780's was to provide for all ordained ministers who claim to be ministers of dissenting sects to be able legally to perform marriages?

A That's correct.

Q Could you explain a little bit more fully why you believe the Universal Life Church of 1972 qualifies as a religious denomination?

A Well, let me say that I think that by its very nature and character and its point of view it qualifies as religious because it asserts that it is in search

[27]

for truth and that it accepts searches for truth as on equal footing with all other searches for truth, which sounds very much like Jefferson in the eighteenth century, and I would contend that by any definition this group qualifies as a religious group, and I don't see how, reading the literature of the group, one could contend otherwise.

Q And you have read the literature?

A That's correct.

Q Would you outline what you perceive to be the legal requirements of a religious celebrant of marriage under the Virginia Statutes, what does he have to do to comply with the law?

A He has to sign the marriage certificate.

Q He does not have to do anything further legally other than return the certificate?

A That's my understanding.

Q Is it possible to become an ordained minister in, say, the Baptist Church without having gone to divinity school, or gone through a period of religious training?

A One can become an ordained minister in the Baptist Church with no education at all.

Q What does it require at the minimum

[28]

to become an ordained minister in the Baptist Church?

A That a -- that a particular Baptist church in some place, wherever, be it ten or a thousand members, decide to ordain a particular person because they want to ordain him, irrespective of his training, his background, or anything else, other than they think he should be ordained.

Q If the Universal Life Church of 1972 continues to be bonded and authorized to perform marriages, if it is found to fit within the meaning of 20-23 of the Virginia Statutes, do you think any adverse results would come about in a religious, legal context in Virginia, would it lead to chaos?

A I would certainly not see any reason why it should, no.

Q With regard to the requirements for ordination, backing up one question, you said that all you have to do is have a particular church, by this do you mean that there has to be a building, or a regular congregation, or -- what -- what are the requirements for a Baptist Church in order to ordain a minister?

A Well, a Baptist Church certainly does not require a building any more -- there are other dissenting groups, we're dealing with Baptist, maybe perhaps because I know Baptists and I do consider myself to be an

[29]

expert there, but Baptists do not require a building, and would require, I would think by the Biblical injunction, two or three people could ordain a minister, where they are gathered together, according to the Biblical words, where two or three are gathered together in my name, there am I also.

Q Then if the founding members of the Universal Life Church were Baptists, the president, vice president, secretary and treasurer could certainly ordain ministers, could they not?

A It would be irregular, but given a proper structure, it would be done, yes, I -- the structures are different, but it -- any group that constitute themselves by their own decision as a Baptist Church, be it three people or a thousand, can ordain anyone they chose.

Q And that minister ordained by two or three, or a five hundred member church, could, of course, apply to this Court and be bonded to perform marriages, having submitted proof of ordination, that is, a letter from his congregation, and evidence of regular communion with his church?

A That's correct, that's certainly what -- what happened in my case.

Q How large is your church?

A Presently, I -- the church I -- of

[30]

which I am a member is around fifteen hundred members.

Q Are you a pastor of any individual congregation or a --

A No, I never have been.

Q So, then, you do not have a congregation that looks to you as your spiritual leader?

A No.

Q But you are a minister and ordained by the Baptist Church?

A By first -- you need to clarify that I am ordained by one single Baptist Church,

Q Uh huh?

A the First Baptist Church of Richmond.

Q And you are licensed by this Court to perform marriages?

A That's correct.

Q Did you submit when you applied for your bond to perform marriages in this Court, did you submit any evidence of being in regular communion with your denomination?

A No, I didn't.

Q Do you know what being in regular communion with your denomination means?

A No, I do not.

* * * * * *

[31]

CROSS EXAMINATION

BY MR. DAVILA:

Q Dr. Alley, you stated that you had read over, or rather you were familiar with the workings of the Universal Life Church?

A Uh huh.

Q When did you become familiar?

A Well, I've become familiar over the past several months, I -- in the process of learning about the existence of the group through various news reports, I have become interested in what is involved and what this particular group does.

Q Well, sir, let me ask you this, since the publicity of rules regarding the show cause order, the issuance of the show cause order by the Court, did your interest begin then?

A Well, historically, as a -- as a historian of religion, it began before that, but a specific interest in finding out what is involved in specifics about the group, I would say has -- has germinated in very recent weeks, yes.

[32]

Q Yes, sir, was it as a result of the publicity attached to this specific incident?

A Yes, I would say so.

Q And that is with reference to the Universal Life Church?

A Yes, that's correct.

Q Had you studied the Universal Life Church to any degree prior to that time,

A No --

Q that is, the time it appeared in the paper.

A No.

Q So your studies actually began approximately two months ago?

A In terms of any investigation -- thorough investigation -- I was familiar with the group before the publicity.

Q Yes, sir, now what has been the extent of your investigations, besides periodicals and the newspapers?

A Reading publications and reading on -- in two or three volumes on recent historical studies of the church on Christian deviant groups there described, getting some picture of this through that.

Q Yes, sir, reading publications now, do they include -- they include treaties, or -- or what -- what does that include?

A Well, it includes the regular publication the group puts out.

Q The -- the -- when you speak of the group, now is that Universal Life?

A Yes, Universal Life.

Q Are they pamphlets, or are they in hardback form, or what?

A No, they are in newspaper form.

Q Newspaper form?

A Yes.

Q I see, approximately how many of those have you read, sir?

A Three.

Q Three? What else have you read with reference to the Universal Life Church?

A I read two different sections of historical studies, recent historical studies of the -- of the church, published by -- one by Abingdon Press, and I don't remember the other, but I -- I just can't give you the titles of the books, but there are two books that are available.

[34]

Q Do the books in their entirety deal with Universal Life Church?

A No, they do not, they -- they are dealing with several groups, in one case dealing with groups such as the Mormons, Unity, other groups of this type, which are by this particular author called Christian deviations.

Q I see, approximately how much of the book was devoted to Universal Life Church?

A Approximately one-sixth in this case.

Q And how many pages?

A I don't know, twenty-five, thirty, something.

Q Now, have you ever had occasion to read the by-laws of this particular church, or any articles that would refer to the incorporation status?

A No, I have not.

Q All right, have you ever read anything in the incorporation status that pertains to the purposes of the church?

A I read the purposes of the church, now whether they were in incorporation form, no, I --

Q Does this --

A I read them as they were published

[35]

by Mr. -- Mr. Hanley, I believe.

Q And were -- where -- where did this come from, do you know?

A In California.

Q California?

A It's Fresno, I believe.

Q You made the statement that they were out of line with the known standard norm, I believe, what do you mean by that, sir?

A Well, when you -- as a historian whether it be of religion or anything else, if I am going to take as some kind of norm or standard for making historical judgments, what has been the majority position with respcect to the -- let's say, the Christian Church, then by that tradition, this would be a gadfly type of operation, not dissimilar from other groups that have arisen in the past two thousand years of the history of the Christian Church.

Q You made the statement that marriages performed by the subjects of this litigation would not lead to any chaos, you, obviously, have the power of foresight, can you explain that a little bit, please?

A Only that in my understanding of the law as it applies to me, the issuing -- issuance of a license to marry -- to marry between two consenting persons

is the admission that marriage is an act of the State and that as far as religious figures are concerned, it is a ritual act that is performed by any given religious figure, whether it be myself, or anyone else, and that I see no reason as long as the State controls the licensing of marriages why this should lead to anything other than persons who want to be married in this particular fashion getting married in this particular fashion.

Q How do you think the State controls marriages, Dr. Alley?

A It controls marriages by issuance of license.

Q By issuance of licenses?

A By the licensing to get married, I -

Q Is it your belief that ministers can only perform this ceremony?

A No.

Q Huh?

A No, it is not my belief, I -- the ceremony can be performed by ministers by statute, it can also be performed by officers of the State.

Q And are you familiar with Section 20-26, whereby it is stated that marriages between members of religious societies, whereby they have no minister, can be

[37]

performed?

A Yes, this is -- this is in the case of Mennonites or Quakers, this was in the 1784 bill as it stood.

Q Now, Dr. Alley, what is the -- give me the benefit of your thinking in reference to the use of the phrases, religious denomination?

A Well, this is where the -- the -- rather, that the problem arises. When you're talking about a religious denomination, you can mean normally the denomination and sect, the words are used together as they are, as you are familiar with the 16th Section of Article 1 of the Constitution of Virginia, describing denomination and sects, and so sects, it seems to me, must come under the same definition, but it's so broad that it -- it seems to me historically any group that has just the slightest connection with religious senses or religious traditions will qualify as a sect, no matter how small, no matter how strange the views may be in relation to the majority, so it seems to me that, one, to define denomination and sect is to say that any group that claims to hold views with respect to religion, or denial of religion, can qualify as a sect, and as I suggested, I -- I don't see how the State can make any determination without advocating one over another.

[38]

Q Are you familiar with the fact that the statute also uses the phraseology -- phraseology religious society?

A In the 20-23?

Q Yes, sir?

A Right.

Q What is the meaning of that to you?

A Well, I assume that religious society had some meaning in the -- in the mind of the author of that -- that, I do not know, because religious society could be astrology, or something of this type, which -- sect and denomination have generally been related to Christianity through the history of -- religious history in the West. Normally you talk about a sect or a denomination,you think Christian, thought it may be inclusive of Judaism, but not normally, let us say, astrology or something of this sort.

Q Does the fact that the statute uses the words, minister, ordained, bother you at all?

A Well, I -- the fact that the statute uses ordained minister, it seems to me, either it has to be applied in such a broad way as to be meaningless, or it becomes unconstitutional.

Q And what about the use of the phrase regular communion?

[39]

A Well, there, either regular communion, has a non-technical meaning, or again the law, it seems to me, treads in an area it has no business treading in, and, therefore, I read it as meaning regular communication, or regular relationship, but not defined in any doctrinal or religious sense, you might have communion, therfore, by letter, or by a seance, where you've got a very broad definition of -- with communion, and this is the way I would have to interpret it, again pinning my views on Section 16 of Article 1 of the Constitution.

Q In your opinion, Dr. Alley, do you feel that there should be any standards or criteria set forth by law with respect to those who can perform marital ceremonies?

A I don't see how the State can.

Q No, do -- well, you don't see how the State can, is that based on

A Constitutionally.

Q past history? Constitutionally?

A Constitutionally.

Q Well, could you leave that to the Courts and tell me the benefit of your thinking?

A Well, it seems to me that the State has two choices, and it can say only the State performs marriages, and, therefore, no religious groups can perform

[40]

marriage, that's -- that will be perfectly all right, I wouldn't advocate that, but that would be legitimate, or it can say, ritualized marriages is legitimate in our society, therefore, all groups of any religious persuasion at all can ritualize a marriage. I would say one or the other, but nowhere between.

Q Then you have quarrel with this statute, do you?

A No, not if I interpret it in the broadest sense, I'm not claiming

Q Is your --

A it is unconstitutional.

Q Is your concern here today as to how it is going to be interpreted, or is your concern here today that you are totally opposed to the statutory provision?

A I'm not opposed to the statutory provision, I am concerned that any interpretation that would give advantage to one sect over another, which I see this as doing, would be detrimental in Virginia to the best traditions of separation of Church and State, with -- and I understand that the Court is concerned about this, and I have no question about that, but I am concerned that this issue treads in that area, and I -- I -- I want to save it, and I want to save it at all cost, and that is what we -- what we've earned by long

[41]
arduous task of working for it in the eighteenth century.

Q Do you feel there should be standards and criteria?

A Standards and criteria for what?

Q For issuing these marital licenses?

A Not really.

Q You don't think so?

A I think you just have to say, if a person comes and says I am a minister and I am in communion with two or three people and I want to perform marriages, or -

Q So the words communion do have significance in this statute and the word minister?

A I don't think the minister has significance, it seems to me that the use of the word minister is gratuitous because then you have to come back and eliminate it for Quakers,

Q Well,

A and --

Q can I ask you this, then, your only concern -- or rather, your concern is with -- with the -- all the phraseologies in the statute, with the exception of the word communion?

A My concern is that any application of this statute be absolutely and totally devoid of any Court

[42]

or General Assembly action that would seek to define what is and what is not religious.

Q All right, sir, would an example be a person who, say, is sitting in his office or walking down the street, he says I'm going to create a religion, he has no communion with anyone else, would he be entitled to marry people,

A I think he would.

Q according to your explanation?

A I think he would, I don't know if under the statute, you --

Q Well, excluding that for the time being?

A I think that religion is a very -- to some people religion is a very private and personal thing, that it is absolutely individual, now, if you're going to perform a marriage, you've got to have two other people to agree with you, that want you to do it, so that's three.

* * * * * *

[44]

BY THE COURT:

Q I want to ask you a few questions,

A Yes, sir.

Q Doctor? You made the statement at

[44]

one point, I'm not sure you're saying that now, that you feel that in order to be authorized to perform the marriage ceremony that a -- the particular sect or group, or whatever you wish to refer to them as, must establish itself as a religious denomination and the person to do the ceremony should establish themselves as a minister of that denomination, am I misquoting you?

A Well, I -- you may not be, sir, I -- I -- I may have put it in that phrase -- that way of phrasing, but what I -- I have to add that it is my feeling that the word of the person who comes with this is and must necessarily be sufficient qualification to say that he is of such a religious tradition, I don't know that I'd put the word minister there, I may have, I may have, if I did, I probably was in error because --

Q Well, then are you saying that you don't think that the person need call himself a minister, if he can establish himself as a member of a religious denomination he shoudl be allowed to perform marriages?

A Yes, and I think this is done by

[45]

the Quakers, by the law.

[45]

Q Let me get back to this. Mr. Davila asked you this, but I -- I really didn't understand your answer, what is your definition of a religious denomination?

A When -- when more than one person determines that they will carry out what they construe to be religious activities.

Q Therefore, that gets us to another question, what do you consider to be the definition of religious -- now, of course, it's perfectly obvious that religious means pertaining to a religion, so let me ask you what -- what your definition of the word religion is?

A Well, now, let me make it clear that I think I can do that privately and you can do that privately, the contention I would have is that neither Court or General Assembly can do that, as -- define religion -- but if I were defining religion in the sense in which I am trying to get at it here, it is where a person, or persons, experience some feeling or sense of need that either turns them in upon themselves for self-examination or beyond themselves, it does not have to be theistic, but which develops in them a sentiment, which may be humanistic, which may be moral, which may be theological or doctrinal, and so it's so broad that it seems to me finally it has to be up to the individual to say,

[46]

I am or I am not religious, and I -- I have no way, because religion is so very personal and private, I have no way to say you are or you are not religious, and I can't -- I really cannot make such a definition, except historically, I can say these are religions, but to say that a person, because he doesn't follow those views is not religious, I think would be erroneous.

Q Well, would you then disagree with the -- with the dictionary definition, or a dictionary definition of religion as a belief in or worship of God or gods, do you construe that as being too narrow?

A Well, no, if you allow God to be defined in the -- in a way that perhaps is unorthodox, and that is that God may be one's inner self, feeling of -- sense of -- of morality. If God can be equated with morality, if God can be equated with a sense of awesomeness or wonder, then yes, but God, as defined by Webster, probably, if you looked to God, you'd have problems with that definition.

Q All right, now let me ask you if you disagree with this definition of a religious denomination, this is taken from a legal treatise, and I just want to see if you would disagree with this: The term, religious sect or denomination refers to individuals believing in the same religious doctrines, who are more or less associated or

organized to advance such doctrines and increase the number of believers therein?

A Well, I think the advance and increase would -- would cause a problem because not all religions either seek to advance or increase, but I think that other than that, given the fact as -- as I would interpret the words, I would have no quarrel with the first part of that definition.

Q Can you be a minister of the Baptist Church, or can anyone be a minister of the Baptist Church without being subject to any laws or disciplines of the Church?

A Well, as a matter of fact, I suppose, normally you can because if I were ordained by a local Baptist church in Arkansas, and came to Richmond and showed my ordination certificate to Baptist churches in this area who happened to agree to that particular brand of Baptist, and there are fifty-five to sixty of those, then I might become a minister of that church if I desired, the link with the ordaining church is so distant and so foreign and -- that any laws or rules are almost non-existent, and in general they are non-existent, there are no checks that are made -- no check has ever been made on me to see if I am doing that which qualifies me to keep my ordination, and I live right here in town where the church is.

Q Well, in the Baptist denomination,

then each parish of --

A Right.

Q I don't know if you call them parishes?

A I -- I call them anything -- that's right.

Q Each one is autonomous,

A That's correct.

Q is it not?

A Yes, sir.

Q You don't have a national church as such that prescribes doctrine

A No, sir.

Q for the religion?

A That's correct, in fact, the local church doesn't even presecribe doctrine, it may try sometime, but --

Q You said that you studied some of the literature of the United Life Church, have you ever -- it seems from the literature that they apparently sent along this card which they call credentials of ministry, which is the supposed ordination, they are called information about the Universal Life Church,

A I --

Q Incorporated?

[49]

A I have read the information sheet, I don't know if it is the same thing you have before you or not.

Q Well, let me just read this because I think this ought to go into the record, and gentlemen, I say for the benefit of Counsel, that I am reading an excerpt from a -- an opinion of the Supreme Court of New York, decided just recently.

MR. DAVILA: Your Honor, we were just wondering . . . . . we were going to introduce that same thing.

THE COURT: Well, I'm going to read into -- into the record, if you have no objection, because I want to ask Dr. Alley some questions about this.

Q This is an excerpt from a circular entitled, Information about the Universal Life Church, Incorporated, which, the opinion states, was given with a card entitled, Credentials of the Ministry, certifying the bearer as having been ordained by it. Now, here is a quote from the Information Sheet: Congratulations on becoming a U. L. C. minister. Enclosed is your credentials of ministry -- the English is not mine, but I suppose that's all right. Please fill it out, this is your license and ordination paper. . . .

[50]

. . . . . perform the same services with this license that ministers of any church can perform, that is, wedding ceremonies, funerals, baptisms, and so on. You, as a U. L. C. minister, may ordain other ministers, simply send us their name and address, and we will register them and send their credentials. The U. L. C. has no traditional doctrine, it only believes in that which is right, we believe that everyone has a right to his own convictions and a right to express them, we recognize everyone's belief.

The Universal Life Church is a legal organization, it is incorporated in California and filed in many other states, and will shortly be filed in all states. We will ordain anyone without question of their faith, their life for a free-will offering. If anyone would like to start a church we will be happy to furnish them with a charter for a free-will offering of a dollar per month, the headquarters of Universal Life Church will keep the records of your church, all you have to do is report your activities to headquarters quarterly. When churches are established, they decide on the types of meeting that they wish to have. We have no control over the way you conduct your church services. We recognize everyone's belief, ... only a pastor, a secretary and a treasurer to have a legal church.

Now, this is not all in quotes, but

the opinion says it is stated, and then it picks up the quotes again, there are now over a million ministers. . . . . and then pick up the quotes again.

MR. THELEN: Your Honor, would the Court like to have the entire --

THE COURT: Have you got the entire thing?

