OPINION NO. 920

DISTRICT OF COLUMBIA TAX COURT

FILED

OCT 22 1956

District of Columbia Tax Court

WASHINGTON ETHICAL SOCIETY, a corporation, Petitioner,	)	
vs.	)	DOCKET NO. 1519
DISTRICT OF COLUMBIA, Respondent.	)	

FINDINGS OF FACT AND OPINION

The petitioning taxpayer here appeals from the assessment of a real estate tax on its real property on the ground that it is a church and a religious corporation or society within the meaning of Sections 47-801a(m) and 47-801a(n), respectively, District of Columbia Code, 1951 Edition, (Act of December 24, 1942, 56 Stat. 1089).

Findings of Fact

1. The petitioner is a District of Columbia corporation organized October 19, 1949, under the provisions of Chapter 6 of Title 29, District of Columbia Code, 1951 Edition, entitled "CHARITABLE, EDUCATIONAL AND RELIGIOUS ASSOCIATIONS". Its purposes are stated in its certificate of incorporation to be as follows:

> "THIRD. The particular business and objects of said corporation shall be to constitute a liberal religious fellowship, without restrictions of race or creed, which will promote and further the principles of the Ethical Movement as a member society of the American Ethical Union; to provide a place for meeting together; to provide and maintain facilities for religious education for youth in the principles of the Ethical Movement; and to engage in educational activities, public service, and social action."

2. The Preamble, Article I, and Section 1 of Article II of the Constitution or by-laws of the petitioner provides as follows:

"Preamble

"The Ethical Society is a religious fellowship, which seeks to know the good and to achieve the good life.

"The noblest tradition of man has been his search for the highest values in human relations. In this tradition we endeavor to develop such values in our individual lives and in community living.

"We seek to further this purpose by meeting together, and by engaging in educational activities, public service, and social action."

"Article I
"The American Ethical Union

"Sec. 1. Affiliation.
The Washington Ethical Society shall be an affiliated member of the American Ethical Union.

"Sec. 2. Obligations.
The Washington Ethical Society participates in the formation and the carrying out of policies of the A.E.U. It recognizes with other Ethical Societies and with the A.E.U. responsibility for the support of the Ethical Movement."

"Article II
"Membership

"Sec. 1. Eligibility.
Any person, sympathizing with the aims of the Ethical Movement and of this Society, sponsored by two members of the Society, and making written application for membership will, after interview by the Membership Committee, be eligible for election to Membership in the Society by the Executive Board."

3. The petitioner in actual practice has conformed to the aims, policies, theories and precepts of The American Ethical Union, has supported the Ethical Movement, as hereinafter described, and is a recognized and accepted constituent member of The American Ethical Union with Ethical Societies situated in several large cities of the United States. It adhers to the principles of the Ethical Movement and teaches and expounds the same in the conduct of its activities within the District of Columbia.

4. The American Ethical Union is a New York corporation. It is a federation of Ethical Societies, including the petitioner. It is the corporate form of the Ethical Movement in the United States. Its purposes as shown by its certificate of incorporation are as follows:

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"1. To promote the knowledge, the love and the practice of right living in all the relations of life. To join its members into a religious and educational fellowship in an effort to advance the moral growth of humanity through study, social action and spiritual consecration.

"2. To bring into close fellowship of thought and action the several existing Ethical Societies and such other Ethical Societies or organizations as may be established and admitted to the Union.

"3. To federate the Ethical Societies throughout the United States of America, District of Columbia and in any of the territories, districts, protectorates, dependencies of insular or other possessions or acquisitions of the United States for the purpose of promoting the welfare of the Ethical Societies in the different communities in which they function, to organize and maintain conferences, groups, investigations, studies and similar activities, to help carry out the purposes of the organization, to cooperate with private and governmental agencies in order to more effectively carry out the foregoing purposes, to render social service to cities, states and nations, to consider and act upon public matters of interest to communities throughout the country, to provide a medium for the exchange of ideas relating to education, public welfare and ethical living."

5. The Preamble and Section 1 of Article I of the By-Laws of The American Ethical Union are as follows:

"PREAMBLE

"The purposes of the American Ethical Union are:

"- To promote the knowledge, the love and the practice of right living in all the relations of life; to join its members into a religious and educational fellowship in an effort to advance the moral growth of humanity through study, social action and spiritual consecration; and

"- To bring into close fellowship of thought and action the several existing Ethical Societies and such other Ethical Societies or organizations as may be established and admitted to the Union.

"BY-LAWS

ARTICLE I.

Membership.

"Section 1. Membership in the AEU as presently composed consists of the New York Society for Ethical Culture, Chicago Ethical Society, Philadelphia Ethical Society, Ethical Society of St. Louis, Brooklyn Society for Ethical Culture, Westchester Ethical Society, Washington (D.C.) Ethical Society, and the Ethical Culture Society of Long Island."

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6. The Ethical Movement was founded or initiated in 1876 in the United States by Dr. Felix Adler. It spread soon after to England and other parts of the European continent. Recently an Ethical Society was established in Japan and became associated with the Ethical Movement.

7. In its early stages the Ethical Movement was more in the nature of social reform, including the affording of free education or wider opportunities therein, and expressed its concern in social matters by the establishment of settlement houses, free schools and the like in New York City and elsewhere to a lesser extent. As originally conceived by Dr. Adler, ethical culture or The Ethical Movement was almost pure socialism, and the Ethical Society, like the petitioner, which he contemplated was the last in a series of social institutions for carrying out his theories and concepts. Today the Ethical Movement is largely concerned with many social matters such as for instance, race relations, labor and management, and such international affairs as world federation, United Nations and the like. The Movement makes no distinction between individual ethics and group or social ethics.

8. The central thesis or proposition of the Ethical Movement is that morals, ethical conduct and right living are good in themselves, and for that reason must be practiced, and not because of any command or sanction of any deity or Supreme Being. It is a tenet or dogma of the Ethical Movement that ethics are autonomous and not derivative; and that ethics do not proceed from the command or authority of any extraneous power or authority of any institution or creed, and that no righteousness can exist except by virtue of the power within the individual; that morality depends upon something deeper and more permanent than the dogma and creeds of the traditional churchs and religions; that the principles of morality have developed independent, and often in spite of theology, and do not spring from creeds; and that creeds and dogmas of the traditional religions are good

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to the extent only that they reflect ethical principles as conceived by the Movement.

9. The principle of self-help is important in the Ethical Movement. Its basis fundamentally is the negation of a personal God or any Supreme Being. It denies that there is some heavenly father or deity which is concerned with the affairs of men; that it is futile to appeal to such or to thank him for the blessings or blame him for the ills of mankind; that we mortals alone are responsible for advantages and disadvantages; and that if we are to be helped we must help ourselves. There is still current the position of Dr. Felix Adler on this subject as follows:

> "The conception of a Heavenly Father, interfering with the operations of nature, arose when the teachings of natural science were unknown. These teachings have been fruitful of substantial results. The progress of mankind has been kept back for centuries by the disposition to expect, of the love and kindness of Providence, the benefits which, if obtainable at all, must be obtained by human effort. The progress of mankind has been incalculably advanced by the appeal to self--help, by the conviction that 'the gods help them who help themselves', which after all, is synonomus with saying that, if we are to be saved, we must save one another."

10(a) The Ethical Movement does not require that any of its members believe in, or have any concept of God. It is its claim that it allows its members to differ as to the existence or non--existence of a personal God and as to whether there is or is not any such thing as a personal survival after death. If some member has what is termed "over-belief" in the existence of a personal God or in immortality of the soul it is his own private affair and the Movement will make no effort to affirm or deny his speculation. The record, however, fails to show that there is one member of the petitioner or of the Movement who believes in a Supreme Being or divine power to be worshiped and obeyed as the creator and ruler of the universe. The climate or atmosphere of the Ethical Movement would not sustain any such belief. There are some who believe in some inanimate and "Indefinable power which pervades the universe", called by various names,

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such as "Cosmos", "Nature", "Truth", "Righteousness", "Greatest Good" and the like.