MR. THELEN: Yes, sir.

THE COURT: Well, let's put that into the record rather than read these excerpts then.

MR. THELEN: And I would alert to the Court that there is some changes in the wording in the first paragraph as was read -- some -- the introductory paragraph, but it continues on exactly what --

THE COURT: Well, I think what is important is what they are saying about the -- the doctrine and rules and so forth. And I'll --I'll mark this as an exhibit --

Q Now, having heard the -- the rules and doctrines of the Church, they make a statement in here at one place that the -- they recognize everyone's belief and they will ordain anyone without question of their faith. Now,

of course, this means logically that they will ordain an atheist if you sent the dollar or whatever you're supposed to send the man back, now, do you think an atheist should be allowed to perform a marriage ceremony?

A Yes, sir, actually I do, if an atheist believes that the foundations of the world are within the understanding of science and can make a case for that excludes God, and this is his way of life and his belief, I see no reason why he should be discriminated against with respect to the institution of marriage, if he wants to have an atheist service. I don't know what it would be like, but I don't see why he shouldn't be able to do it.

Q One more question, which really goes to the heart of the philosophy of this whole United Life Church organization, do you think if I send a dollar to this man in Modesto, California, and get one of these certificates saying I'm an ordained minister, or if somebody who has already written in and got two or three cards and this has happened too, and they cite my name in it and hand it to me and say you're now an ordained minister in the Universal Life Church, that on the strength of this I should be allowed to go out and marry people?

A Yes, sir, I do, and, if I may -- I -- I don't -- I don't have any way of determining motivation

[53]

here, I don't -- I don't see how any of us can, we -- we read and we recognize that here is a group that says anything you believe is all right with us, it sounds very much like Hinduism in that respect, therefore, naturally if anything you believe is all right with them, then you can get a card, being a minister, no matter what you believe, therefore, anybody can have one, that's logical. Secondly, they do contend in their publicity that everybody ought to be a minister. Now, whether this is a effort to utilize the Christian structures to point to the absurdity as they see it of the whole style of institutional church, I do not know, but by saying we believe all persons ought to be ministers, they come very close to a concept that is not foreign to the history of the church, and so, let me -- let me quote a word from Jefferson, because I -- somehow I kind of think this is what they are saying, not that I agree or disagree, but this is Jefferson's words:

The cobwebs of theologians were not involuntary private illusions, they had been spun by greedy and ambitious men, on purpose to catch the unwary.

That's Jefferson's view of the church in the eighteenth century; he had his own private views, and he believe if theologians left Jesus alone everything would have been all right, and Jefferson reads . . . . . on a lot of things, he was certainly unorthodox in religion. Now,

I'm not saying he would be a member of this group or be a minister, but I am suggesting that the latitude we have to allow for religious conviction is a precious latitude for us, and that no matter what I may personally think about motive or anything else, it's -- it's worth everything to me to hold on to the principle that there is absolutely no determination by the State respecting what is and what is not religion, and that's the argument I'm making.

Q Well, there's no mention anywhere in any of the literature of the Universal Life Church that I have seen that even mentions the word religion, do you think this has any significance, they say they don't care what you believe?

A Well, given the fact that such persons as -- to use -- I use this only to indicate an expertise in this area, but theologian Gerhart Ebling, the German theologian who writes about non-religious Christianity in a tome that is acceptable in every traditional denomination I know of, and discusses what non-religious Christianity should be like. Much of what is going on in modern theology says, don't call it religion, don't talk about God. I was in a Jewish group not very long ago that wants to eliminate the use of the word God and wants to hold onto Jewish traditions, this is not unusual and does not confine itself to this group. this kind of changing language structure, which is -- is hard

[55]
on the ears of somebody who has been a historian.

Q Well, do you see anything wrong in the possible motivation of a person who writes to Modesto, California and gets one of these certificates of ordination and inadvertently gets to issue a marriage license as we've got here -- or authorization to perform marriages, he is simply getting the certificate so you can go out and charge everybody he marries ten dollars?

A Yes, I see a moral problem there, but I -- I use this as an analogy, I'm familiar with a particular minister in a city who is a Baptist minister, who married hundreds of people and who finally was run out of the city by a court order because he was spending too much time with the deacons' wives, and this action on the part of the Court was an action against him because of the personal motivation and his problems with the State, and yet he married hundreds of people. Now, he's a problem to me, anybody who does under false pretense, depending on the reasons for it, would be more or less a problem, but I think we -- we have to admit that one's motivations are very difficult to come by, and I don't know that I'd want to test the motivation of everybody I know in the standard denominational ministry.

Q Well, I take it you never met this man, Hensley?

A No, sir, I have not.

Q Who founded this church, and -- so-called church -- and would you question the motivation of a man who sells doctor of divinity degrees for a price?

A Well, I -- I think that universities quite often do this too, but the price is higher.

THE COURT: All right, gentlemen, do you have any more questions?

MR. THELEN: I have redirect, Your Honor.

REDIRECT EXAMINATION

BY MR. THELEN:

Q Dr. Alley, is a million members a big church among churches in the United States?

A Yes.

THE COURT: I didn't hear your question, excuse me?

Q Is a million member a large church among churches in the United States?

A Yea, yes, it would be a large -- well, yes, I -- a qualified yes.

Q Would you say by virtue of the first statement in the information about the Universal Life Church,

[57]

Incorporated, which is already in evidence, the statement that it, the Universal Life Church only believes in that which is right, is a statement which in itself is sufficient to identify this group as a religion?

A I think it identifies it as a religion, but you know what I have done with religion in the testimony I have given, so --

Q Do you believe that the requirements of the statute of regular communion, which, granted, it may be satisfied by the fact that anybody having a Universal Life Church charter must report quarterly, and correspond monthly with the church in Modesto, and must file records of everyone married, or every ecumenical service performed, do you see that as regular communion?

A Well, I would -- I would have to buy that, yes. The Court may not, but I -- I certainly do feel that that would qualify, because I -- as I say, I term regular communion as extremely vague, I -- well, supposing I don't go to church for six months, am I in regular communion with my church or not, I -- I don't -- don't know.

* * * * * *

[58]

BY THE COURT:

Q Wait, let me ask you one more

question in connection with the last question the -- the reason in this information sheet is . . . . . the Universal Life Church furnishing the charter for a free-will offering of a dollar per month, I don't know what's free-will about a dollar per month, I don't know whether you get the charter if you don't send the dollar, anyway, they say the headquarters keeps a record and all you have to do is report your activities to headquarters, now, do you think this really established a certain congregation, if we can call it such, is meeting regularly?

A Well, I don't -- I -- no, I don't presume that you could say a congregation is meeting regularly by that definition, I would say to you, sir, that I -- I think what you have here, if I take it at its best fact, is a group of people who are faced with a religious structure which they didn't create but which seems necessary in order to practice the kind of religious thinking they want to carry on, and so they do it in a fashion that seems extremely abrasive to these of us who are familiar with a more historically oriented traditional way of going at problems, and that they are meeting the letter of the law thereby but saying something to us perhaps, whether sincerely or not, I do not know, but saying

something nevertheless about the nature of religious experience and what -- what maybe all religious communities ought to do about examining themselves, and so, yes, I -- I say that if they keep in touch once a month, I think that would qualify as much as probably lots of people qualify who keep in touch that often or less with their congregations and are called ministers, but again, we're dealing with motive, and I can't -- I can't assess it and I quite frankly believe that there is no way under the restrictions of the Constitution for the State to do so, and that -- that's where I'm left.

Q Of course, you know -- you're in no position to say whether Mr. Hensley's motive is to make money or

A That's right.

Q whether he's trying to promote a religion, are you?

A No, I'm not, and, of course, I don't know -- I look at the history of the church and an awful lot of people throughout the last two thousand years of the Christian Church have been in it for far less than highly motiviated reasons, and still are, so, if I'm going to take motive as a basis, I'd better start at home before I start going after another denomination, I -- you know --

Q One more question and I'll let you

[60]

go, I -- we keep referring to this as a church, which is part of the incorporated name, what do you consider a church?

A Well, historically the word church applies to that -- any community that gathers together to call upon the name of Jesus, this is traditionally, if you use the church in the New Testament sense of the Greek ecclesia called out, those called out to believe in Jesus. These people hold to a view of Jesus which justifies themselves, which is just what I think, if -- if they believe what they believe about Jesus as a moral figure of significance who has made a moral input into the community of man, then they qualify under that to call themselves a church.

Q Of course, there's nothing in evidence that -- at the present time that any of these people believe in Jesus, they --

A That's correct, not believe in Him, that -- they do not believe he is God, but in their literature it will be clear that they see Him as one person who had a point of view that that ought to be listened to, like everybody else.

Q Well, as I understand it, you're saying that the definition -- the traditional definition of church is a group of people who believe in Jesus, but have you seen anything in the U. L. C. literature which says that

[61]

anybody in the group believes in Jesus, they say we recognize everyone's belief, which, as I say, means they recognize an atheist?

A But they do use Jesus as a model for

Q Who does?

A moral life.

Q Who does?

A The -- in the --

Q What?

A this little piece of -- what's the name of it.

Q Now -- now, that's not in the literature I've got here?

A This literature he's got in his hand --

MR. THELEN: We will submit further evidence.

A These are publications from Universal Life, which -- there's one article in one of those, I think it's one of those you've got there, that deals with Jesus, and he approaches Jesus from a historical crtical approach, it sounds very much like some of the New Testament scholars I've been reading after, so they do not believe in Jesus, but I think that they can justifiably call themselves church by

the broadest definition of the term, of course, that -- that is -- that is not within the -- I understand is not within the purview of this particular statute.

Q But -- what did you say, they do not believe in Jesus?

A They do not believe that Jesus is God,

Q Oh?

A and, therefore, they do not believe in Him, but they accept Him as a moral model.

Q Let me ask you --

MR. THELEN: We have one further question along this line, if the Court is --

THE COURT: All right.

BY MR. THELEN:

Q Reverend Alley, are there not many churches, established churches, if I can -- if I can use that expression, that -- that do assess their member churches a whole lot more than a dollar a month, or a dollar and a quarter of this money was sent to the established church, to help with the work of the church?

A If --

MR. DAVILA: Of course, I would

[63]

object to that,

THE COURT: Yes.

MR. DAVILA: we're concerned -- confining ourselves to this particular statute, 20-23, with reference to licenses being issued to members of this specific church,

THE COURT: Well --

MR. DAVILA: what other churches do in the country as far as assessing one dollar, two dollars, or three dollars --

THE COURT: Well, the Court can take judicial notice that national churches assess the church, I'm a member of the Episcopal Church, I know the facts that you don't have to go any further on that.

MR. THELEN: The Court seems to be concerned about this, and -- and --

THE COURT: Well, I know that -- the Court is not concerned with the fact they assess, that wasn't the point that was making,

MR. THELEN: I apologize.

THE COURT: I was simply saying that the fact that one of the questions asked by Mr. Thelen was whether -- the fact that they

[64]

are assessed so much per month wouldn't prove that they are in communion, I -- the point I was making was that it doesn't prove they are in communion at all. This literature says we have no control over the way you conduct your church services, they recognize everyone's belief.

MR. THELEN: But Your Honor, Dr. Alley did make the point in his testimony that communion in one sense of the word, and the sense which he most understood, if I remember the testimony correctly, meant communication with the church, and -- and the -- that this is a form of communication with the church, which --

THE COURT: Well, I -- I think that's probably the most generally accepted meaning of communion, I don't think they mean in the technical sense of taking communion like breaking the bread and drinking wine.

MR. THELEN: Well, that -- that's the point we're making.

THE COURT: Oh, well, I don't think the statute means that at all, the Commonwealth might agree or disagree, but I --

[65]

MR. DAVILA: No, sir, I don't think that's what the statute means.

MR. THELEN: We have nothing else, Your Honor.

THE COURT: All right, you may step down, thank you, Dr. Alley.

* * * * * *

[67]

GEORGE F. RICKETTS, introduced on behalf of the Respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Ricketts, would you state your full name to the Court, please?

A George Floyd Ricketts.

THE COURT: What?

A Ricketts, (spelling) R I C K E T T S.

Q Would you state your position in the Richmond Area Clergy Association?

A I'm President of the Clergy Association of the Richmond area.

[67]

Q How long have you been president?

A For the year 1972-73.

Q Does the Richmond Clergy Association of the City of Richmond recognize any Universal Life ministers, to the best of your knowledge?

THE COURT: Recognize what?

Q Any Universal Life Church,

[68]

Incorporated, ministers?

A The Clergy Association of the Richmond area recognizes any person recognized by any denomination or religious group as a clergyman.

Q If a person carrying the Universal Life Church, Incorporated, certificate of ordination came to you and asked you to be recognized would the Association recognize him?

A The Association would already recognize them as a clergy person, and if they wanted to join the Association, they certainly could.

Q How many members are now in the Richmond Area Clergy Association?

A There are two categories, those who have paid their dues, and those who have not, those who have paid their dues number approximately one hundred and fifty,

[68]

those who are members by simply being clergy persons number about six hundred and fifty.

Q And among those six hundred and fifty are Universal Life members who have simply not bothered to pay their dues?

A They would not be on our mailing list simply because we do not have their names submitted to us, we have to find out names, but they certainly could be.

[69]

Q If -- if you found their names out, you would . . . . . .

A Yes.

Q What are the criteria for membership in the Clergy Association?

A That the person be a clergy person in their religious faith.

Q No further questions.

CROSS EXAMINATION

BY MR. DAVILA:

Q How long have you been familiar with the Universal Life Church, Mr. Ricketts -- Reverend Ricketts?

A I think I first met one of their ministers approximately seven years ago.

[69]

Q Seven years ago, who would that be, do you recall?

A I don't recall the man, I recall where I met him but --

Q I see, where did you meet him?

A I met him in cooperation with a home for alcoholics.

Q I see, was he acting in the capacity of a minister at the time?

[70]

A Yes.

Q In what respect?

A He was counseling with people who had problems in alco -- with alcohol.

Q And did he tell you that he was counseling in the form of ministry?

A Yes.

Q And what -- how was he doing that, just counseling?

A Just counseling.

Q I see, now, then you have been familiar with Universal Life Church for a period of seven years or longer?

[70]

A I -- to the best of my knowledge, that was the first person that I had met or had heard about --

Q Any contact thereafter with many, or with few, or any at all?

A It would be with very few.

Q Have you ever had occasion to attend any ceremony that they may or may not perform?

A No.

Q Are you familiar with the by-laws and the purposes of incorporation as a church?

A No.

[71]

Q Have you ever read any literature outside of any paper publication pertaining to the church?

A Not that I recall.

Q Have you read . . . . . publications?

A Very small thing I think, that was introduced as evidence.

Q All right, sir, and did you read that today?

A No.

[71]

Q You read it before?

A Yes.

Q And are you familiar with 20-23 of the Code of Virginia, regarding the issuance of licenses for marriage?

A Only to the extent that I've learned in Court today.

Q And you say you had no criteria whatsoever outside of the recognition of people who are clergy people within their own faith?

A Right.

Q How do you know this is a faith?

A Well, the Clergy Association would leave that to the individual.

[72]

Q Yes, sir, Reverend Ricketts, was it adopted or resolved before you took your office that Universal Life Church had, in fact, a faith?

A I don't understand the question.

Q Was it determined by your association, the Clergy Association, that members of the Universal Life Church did, in fact, have a faith?

[72]

A Our association does not determine what faith is -- a faith is.

Q But don't they have to be clergy -- who are clergy people, or clergy people of a faith?

A Our association simply says they are clergy.

Q Clergy what?

A Persons.

Q Do they -- clergy persons, do they have to belong to any particular denomination, sect, or anything of that nature?

A We would assume they would, yes.

Q Was inquiry or has inquiry ever been made on your behalf that they did, in fact, have a denomination or sect?

A No, it has not.

Q Sir, what is your -- what is the

[73]

connotation, as far as you're concerned, of the word, denomination?

A The connotation, I would agree in the much more elegant fashion that Dr. Alley described it.

[73]

My own feeling is that denomination and church are things that are described by groups and not prescribed by other groups to oppose them.

Q In other words, you would agree to have a different one than another one?

A Very definitely.

Q And would this be in form of beliefs and doctrines, opinions?

A Using those words in the broadest sense.

Q Now, would the connotation itself, the word denomination, include anywhere in it, the use of the word religious or religion?

A It may if that were also used in the broadest connotation.

Q In the broadest context of the use of the word religious or religion, would that include, say, a belief in a creator, regardless of whether he be styled God, or whether it be styled soul, or whether it be styled an animal, but a creator?

[74]

A Would you restate the question, I don't understand?

[74]

Q Does the connotation of the word religious or religion, carry with it the belief in a creator in any form?

A I wouldn't see that it had to.

Q It would not carry with it the use or the meaning of the word creator?

A It would not have to, it would not.

Q Well, then can you tell me what it would, or what it could carry with it?

A An inner feeling for which the person is committed to.

Q Which would necessarily include, say, a creator?

A Would not necessarily.

Q But it would formulate an opinion or belief?

A Yes.

Q Are you familiar yourself with any of the opinions or beliefs of the Universal Church?

A Only in the vaguest sort of way.

Q Do you know of your own personal knowledge, Reverend Ricketts, whether the Universal Life Church

could be classified as a religious society?

A I would feel they could.

Q How, and why?

A Mostly from the evidence and testimony given today by Dr. Alley.

Q Dr. Alley was unfamiliar outside of two months ago, with the inner workings of the Universal Life Church, are you basing your opinion on what he testified on the witness stand today?

A Well, even at that, he's more familiar than I am.

Q All right, well, then you're not familiar with it?

A No.

Q What is your meaning of the phrase, religious society?

A I don't have any specific meaning, I don't use the term that often.

Q What is your meaning of the word commute -- I mean, you know, excuse me, communion?

A Well, it certainly seems to me that communication in some form is adequate for communion.

Q Suppose the word regular was placed before that word?

A Used in the broad sense of the word, I would assume that that could mean at very infrequent intervals.

Q Infrequent or frequent -- I -- I understand, infrequent. Now, Reverend Ricketts, you say you have read 20-23?

A No, I did not say that.

Q Have you read it?

A No, I have not.

Q You're not familiar with it?

A Only in the vaguest sort of way.

Q And again there is no criteria whatsoever of your association recognizing clergy people?

A Correct.

Q And up to this point, I believe you testified that none of the members or ministers of the Universal Life Church, sir, were on your mailing list?

A To my knowledge, that's -- that's correct.

Q No further questions.

BY THE COURT:

Q Mr. Ricketts, I understand from what you said that everybody who is classified as a clergyman

[77]

in the Richmond area is automatically a member of your clergy association of the Richmond area, irrespective of whether they pay dues or are active or not, simply by virtue of being classified as a clergyman, is that correct?

A Your Honor, it's correct to the extent that you're not required to pay dues to vote in the association on matters. Any person attending could assume to be a member.

Q But you're automatically a member simply because you're classified as a clergyman, is that correct?