(b) Notwithstanding the claimed indifference to the beliefs of its members, the underlying principle of the Ethical Movement is opposed to belief in any personal God or Supreme Being who controls the universe, who concerns himself with the affairs of men, who is the fountain of all truth and good and from whom flows all principles of morality, ethics and righteousness. It is not that it is not known whether such a Supreme Being exists, but rather the affirmative position that it does not exist.

11. The Ethical Movement acknowledges that many of the principles and doctrines of the Jewish, Christian and other great religions are good, but accept them only to the extent that they comport with ethics as understood by the Movement. It accepts what is sometimes called "the latter half" of the Decalogue, that is to say, from Fifth to the Tenth Commandments, as ethics, and hold that they should be obeyed or followed, not because of any divine command or sanction, but because they are good in themselves. To the Movement, while Jesus was not divine, he was a great expounder of ethical conduct. His teachings on theological matters, however, are ignored or the account thereof is considered as the inversion of the truth. His great second commandment that "Thou shall love thy neighbor as thyself" is accepted as ethics. His first commandment that "Thou shall love thy God with thy whole heart and with thy whole soul" is never mentioned and is ignored.

The Golden Rule is the corner stone of the ethical structure of the Movement, although the Rule as laid down by Jesus is somewhat changed to "So act as to elicit the best in others and you will thereby draw out the best that is in yourself". The Apostles Creed of Christian religions is an anathema to the Ethical Movement. The Movement holds that the articles of faith affirmed

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therein are a priori assertions, are synthetic judgments based upon metaphysics and theology and not upon any proof from human experiences, and are facetiously called "unverified verities". The same is true of many of the beliefs and articles of faith of the Jewish and other traditional religions.

12. Adherence to the precepts, tenets and teachings of the Ethical Movement tends to produce ethically and morally good individuals and citizens, and to that extent is of economic value to the community and that the same is true with respect to the petitioner in relation to the District of Columbia.

13(a) In 1941 there was published by the United States Bureau of the Census, Department of Commerce, a printed publication, prepared by Dr. T. F. Murphy, Chief Statistician for Religions Statistics of that Bureau, entitled "Religious Bodies, 1936, - Denominations, A to J, Statistics, History, Doctrine, Organization and Work", wherein there is found listed "AMERICAN ETHICAL UNION (Societies for Ethical Culture)" and the statistics, history, doctrine, organization and work concerning it.

(b) In Hutchinson's Twentieth Century Encyclopedia (New and Revised Edition) there appears on page 408, thereof, the following: "ETHICAL MOVEMENT. Movement designed to establish, maintain and further the moral or ethical factor as the real substance and fundamental part of religion. ***"

(c) In the Dictionary of American Biography, published under the auspices of the American Council of Learned Societies, on pages 13 and 14 thereof appears a short account of the life of Dr. Felix Adler, the founder of the Ethical Movement, wherein he is recognized as a religious leader and the Movement as a religion.

(d) In the Encyclopedia Britanica, Volume 8, is found the following: "ETHICAL MOVEMENT, THE. The object of the Ethical Movement is to emphasize the moral factor in all the relations of life in such a way that morality may be regarded as the

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fundamental and abiding part of religion, and therefore the true basis for religious union". In the same article the Ethical Movement is recognized as a religion. The article, however, is subjective rather than objective and is based upon the claims that the Movement is a religion found in the writings of the leaders of the Movement.

(e) In the Columbia Encyclopedia, published by Columbia University, New York, is found an article "Ethical Culture Movement", wherein the Society for Ethical Culture, founded by Dr. Felix Adler in 1876, and the other ethical societies comprising the Ethical Movement are recognized as religious societies.

(f) In the 1952 edition of the Year Book of American Churches, published by National Council of Churches of Christ in the U.S.A., the American Ethical Union is listed as a church with its doctrine, statistics and organization.

(g)(1) In A Guide to the Religions of America, published by Simon and Shuster, 1955, the American Ethical Union is listed as a church.

(2) In the same publication is a religious article by Jerome Nathanson, Chairman of the Board of the New York Society for Ethical Culture and a Director of the American Ethical Union.

(h) In Types of Religious Philosophy, by Edwin A. Burtt, Sage School of Philosophy, Cornell University, and published by Harper & Brothers, is Chapter VII, entitled "ETHICAL IDEALISM, The Interrelation of Metaphysics, Religion, and Morals", wherein the ethical principles of Immanuel Kant, the procursor of the Ethical Movement and of Felix Adler, its founder, are treated as religion.

(i) In Religion in the Twentieth Century, edited by Vergilius Ferm, the editor of "An Encyclopedia of Religion", and published by the Philosophical Society Library of New York is an article entitled "ETHICAL CULTURE", wherein the American Ethical Union is regarded as a religious society and the Ethical Movement

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as a religion. Such article for the most part is based upon the claims as to religion in the writings of the leaders in the Ethical Movement and to that extent is subjective rather than objective.

(j) In The Fact Book, which is a book of reference, and which was published in 1911 by The Current Literature Publishing Co., of New York, the American Ethical Union is listed under the heading of "Religious Bodies".

(k) In Encyclopedia of Religion and Ethics, edited by James Hastings, M.A., D.D., Fellow of the Royal Arthropological Institute, Member of the Council of the Palestine Exploration Fund and Editor of Dictionary of the Bible and Dictionary of Christ and the Gospels; and which was published in 1928 by Charles Scribner's Sons, is found an article entitled "ETHICAL MOVEMENT", wherein is discussed the origin, history, principles and attitude towards religion of the Movement, and wherein, on page 413, is found the statement that "Fundamentally the Ethical Movement must be regarded as a religious movement".

(l) In The World Almanac, and Book of Facts for 1955, under the heading of "RELIGIOUS INFORMATION, Census of Religious Bodies in the United States", is a list of religious denominations in alphabetical order and in which is listed the American Ethical Union.

(m)(1) In The Encyclopedia Americana, 1947 Edition, there is found an article entitled "ETHICAL MOVEMENT AND ETHICAL SOCIETIES IN AMERICA AND ABROAD", wherein the Ethical Movement is stated to be a religion. Such article was written for the Encyclopedia by Percival Chubb, one-time leader of the Ethical Society of Saint Louis, a constituent member of the American Ethical Union, is a reflection of the claim of Chubb and other leaders of the Ethical Movement that it is a religion, and is to that extent subjective.

(2) In The Encyclopedia Americana, in a list of "Religious

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Sects", neither the Ethical Movement, nor the American Ethical Union nor any of its constituent ethical societies are listed.

14(a) By letter dated May 19, 1952, from E. I. McLarney, Deputy Commissioner of Internal Revenue, the American Ethical Union was exempted from Federal taxation and bequests and gifts to it were exempted from estate and gifts taxes, respectively, were exempt on the ground that the American Ethical Union was organized and operated exclusively for educational and religious purposes.

(b) The organization, activities, purposes, practices and doctrines of the Baltimore Ethical Society are in conformity with the American Ethical Union, of which it is an affiliated member, and are the same as those of the petitioner. The real property of the Baltimore Ethical Society has been exempted from real taxation by the Department of Assessments, Baltimore, Maryland, under Article 81, Section,8, subsection 4 of the Code of Public General Laws of Maryland, which provides that there shall be exempt from taxation

> "(4) Houses and buildings used exclusively for public worship, and the furniture contained therein, and any parsonage used in connection therewith, and the grounds appurtenant to such houses, buildings and parsonages and necessary for the respective uses thereof."

(c) The organization, activities, purposes, practices and doctrines of the Ethical Society of St. Louis are in conformity with the American Ethical Union of which it is an affiliated member; and are the same as those of the petitioner. The real property of the Ethical Society of St. Louis, Missouri has been for many years exempted from real estate taxes by the Assessor of the City of St. Louis, Missouri as property used for religious and educational purposes.