A That would be correct.

Q And you say there are approximately six hundred and fifty clergymen in the Richmond area who you consider as being some sort of members, but only a hundred pay dues?

A Approximately a hundred and fifty this year have paid dues.

Q A hundred and fifty, and do you have meetings?

A Monthly, sir.

Q What's that?

A Monthly.

Q Monthly? How many people actively -

how many clergymen actively participate in this?

A A meeting attendance runs between one hundred and two hundred.

Q Well, now, you made the statement that the Clergy Association recognizes any person belonging to a religious denomination, and Mr. Davila has asked you something about what you consider a religious denomination, now, let me read you this definition, a legal treatise, and ask you if you would disagree with this definition of religious denomination:

The term religious sect or denomination refers to individuals believing in the same religious doctrines, who are more or less closely associated or organized to advance such doctrines and increase the number of believers therein.

Do you disagree with that definition of religious denomination?

A I would disagree again on the increase of the members thereof.

Q Well, let's say we leave that out, would you

A In the broad sense --

Q think that proper definition otherwise, or do you agree that in order to be a religious denomi-

nation, the people involved must be -- believe in the same religious doctrines,

A It --

Q is that what it means to you?

A It would mean to me that if that were taken in the very broadest sense of those words.

Q Well, however, you define religious, would -- you think that the people must at least believe in the same doctrines in order to be a -- belong to one denomination?

A Sir, I have some difficulty with doctrines because as a Baptist we don't have any specified doctrines that we must believe in as a Baptist, so my church has people who have a variety of doctrines.

Q Well -- well, then you do disagree -- with this definition, don't you --

A Only if doctrines are taken in the very broadest context and broadest meaning.

Q You agree or disagree with the statement in the broadest context?

A In the broadest context I would agree.

Q That there must be some sameness of thinking between individuals in the organization --

[86]

A Some similarities.

Q Wait a minute, well, would you believe that an organization which says that we believe everyone has a right to his own convictions and a right to express it, no matter how varied these convictions are, that these people could constitute a religious denomination?

A I do so believe, sir.

Q And what -- even though one person is an atheist and one person is an Episcopalian who believes in the Episcopalian dogma , that these two people get together and -- and commune from time to time, that they -- that they are a religious denomination?

A Sir, if I'm not mistaken, the Unitarian Church could fit that doctrine.

Q Anybody in the Unitarian Church can think whatever he wants to, and --

A Right, Unitarian Universalist Church.

Q Well, now, if you -- if you really don't know what you believe is a religious denomination, how do you go about determining whether the -- whether a person is a clergyman of this denomination or not,

A Well --

Q how do you go about determining he's a clergyman, in the first place?

[87]

A Well, the denomination generally determines that.

Q Well -- but you're used to dealing with denominations, such as the Episcopalian, Baptist, Methodist, and this sort, aren't you, the well recognized ones?

A And the Unitarian, and the Unity School of Christianity.

Q Well -- well, if what you're saying is, anybody walks in and says, I'm a clergyman, that he's a member or your association?

A Or they could say, I'm a clergywoman, we have clergywomen,

Q Well -- yea --

A who are members also, sir.

Q but I mean, if they say, either one or the other, and represent themselves to you as that, you don't go into credentials any closer?

A No, sir.

Q You just make them a member of your association?

A Yes, sir.

Q Well, I could walk into your place tomorrow if you didn't know me and say, I'm a clergyman, and you'd put me on the list

[82]

A Yes, sir,

Q of your association?

A be happy to.

Q All right, thank you.

THE COURT: Any other questions, gentlemen?

MR. THELEN: No further questions.

BY MR. DAVILA:

Q When you used the phraseology broadest sense, what do you mean, Reverend Ricketts?

A I have some difficulty in trying to define what religion, denominations, religious societies mean to other people, giving them the option to mean a variety of things that I may not mean by it, that's what I mean by the broadest sense.

BY THE COURT:

Q Well, what do you mean by it, that's what we're trying to find out, just what -- what do you mean by a religious denomination?

A Well, it means something to me personally.

Q What does it mean to you personally?

A Well, it would mean to me personally,

as a Baptist, a local church affiliated with a variety of other local churches in an association, but in my determination of what other people must meet -- must do to meet that criteria, it would certainly mean something much broader than that, in that I have Jewish members of the Clergy Association, Catholic priest, and Unitarian ministers, so what it would mean to him, I would leave to him or her to decide.

Q Does -- do the Methodists have any prescribed form of worship?

A No, sir.

Q Well, you use a prayer book, don't you?

A No, sir.

Q You don't?

A No, sir.

Q Well, is --

A You're not prevented from using one, but there is no prescribed one.

Q Well, is your entire service just improvised?

A It is certainly free to be improvised or to be as formal as one pleases.

Q Well, as a Baptist, are you a Baptist preacher, do you do anything besides be head of the

[84]

Clergy Association?

A I do a lot of things, sir.

Q Do you preach?

A I do, I'm a chaplain, I head the Chaplain Service of the churches of Virginia.

Q Well, when you preach, do you have any sort of treatises that are put out by your church you can go to to get ideas for your sermons, or --

A No, sir, I would not.

Q Do you have any formal prayers in your church?

A No, sir, the Baptist Church has no formal prayers.

Q You improvise all the prayers that you have?

A Or I could read prayers out of the Book of Common Prayer, or any other prayers that I would have access to.

Q All right, thank you.

A Yes, sir.

* * * * * *

[85]

WILLIAM J. RHOADES, introduced on behalf of the Respondents, being first duly sworn, testified as follows:

[85]

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Rhoades, would you state your full name to the Court, please?

A William J. Rhoades.

Q And what is your profession?

A I'm -- I have been trained as a psychologist, presently I'm writing a textbook, and I'm not employed directly as a psychologist.

Q How long -- do you have any ordination certificate of the Universal Life Church, Incorporated?

A Yes, sir.

[86]

Q How long have you had the certificate?

A I have had it since November the 3rd, 1969.

Q Do you receive publications of the Universal Life Church?

A Yes, I do.

Q Regularly?

A Yes.

Q Do you have a congregation in Richmond?

[86]

A Yes, I have several people that I commune with directly, regularly, that I feel meets the definition of a congregation.

Q All right, if Judge Tucker asked you to ordain him as a Universal Life minister, what beliefs or what questions would you ask him -- of him, prior to ordination?

A I would ask Judge Tucker first if he wanted to become an ordained minister of our faith, I would then explain our philosophy and ask him if he could subscribe to such a philosophy, not only for himself but as -- but for all of our members, and if he could, then I would ordain him.

Q All right, do you understand that

[87]

the Universal Life Church, Incorporated, has no traditional doctrine, and only believes in that which is right?

A Yes.

Q Is there any charge for ordaining anyone, myself, or Judge Tucker?

A No, I wouldn't charge anyone, I don't know any rule that would say I couldn't or that I shouldn't, but I personally would not.

[87]

Q Do you presently hold a bond and are licensed by this Court to perform marriages, is that correct?

A That's true, I was bonded in February of this year.

Q Have you performed any marriages?

A No, sir.

Q Have you been asked to perform any marriages?

A No, sir.

Q Would you do so if you were asked?

A I would do so if the people were familiar with the Universal Life Church, if I was permitted to make them familiar with it, and then allow them to make up their minds whether they wanted to be married by a minister with the . . . . . that I hold.

Q No further questions.

[88]

CROSS EXAMINATION

BY MR. DAVILA:

Q How long have you been a member of this church?

A I've been a member of this church since November of 1969.

[88]

Q Is your doctor -- doctorate as a result of a Ph.D in psychology?

A I have a Ph.D in counselling from Florida State University, which was awarded in June of 1969, I have a Master's degree in Psychology from Richmond Professional Institute, and a Bachelor's Degree in Psychology from the University of Baltimore.

Q Now, Dr. Rhoades, you say the philosophy of the Universal Life Church is the belief in everything that is right?

A I'd say that if the individual doctrine is a belief in that which is right, but it also presupposes that one would believe in that doctrine having some validity.

Q Everything that is right presupposes what?

A It would presuppose that a person would have a belief that that -- that that doctrine also was

[89]

correct, he would not only have to say I believe in that which is right for me, but I also am aware that other people can have that belief also, and that there might be some differences in interpretation.

[89]

Q Now, do you, within your -- is it appropriate to use the word philosophy in this religion, I mean, of this church?

A I think so, if you believe that humanism is a formal philosophy.

Q Okay, now does your church ever use the word religion, or religious?

A Yes, that word may be used, I -- there -- there are so sanctions as to vocabulary.

Q And does it carry any specific meaning within your church?

A Religious -- the word religious or religion may or may not have meaning, depending on the individual's belief in that word personally.

Q Well, the, what you're saying is that the word religious does not formally, within the Universal Life Church, have -- carry any meaning?

A Would you repeat that?

Q What you're saying is that the word religious, or religion, either one, has no meaning in the

[90]

Universal Life Church?

A No, that's not correct, I would say that this is an individual matter as to defining and using that word.

Q Does it have any formalized meaning, prescribed by, say, your by-laws, or your articles of incorporation, where purposes is set out?

A That would not be necessary.

Q No, I asked you if it did, I'm not asking you if it's necessary, is it there?

A No, we do not impose that limitation upon ourselves.

Q All right, sir, have you ever had occasion to read the by-laws of your church?

A Yea, I have.

Q And you're telling the Court that the word religious or religion does not appear --

A No, I'm not -- no, I'm -- I'm talking about my Universal Life Church.

Q And I asked you if the word religion or religious ever appears in the by-laws?

A All right, I can say yes to that, it appears in the by-laws, but I -- at once I must say that -- just as -- as Reverend Alley spoke of the Baptist Church, this

[91]

is a sort of individual matter of the Baptist Church at large and an individual Baptist Church, and I'm not sure how you were addressing that question to me, I was speaking of my particular congregation, which I call my church.

Q Yes, sir, but you are a member and a minister of the Universal Life Church?

A The larger one as well as a smaller one,

Q Right?

A yes,

Q And the larger one has by-laws?

A That has by-laws already, all right.

Q And does the smaller one have by-laws?

A Only that original doctrine in that -- believe in that which is right.

Q You have not formalized these in writing?

A No, not in writing at all.

Q And again I will ask you, do you know whether or not the word religion, or religious apprears in the by-laws of the larger church?

A I do not know, it's irrelevant to me.

[92]

Q All right, it's irrelevant to you, but you don't know whether it is in there?

A No, if I had an opportunity to read that again and familiarize myself with it, when I made up my mind to become a Universal Life Church member, I affirmed what I read and I didn't feel compelled to memorize what I read.

* * * * * *

Q And I appreciate that very, very much. Now, does your philosophy, as far as -- as it relates to the Universal Life Church, has it ever included the phrase religious denomination?

A It certainly may verbally, but I -- I had not written a word about it, so --

Q Well, would you classify the Universal Life Church as a denomination?

A Yes, I would.

Q What is your meaning of denomination the word denomination?

A Denomination is a group of people that can agree on a central philosophy, that they can view their own existence through or by, or in terms of. I

[93]

personally see humanism as a valid denomination of a religious denomination, all humanists would not necessarily say so, but the way I feel, I would.

Q Is it fair to say, then, that the group of individuals that you refer to as a denomination all believe in the same philosophy?

A I believe they all believe in the same philosophy that is the major premise, which is we believe in that which is right. I think there are individual interpretations possible, and that is what, along with geographic features, breaks Universal Life Church people into certain -- their own bodies or associations, churches, clubs, whatever they should be called, but I think that they all agree with the major premise and its legitimacy as universally applied.

Q Do you -- doesthe philosophy include the belief in a Creator, be it

A It may --

Q God, or something else?

A It may, just as in the Unitarian Church, it may or it may not, it depends on the particular congregation or group of individuals involved.

Q So there are different beliefs and philosophies within the Universal Life Church?

A Just as there are in every church,

[94]

yes.

Q Now, do you have any government within your church at all?

A You mean a -- a hierarchy within the smaller church, such as myself as -- as

Q Yes?

A Bishop, and someone as Archbishop, no, sir.

Q Would the classification of one being a minister constitute any government form at all?

A No, sir.

Q And you say that your philosophy is the belief in that which is right, and believe, on approximately how many occasions have you met or had communion with others acting in the capacity as a minister of the Universal Life Church?

A It would be either hundreds of times if you considered informal encounters, and it would probably be five or six times if you meant formal business oriented gatherings.

Q The hundred or more occasions, was that a situation involving your communicating with a few others, or another single individual?

A No, with several,

Q Several?

A several of us.

Q And could you generalize briefly the mode of discussion?

A We discussed philosophical, metaphysical, and rather mundane subjects,

Q Did there ever --

A we did this is a spirit of fellowship, honesty and sincerity, the best that we were able to.

Q Did that ever relate back to the belief that we believe that which is right?

A This premise underlied -- or was underlying everything that followed, yes.

Q Was this announced by you as a premise?

A This was announced by me as a premise and as a prerequisite to the ordination of all those whom I ordained.

Q How many have you ordained?

A I have ordained three individuals.

Q As ministers?

A Yes, sir.

Q And you had met with those on at least a hundred occasions?

[96]

A Yes, sir.

Q The five or six occasions which you have stated you met were on a more formal basis,

A Yes, sir.

Q would that be the proper statement? Where did you meet?

A I met at various places around town, including my apartment and the apartments of several other individuals, and in some case, in public places.

Q Was this in the form of a ceremony?

A There was no ritual involved.

Q Why would you say it was more of a formal meeting than the others?

A Because the time and place was designated as well as the subject matter to be discussed, which was not typical.

Q It was appointed, an appointed time and place?

A Yes, sir.

Q You used -- you used the word religious in your teachings, or in your communication?

A Yes.

Q How do you use it?

A I believe that I use it in terms

of a -- a philosophy which may differentiate our group from others.

Q Can you briefly explain that?

A If I just -- if I mention our religion, I believe I'm talking about people who accept our major premise and our particular values and interpretation of existence, and I know that there are other individuals who have different tangents, different ways of looking at all this.

Q Belief in that which is right?

A Right, that is -- that is the major premise of both the larger church and my smaller church, my smaller one has other beliefs that are not formalized.

Q What are they?

A I think we -- we believe in the dignity of man and other humanistic values.

Q Now, would you classify the larger Universal Life Church or your smaller one as a religious society?

A I personally would.

Q Does it have organization?

A The larger one certainly does, and many of the smaller ones have hierarchial type organizations, but I think one does not have to have a hierarchy to have an

organization.

Q Yes, sir, I just asked you if it did have organization?

A Yes.

Q It does? How were you ordained?

A I was ordained by Eugene Kelso, who approached me and informed me of the nature of the Universal Life Church, and asked me would I be interested, and I asked him for some literature, he gave it to me, I saw him subsequently, and told him that I was in agreement with what I read and that personally I desired to be ordained, and was on November, 1969.

Q How much time had passed from the time you met Mr. Kelso until the time that you were ordained?

A I should say about a week, although I had made up my mind as rapidly as anyone makes up his mind for Christ under Billy Graham and steps forth.

Q Now, you say you are in the process of writing a book?

A Yes, sir.

Q How much time do you devote to the ministry of the Universal Life Church?

A Considering the informal meetings, I would say probably five hours a week.

[99]

Q Did you have to pay anything to become a minister?

A I was told that I could pay a free-will donation, which I did, one dollar.

Q You received a card subsequent to that time?

A I received a -- a card and a large ordination certificate in the mail.

Q Subsequent

A Yes, sir.

Q to the time of your payment? You have never received any formalized academic training to become a minister of the Universal Life Church?

A I have received no formal academic training any more than the Baptist Church that Dr. Alley spoke of, correct.

Q Do you have obedience to certain doctrines within the church?

A The smaller church, yes.

Q Dr. Rhoades, you keep on separating the larger church from the smaller church, is that significant?

A Yes, it is, in the same way that the Baptist Church cannot be generalized down to -- to drawing any conclusions about any individual church called the Second

[100]

Baptist Church of Podunk.

Q I may have asked you this, but does the smaller church again have any by-law?

A All we have is the major premise of the larger church, and we have no written, promulgated laws.

Q But do you consider yourself, in the smaller church, separate and apart from the larger church?

A Only because of the individual conclusions that our faction has drawn, I don't feel that we're separated in the larger philosophy, which I call the major premise,

Q What factions --

A believing that which is right.

Q What factions have you drawn to separate you from the larger church?

A I believe that we're not separated from the larger church in that the larger church allows us the freedom to create and innovate our own interpretations of this larger premise, or the major premise, so I do not think that we are opposed, I think we're an offshoot, we have differentiated ourselves from it, from the parent, but we're still part, we're a child of the parent.

Q The belief in that which is right,

[101]

if the law prohibited the conduct of a member of your congregation, or even yourself, and yet you felt it was right, would you do that which was required to break the law?

A My personal view is that I put the law of the land first, for my ownself, maybe I'm a coward, or maybe I'm an excellent citizen, but I don't find it necessary to stop another person from doing something that perhaps I know is illegal, I would want to protect myself, I don't like to do illegal things because I fear the penalties, I don't see how that's related to my religious beliefs, however.

Q The Court will make that determination, if you don't mind. Would you say that there was unity amongst the ministers and members of the larger Universal Life Church?

A By my definition of unity, yes.

Q And what is your definition of unity?

A The acceptance of what I have referred to as the major premise.

Q The belief in that which is right?

A Yes, sir, I believe that individuals who find that repugnant or too vague are differentiated from those who do not find that repugnant or too vague, and those

individuals who can accept that definition certainly have a commonality with each other.

Q One final question,you all do not believe in a Creator?

A I personally believe in a Creator, I believe the larger church does not make it necessary for us to believe in one, but allows us to believe in one, if we so desire. My smaller church also has a differing opinion on this, some of the members do and some of the members do not, and we all have different definitions of what is a Creator.

Q I have no further questions.

BY THE COURT:

Q Dr. Rhoades, you stated to the Commonwealth's Attorney that you became an ordained minister through the offices of Mr. Eugene Kelso, after he persuaded you that this was what you wanted to do, how did you actually become ordained, did he write to Modesto and -- and get the -- this certificate and card for you?

A Yes, sir.

Q And have it sent back to you?

A It was sent -- it was sent to him.

Q Sent to him and then you --

[103]

A And he personally handed it over to me.

Q Now, if you wished, you can send a dollar to Modesto and get several of these cards, and you could ordain me by simply typing my name into one and handing it to me, could you not?

A Yes, I could.

Q Well, this is one day -- way of becoming ordained, for all practical purposes in the Universal Life Church?

A That certainly is.

Q Any member can just have -- hand another person a card with their name type in it and say you're now an ordained minister?

A That is correct.

Q Well, in response to Counsel's question as to what you would ask me if -- with regard to whether I wanted to become an ordained minister of the Universal Life Church, you said that you would ask did I want to become an ordained minister and could subscribe to the philosophy of the Universal Life Church, I assume from what you said you mean by subscribe to the philosophy of having a right to express my own opinion,

A Well, I --

[104]

Q plus having the right to my own belief?