15(a) On July 30, 1947, there was, and still is in effect an authorization of the District Court of the United States for the District of Columbia reading as follows:

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"DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

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"The Rev. George Beauchamp of the American Ethical Union, having produced proof, to the satisfaction of the Court, that he is duly appointed, or ordained, as such and that he is in regular communion with the Religious Society of which he is a member, he hereby is, this 30th day of July, 1947, authorized to celebrate the rites of marriage in the District of Columbia so long as he remains appointed or ordained by the above-named Religious Society.

By the Court
Edward M. Curran, Justice
Charles E. Stewart, Clerk
By Maud R. Rynex, Deputy Clerk"

The names "Edward M. Curran" and "Charles E. Stewart" are typewritten. The certificate is signed by Maud R. Rynex only.

(b) George E. Beauchamp, mentioned and empowered in the foregoing authorization of July 30, 1947, was, and still is the Leader of the petitioner.

16. In the Classified section (or Yellow Pages) of the current telephone directory of the Chesapeake and Potomac Telephone Company under the heading "Churches - Various Denominations" is found the listing following: "Washington Ethical Society - 1822 Mass. Av., N.W. - ADms. 4-6563".

17. On July 1, 1954, the petitioner was and still is the owner of Lot 811 in Square 137, improved by a house and being premises 1822 Massachusetts Avenue, N. W., in the City of Washington, District of Columbia; and valued for taxation purposes at $30,534, concerning which valuation there is no controversy herein.

18. The aforesaid real property is a substantial edifice of the type known as a "row house", that is to say, it is not detached. It is approximately 40 feet in width and approximately 75 feet deep. No person lives or lodges in the house. It consists of a basement, three floors and a loft.

Basement. There are three class rooms in the basement, used for Sunday School, and a kitchen used for preparing food for social occasions.

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First Floor. On the first floor there are the following: reception hall, main meeting room, library and a small study room for the use of the Leader and visiting leaders. The meeting room holds a maximum of 90 persons. Number in excess overflows into the library which holds 60 persons, and which has a public address system. The main meeting room has a lectern, podium, grand piano and folding chairs arranged in assembly fashion. The library contains bookshelves, books, tables, chairs, paintings and the like.

Second Floor. On the second floor are the main offices of the Leader and Assistant Leader, and assembly room wherein meet groups of children and adults (not the main meeting) on Sundays and on other days of the week, two meeting rooms, a small narrow kitchen rarely used, storage space and toilet. In the assembly room there are the following: a piano, maps of the Holy Land and various religious maps, including the History Map of Religion, song books, chairs, tables, blackboards and the like.

Third Floor. On the third floor there are three rooms, which are occupied five days a week by a tenant, the Adult Education Association, at a monthly rental of $200. When not actually in use by tenant such rooms are used by the various groups of the petitioner for discussion, instruction and the like. The value of the third floor for taxation purposes is one-fourth of the total value, or $7,500.

Fourth Floor, Loft. On the fourth floor there two rooms, and entry way and a large bathroom. The two rooms are used largely by the youth groups of the petitioner on Sunday morning and evening and frequently on week days.

19(a) The petitioner has two meetings on Sunday, namely, adult Sunday morning services and Children's Sunday Assembly, sometimes called "Sunday School". Both meetings last from 11 a.m. to 12:30 p.m.

(b) The adult group services are held in the main meeting

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room on the first floor of the petitioner's building. It begins with a 15 minute period of meditation followed by the opening reading, sometimes from the scriptures or from other like material ancient and modern. Then follows a musical interlude and announcements. The next in order is an address by the Leader of the petitioner or by a visiting leader on some ethical subject followed in order by group singing, offertory, invitation to membership and the closing reading. A typical meeting is shown by the program for Sunday, October 16, 1955, following:

"SUNDAY, October 16, 1955--11:00 a.m.
"THOUGHT FOR THE DAY:
"'The making of moralities is the spear point of human evolution, the forging of adequate human relationships, the achievement of higher integrations of human beings... An appropriate human ethos is the thing that is struggling for survival today. And in this process the really serious thing is the kinds of human being we make, and the ways in which we go about making them. The Child, we say easily, is the father of the individual man. But more than that, in the larger sense, the child is the father of all future mankind.'"
--Prof. Weston LaBarre

"11:00-11:15 Meditation Period
*
"11:15 Opening Reading
*
"Musical Interlude: Mozart, Andante from Sonata No. 7 in F major
Gertrude Stern, Violin
Jeanne Tourin, Piano
*
"Announcements
*
"Address: HUMAN NATURE AND SOCIAL ADAPTATION
Dr. George E. Beauchamp, Leader,
Washington Ethical Society
"Song by the Group
"Offertory
"Invitation to Membership
"Closing Reading
"*Late comers will be seated by ushers at times starred.
"As this is a religious service, there will be no applause.

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"COFFEE HOUR: 12:30 to 1:00 p.m.
"All persons attending the Sunday morning program are cordially invited to have coffee and good conversation at the above hour. We hope all newcomers will feel that they are more than welcome, and that the coffee hour is an ideal time to get acquainted with our Society and our members. Perhaps this is the religious home you have been looking for.

"Our speaker next Sunday, October 23, will be Robert S. Nyburg, Chairman of the Central Atlantic Region of United World Federalists. His subject will be: UNITED NATIONS AND PEACE.

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"FUTURE EVENTS:

"HUMANIST FELLOWSHIP meeting on Tuesday night at 8:00 o'clock in the Building.

"THURSDAY NIGHT PROGRAM. This coming Thursday night, October 20, will be Literary night. Dr. Culver will lead a discussion of Thomas Mann and his work, with the chief source of discussion being Mann's famous short story, Death in Venice. Members and friends of the Society are cordially invited to participate in this discussion, and all of those on succeeding Thursday nights.

"FRIDAY CLUB DINNER and SOCIAL. Next Friday evening, Oct. 21, at 6:30 the members of the Friday Club will meet at the Nanking Restaurant, 20th and P Streets, N. W. for dinner. The dinner will be followed by a social program. For reservations (and information) call Jeanne Unger, JE 4-1952.

"UNITED NATIONS DINNER. On Sat. night, October 22, there will be a dinner here at the Building in observance of UN Day. The dinner will be served from 6:30 on. Let's all plan to go and express our appreciation for this great organization."

(c) The Children's Sunday Assembly is held in the basement of petitioner's building. The scope of the subjects taught the children in the Assembly or Sunday School appears from a copy of the curriculum following:

"Nursery (Ages 3, 4)

"The purpose here is to give the child a happy group experience, in a warm atmosphere from which he develops an interest in group living, as far as he is ready for it, and to provide opportunities for creativity and self-expression through the use of a variety of activities such as blocks, puzzles, dramatic play, story telling, rhythms, music, dancing and singing.

"Kindergarten (Age 5)

"In unit I the child is introduced to the wonder of living things, which is combined with a respect and responsibility for growing things, The animals of forest and farm and discussed in unit I, showing some of the ways these animals contribute to the child's well-being. In Unit II, discussion of the care of pets is used to demonstrate the interdependence of animals and human beings. Daily and life cycles of the animals are compared to those of humans beings. The basic source book used is: Pratt--Animal Babies.

"Primary (Ages 6-7)

"In Unit I the technique of living with others is explored, with emphasis on the interdependence of the members of the family unit. In unit II the child's horizons are extended to the community, and the efforts of the many specialized workers who affect his daily life. Among the books used in this class are:

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"Hill & Fahs--Martin & Judy Series
"Hunter--The Family Finds Out
"Manwell--Growing Bigger

"Intermediate (Ages 8-9)

"In unit I as an introduction to discussion of various interpretations of moral codes and values, the child is acquainted with the narrative and background of the Bible. In unit II the child is shown how different peoples, in different time and places investigated the questions or creation, purpose of life, and phases of moral living. Stories from different bibles and folklore are presented in this class. The following books are used:

"Van Loon--Story of the Bible
"Asch--In the Begining
"Fahs--Beginnings of Earth & Sky
"Fahs--Beginnings of Life & Death
"Fahs--From Long Ago & Many Lands