A The philosophy, as I see it, is the belief in that which is right, then you would have to ask yourself, one, do I believe in that which is right, and, two, do I believe that such a philosophy is legitimate.

Q Well, who determines that which is right, each individual?

A Yes, sir.

Q Suppose that I think smoking pot is right and you don't think it's right, does -- does that destroy our relationship as members of a

A No, sir,

Q congregation, say?

A it does not, as long as you believe in that which is right, if you -- if you --

Q If I believe smoking pot is right, then -- and

A If you say it is right --

Q you don't, then this doesn't destroy our relationship?

A No, because something higher than that in the abstract that I can -- I can agree with your belief that belief is that which is right is a legitimate

philosophy.

Q But -- but this is not unity of belief --

A It's a way of looking at things that may seem to you anarchy, maybe I could use a definition, this would be religious anarchy that I am talking about, and anarchists have at least anarchy in common, whether they are religious anarchists, or social anarchists, or whatever, so I could say, Judge, you sound like a religious anarchist to me, I believe I'm a religious anarchist, I don't believe everything that follows from that, drawn from your conclusions, but I can agree with you that you are a religious anarchist, and so am I, so we have fellowship there.

Q Well, how can we have unity of belief if I believe in one thing, whether it's on religious grounds or moral grounds, or whatever, and you believe in another? How are we part of a religious society or a religious congregation, or whatever you want to call it,

A All right --

Q if you and I have different beliefs as to moral standards or religious beliefts, or whatever?

A Because we both agree that it's up to the individual to reach his own conclusions, we agree with that. You say that you believe that two and two is

[106]

seven, and I say that two and two is three, but we can disagree on -- on that aspect, but I can say I agree that you can come to your own conclusions about what two and two equals, and you say, Rhoades, I can agree with you that you can come to your own conclusions, that you have that right, and we agree that we each have that right, so that view is something that we both share, and this is higher than the individual conclusions that followed from it,

Q But

A somebody might say we're both wrong.

Q you're saying under the -- under the facts of the example I stated, that we would still have unity of belief even though --

A Starting from the major premise.

Q Well, let's -- suppose I believe in God and you don't, have we still got unity of belief?

A If we believe first that it's up to the individual to decide issues like that for himself, I can say yes, we have fellowship in our own estimation of -- of what is valid for a man to decide.

Q Well, I gather from what you said that if I came to you and say I wanted to become an ordained minister, you asked if I could subscribe to the philosophy, and I really wanted to be an ordained minister of U. L. C.,

that you wouldn't ask me any questions like if I believed in God, or

A No, sir.

Q do I have a belief in --

A No, sir, only do you accept the major premise as being legitimate for not only yourself but everyone, that they all have a right to believe in that which is right, and if you said, that doesn't sound too bad to me, that doesn't sound too vague to me, I have an idea just what you mean, I say, well, that's fine, welcome to the Universal Life Church, Reverend.

Q Now, you say that there is no charge for these ordinations certificates, do you know anybody who has ever -- they refer to it throughout this information sheet as free-will offerings, but never state how much free-will offering is, and say you will get this certificate or this charter if you make a free-will offering of so much, do you know anybody that's ever tried to get one without paying the

A Yes, I do.

Q headquarters in Modesto?

A Yes, I do.

Q Did they get it from Modesto, or did they get it by some friend giving it to them?

[108]

A They got it from Modesto, California.

Q In connection with the questions asked you about prospective couples being married by you, what would you ask them about their familiarity with the United Life Church?

A I would explain to them the major premise, I would explain to them as best I could what the Universal Life Church was and what procedures I went through to be ordained, then I would ask them would they want to be married by such a person, and if they said they would like me to perform the ritual of marriage, then I would consent, but I would inform them exactly of my own background and my own essential beliefs.

Q There's this pamphlet entitled information about the Universal Life Church, which has been introduced as an exhibit here, does this -- these instructions properly set forth the doctrine of the Universal Life Church?

A As far as I'm concerned they do.

Q Well, is this the only doctrine you know that is -- that purports . . . . . printed form by the Universal Life Church?

A Yes, sir.

Q Do you consider the local group of yours that you've been discussing as a religious society --

[109]

perhaps I -- I'll give you what I define as a religious society, or one definition of one before I ask you to answer that, but some of the legal treatises defining religious society there is one that's made up of persons who have associated themselves to gather for religious, as opposed to secular, purposes, and Black's Law Dictionary says a religious society is a body of persons associated together for the purpose of maintaining religious worship, do you consider that your local group falls within either one of those definitions I have quoted?

A I would think my local group falls within both definitions, although I can only speak for my interpretation of -- of the nature of my local group, they -- individuals might disagree with that, and other groups certainly, I would suspect, since there are so many of them, would disagree, but personally I think my group falls within those definitions, yes.

Q What does the word religion mean to you?

A Religion means for me a view of ultimate purposes of man's existence.

Q But not necessarily anything pertaining to God, or a God?

A It certainly wouldn't rule out a God

[110]

because I personally believe in -- in God as I define Him.

Q But it wouldn't necessarily include God either, is that what you're saying?

A That's correct, in my group, although there are other groups in which they get rather specific as to God and Jesus and -- and other religious --

Q Well, I'm speaking of your group,

A Yes, sir.

Q I think that's the one you're best qualified to testify . . . . . Now you said that -- you think denomination means, or should be defined as a group who agree on a simple philosophy, the simple -- simple philosophy, as I understand your testimony, is that which is right?

A Exactly.

Q But what do you consider to be the definition of a church?

A I personally consider that the definition to be a group of individuals, two, three, or more who have a central philosophy to which they all subscribe concerning -- and then I would give my definition of religion -- concerning the ultimate purposes of the existence of man.

Q Well, when you said in these so-called formal meetings, that -- which you called formal because you put out notice they were going to be held and what subject

[111]

matter is to be discussed, do you remember any of the subject matter that you had designated to be discussed at any of these so-called formal meetings?

A Yes, we discussed how we could increase membership, we discussed things about fund raising, we discussed location for a church, we discussed our own individual beliefs, we also discussed -- at some of the later ones, I -- the ones I just mentioned happened in -- in late sixties, and -- and 1970 and '71. Last month we had several to agree on how we would conduct ourselves at this hearing.

Q Have you all ever set up any sort of church in the sense that we normally use the word, have you got a building that you meet in regularly?

A We have a building, yes, sir, I could give you the address if that's necessary.

Q Well, I don't need the address, but do you meet there regularly?

A I do, yes, sir.

Q Not only you do, but do you meet with anybody else?

A Our membership has -- has changed, and it -- it's hard for me to -- to say we. Since November, '69, I've seen a turnover of people that I would consider in this group, who were committed to the group.

[112]

Q How many people do you consider you meet with regularly now?

A I'd -- I'd say about five or six, it's been -- the number has -- has been higher and lower.

Q Now, you -- in answer to a question asked by Mr. Davila, you said as a member of the U. L. C., you are subject to certain disciplines or rules in your smaller group, who -- who promulgates these rules?

A It's a democratic process in which the -- the majority of the group affirms any conclusions that we may come up with.

Q Is that the extent of the rules, that a majority -- have you got any written rules?

A We have no written rules and no written by-laws.

Q What are some of your verbal rules?

A Well, we would have certain things that would -- would -- would be implied, such as a view of man as -- as a -- an individual having righs and dignity and -- and other things that generally fall under the humanistic approach to viewing existence, and if individuals disagree with this, then they usually decide that they don't want to communicate with our group.

Q But you don't have any oral or

written rules as to the conduct of meetings or any such thing as this, no regularly scheduled meetings?

A No, we have had regularly scheduled meetings, and we have scheduled meetings, but we don't -- we're not every Wednesday nights, anything like that.

Q Well, how often would you say you schedule meetings now, I believe you said you had five or six of these,

A What I call ---

Q over what period of time?

A What I -- since 1969, we had several in '69 -- actually, there are probably a great deal more than -- than five formal meetings but I -- I wanted to say that there were -- there were at least five very formal meetings where we sent word around to everyone to show up and told them what the discussion was going to be about, and we've had many informal gatherings such as at social gatherings and things like this, where we have been able to enjoy each others fellowship in the spirit of the Universal Life Church, and I call those informal meetings,

Q Well --

A meetings with no set purpose.

Q But the so-called formal meetings, of which you said there have been five or six, that's been

[114]

since you first became a member in 1969?

A Yes, sir.

* * * * * *

[114]

REDIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Rhoades, would you read the first lines of that document -- I'm sorry, not the cover

[115]

material, but the . . . . . itself, would you read it out loud to the Court, please?

A Certificate of Amendment of Articles of Incorporation. Kirby J. Hensley and Lida G. Hensley, certify, one, that they are the president and secretary, respectfully, of the Universal Life Church of Modesto, California.

Q Thank you, Reverend, would you now skip down to what I have marked with a paragraph marked, and indicate to the Court whether or not the word religion-- well, read that short paragraph --

A This corporation is one which does not contemplate pecun -- pecuniary gain or profit to the members thereof, and is organized solely for non-profit

[115]

purposes. Upon the winding up and dissolution of this corporation, after paying or adequately providing for the debts and obligations of the corporation, the remaining assets shall be distributed to a non-profit fund, foundation, or corporation, which is organized and operated exclusively for the charitable -- as a charitable status under section 501 C 3 of the Internal Revenue Code. If this corporation holds any assets on trust, such assets shall be disposed of in such a manner as may be directed by decree of the Superior Court of the County in which the Attorney General, or by any person

[116]

concerned in the liquidation --

Q Dr. Rhoades, is that the paragraph where I've underline the word religion . . . . . questioning as to whether or not religion appears on -- in the by-laws?

THE COURT: It didn't appear in the paragraph he read, I think he read the wrong paragraph.

* * * * * *

[117]

THE COURT: All right, well, I'll see what it says when you introduce it.

MR. DAVILA: May I see it just a moment?

[117]

MR. THELEN: We had hoped to get the complete by-laws, but they aren't made available other than this notarized certificate of amendments from California.

Q Dr. Rhoades, do you recognize these particular pieces of literature?

A Yes, I do.

Q Would you identify them for the Court, please?

A This is the Universal Life Church news letter, which they periodically send to every member.

Q Do you receive them regularly?

[118]

A Yes, I do, in fact, this one is -- has my name and address on it.

Q I see, on top of the one that he has opened there, underlining the word religion appearing in the headline, would you read that headline, please?

A The headline reads, An Emerging New Role for Religion.

MR. THELEN: We would like to submit these in evidence, if the Court pleases, Your Honor.

[118]

THE COURT: Very well, it will be received as Respondent's Exhibit 3.

THE CLERK: Four, sir.

THE COURT: Four, excuse me.

Q Dr. Rhoades, when you do psychological counseling, do you often do so as a minister of the Universal Life Church?

A I prefer not to use the word -- or the adjective, psychological,

Q All right?

A just counseling. Yes, I counsel people under what I consider the auspices of the Universal Life Church.

Q There was considerable discussion of

[119]

whether or not you would ordain any other person, and, if so, what sort of questions you would ask, is it your belief that belief in the -- the universal doctrine of the Universal Life Church that, quote, it only believes in that which is right, is a prerequisite to membership and the ministry in the Universal Life Church?

A I would say definitely.

MR. THELEN: I have no further questions of this witness, Your Honor.

[119]

BY THE COURT:

Q Mr. Rhoades, suppose I don't believe in that which is right, and I write out to Modesto and send a dollar and ask for a card ordaining me as a minister, would I get one,

A I think --

Q who is going to determine whether I believe in what's right?

A If you -- if you joined my church or congregation, group, and I asked you did you subscribe to the philosophy of that which is right, and you said, no, I just wanted to get the card, I know I think that's a lot of bunk, well, I'd say, then we don't want you in our group because we believe in that which is right.

[120]

Q Yea, but I don't have to ask you, I can write to Modesto today and send a dollar and get one of those cards regardless of what I believe, can't I.

A Yes, you could, but I personally, and my group would not recognize you, I think it's possible to do a lot of things with false pretenses and doesn't mean one's going to be accepted by the legitimate members.

Q Well, I wouldn't necessarily want to be in your group, I could get up a group of my own, and

[120]

I could ordain all of them in whatever we believed, couldn't I?

A Yes, sir, you could.

THE COURT: Any other questions, gentlemen?

BY MR. THELEN:

Q With every ordination certificate you get the pamphlet, Information About the Universal Life Church, which under paragraph one says, the teachings are that it only believes in that which is right, is this not true?

A That's true.

Q So, therefore, anyone receiving the ordination certificate would at least be on notice that he is expected to believe in that one central premise?

[121]

A This is -- this is a central requirement in the same way that -- that the -- the Baptist community would have their -- their own interpretations of things, their own view, and if one was ordained as -- as Mr. Alley was, and then left Arizona and came to Richmond, and wanted to start a Baptist witchcraft church, he could do so.

MR. THELEN: No further questions, Your Honor.

[121]

RECROSS EXAMINATION

BY MR. DAVILA:

Q You have gotten the card, and then you receive the information about the Universal Life Church, inc., that which is right, belief in that which is right?

A No, sir, first I had to meet someone to find out about the organization.

Q Oh, I see, I'm not -- excuse me, Dr. Rhoades, I'm not talking about you, an individual on the street could mail a dollar, or whatever the cost may be, and get a card, is that right?

A He could, but he'd have to hear about it from somewhere, I don't --

Q Right, he would have to hear about it from somewhere, and then, accompanied with that ordained

[122]

card -- accompanied -- there is an enclosure of a certificate stating in the first paragraph, it is expected that your belief will be belief in that which is right, is that right?

A As far as I know there is it maybe, it comes with the news letter that is included in the same package, but that information is definitely conveyed at the time that the papers are received.

[122]

Q Card is received, that's all.

BY THE COURT:

Q Before you step down, Dr. Rhoades, let me ask you to take a look at this newspaper with the word religion underlined, which was handed to you, and which has been introduced as an exhibit, that -- that article is -- is by some named person who is an MA, and it doesn't have anything to do with the philosophy of the Universal Life Church, does it, it's an article about religion and Jesus Christ, and this sort of thing, this is not written by any Universal Life Church staff member, is it?

A I would assume that only Universal Life Church people would be contributing to this publication, I cannot speak for it, but I would assume that the author, Nell R. Coombs, M. A., was a legitimate Universal Life Church ordained minister, there are over a million members and I

[123]

don't know them all personally. I think there are some Universal Life Church smaller groups, such as mine, that believe very fundamentally in every word in the Bible, and that others do not have anything to do with the Bible, but this person has written an article that talks about Jesus.

[123]

Q Well, see if it mentions Universal Life Church anywhere in there?

A The first paragraph -- the first sentence says, "the appearance of the Universal Life Church on the spiritual horizon of American ecclesiastical life marks a bright new beginning in religious and social affairs," a statement that I can concur with.

* * * * * *

[126]

ROY B. SCHERER, introduced on behalf of the Respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Scherer, are you ordained by the Universal Life Church, Incorporated?

A I am, sir.

Q How long have you been ordained?

A A little bit better than two years, I believe it was in December, '69.

Q Do you -- are you bonded to perform marriages in this Court?

A I am, sir.

Q Are you regularly in communion with the Universal Life Church, Incorporated?

[127]

A I am.

Q Do you regularly commune with a number of local church members?

A I do.

Q Do you recognize this document?

MR. DAVILA: May I see it, please?

MR. THELEN: Oh, I'm sorry, excuse me --

(pause)

Q Do you recognize that?

A Yes, sir, I do.

Q Would you read the top paragraph?

A We, the undersigned, do hereby declare that Reverend Roy Scherer is our spiritual leader and local representative of our Church, the Universal Life Church. we hereby respectfully request that Reverend Scherer be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

Q How many names are undersigned?

A There are eleven in the signatures.

MR. THELEN: At this time the respondents would move that this be admitted into evidence.

THE COURT: It will be received.

[128]

Q Have you married anyone,

A I have, sir.

Q any couple? How many couples have you married?

A One couple.

Q Did you ask them questions about their belief before you married them?

A I asked them no questions about their belief, I asked them questions about their feelings for one another.

Q I have no further questions.

CROSS EXAMINATION

BY MR. DAVILA:

Q Where do you all meet, you and your congregation?

A We've met both in my home, at the homes of other members of the congregation, at the homes of mutual friends, and in commercial establishments.

Q Were they stated meetings?

A Sir?

Q Were they stated meetings?

A I beg your pardon, I don't understand.

[129]

Q Are they -- are they called meetings on your behalf?

A On occasion. On occasion they are informal gatherings.

Q Do you have any specific date that you're required to meet, or that you do meet?

A There is no -- there is no requirement that we will meet on any -- on any given date, we do meet --

Q Do you have ceremonies when you meet?

A We do.

Q What type of ceremonies are they?

A Depending upon persons with whom I am with. We have had the communion ceremony, we have had marriage ceremony. Our ceremony, per se, is generally restricted to a meditation, if you will, and a discussion, rather than being --

Q Meditation on what?

A rather than being a ritual.

Q A ritual?

A I said rather than being a ritual.

Q What type of meditation is it?

A A discussion, a thinking out of problems which confront us about these individuals and as members of the church, and how best we can contribute towards

solving those and towards solving other problems that we see in the world.

Q All right, sir, and is there any discussion in your meditation regarding a Creator?

A Not in every discussion, not in every meeting, in many of the meetings.

Q It is in many of the meetings?

A Yes.

Q Do you all have a belief that there is a Creator?

A Some of our members do, some of them do not.

Q So there is disagreement?

A There --

Q Well, they don't --

A There is a -- there is a lack on unanimity.

Q Now, do you use the word religious?

A Yes, sir.

Q Do you -- do you use religious principles in your meditation,

A Uh --

Q anything relating to a Creator, regardless of who it is?

[131]

A In some of them, yes, sir.

Q And all these individuals do not believe in the same thing?

A That is correct.

Q Did you mail away for a card?

A No, sir.

Q How did you get it?

A I was ordained by the Reverend Jeffrey Kelso.

Q Was that a ceremony?

A There was.

Q And was there academic training?

A Not in a formal sense, no, sir.

Q Do you all have any particular by-laws within your own church?

A We do not, sir, there are no written by-laws.

Q How do you perform ceremonies?

A What ceremony?

Q Your meditation ceremony, is it just

A As I told you, there is -- there is no set ritual, what we have, by ceremony, a process we meet, we discuss the things which are troubling us as individuals, we discuss the things which we think we can do to help us as

individuals, to help us as a church, to help the society, the nation, the community in which we live.

Q And that's all it is, it's just a discussion?

A It varies from meeting to meeting, we do not have a set ritual, and each member is free to do as he wishes.

Q How long have you had your own individual church?

A I would say that I have had persons who look to me primarily as their consultant, their -- one of the people upon whom they depend for leadership under the auspices of the church, for perhaps a year and a half.

Q Have you practiced this religion any other place besides the City of Richmond?