"Junior Ages (10-11)

"In unit I the child learns the inspiring stories of great people who unselfishly devoted their lives to the betterment of the physical well-being of the world's people. In unit II the lives of great people who helped to enlighten and unshackle the minds of their fellow men are discussed. These are presented because of their services to humanity and not because of the adulation which may have resulted from it. Many biographical works are drawn upon, including:

"Allen--100 Great Lives
"Edwards--Child of the Sun
"Neumann-Spokesmen for Ethical Religion
"Row, Peterson & Co.--Real People Series

"Junior High (Ages 12-13)

"Unit I deals with the world's greatest religions, their development, ethics, and relations to present world problems.

"Unit II presents our neighbor's religions and Ethical Culture, In this unit, various neighbor churches and Sunday Schools are visited by the class. The visits are alternated with analyses of what had been witnessed, and are compared with the ethical viewpoint. Among the books used are:

"Fitch--One God
"Browne--This Believing World

"Senior (Ages 14-15)

"Unit I is devoted to discussions of contemporary ethics and ethical problems; the application of ethical values to current situations in the world today, and the background which led to these concepts and interpretations.

"Unit II comprises a study leading to the better understanding of the Bible. Typical references are:

"Fosdick--How to Understand the Bible
"Fitch--Their Search For God
"Gaer--How the Great Religions Began

"FESTIVALS

"Highlights of the year are the festival days--The fall festival, the midwinter festival at Christmas time when the cultural contributions of all peoples are recalled, and the spring festival at Easter time. On each

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of these occasions, the entire Ethical Society of adults and children gathers in celebration

"Sessions--Place and Time
"Place: Washington Ethical Society,
1822 Massachusetts, Avenue, N. W.
Washington, D. C.

"Time: 11:00 A.M. to 12:30 P.M.

"Dates: October through May

"Registration
"First Sunday in October, between 10:00 and 10:30 A.M.

"Annual Fees

	First Child	Second Child
"Members.....	$20	$10
"Non-Members.....	$25	$15

"No charge for additional children.
"Scholarships are available.
"Fees are payable at time of registration."

(d) No services of any kind are held in petitioner's building during the summer months, that is to say, from the middle of June to the latter part of September. This was true during the taxable year involved.

(e) In the main meeting room of the property involved there are held by the Leader, marriage, burial and naming ceremonies or services, the latter being somewhat analogous to christenings in Christian denominations. In the wedding ceremony no mention is made of God in any respect, except a reference to "that vestal fire, sacred to the God of Home, which burnt in the inmost shrine of every Roman dwelling".

20. The assessing authority of the District of Columbia assessed against the aforesaid Lot 811 in Square 137, a real estate tax for the fiscal year ended June 30, 1956, in the amount of $671.74. The notice of assessment was mailed to the petitioner on September 1, 1955. Such tax has not been paid.

21. This proceeding was filed on November 17, 1955.

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Opinion

This case involves religion and its meaning. It poses the question: "Is the petitioning taxpayer a church or a religious corporation or society within the purview of those portions of Section 801a of the District of Columbia Code (1951 Edition) in the language following:

> "The real property exempt from taxation in the District of Columbia shall be the following and none other:
>
> * * * *
>
> "(m) Churches, including buildings and structures reasonably necessary and usual in the performance of the activities of the church. A church building is one primarily and regularly used by its congregation for public religious worship.
>
> "(n) Buildings belonging to religious corporations or societies primarily and regularly used for religious worship, study, training and missionary activities."

The petitioner is the owner of a building, known as premises numbered 1822 Massachusetts Avenue, Northwest, Washington, D. C.,[1] which is, and during the fiscal year ended June 30, 1956, was being primarily and regularly used by the petitioner in carrying on its activities. The petitioner claims that it is a church within the meaning of subsection (m) of Section 801a of the Code, and is a religious corporation or society and that its building is regularly used for religious worship, study and training, and, perhaps, missionary activities, as those terms found in subsection (n) of that Section are to be understood and interpreted. The respondent, the District of Columbia, insists that the petitioner is neither a church nor a religious corporation or society, and that its building is not used for religious worship, study, training or missionary activities within the meaning of the quoted subsections, which for convenience will hereinafter be referred to as "Subsections (m) and (n)".