A Only in passing, I have met with members of the church in the City of Pittsburgh, and that is, in the City of Washington, D. C.,

Q Do you know --

A not with members of my individual church, but members of the Universal Life Church.

Q Do you know if there are any other congregates that have a ceremony in the Universal Life Church?

A By ceremony, again please define, a

certain thing which they do?

Q Well, formal discussions, shall we say?

A I'm sure there are, but I don't know of any of my own knowledge.

Q And how much time a week do you devote to this?

A That varies with the time, sir.

Q Approximately, on the average?

A Again, it varies, at one time I was spending perhaps ten hours a week in church related activities, at present I'm spending, oh, over the past month, perhaps anywhere from five to fifteen hours a week.

Q You have another job, don't you?

A I have several other jobs, sir.

Q That's all I have.

MR. THELEN: No further questions.

BY THE COURT:

Q Whois this Mr. Kelso who ordained you?

A The Reverend Kelso is a former student of -- at Virginia Commonwealth University, R. P. I, it was then, he's been a friend of mine for some five years,

and he is presently working at a job which takes him down to North Carolina every night.

Q Well, why do you call him the Reverend, or -- is he associated with some denomination such as Baptist or --

A Yes, sir, he is associated with the Universal Life Church, he is an ordained minister in it.

Q And did he get to be an ordained minister, or do you know, by writing to Modesto and getting a card?

A I'm sorry, sir,I do not know.

Q But he either did that or somebody else who said they were an ordained minister in U. L. C., ordained him, did they not, I mean this is the only way to get ordained, is it not?

A Yes, sir, he has -- he has a certificate of ordination, he also holds -- holds the -- the rank of Honorary Doctor of Divinity from the Church.

Q Well, you can buy one of those for twelve dollars, can't you?

A I wouldn't know, as far as I know, a free-will donation is requested,

Q Well, that --

A and I think it --

Q Well, what I say you can either get one nothing or twelve dollars, or whatever -- whatever the cost is, whatever the donation is?

A The inscription on the certificate, Your Honor, says that it is -- has been awarded for his outstanding work.

Q Do you have to do any regularly prescribed training to get a Doctor of Divinity Certificate from --

A I do not know the circumstances under which he received his, unless I am mistaken, it was an Honorary Doctorate.

Q Well, does that mean he got it free?

A I'm sorry, Your Honor, I do not know the circumstances under which he received it.

MR. DAVILA: May it please the Court, Respondent's Exhibit Number 1 . . . . . School in Arizone as it stated also offers an Honorary Doctorate of Divinity degree, which consists of ten lessons and twenty dollars.

Q Well, your answer is you don't -- you don't know whether you can just write to Modesto and pay a certain amount and get a -- one of these so-called Doctor of Divinity degrees?

[136]

A No, sir.

Q Do you know -- do you know whether any training is required for it?

A Sir, I do not know, I have never had any interest in seeing --

Q You've never tried to get one yourself?

A No, sir.

Q You made the statement you were regularly in communion with the United Life Church, what do you mean by that?

A I regularly speak to member of the Universal Life Church, we have both formal and informal meetings, it is a very rare week in Richmond when I do not see at least five or half a dozen members of the Church, and speak with them at length --

Q But, where do you see them, do you just run into them on the street, or do --

A That has happened, more generally I meet --

Q Do you -- do you describe that as a meeting?

A No, sir, more generally, I meet with them at their home or at my home, or in a restaurant.

[137]

Q Well, I thought you were making a distinction between regularly -- being regular communion with the Universal Life Church and regularly in communion with a local congregation, but when you made this statement, you were speaking really of your local congregation,

A I have been --

Q am I correct --

A When I made the statement I was speaking of the local congregation.

Q I see?

A If I may volunteer the information, I am also in communion with the church in Modesto, both by telephone and by letter. On the basis of at least every four or five months I -- there is no set date upon which --

Q Are you an officer of the national organization, if we can call it that?

A No, sir, I am not.

Q Well, what is the nature of your communication with Modesto?

A Recently, discussing this Court proceeding. Prior to that, reporting to the church in Modesto the names and addresses of persons whom I have ordainied as ministers in the church, and on several occasions requesting additional supplies of membership -- of ordination certificates

from them.

Q Well, when you ordain somebody, do you send this free-will offering to get the card?

A No, sir, I --

Q Who does, the member you ordain?

A No, sir, I do not charge a free-will offering.

Q Well, you never send any money when you ordain somebody?

A I have sent, I believe it was two dollars to subscribe to the church news letter, that is, in the total time that I have been ordained. I have ordained over -- over twenty people.

Q Do they ever send a donation?

A Not to my knowledge, I have not asked them.

Q What is your definition of church?

A My definition of church would be a group of people who are gathered together to further what they conceive of as God, and by God -- and I must use loose definitions because this is something which every person decides for himself, some people Jehovah, Yahweh, some people, they even inanimate, life or --

Q Well, are there any people in your

local congregation who don't believe in God at all, any God?

A I'm sure there are.

Q In other words, have you got any atheists in your group?

A I can only think of one off-hand.

Q But most people in the group believe in some God, but not necessarily the same one, is that correct?

A They don't necessarily think of Him in the same terms.

Q Well, you can't say that there's really a unity of belief in your group then, can you?

A I would say that there is, sir, in that --

Q Well, how can you if you've got athesits in the group?

A Because he believes that there is no God, however, he grants us the right to believe that there is a God and to -- to consider Him to have whatever attributes we believe that he has, he does not attempt to force his atheism upon us and we do not attempt to force our beliefs upon him,

Q Do --

A we --

Q Excuse me, go ahead?

A We -- we grant him the right to believe what is right for him, just as he grants us the same right.

Q Well, there isn't any requirement by the Universal Life Church that there be unity of belief, is there,

A That one --

Q among the members?

A That one prime dogma constitutes the one bond in which we all believe, that no person can impose his beliefs upon another, each person believes that which is right, and he himself must be the judge thereof.

Q There is no requirement of unity of belief as to religion?

A Not as to the nature of the religion, there is the requirement that you believe in what is right, that you grant others this belief.

Q Would you consider your local group a religious society within the meaning of this type of definition, that religious society being a -- made up of persons who have associated themselves together for religious as opposed to secular purposes, or a body of persons associated together for the purpose of maintaining religious worship?

A I would, Your Honor, I would consider my group to meet both of those definitions.

Q Well, let me ask you this, what do you mean by religion?

A By religion, I mean the advancement -- this is my personal belief as opposed to a dictionary definition -- when I speak of my religion, I mean a striving to advance that which -- which is good, that which is noble in mankind, as opposed to that which is base and evil, I mean a striving to -- to glorify life and freedom, the -- the very earth on which we stand, and concurrently as part of that, I would include helping the -- those people who need help.

Q Well, I gather from your definition, you don't think it need be associated with -- with a God of some kind?

A Your Honor, I'm not sure what God is. I have an idea, I certainly have no direct knowledge, I and the people with whom I associate are searching for truth, if you will, we don't pretend to have the final answers, that's inherent in the nature of the Universal Life Church, I believe that which seems best for me, that which seems right, I cannot force my belief upon you. If you believe that the -- that there is no God, whereas I believe that there is a God, who insists upon being called Yahweh, rather than Jehovah, or

[142]

Allah, I cannot force you to agree with that -- with me, I must respect your right to believe as you will. By the same token, I have been able to help by not restricting ourselves to people who believe identically with us in all respects, we are able to do much good. As an example, visiting people in jail who do not believe in the same concepts of right and wrong that we do, but still in most cases, do what they believe is right.

* * * * * *

[142]

BY MR. DAVILA:

Q Mr. Scherer, if I wanted to I could send a dollar, or five dollars, out to Modesto, California, and get a card, couldn't I?

A I imagine you could.

Q That would make me a minister in the Universal Life Church, isn't that correct, if I signed my name to that card?

A (No audible response)

Q Now, I don't have to believe in that which is right to get that card, do I?

A Unless I'm mistaken, you would

[143]

normally write and say, I have read about your church, or I have heard about your church,

Q Did you do that?

A and I agree with -- no, sir, I was ordained by someone whom I had known for three years.

Q All right, sir?

A And --

Q Unless I'm mistaken, you don't really know?

A No, sir, I have done it of my own experience, and I have --

Q Have you ever known of anybody writing out there?

A No, sir, I have not, not --

Q In other words, most of the ministry appointments -- most of the minister appointments come through referral personnel here in the city?

A Most of the ordinations with which I am personally acquainted have been done by individuals, true individuals who they knew.

Q All right, I have nothing else.

WITNESS STOOD ASIDE.

[144]

MR. THELEN: With all due respect, Your Honor, in light of the Constitutional nature of this case, I want to raise a standing objection to questioning on the nature of the church and the religious beliefs of the future witnesses because of our -- of beliefs in God of the witnesses because of our prior and continuing argument that that is not a proper subject for scrutiny by this or any court, and I would raise this as an objection as to the future respondents that will testify.

THE COURT: Well, you're really saying the State has no right to pass the statute then, aren't you?

MR. THELEN: Or the Court has no right to make a determination --

THE COURT: As to whether the statute is applicable to these people?

MR. THELEN: On the basis of their belief in God, or their beliefs in what constituutes a church or a religous denomination.

THE COURT: Well, how do you think the Court can go about trying to find out whether they meet these definitions without using the

[145]
phrases that appear in the statute?

MR. THELEN: Well, I wouldn't limit the Court to the phrases in the statute, those of proof of ordination, and they supply, and stand ready to supply documentary proof of ordination, and their being in regular communion with the religious society of which he or she is a purported member, --

THE COURT: I mean, whether they are a minister, or they are a religious denomination, or a religious society, these all -- they are pertinent phrases in this statute.

MR. THELEN: The statute does not require belief in God in order to become a minister or be in the church, in fact, the statute does not mention church.

THE COURT: Well, I understand that, and we're just trying to find out what these witnesses really believe, and whether there is unity of belief and this sort of thing, and I think when a witness gets on the stand and testifies that he has a group, one member is an atheist, and another one believes in God, this really goes to one very pertinent point as to

[146]

whether there is unity of belief, because this is a legal definition of what a religious denomination or society is,

MR. THELEN: Well, Your Honor --

THE COURT: this is a legal definition, it's a group that has unanimity of belief.

MR. THELEN: With all due respect, Your Honor, that definition provided in the statute, the statute does not require belief in God.

THE COURT: Well, I won't argue with you, I -- of course, you have a right to object to -- to any question by the Commonwealth or the Court, I'm not arguing with you, and I respect your objection, but I was just trying to find out exactly why you were objecting. I think we -- how many more witnesses are there?

* * * * * *

[151]

MARK GARY MURPHY, introduced on behalf of the respondents, being first duly sworn, testified as follows:

[151]

DIRECT EXAMINATION

BY MR. THELEN:

Q Would you state your full name for the Court, please?

A Mark Gary Murphy.

Q Are you an ordained minister of the Universal Life Church, Incorporated?

A I am.

Q Do you have proof of ordination?

A Yes, I do.

Q Did you submit such proof or ordination when requesting a bond to perform marriages in this Court?

A I did.

Q Are you in regular communion -- communion with the Universal Life Church, Incorporated, in Modesto, California?

A Yes.

[152]

Q Would you describe that communion, what communication you get from the Universal Life Church and give to them?

[152]

A I'm a subscriber to their newsletter, and I have written them on two occasions asking for information, one time on the procedure for recording marriages with the church itself, and once on the -- for materials and procedures for ordaining other people as ministers.

Q How long have you been an ordained minister of the Universal Life Church?

A For approximately one year.

Q Have you ordained other ministers?

A No, I have not.

Q Are you in communion with a local Universal Life Church?

A The group that I am in communion with has never organized itself as a church, with any formal organization, we do meet informally.

Q Regularly?

A Not in a scheduled -- not regularly scheduled meetings, we meet with certain members of -- in a fairly regular fashion, regular being perhaps once every month or two months, but not in any -- in any schedule.

Q All right, were you called upon

[153]

when you applied for your bond to perform marriages to offer proof of regular communion with your religious denomination?

[153]

A No, I was not.

Q What did they ask you to show?

A They asked me for my proof of ordination, and I offered my card, the credentials of ministry, and that was accepted.

Q Do you have a petition similar to Mr. Scherer's from members of your local congregation?

A I do.

Q Could you produce it? (Pause) Would you read the top paragraph of it?

A We, the undersigned do hereby declare that the Reverend Mark G. Murphy is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that the Reverend Mark G. Murphy be allowed to retain his legal privileges as a recognized minister in the State of Virginia.

Q How many signatures are appended?

A Six.

MR. THELEN: At this time, the respondents would move that this be admitted into evidence.

THE COURT: I want to ask him a

[154]

question before you submit it.

MR. THELEN: We have no further questions, Your Honor.

CROSS EXAMINATION

BY MR. DAVILA:

Q Mr. Murphy, you say you are ordained, was Reverend Kelso the person who ordained you?

A No, sir.

Q How were you ordained?

A I was ordained by Reverend Scherer.

Q Reverend Scherer, and did it cost you any money to become ordained?

A No, sir.

Q And what did he do as a result of that -- excuse me, how did you become ordained?

A I approached Reverend Scherer and said that it was my understanding that he was a Universal Life minister, and that I had previously been associated with a Universal Life group while I was in school, I had not been ordained at that time, and I wished to become ordained, and he spoke with me on the first occasion for about, approximately a half an hour, about the Universal Life Church, and then said that he would ordain me, and did.

Q How did he do it?

A He asked me two questions, and then said that I was ordained.

Q What were the two questions?

A The first question was whether or not -- it was to the -- it was something to the effect that did I accept the -- the major premise of the Universal Life Church.

Q That was?

A To do what is -- to -- to believe in what is right.

Q And the second?

A And the second was that -- did I believe that this -- that this premise to do what is right applied universally to everyone -- well, basically, could I agree with other peoples right to disagree with what I thought was right.

Q And what was your reply?

A My reply was that I did.

Q That you disagree with others?

A I agreed that others had the right to disagree with what I considered to be right.

Q Other than the Universal Life Church do you disagree amongst each other as to their creator, or whether or not there is a God, and so forth?

[156]

A They disagree on many things, yes.

Q Those are the ones they disagree on though --

A Among others, yes.

Q Among others, all right, sir, and as a result of that, did you have to pay any money, or did --

A No, I didn't.

Q Did you get a card?

A Yes, I did.

Q This was as a result of a half-hour meeting and two questions being propounded to you?

A Yes, sir.

Q Now, you say you're in regular communion with Modesto, California, the higher element in the church, hierarchy, would that be the appropriate term?

A I don't know if that's appropriate --

Q What would you say?

A The -- the organization.

Q Would it be government of the church?

A I don't think you can call it a government, according to what I consider a government to be.

Q All right, now your communion with them is as a result of a subscription to a newsletter?

A Not a result, that is one of the

results of my communion.

Q What other communion have you had with them?

A I wrote them concerning the procedures for recording marriages with the church.

Q What do you have to do to record marriage?

A Well, you don't -- you don't have to do anything to record it with the National Church, you can get certificates to be given to the people who are married, and you can report it to the National organization and it will be recorded, that is not required, however.

Q Is that the black and gold certificate that has been referred to here?

A Yes, sir.

Q And have you had occasion to marry anyone?

A No, sir, I was asked to perform a wedding, and then it was -- the people decided to postpone their wedding, they are planning now to be married this summer.

Q The same type of ceremony?

A Yes, sir.

Q Is there a ceremony?

[158]

A The ceremony was to be written by the people.

Q Is that the way ceremonies are generally performed in the Universal Life Church?

A As far as I -- the ceremonies that I am familiar with, yes.

Q All right, they are written by the people to be married?

A Yes, as there are in many churches.

Q And do you know of any ceremony that has been performed that has been written by other people?

A Written by --

Q Have you ever observed one?

A A wedding ceremony written by the people involved, no, I have not.

Q Where do you all meet?

A We meet in the homes of the people.

Q And what do you discuss?

A We discuss basically the -- the people's general outlook on life, their -- the way they believe things to be, if they believe in a creator, if they believe in a personified God or a -- or a -- or a God force, or just generally what the people believe to be the -- the -- the state of existence.

[159]

Q Do -- does the word religion ever come into --

A It does.

Q It is mentioned?

A Yes.

Q I see. Now, you have been referred to on that petition as a spiritual leader, would you give me your connotation of the word spiritual?

A Spiritual leader is one who helps a person to arrive at his own understanding of what he is spiritually, and to help him to deal with what he has determined to be his -- his concept of -- of what he is, and what the world is.

Q He would be -- you would say, then, that there was unity?

A There is a unity, yes.

Q That unity is what?

A That unity is the unity in the belief of the right of every individual to determine his own spiritual beliefs, and to adhere to those beliefs without interference.

Q Have you ever had occasion to read any copies of the by-laws of the Universal Life Church?

A No, I have not.

[160]

Q Have you ever had any occasion to read the purposes set out for incorporation?

A You mean the actual papers of incorporation, no.

Q The petition that you have submitted into Court, signed by the five or six individuals, did you have occasion to request that yourself?

A Yes, I did.

Q And approximately how long have these individuals been within your church?

A The time varies, some of them as long as eight months, one of them as recently as two months ago.

Q When you requested this petition to be signed by them, had there been any formal act of appointment of you as their spiritual leader?

A No official act of appointment, I was the leader by virtue of the fact that I was the one that organized the group.

Q And you -- then you deem that you were appointed?

A Informally, yes.

Q Informally, that's by indication on your behalf?

[161]

A By indication, yes.

* * * * * *

[161]

Q Would you classify your group or the Universal Life Church, as a religious denomination?

A I would.

Q And what is the connotation you attach to the word religious?

A Religious concerns a person's belief as to his spiritual, metaphysical existence, and to what he believes concerning the -- the reasons for existence, the -- the Supreme Being, if he believes in one, the life force, or whatever he believes in.

Q How much time do you spend upon this work?

A It varies from week to week.

Q Approximately?

A Some weeks as much as four to five hours, some weeks none.

[162]

Q What is the connotation of the word denomination, as far as you're concerned?

A I would consider denomination to be a group of people of similar thinking, who band together and

[162]

choose to call themselves a denomination.

Q Why, in order -- and answer this if you can -- why, in order to get a Doctor of Relgious Humanities Degree, is there required a course in Phoenix, Arizona, do you have any idea?

MR. THELEN: Objection, Your Honor, this is irrelevant to the issue before the Court

MR. DAVILA: I don't think it is, if Your Honor please, I'm going to relate to the Court later by definitions that ordination carries with it some form of academic training, and it is clear that in Respondents' Exhibit Number 1, there are two paragraphs set out in the right-hand lower corner, whereby it is indicated that there are schools available to individuals who want to further their education or academic background in order to receive Doctor of Humanities degrees, and also a Doctor of Divinity degree, plus the submission, in Respondents' Exhibit Number 1 of a fee, forty

[163]

and twenty dollars respectively, so I ask him the question, and I did qualify it to this extent, if he knew, why was it necessary to do

[163]

this and not necessary to do it as far as obtaining -- or going into the ministry, becoming a clergyman.

THE COURT: That's a proper question if you want to phrase it that way, objection overruled.

Q If you know, can you answer that question?

A I don't think I'm qualified to answer that, I have not looked into that at all.

Q Do you know what Mr. Scherer had to do in order to get you your card?

A He told me that

Q What did he tell you?

A he had to send my name and address along with a couple of other names and addresses of people he had ordained to Modesto to register us with the National organization, and fill out the cards, which he already had in his possession.

Q That's all I have -- oh, one final question, if I may: You have your card with you?

[164]

A Yes, sir.

Q Would you refer to your card, please. (pause) Would you refer to the first paragraph, the last sentence, the holder is entitled to all the privileges and considerations usually granted a minister, have you ever been explained the meaning of that statement?

A As it was explained to me by the Reverend Scherer, that included the right to be bonded to perform marriages, to visit inmates in jails, to organize and set up in formal fashion, if I so desired, a Universal Life Church of my own --

Q Could I refer you to the second paragraph, the Universal Life Church, Inc. assumes no responsibility for actions by the holder hereof for use of this credential for any purpose other than for which it is issued, do you know the connotation of that statement?

A I can only assume what it means, --

Q Would you?

A It is my assumption that that statement means that if I -- if I were to do something, pretending to be a Universal Life minister, such as set up seminars in witchcraft or astrology, or some other -- some other thing such as this, which violated a State law or another way damaged or injured someone that the Church would not assume

responsibility for my actions.

Q I have no further questions.

BY THE COURT:

Q On the question of ordination, I understood that you were ordained by Mr. Scherer and

A Yes, sir.

Q that he wrote to Modesto, as far as you know, what happened after that, did he simply come and present you with a card with your name typed on it?

A Yes, sir.

Q And that was the extent of the ordination as far as you knew?

A That, and the original meeting, yes.

Q In which you asked him some questions about it?

A Yes.

Q This petition that you presented to the Court as an exhibit, that, of course, was gotten together after the show-cause order was issued, was it not?

A It wasn't needed before the show-cause order was issued.

Q But it was after the show-cause order?

[166]

A Yes, it was.

Q And this was a request by you of the people who signed it?

A Yes.

Q Who -- who prepared the petition?

A I was given the petition by Reverend Moyer, I don't know who prepared it.

Q The doctrine of to do what is right is the only doctrine of the United Life -- the Universal Life Church, is it not?

A The doctrine to do what is right and to support others in doing what they believe is right, not to impose your belief on others.

Q Are you familiar with the information sheet about Universal Life Church, which was submitted as an exhibit, have you ever read that?

A No, sir.

Q As I understand it from testimony of other witnesses, each individual has the right to decide what is right, is this correct?

A That is.

Q When did you organize this group which you say you are the sepulchral pastor of?

A Well, I was ordained approximately

a year ago, I forget the exact date that my card was presented, and at that time began meeting with three of those people on the petition for the purpose of discussing the -- what is right, what the purpose of our existence is, and as we went on, the other people joined us from -- from friends of the people already involved, or friends of mine.

Q Are these five people which you claim to be your congregation, six people, I think.

A Yes, sir.

Q on the petition,

A Yes, sir.

Q are all these ordained ministers of the Universal Life Church too?

A No, they are not.

Q How many of them are?

A None of them.

Q None of these people are ministers of the Universal Life Church?

A No, sir.

Q You, in response to a question Mr. Davila asked, defined denomination, or said this is your definition of denomination, a group of people of similar thinking, yet I have gathered from listening to other witnesses and to you, too, that the thinking does not really have to be

similar, can't you have somebody in your group who -- who doesn't believe in any god, any creator, other people who do?

A The thinking is similar in that they all agree with the major premise of the church.

Q And that's what you mean by similar -

A That's what I mean by similar.

Q That in your -- your local congregation, if we may call it that, you would allow people in the group to -- one to be an atheist and another to be -- not believe in God at all, or any god, and -- well, I mean, others in there to believe in a god -- some people not to believe in any god at all, people who do believe in a god, people who believe in Buddha

A Yes,

Q as a god?

A the purpose of the group is to help each individual to achieve his own understanding of what he believes to be his -- the nature of things, and as long as each individual agrees with the major premise, then a diversity of opinion is -- is a good thing.

Q Well, I'm not arguing whether you think it's a good thing or not, that doesn't answer my question, my question is

A Right.

Q in your group, could you have an atheist,

A Yes, I could.

Q a person who believes in

A Yes.

Q the Lord, Jesus Christ as God, a person who believes in Buddha as God?

A Yes, I could.

Q But you say that the denomination requires similar thinking because each one of these persons thinks that's what's right, is that it?

A Because each one of the persons agrees with the major premise.

Q That -- to do what is right?

A Yes.

Q And this is what he thinks is right?

A Yes.

THE COURT: Any other questions, gentlemen?

MR. THELEN: No further questions, Your Honor.

* * * * * *

[172]

JEFFREY EUGENE KELSO, introduced on behalf of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Kelso, would you state your full name for the record?

A Jeffrey Eugene Kelso.

Q Are you an ordained minister of the Universal Life Church, Incorporated?

A Yes, I am.

Q How long have you been ordained?

A Since October of 1969.

[173]

Q Do you have proof --

THE COURT: Sixty-nine?

A Yes, sir.

Q Do you have proof of ordination?

A Yes, I do.

Q Did you submit that proof to this Court when you requested bond to perform marriage?

[173]

A Yes, I did.

Q Were you asked to submit anything else as to communior with the church?

A Only the -- to sign the form at the time, which had some sort of stipulation in there that I did have a -- was a minister of God, I believe, is how it was phrased.

Q Are you in regular communication, communion if you will, with Universal Life Church, Incorporated?

A Yes, I am.

Q Are you in regular communion with a local Universal Life Church?

A Yes, I am.

Q When were you bonded to perform marriages in this Court?

A I believe it was in February, 1970.

[174]

Q You are not sure?

A I'm not sure of the exact date.

Q Is the Universal Life Church, Incorporated, in the State of Virginia?

[174]

A I'm afraid I don't quite understand what you're saying?

Q Was your church, the church that you organized, incorporated under the laws of the State of Virginia?

A We incorporated underneath the name of the Covenant of the New Initiative, Incorporated, as a non-stock corporation.

Q As a non-stock, charitable, non-profit corporation?

A To be non-profit we had to file with the IRS, which we never did.

BY THE COURT:

Q What is the name of this organization?

A (No response is heard)

Q What is the name of this organization?

A The Covenant of the New Initiative.

[175]

Q Covenant of the New Initiative?

A Yes, sir.

BY MR. THELEN:

Q When was the Covenant of the New Initiative Church chartered by the State of Virginia, if you remember?

A Again I cannot remember the exact date, it was in the spring of 1970.

Q Do you -- (pause) do you recognize this document in the frame?

A Yes, I do.

Q Would you read the first two lines and describe what the document purports to be?

A A charter. This is to certify the Universal Life Church of Richmond, State or Province of Virginia, has been granted by the Universal Life Church, Incorporated, Modesto.

Q And it is signed?

A By -- yes, by Kirby J. Hensley, Doctor of Divinity.

Q Pardon?

A Doctor of Divinity, as President of the Universal Life Church, Incorporated.

[176]

Q Is the corporate seal of the Universal Life Church, Incorporated, affixed to the document?

A Yes, it is.

* * * * * *

[177]

Q Is the Universal Life Church mentioned as, and chartered by this document the same as the Covenant of the New Initiative?

A Yes, it is.

Q Would you explain why there are two names?

A The State Corporation Commission informed us that we could not incorporate in this State using the name church, that that was not allowed.

THE COURT: That's correct, unconstitutional.

A Therefore, we had to form a more or less holding company -- perhaps that isn't the right term, but basically holding company for the church so we could conduct business, this is a common practice amongst churches.

[178]

BY THE COURT:

Q Does the Corporation know you're doing -- Corporation Commission know you're doing this?

[178]

A Yes, they did, I walked the papers through myself, wearing Roman collar , and explained exactly what it is.

Q Do they know you're running a church under the aegis of a holding company because you can't charter a church in Virginia?

A Maybe the term holding company isn't the right one, I'm not sure of that, but we were told this was the common practice, that -- to incorporate so that you could own property, conduct business, make contracts, et cetera.

Q Well, my question to you is, do you think any officials of the Corporation Commission who granted you the charter of incorporation know that you're running a church under the sponsorship of the Covenant of the New Initiative?

A I feel sure since they were the ones who told us that we couldn't use the name church, and would have to get another name for it.

* * * * * *

[179]

THE COURT: Well, Mr. Davila, do you still object to the introduction of this?

[179]

MR. DAVILA: I don't have any objection to it.

THE COURT: Very well.

BY MR. THELEN:

Q Have you married anyone as a minister of the Universal Life Church, Reverend Kelso?

A Yes, I have.

Q How many couples?

A Two couples.

Q What did you ask of them before you married them?

A To see the wedding -- marriage

[180]

license.

Q Did you -- have you ordained any other ministers?

A Yes, I have.

Q How many?

A I would approximate about one hundred.

Q Did you question them as to their belief in the central premise of the Universal Life Church prior to ordination?

[180]

A Yes.

Q Did they satisfy you that they believed in the cent al premise of the Universal Life Church prior to their ordination?

A Yes.

Q Do you know how many members in Richmond -- there are in Richmond of the Universal Life Church, or of the Covenant of the New Initiative, or similar related names that are off-shoots of the Universal Life Church?

A I do not know the exact figure, I know that it is over eight hundred.

Q Over eight hundred. How many members do you feel regard you as their spiritual leader or pastor, or minister _____ of your church in Richmond?

[181]

A At least sixty.

* * * * * *

[181]

CROSS EXAMINATION

BY MR. DAVILA:

Q You say you're an ordained minister of the Universal Life Church, do you have any other degrees besides that one?

[181]

A I hold an Honorary Doctor of Divinity, from the Universal Life Church of Phoenix, Arizona.

Q Is that the school you attended out there?

A No, sir, it was an honorary degree.

Q Honorary degree? Did you have to pay anything for it?

A No, sir, I did not.

Q And were you licensed to marry couples by this Court or the Clerk's Office of Hustings Court?

A Yes, sir.

Q And, Mr. Kelso, were you licensed as a member of the Universal Life Church, as a member of the Covenant of the New Initiative?

[182]

A Universal Life Church.

Q Have you ever been licensed to marry as a minister or a member, or what have you, of the Covenant of the New Initiative?

A No, I have not.

Q The name of the church that you are servicing now is the Covenant of the New Initiative?

[182]

A No, it is not.

Q Is it the Universal Life

A it's the Universal Life

Q Church?

A Church of Richmond.

Q Now, you say you have married two couples, what type of ceremony was it?

A The first wedding was a very traditional sort of wedding, not straight formal, but tuxedos, and whatnot, the couple wrote up their own ceremony, quoting extensively from the bond. The second ceremony was a more rustic one, it was out at Pocahontas State Forest, and again the wedding party was dressed formally although the people attending were not so formal.

Q When you were ordained, were you ordained through Modesto, California, or by some individual here?

[183]

A I was ordained by John Tyler, who is a Universal Life Church minister who was ordained by Bishop Hensley himself.

Q By Bishop Hensley?

A Right.

[183]

Q And when you became ordained, did you go through any formalized training or academic schooling?

A Well, I had been talking with John for a long time, he lived with me for about two months, and we carried on many conversations, very long ones, on theology and history.

Q As it relates to other faiths, or as it related to Universal Life Church?

A Both.

Q Now, were you ordained here in Richmond?

A Yes, I was.

Q What did he do to ordain you?

A He pronounced me ordained minister of the Universal Life Church.

Q And gave you a card?

A No, he did not.

Q You eventually did receive a card?

A Yes, I did.

[184]

Q When you ordained others, you were asked on direct examination about asking the others of the central premise of the Universal Life Church, and you hesitated,

[184]

was there any reason for that?

A Yes, because I didn't come out and directly say, do you believe in the central premise.

Q What did you ask them?

A For the most part, what I asked is did they believe that everyone has a right to do whatever they want to and believe in whatever they want to, as long as they believe it is right and it does not infringe upon the rights of others.

Q You have a total number of sixty in your, would it be fair to say, congregation?

A Approximately.

Q Approximately. How often do you meet?

A En masse, I don't think we ever have, totally, we meet informally infrequently.

THE COURT: Did you say you meet informally infrequently, or you meet informally frequently?

A Infrequently.

Q I noticed that you are wearing the

[185]

cloth, the collar, is that significant, is it required in your church?

A No, it is not.

Q Do you meet in various person's homes?

A Yes, and in public places also.

Q When you ordain others, excluding the central premise of the Universal Life Church and the questions surrounding which you may or may not have propounded to them, what else did you do, anything?

A Most of the people I have known for quite a while, so I basically know what their thinking is, what sort of person they are, so it isn't extremely necessary to go into a detailed examination. My feeling on it has been that ordination is one of the sacraments, and I cannot refuse to grant the sacrament to anyone who wishes, I cannot refuse to grant any sacrament to anyone within the law, meaning that I would not marry someone, which is a sacrament, unless they had the proper license, et cetera.

Q Now, what did you do with respect to the ministers though, did you issue them cards, after inquiry, was made?

A After ordinations, some of them I did when I had cards available and certificates available,

others I gave them the address in Modesto, California, where they could write to and receive the papers.

Q The connotation of the word religion or religious means what to you?

A Would you rephrase --

Q The meaning of the word religion or religious means what to you?

A Personally it means a belief in a system of ethics and morals, guided by a central diety, if you wish to call it diety, supreme being.

Q Is there a centralization within the Universal Life Church of these beliefs and these opinions?

A There are over a million and a half Universal Life Church ministers in the United States, I can't say.

Q Has it -- has a centralization ever been documented?

A In the earlier days of the Universal Life Church, it was rather fundamental Christian, it has since spread out and become very broad-based, allowing almost --

Q Has it ever been documented?

A No, sir, not that I know of.

Q I have no further questions.

BY THE COURT:

Q Mr. Kelso, you stated that you are in regular communion with the United Life Church, Incorporated, in Modesto, what do you mean by that?

A I have received the newsletter when published, I have corresponded with Lida Hensley, who is secretary of the Church, I have corresponded with Kirby J. Hensley also.

Q But this is the extent of your communication with the Modesto group?

A Well, how many Catholic priests communicate with the Pope?

Q Well, I don't know, but what sort of correspondence do you mean, writing to tell them you've got a new member, or --

A All right, asking them questions, I've asked about affiliations with the -- and I refer to it as the Mother Church, U. L. C., Modesto, it might have, if it would be all right for us to affiliate with any group, and asked them for information on the church, asked them for supplies, et cetera, they have in turn asked us for information, which we have responded with.

Q Well, what is the nature of your communion with your local Life Church, you said you met

informally, infrequently?

A Correct.

Q What is the nature of your communion with your local group?

A Mostly it's just gatherings where we sit around and discuss our beliefs on various issues and how they relate to our total being.

Q Your statement was you met informally infrequently, how about your formal meetings, do you ever have formal meetings, called meetings?

A We occasionally do, we have not had one in several months, there's been no reason until rather recently.

Q Well, since you have been a Universal Life Church minister, how often would you say you have had formal meetings?

A Maybe fifteen times.

Q Since 1969?

A Correct.

Q Well, I don't know if you know the answer to this question or not, but you referred to Kirby Hensley as a Doctor of Divinity on one occasion and as a bishop on the other, do you know how he got to be a doctor of divinity or a bishop?

A He was elected to the position of bishop.

Q By whom?

A When the church was originally established.

Q Well, by whom?

A By the charter members of the church.

Q Do you know anything about the -- the procedure for ordaining him as bishop, if that's the correct word?

A No, I do not, they no longer use the title, he is now just president.

Q And does he still call himself a doctor of divinity, or do you know?

A I have seen it in some recent -- within the past year, in some correspondence, I have seen it after his name.

Q And do you know how he got that title?

A No, I do not.

Q You said you had an honorary doctor of divinity degree from the Universal Life Church, what did you do to get that?

A Established the Richmond Universal

Life Church.

Q And as a result of telling them that you had established the Life Church here, they gave you an honorary degree?

A That is correct.

Q You spoke of granting sacraments, when you -- when you use that term, do you simply mean performing marriages, or anything besides performing marriages?

A I'm sorry, could you repeat that?

Q You used the phrase, granting sacraments as a minitster, I said, are you confining that expression to performing marriages?

A No, sir.

Q Is that what you mean by granting sacraments?

A I'm not aware of using the term granting, that -- if I did, that isn't what I quite meant.

Q Well, did you --

A I include in the sacraments which I have performed, baptism, ordination, marriage, and consecration of a church building.

Q And where did you consecrate the church building?

A Pocahontas State Forest.

[191]

Q And who -- is this the Universal Life Church Building?

A It was for a short while, very short while.

Q What happened to that?

A The people moved, it was the couple that I had married, it was their --

Q Oh, they let you use their home as --

A Right.

Q as a church?

A Right.

Q In response to a question from Mr. Davila, you said that the United Life Church is broad-based, what do you mean by that, that it -- that it allows all types of thinking?

A Yes, sir, as long as it does not interfere with the rights of others.

Q You said the premise of the Universal Life Church is everyone can believe what he wishes and what he wants to so long as he thinks it is right and -- and I think you added, so long as -- that it does not infringe on the rights of others, and some --

A This is as I have interpreted it.

Q Some witnesses who have preceded

you have -- have said that under the Universal Life Church doctrine, a person can -- can break the law so long as he thinks it is right, do you disagree with that?

A Do you mean civil disobedience?

Q Well, that's one form of it, of course, or criminal either, I -- well, one question -- one question specifically

A Right.

Q I put to another witness yesterday was, does the thinking of your church allow me, if I'm in your group, and I think pot smoking is all right, and another -- other member of the group think it is wrong, does the thinking or doctrine of your church allow us to exist as a congregation?

A I wouldn't see why not.

Q And would the doctrine of the Universal Life Church -- would the church frown on me rather because I believed in pot smoking, which is breaking the law?

A No, I don't believe so.

THE COURT: Any other questions, gentlemen?

MR. DAVILA: Yes, I do.

BY MR. DAVILA:

Q In reference to the line of question

ing by the Court, how would you treat that person's conduct in your church, violation of the law?

A Could you cite some sort of an example,

Q Well,

A what their situation is?

Q a person in your congregation, say, smoking marijuana, which is a violation of the law, how would you treat that person's conduct, would you say he is doing it because he believe that it is right for him?

A I would personally have that opinion.

Q You would then?

A Yes, in that sort of situation, he is not infringing on the rights of anyone else or causing any harm to anyone else.

Q I see, all right now, and suppose another extreme case, a person, a member of your congregation, say, committed a robbery?

A I definitely couldn't approve of it.

Q Would it be -- would his conduct be respected?

A If he --

Q Felt that that's --

A Well, if he --

Q would be right for him?

A if he had stolen the papers out of the Pentagon, I would highly respect him.

Q Pardon?

A If he had stolen the papers out of the Pentagon, I would have highly respected him, if he stole a suit out of Miller and Rhoades, I wouldn't have very much respect at all for him.

Q Right, so, in other words, it's not the actual offense of robbery, but rather the choice of priorities that attaches to your own subjective feeling?

A Right, this is my view.

Q Is that accepted amongst the Universal Life Church doctrine?

A I couldn't say on that, I don't believe there is a policy statement, per se, that has been issued.

Q Well, let us consider, then, that it only believes in that which is right, would you say it was accepted by the Universal Life Church then?

A I'm afraid I don't understand your reasoning there.

Q Conduct, depending upon what type of conduct is accepted on occasions within the church, right?

[195]

A Right.

Q Conduct, however, is within the framework of subjective priorities on behalf of the individuals, is that correct?

A All right, yes.

Q Regardless of whether that conduct is lawful or unlawful?

A Excuse me -- I again would have to say it -- depending on if it caused damage to a person or if it caused benefit not just to the individual who committed the act, but to society.

Q I see, then stealing Pentagon papers versus suit from Miller and Rhoades subjectively, then, in determining whether that conduct is acceptable, subjectively, that is on behalf of the individuals themselves, the determination is made as to a balancing of the interests involved, is that right?

A I would say so.

Q The balancing of the interest, is that -- does that have any moral or standard within Universal Life Church, how you balance the interest?

A No, there have been some things that I haven't quite approved of wholly and there's been others I've heartily felt for and had different opinions within the

local ministry.

Q I have no further questions.

BY THE COURT:

Q Let me follow you on what the Commonwealth asked you just now, I really am not quite straight on this, let's assume that a member of what you call your local congregation goes out and robs somebody and then he comes back in a meeting of the group and says, I robbed this person because I am a drug addict and I wanted the money to get my next fix, now, you as minister of this group, would you take any action?

A I would try and get him to medical help as soon as possible. Mr brother is a junkie and I know what it's like.

Q Would you consider what he did was right?

A No, I would not.

Q But you would, you would respect his right to think it right, would you, under the doctrine?

A Putting it into subjectiveness if he had stolen from -- stolen junk from a dealer, I wouldn't mind that quite as much, but I would still try and get him to medical help.

Q Well, that wasn't my question, he's committed robbery against an innocent citizen and this is the reason he gives I wanted money for the needed fix?

A Well, a heroin addict in my unprofessional opinion is not sane and, therefore, he needs help, he should not be put in jail but should be put in the hospital, I would, therefore, try and get him into a hospital.

REDIRECT EXAMINATION

BY MR. THELEN:

Q Does the Universal Life Church, Incorporated, Modesto, advocate or encourage violation of the criminal laws and statutes of the United States or the Commonwealth of Virginia?

A No, just the opposite.

Q Does the local Universal Life Church advocate or encourage the violation of the criminal laws and statutes of the Commonwealth of Virginia?

A Not that I have ever been aware of.

Q Can a Universal Life member or a member of your church hold the belief that his god or Christ can forgive any transgression of the laws of -- or statutes pertaining to criminal law?

THE COURT: What was that question?

[198]

MR. DAVILA: Do you mind repeating that, please?

THE COURT: What was that question again?

Q Could a member of your church validly believe and still remain within the Universal Life Church on central premise that his god or Christ could forgive any transgression or sin?

A Yes, the State may not.

Q Does the Universal Life locally or nationally encourage or harbor any felons?

A Not that I'm aware of.

RECROSS EXAMINATION

BY MR. DAVILA:

Q You make mention that -- reference to a question about God or Christ -- there are members of your church who do not believe in God or Christ, aren't there?

A Yes.

Q Now, the question was propounded to you also about advocating or encouraging, can we take it a degree below that, does the Church have any documented standard with respect to violation of the law and how you treat that individual?

A Not that --

Q Documented?

A Not that I am aware of.

Q Nor is there a documentation with reference to harboring felons or misdemeanors,

A Right --

Q violators of the law, is there?

A Again not that I'm aware of.

Q Suppose there was a person who did not believe in a god or a creator or anything of that nature, what type of forgiving would there be?

A It's up to whatever they want, how much forgiveness they want.

Q On an individual basis?

A Correct.

Q Which includes honoring on occasion, possibly, unlawful conduct?

A I suppose so.

Q No further questions.

BY THE COURT:

Q Let me ask you just one more question, I know you are fairly clear and I normally wouldn't ask you this, all you have to do is be an ordained minister of the

Universal Life Church is either write Modesto and request a card or have someone else who is a minister of the Church give you a card and type your name, isn't that correct?

A Yes, we are the direct descendants of Aaron.

Q What's that?

A I say we are the direct descendants of Aaron.

Q You are direct descendants of

A Through his . . . . .. process.

Q Aaron -- now where does that appear in the Universal Life Church doctrine?

A Through the laying on of the hands.

Q What's that?

A The laying on of the hands, the ordination,

Q Well --

A passing on the --

Q Well, is this required?

A Not technical --

Q Any laying on of hands?

A Not technically required.

Q Why this is required in the Episcopal Church, I know, because I happen to be an Episcopalian and the

[201]

laying on of the hands is required of any priest but is it required in the Universal Life Church?

A No, it's not, it is -- but it is more eternal.

Q But it's -- to answer my question all you've got to do to be an ordained minister is either write to Modesto and send them an offering and get a card or you can give a card and type your name of anybody you want to ordain, isn't this correct

A Yes, you do not --

Q and say you are an ordained minister?

A you do not have to send in an offering, that is not required.

Q Well, they request one, I believe, in the literature?

A Same as just about all the churches do.

Q All right, you may stand down.

* * * * * *

[202]

MR. THELEN: Respondents stand ready to stipulate as before, otherwise, we will call the Reverend John Purcell.

[202]

MR. DAVILA: I'll stipulate.

THE COURT: Stipulate what?

MR. THELEN: We stand ready to stipulate that Reverent John Purcell, Reverend Maurice Cramer and Reverend Larry Moyer's testimony will be cumulative and indicative of the same fulfillment of the criteria for bonding of a minister as outlined in 20-23 of the Virginia Code; that each has been ordained; that each has had proof although he may or may not have been required to submit it for bonding, that he is in regular communion with his church.

MR. DAVILA: I'm not stipulating that they conform to the statute at all, if Your Honor please, I'm merely stipulating that what they would testify to would be essentially the same as the other gentlemen would testify to, I'm not stipulating

MR. THELEN: Well --

MR. DAVILA: the issue before the Court --

[203]

MR. THELEN: we'll amend the stipulation just to show that they have proof they

[203]

are ordained ministers; that they stand ready --

THE COURT: That they are ordained in the same manner as the others?

MR. THELEN: Yes, Your Honor.

THE COURT: All right, and what else?

MR. THELEN: That they stand ready to prove that they are in regular communion with their Church or religious society.

THE COURT: In what way?

MR. THELEN: In the same manner as the witnesses, the respondents before testified -

MR. DAVILA: Now, the thing --

THE COURT: It's on the question now of whether they claim they have congregations, how often they meet and this sort of thing.

MR. THELEN: Your Honor, I don't believe and must argue on behalf of the respondents that that is not an issue of the case, having a church or con --

THE COURT: Not -- no, but being in regular communion with a religious society, I equate the word religious society to a

[204]

congregation of some sort.

MR. THELEN: That they would respond in the same manner as the other respondents, but we take the position --

THE COURT: But I say I'm sure all cases are not the same about -- though they claim they meet regularly with groups and the size of group and this sort of thing.

* * * * * *

[205]

MR. THELEN: We're ready, Your Honor, as I understand, we're ready to stipulate as to the issues except for communion and we will put on respondents, remaining respondents in the Court, to testify as to their communion with their church.

THE COURT: I assume the stipulation that you agreed on is all these people were ordained the same way

MR. THELEN: Yes, Your Honor.

THE COURT: and that they all believe in the principle that's been -- of the U.L.C., that's been stated here by other witnesses.

MR. THELEN: Yes, Your Honor.

LARRY C. MOYER, introduced on behalf of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Would you state your full name for the record, please?

A Larry Conway Moyer.

Q Are you in regular communion with Universal Life Church, Incorporated, in California?

A Yes, I am.

Q Are you in regular communion with a local Universal Life Church?

A I am.

Q Do you have a affidavit similar to those introduced in evidence by other ministers -- could you produce it, please? (rattling of paper) Was this affidavit made after the show-cause order was entered in this case?

A Pardon?

Q Was this affidavit produced and signed after the show-case order was entered in this case?

A Yes, it was.

Q Would you read the top paragraph of the affidavit?

A We, the undersigned, do hereby declare that Reverend Larry Moyer is our spiritual leader and local representative of our church, the Universal Life Church. We hereby respectfully request that Reverend Larry Moyer be allowed to retain his legal privileges as recognized minister in the State of Virginia.

Q How many signatures are appended?

A Seven.

MR. THELEN: The respondents move that this be introduced into evidence at this time.

THE COURT: That will be received, I don't really feel it relevant to these petitions, but we've received two -- we'll receive another.

Q When you were before the Court with this card requesting bond to marry -- to perform marriages, did the Clerk at that time ask you to produce evidence of communion with your church?

A Yes, he did.

Q What sort of evidence did he ask you

and did you present?

A Certificate of the Universal Life Church.

Q Your certificate

A Yes,

Q of ordination?

A of my ordination.

Q So, then, they only asked you for your certificate of ordination, they didn't ask you to prove that you were in regular

A No.

Q contact with the Universal Life Church of California or a local church?

A No, he didn't.

* * * * * *

CROSS EXAMINATION

BY MR. DAVILA:

Q How often do you meet with the subjects of that petition?

A Ah --

Q Is it on a regular basis?

A I would say more irregular than regular.

[209]

Q Uh huh, no further questions.

* * * * * *

BY THE COURT:

Q I have one question, Mr. Moyer, your counsel has referred to this petition as an affidavit, this is not sworn to by anybody, is it?

A No.

Q How did you happen to get this filled out, where did you get the form?

[210]

A It was given to me.

Q By whom?

A By one of the ministers of the --

Q And then you asked these people to sign this yourself?

A Yes, I did.

Q What's that?

A Yes, I did, it was passed around and signed.

Q All right, you may stand down.

* * * * * *

[211]

MORRIS ASHTON CRAMER, introduced on behalf of the respondents, being first duly sworn, testified as follows:

[211]

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend Cramer, would you state your full name for the record, please?

A Morris Ashton Cramer.

Q Are you in regular communion with the Universal Life Church of California, Incorporated?

A I am.

Q Are you in regular communion with a local church group of Universal Life Church?

A I am.

Q How regularly do you meet with a local church group?

A I can cite two -- two occasions where we had, you know, a formal recreation, a formal fellowship in the past year, and I can also say that people come to my home with problems, we've had informal discussions that developed that were around -- discussing.

[212]

Q Do you have a document similar to those introduced into evidence?

A I do.

[212]

Q Would you produce it. (There is rattling of paper and a pause)

MR. THELEN: We would -- the respondents move for introduction of this similar document, and let the record state that there are seven signatures appended.

Q When you were bonded by this Court, did you produce any evidence or were you called upon to produce any evidence of regular communion with any church?

A I presented a certificate that was all the Clerk required.

Q Only the certificate of ordination and nothing further?

A Exactly.

Q We have no further questions.

CROSS EXAMINATION

BY MR. DAVILA:

Q How long have you been ordained?

A Since September of 1971.

Q September of '71, over a year ago?

[213]

A A year and three or four -- four months.

Q And you've met on two occasions?

A Two that I could call in a formal sense, but I could list, you know, occasion after occasion where we've met informally with one or two people.

Q They weren't stated, called meetings were they?

A Well --

Q Were they or were they not, stated or called meetings?

A When somebody comes to you for help, you know, to be ministered to with a problem, I wouldn't call that a called meeting, I would say that was --

Q Did you meet in public with these subjects?

A I prefer informally in my home or at their home,

Q Well, don't --

A is that public -- no.

Q but you meet with them say in the street or in the park or something of that nature or casually passing them on the street?

A Individually I met them in my home

or in their home.

Q All of them?

A Well, just one at a time or two at a time, which -- which -- you know, where --

Q How many occasions was it besides these two that you addressed yourself to?

A Well, there have been -- well, it's hard to say when people our age, we're all about the same age and they'll show up and we'll have problems, we'll discuss them, I mean it's not --

Q Do they show up for the strict purpose of communicating with you as an ordained minister or did they show up just to see you,

A Ah --

Q or do you know?

A I would say they showed up that I could minister to some of their needs. Now, if -- if you have to put ordained in front of it, I don't know, if they have a problem and they come to me, the've come to me.

Q They've come to you for the strict purpose of talking about the problem?

A Exactly.

Q They do, and the two occasions was on a formal basis, by using the word formal you mean more

appeared than at other times?

A We had some people that weren't -- yes, it was more than normal.

Q And these meetings called?

A They were communion type meetings where we were communicating with one another and --

Q Did you call them yourself,

A No, I didn't.

Q or did they just come en masse and you didn't know about it?

A Well, we had a recreation event in the country last Thanksgiving and it was called and we all showed up.

Q Where was that?

A It was in one of the counties outlying -- I don't know the exact place --

Q You didn't state the meeting or call the meeting?

A No, I didn't call the meeting, no.

Q And this was your congregation or your membership?

A Everybody on that list was there.

Q And the other occasion?

A Well, we had a wedding recently and -

[216]

Q Did you marry?

A No, sir.

Q But there was a meeting?

A I would say it was a meeting, I would say --

Q A meeting because there was a wedding?

A Yes.

Q Did you hold the meeting after the wedding or before the wedding?

A The whole thing was a communion or communication among ourselves.

Q I have no further questions.

BY THE COURT:

Q Now, just to clarify what the Commonwealth Attorney is asking you, the two meetings you state -- stated you held, one was a recreational meeting in the park out in the country and the other was a marriage that you didn't perform?

A No, sir, I didn't perform the marriage.

Q I say are they the two meetings you are referring to as meetings?

[217]

A Yes.

Q You made a statement that there -- your certificate of ordination was all the Court required to authorize you to perform marriages here, you -- you went to the Clerk, didn't you, you used the word Court, didn't you go to the Clerk's Office and ask for this authorization?

A I imagine, yes --yes.

Q You didn't appear before a Judge, did you?

A No.

Q All right, you spoke of individual counseling, what training do you have in this?

A I'm -- I can -- I hold my master's degree in elementary education, but it's at the present time in the Virginia Teacher Corps, but as formal counseling training, I would say none, except I grew up with these people, I know them as well as they know me.

Q All right, thank you.

* * * * * *

[218]

JOHN B. PURCELL, introduced on behalf of the respondents, being first duly sworn, testified as follows:

[218]

DIRECT EXAMINATION

BY MR. THELEN:

Q Reverend, will you state your full name, please, for the record?

A John Bolling Purcell.

Q Are you in regular communion with the Universal Life Church, Incorporated, in Claifornia?

A Yes, I am.

Q Are you in regular communion with a local Universal Life Church group?

A Yes, I am.

Q Do you have a document similar to those introduced in evidence?

A Yes, sir, I do.

Q Could you produce it please? (rattling of paper)

MR. THELEN: The respondents move that this be admitted into evidence and would

* * * * * *

[219]

like to -- the record to state that it contains six -- it has six signatures appended.

[219]

MR. DAVILA: Will the Clerk observe the signatures, are there six?

THE CLERK: Five, sir.

MR. THELEN: Is one scratched out?

THE CLERK: Two are scratched out.

MR. THELEN: I stand corrected, five signatures.

Q When you came to the Clerk or the Hustings Court itself, were you required to produce evidence of communion with any church group?

A No, sir, I was not.

Q What were you required to produce?

A Proof of ordination.

Q And did you produce your ordination?

A Yes.

Q How regularly do you meet with your local church group?

A On what could be termed a regular -- irregular basis in that we don't meet say every Sunday morning at eleven o'clock, but we do have more or less regular meetings.

Q How long have you been ordained?

A I was ordained on the 23rd day of May, 1972.

Q Since then how many formal meetings has your church group had?

A We've had none.

Q How many informal meetings, some or all of the church, have you had?

A I would say two dozen.

Q Two dozen? Do you counsel with your church members regular -- regularly?

A I hold discussions with them, yes, sir.

CROSS EXAMINATION

BY MR. DAVILA:

Q Now, these five signatures of ladies and gentlemen on that petition, have they always been a member of your congregation?

A What do you mean by always?

Q Well, since you've become a minister?

A No, some of them have joined recently, some of them had been members longer than others.

Q Have there any that have dropped out?

[221]

A No.

Q Why are those two signatures crossed off on the petition?

A I think it would be termed fear of involvement.

Q But there are some who appear or would be considered a member of your congregation that don't appear on that petition?

A Yes.

Q How many?

A It's difficult to say exactly how many members are in the congregation, I don't have -- I don't keep records per se.

Q Well, let me ask you this, how do you know that you keep regular communion with your religious -- with your congregation or religious society if you don't even know who's in it?

A I have a knowledge of the corps membership, most of whose names appear on the list.

Q Well, are there any who do not appear on the list?

A Yes, there are.

Q How many?

A It varies.

[222]

Q Can you give me an approximate figure?

A Five.

Q There are five who do not appear on that list, that would make ten that constitute a corps membership?

A Are we speaking here of total membership now

Q I mean your

A or corps membership?

Q wording?

A Okay.

Q You used corps membership, now, are there ten that constitute the corps membership that you referred to?

A No, I would say five, actually four.

Q Only four?

A Actually four of the names on the list.

Q On the corps membership?

A Right.

Q And they appear on that list?

A Right.

Q All of them?

[223]

A Right.

Q Now, the other subjects that do not appear on that list, you made mention of the fact that you've met two dozen times with memberships, is that correct?

A That's correct.

Q What would be the number of the membership that you met with on each individual occasion approximately?

A Never over four.

Q Never over four? And you don't know -- you don't know the complete list or have a complete list of your membership?

A No, I don't.

Q Did those five individuals on that petition, did they always appear at these two dozen meetings?

A Not always.

Q All right, now, did any of them on that petition appear on all occasions?

A Yes.

Q Who?

A Are you asking for names?

Q Yes, sir?

A Mason McConnahaugh.

Q Is he on that petition?

[224]

A She.

Q She?

A Yes, sir.

Q Is she here today?

A No, she's not.

Q Now, you said you had regular communion with the Universal Life Church in Modesto, is this what you would consider to be the receipt of some newsletters, is that why you say you have regular communion?

A Yes, I read that newsletter.

Q Is that all?

A That's all.

Q Have you ever called them on the phone?

A No, sir, I haven't.

Q Have you ever written them?

A No, I haven't.

Q You have -- have you ever had any contact with the Hensleys, either the husband or the wife?

A No personal contact.

Q Any personal contact at all with any member of the Universal Life Church in Modesto, California?

A None that I know of.

Q On the two dozen occasions that you

[225]

met, did you meet in passing on the street, or were they at your home, or at the other party's home?

A In our homes and public places.

Q Were you requested to come, or did you request them to come, or was this by chance?

A Sometimes by chance,

Q How many occasions

A sometimes not.

Q by chance out of two dozen?

A I would say the majority.

Q The majority of times by chance, so would you in all honesty consider that to be regular?

A Yes.

Q You would? By virtue of the meeting alone?

A I would.

Q Is that all, just meeting alone, you consider it to be regular?

A I do.

Q None of these meetings were called by you?

A No, they weren't.

Q I have no further questions.

BY THE COURT:

Q What was the nature of these informal meetings, what do you do?

A We hold discussions.

Q About what?

A Oh, facts, questions, issues that are important to us.

Q About what, issues of the day?

A Sometimes.

Q World affairs?

A Sometimes.

Q Is that the general nature of the discussions --

A We are -- we are seeking truth, through discussion enlightenment.

Q Well, how do you go about seeking truth, I mean, just give me some of the topics that you discuss at these meetings?

A Well, we seek to enlighten each other through shared knowledge.

Q All right.

THE COURT: Any questions, gentlemen?

MR. THELEN: No further questions.

[227]

RICHARD A. TURNER, introduced on behalf of the respondents, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. THELEN:

Q Would you state your name for the record?

A Richard A. Turner, Clerk of the Hustings Court.

Q Are you familiar with the records of this Court?

A I'm familiar with the records of

[228]

this Court, yes, sir.

Q Have you any other such proceedings as -- similar to the one today, have -- have you any other proceedings like this been brought in this Court?

A Do you mean with regard to Universal Life Church?

Q With regard to any churches, a show-cause order to show why certificates and bonds to perform marriage ceremonies --

[228]

A The only answer I can give you to that is I've been Clerk of this Court since October the 2nd, 1972, and since I have been here no such proceedings have been brought, I have never been asked to see if any previous preceedings have been brought, so I can't answer for the past.

Q Would the records of the Court show whether or not such a show-cause hearing has been ordered?

A If one ever existed, it would, but in order to be able to enlighten you on that particular -- since I'd have to have a name or a date to look up, I can't just -- I could go through the books since the beginning of the history of this Court and look up every case that had been here, but that's what it would entail.

Q There wouldn't be any index of show-cause orders, where something might be readily discernable?

[229]

A They are indexed by name and date.

Q Were you not the Commonwealth's Attorney, practicing in this Court for several years before this?

A I was an Assistant Commonwealth's Attorney for almost six years, yes, sir.

[229]

Q Are you -- in your recollection do you recall any similar proceedings to this, in your personal knowledge?

A I never was called upon to, as Assistant Commonwealth's Attorney, either under Commonwealth's Attorney at that time, James B. Wilkinson, or Mr. Davila, to prosecute any such cases as this, I had been asked about situations of this sort in the past.

Q Have you ever heard of, or do you know of any past proceeding in this Court, or any other in the City of Richmond of this nature?

A To my knowledge, no, but I can't answer for other courts, I know of none in this particular Court.

Q How many bonds to perform marriages have been given since the show-cause order was issued?

A How many bonds to -- to ministers?

Q To ministers to perform marriage

[230]

have been issued by this court since the show-cause order?

A I couldn't answer that question, I can refer you to my records, they are indexed in a bond book in my office, which is a public record, I'd be most happy to

[230]

have you search that, sir, they are public records, but I have not been asked to say how many ministers, nor did anyone apprise me at the time I brought this that I should, sir.

Q Do you regularly ask of ministers who present credentials of ordination whether or not they can prove that they are in regular communion with their church?

A I do, yes, sir, I do. If I may enlighten you on this particular aspect, there was only one minister, Universal Life minister, that was bonded since I have been in office, and that was done by one of my deputies, and that, in addition to other things, Miss -- Miss Mary Lacy came in and I had been called on the phone to be -- and asked if I would bond a Universal Life minister, and the person that called me later identified themselves, and I told them that if they complied with the statute, I -- I would, I had no knowledge at all of the Universal Life Church at that time, so I didn't go into any detail as to what it required, but I did read that person the statute.

Later, one of my -- because of that call, I started looking into the Universal Life a little bit,

[231]

in the time that I had, and then later I asked any -- I asked my deputies if any person came in to be bonded as a minister, that they must comply with the statute, and if there was any

[231]

doubt in any of their minds as to whether or not they complied with the statute, it should be referred directly to me.

Subsequent to that, Mary Lacy of the Richmond Newspapers, came in to be bonded, and it was brought to my attention, and I -- and I came out, and it so happened at that time that Judge Tucker was there at that time too, I didn't think she qualified, and so I refused to bond her, and that's what brought all of this about, but that -- as far as any bondings of the ministers in the past, I have no knowledge of that at all.

Q Although Mary Lacy's case is not at issue, could you enlighten us by telling us why, exactly why you felt that she did not qualify as a minister to perform marriages under the statute?

A Yes, sir, I -- I will, I didn't feel -- by the way, at that time His Honor, Judge Tucker, came in and I told him what I had found, and one of the deputies that had enlightened me told me what he had asked her about, and we felt that she was not in regular communion with the -- any local religious society, even though she produced a card showing -- similar to the ones that's been

[232]

produced in evidence here. I questioned her qualifications of the statute as showing any regular communion with other

members of the religious society of which she was a reputed member, and she offered nothing in that line, and as a matter of fact, I merely -- knowing that I'm not -- we only bond them, this is an authorization issued by the Court, and since all of this has come about, if I have any doubts myself -- of course, it is a Court authorization -- I refer them to -- to His Honor, one of the Judges of this Court, and I didn't feel she qualified, and that time I referred it to His Honor and he didn't feel so either.

Q Have you bonded anybody since the -- or prior to this show-cause order without referring him or her to His Honor, Judge Tucker?

A I haven't personally, no, sir.

Q Had -- do you know whether other clerks have?

A Some of my -- you'll have to ask my deputies -- my bond book would show it, my bond book that I'm speaking of is -- is a public record and I can pull that book and let you look at it for the record yourself.

Q Does the bond book show what evidence of communion with the religious society or group was produced?

A No, sir, and the statute does not

require that, the statute merely -- that is merely a book saying that they are bonded with surety and one person goes that bond, which I've noticed on most of these petitions, -- on most of these petitions that have been filed, I have looked at them and at least on most of them that I can find, the bondsman is one of the reputed members of the organization. The person that went the minister's bond that testified is one of the alleged members of his congregation.

But all that book is a bond, it's -- it's -- all bonds go into that book, not just minister's bonds, it's bonds of -- well, of any nature, it's not just of minister's bonds, although they are marked and indexed as a minister's bond, those that are not are indexed in -- of course, with what kind of bond they are, so that is a standard bond book, not one just for ministers.

Q I see, do you periodically review the city clergy bonded by this Court for continuing evidence of communion with their religious group?

A I don't believe I understood your question, do I do what?

Q Do you periodically review the city clergy bonded by this Court to determine whether they are in continuing communion with their religious group, denomination, sect, or --

A Well, as I said, I have only been in office since October the 2nd, and I haven't yet, no, sir.

Q Have you reviewed any clergy except those listing themselves as Universal Life clergymen, who are in communion with their religious group?

A Have I reviewed any of the Universal Life?

Q Any other than Universal Life?

A Oh, yes, as a matter of fact, I had a Elder of the -- of the Jehovah's Witnesses came into my office yesterday, that I refused to bond, I told him that I would refer him to the Judge, but he agreed with me, and I told him that I would bond him, he showed me much proof of his -- of his communion with the -- the religious sect of which he is a reputed member, but he had nothing to say other than he was an Elder, did not say he was an ordained minister, and I refused to bond him.

Q My question -- prior question -- referred to those previously bonded, not those applying for new bonds, have you reviewed any other churches or clergy of other churches to determine whether or not they fulfill the requirements of the statute?

A Those already bonded, you mean?

Q Those already bonded?

[235]

A Prior to my taking office?

Q Prior to your taking office,

A No, I have not.

Q or during the time

A No, I have not.

Q prior to the show-cause order?

A No, I have not.

Q Just the Universal Life Church?

A When it was brought to my attention, yes, sir. I did review -- only review of those I did was to go through my book and pull them out.

Q Do you plan to review the other clergy of the City of Richmond bonded by this Court for evidence of continuing or past communion with the religious denomination or sect.

* * * * * *

[238]

Q You have not investigated other clergy of other denominations for evidence of continuing communion with their church?

A Mr. Thelen, when this was brought to my attention here, in the manner in which I described to you, I went through my bond books and recorded every single minister's bond that had been given in my court -- my Clerk's

[238]

Office since -- (rattling of paper) I have my personal list with the pages of every single minister's bond that was given in the Hustings Court since -- (pause) I'll give you the date in just a minute.

THE COURT: Well, Mr. Turner, are you ask -- answering his question?

A (No response)

THE COURT: We've got to speed up . .

[239]

A Well, he asked me --

THE COURT: He asked you whether you had investigated to see if ministers of other denominations have been in communication with their congregations?

A I haven't gone to see any ministers or called any personally to see if they are in communion, of anybody that's bonded on my book, is that -- is that the question?

Q Are there any ministers other than Universal Life Church?

A I have called in one, yes, Universal Brotherhood. I haven't called in any minister -- any other ministers of any other church to determine whether they are --

[239]

they are still in communion with the members of their religious society, no, I haven't called in a single one other than Universal Life Church and one on Universal Brotherhood.

Q You have initiated no show-cause proceedings and know of none initiated in the Court as to ministers of other faiths?

A No, sir.

Q What kind of evidence of communion would one's denomination -- would you require to satisfy you personally as Clerk of the Hustings Court of Richmond?

[240]

THE COURT: This is irrelevant, we're talking about authorizations that have already been issued in these cases, we can't go into what Mr. Turner will do in the future, that has no relevancy.

MR. THELEN: We have no further questions, Your Honor.

MR. DAVILA: I have no questions.

BY THE COURT:

Q Mr. Turner,

[240]

A Yes, sir.

Q before you step down, you've been questioned about Miss Lacy, a reporter for the News Leader, seeking to obtain authorization, do you remember what she said on the occasion as to how she was ordained?

A She told me that she was, I believe, Judge, and I'm only speaking from a vague recollection now, but I believe she said, Your Honor, that she --

Q If you don't remember, don't guess?

A Well, I believe she said, Your Honor, that she had been ordained by receiving a card from a person whom she had looked up that particular day or several days before, and they gave her a card.

[241]

Q Well --

MR. THELEN: May it please the Court, although Miss Lacy's case . . . . . in Court, Miss Lacy is present in the Courtroom, and I'm sure would be available to testify . . . . . we feel that it is irrelevant as to the issue.

THE COURT: You -- you're the one who brought it into the issue, you asked him a question on a subject you brought into the issue

[241]

MR. THELEN: Well, we have no objection to her being questioned, Your Honor.

THE COURT: Well, I -- Mr. Turner testified to what he remembers. That's all.

* * * * * *

[242]

MARY LACY, being first duly sworn, testified as follows:

BY THE COURT:

Q State your name.

A Mary Lacy.

Q And what is your occupation, Miss Lacy?

A I'm a reporter for the Richmond News Leader.

[243]

Q Miss Lacy, you -- do you recall the occasion when you went to the Clerk's Office and applied for an authorization to perform the rites of matrimony?

A Yes, I do.

Q And do you remember Mr. Turner and I were present at the time?

A Yes.

[243]

Q Miss Lacy, how did you receive your certificate of ordination from the Universal Life Church?

A I had received it from a minister of the Universal Life Church.

Q And how did he go about ordaining you?

A He told me something about -- very little, but something about the -- the church and gave me a card to fill out.

Q And that was the sum -- and that was the sum total of the ordination?

A Yes, sir.

Q What was your real purpose in coming in and applying for that authorization to marry?

A I was curious about the -- the laws regarding the authority to perform marriages in the state.

Q What was your underlying purpose,

[244]

to write a story for the News Leader, to say how easy it was to --

A Well, if that was the case,

Q to get to be an ordained minister?

[244]

A I was -- I was -- if I were -- if I had been bonded I would have written a story saying, yes, I had been bonded and this was . . . . .

Q Well, you got scooped on that story, didn't you?

A (The witness laughs)

THE COURT: Any questions, gentlemen?

BY MR. DAVILA:

Q Do you recall what he told you?

A Not very -- I can't remember very well, except that I do remember something about the -- the principle of believing that which is right, I do remember that, but --

Q He specifically told you that?

A Yea.

Q Who was the gentleman?

A Gerald Gill.

Q Gill? I have no further questions.

[245]

THE COURT: All right, you may -- do you have a question, Mr. Thelen?

[245]

MR. THELEN: We have no questions, sir.

THE COURT: Thank you, Miss Lacy.

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[246]

THE COURT: All right, gentlemen, I would remark at the outset that the Court has done considerable research on this question prior to the hearing of the case, and for that reason the Court is prepared to render its opinion without asking Counsel for any memoranda of law, or further research of the Court itself.

Insofar as the constitutionality of the statute is concerned, as the Commonwealth has pointed out, this statute does not attempt in any way to regulate or control any religious beliefs, but simply permits the Court to authorize persons to perform marriage ceremonies if they meet certain criteria as designated by the statute.

The Court feels that this is a proper exercise of the power of the State and for that reason declares the statute as constitutional.

[246]

Now, gentlemen, at the outset of this hearing, the Court indicated to the respondents that it felt that there were four essential requirements for them to prove, that they must bring themselves -- that they must prove that

[247]

within the meaning of the statute, the Universal Life Church is a religious denomination; that the respondents are duly ordained ministers of that denomination; that the respondents are members of a religious society which is a part of a religious denomination, and that they are in regular communion with a religious society or congregation.

I would assert first on the question of whether the Court believes that these people are duly ordained ministers within the meaning of the statute, and the Court does question strongly that any respondent who has testified here can properly be put in the category of a duly ordained minister within the legal sense of the word.

[247]

All the testimony revealed that all that was necessary to become an ordained minister in the Universal Life Church is to write for a card from Modesto, California, either with or without a donation, or to receive a card from another so-called minister of the Universal Life Church with your name on it and then you become a duly ordained minister.

[248]

The evidence has shown that there's no ritual necessary to become an ordained minister; that there's no call necessary as is done in many churches; that they -- United -- the Universal Life Church minister is subject to no discipline or regulation, except what he thinks is right. I believe Dr. Alley referred to this as an anarchistic doctrine, and the Court would certainly agree with that definition.

On the subject of regular communion, I think I can cover that very quickly by saying that the evidence shows that the regular communion with the Universal Life Church in California consisted almost entirely of subscribing to the

[248]
newspaper, several witnesses said they did correspond occasionally, but that was the testimony as to communion with the parent church.

Now, insofar as regular communication with the local congregation, so-called, is concerned, all the testimony revealed irregularity rather than regularity.

I think probably the real basis of the opinion here would stand on whether the -- these respondents have proved they belong to a

[249]
religious denomination or religious societies, within the meaning of the statute, and I think these two can be treated together since the definitions are rather closely akin.

Now, it is the opinion of the Court that there's no sufficient proof from any of the witnesses in this hearing that it is a religious denomination or a religious society within any legal definition, and especially within the meaning of the statute. It's obvious from the testimony here that religion is not even a necessary part of the doctrine or philosophy of the Universal Life Church, unless,

[249]

to use the young people's vernacular today, doing one's own thing can be said to be a religion. All the witnesses have testified that the only doctrine promulgated by the Universal Life Church is that its members must do what they think is right, and all of the witnesses likewise testified that each individual decides what he thinks is right for himself.

Now, the witnesses have also -- also testified that this doctrine goes so far as -- or some witnesses said this doctrine goes so

[250]

far as to say that if a person thinks breaking the law is right, he is still not violating the doctrine of the Universal Life Church.

All of the witnesses have testified that a local congregation may consist of atheists, persons who believe in Jehovah as God, and persons who believe in Buddha as God, and all belong to the same congregation. This sort of doctrine ties directly into the teeth of the legal definition of religious denominations and religious societies, but as far as that defini-

[250]

tion, as pointed out by the Commonwealth's Attorney, is that these groups are -- have a unity of belief, that they believe in the same type of religious doctrine, and they associate together for the formalization or the purpose of furthering these doctrines.

In short, the Court would hold that there has been no showing here that the Universal Life Church is a religious denomination, except in the opinion of non-experts who have so testified, and all the evidence before the Court is that there need be no unity of belief. In fact, the Court would go so far as to hold that

[251]

the organization seems to be distinguished by the fact that anyone can go his own way as long as he subjectively thinks what he is doing is right.

For the reasons we cited here, the Court holds that the -- and rules -- that the authorization heretofore granted to each respondent to celebrate the rites of matrimony

[251]

are hereby rescinded, and, Gentlemen, I would believe that an appeal from this is the nature of an abuse of discretion appeal. For that reason, I think the Court has the right to order the rescinding of the marriage licenses at the present time, and the Court does so order. Counsel for the respondents has pointed out, no penalties are provided for failure to comply, but I think that the -- the penalty being that once this order is entered, that if any of these people do perform the rites of marriage, that they will be in contempt of Court.

MR. THELEN: Motions, Your Honor.

THE COURT: What's that?

MR. THELEN: Motions?

THE COURT: Yes.

[252]

MR. THELEN: We move initially to set aside the judgment of the Court as contrary to the law and the evidence, and the matter of exception being overruled, and, secondly, we ask the Court to consider as to revoking all of the bonds of the ministers pending appeal, for the reason that we now have a sect with

[252]

eight hundred members who have no minister who can perform a marriage, and we would ask the Court if it cannot at least -- if it cannot conscientiously allow all of these ministers to remain bonded, that at least it allow one minister to remain bonded so that marriages among the sect can be performed until such time as they have had their opportunity to appeal their case, Your Honor.

THE COURT: Of course, the marriages can be performed for these people by other than members of their own sect.

MR. THELEN: They -- they -- well, they will not be able to if -- if the Court revokes all the bonds to perform marriages.

THE COURT: But I say, these people can be married by other than members of their

[253]

Universal Life Church.

MR. THELEN: But there is nobody else who is bonded -- they can be married by other than members of the Universal Life Church.

THE COURT: That's what I -- that's the point the Court is making.

MR. THELEN: Yes -- yes, Your Honor, that's true, but if -- this puts them in a terrible situartion, other -- other religions are entitled to be married by ministers of their own faith,

THE COURT: Well, there's been --

MR. THELEN: or ministers of --

THE COURT: there's been no ruling by the Court that ministers of other religions don't fall within the authorization of the statute. If -- there would be such ruling if other cases come before the Court similar to this, this is the only one that has been brought to the Court's attention so far.

What is your position on this, Mr. Davila?

MR. DAVILA: Your Honor please, I submit to the Court that the order should be

effective forthwith.

THE COURT: That will be the Court's ruling.

MR. THELEN: I'd take exception to that . . . . . Your Honor.

THE COURT: Exception is noted.