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(1) Lot 811 in Square 137.

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The petitioner is a corporation and was organized in 1949 under the provisions of Chapter 6 of Title 29 of the District of Columbia Code which relates to the incorporation of charitable, educational and religious associations.(2) The object and purposes of the petitioner expressed in its certificate of incorporation are stated to be as follows:

> "THIRD. The particular business and objects of said corporation shall be to constitute a liberal religious fellowship, without restrictions of race or creed, which will promote and further the principles of the Ethical Movement as a member society of the American Ethical Union; to provide a place for meeting together; to provide and maintain facilities for religious education for youth in the principles of the Ethical Movement; and to engage in educational activities, public service, and social action."

The Preamble, Article I and the first section of Article II of the petitioner's by-laws describes its claimed character and its relation to the Ethical Movement and the American Ethical Union in the language following:

"Preamble

"The Ethical Society is a religious fellowship, which seeks to know the good and to achieve the good life.

"The noblest tradition of man has been his search for the highest values in human relations. In this tradition we endeavor to develop such values in our individual lives and in community living.

"We seek to further this purpose by meeting together, and by engaging in educational activities, public service, and social action."

"Article I
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"Sec. 1. Affiliation.
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"Sec. 2. Obligations.
The Washington Ethical Society participates in the formation and the carrying out of policies of the A.E.U. It recognizes with other Ethical Societies and with the A.E.U. responsibility for the support of the Ethical Movement."

"Article II
"Membership

"Sec. 1. Eligibility.
Any person, sympathizing with the aims of the Ethical Movement and of this Society, sponsored by two members

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(2) Chapter 5 of Title 29 provides for the incorporation of religious societies or congregations, that is to say, churches.

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of the Society, and making written application for membership will, after interview by the Membership Committee, be eligible for election to Membership in the Society by the Executive Board."

The petitioner in actual practice has conformed to the aims, policies, theories and precepts of The American Ethical Union, is one of its accepted and constituent members, and has supported the Ethical Movement, as hereinafter described. The American Ethical Union is the corporate form of the Ethical Movement. It is a federation of Ethical Societies, including the petitioner. Its purposes, as shown by its certificate of incorporation, are as follows:

"1. To promote the knowledge, the love and the practice of right living in all the relations of life. To join its members into a religious and educational fellowship in an effort to advance the moral growth of humanity through study, social action and spiritual consecration.

"2. To bring into close fellowship of thought and action the several existing Ethical Societies and such other Ethical Societies or organizations as may be established and admitted to the Union.

"3. To federate the Ethical Societies throughout the United States of America, District of Columbia and in any of the territories, districts, protectorates, dependencies of insular or other possessions or acquisitions of the United States for the purpose of promoting the welfare of the Ethical Societies in the different communities in which they function, to organize and maintain conferences, groups, investigations, studies and similar activities, to help carry out the purposes of the organization, to cooperate with private and governmental agencies in order to more effectively carry out the foregoing purposes, to render social service to cities, states and nations, to consider and act upon public matters of interest to communities throughout the country, to provide a medium for the exchange of ideas relating to education, public welfare and ethical living."

The Preamble and Section 1 of Article I of its By-Laws read as follows:

"PREAMBLE

"The purposes of the American Ethical Union are:

"- To promote the knowledge, the love and the practice of right living in all the relations of life; to join its members into a religious and educational fellowship in an effort to advance the moral growth of humanity through study, social action and spiritual consecration; and

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"- To bring into close fellowship of thought and action the several existing Ethical Societies and such other Ethical Societies or organizations as may be established and admitted to the Union.

"BY-LAWS

ARTICLE I.

Membership.

"Section 1. Membership in the AEU as presently composed consists of the New York Society for Ethical Culture, Chicago Ethical Society, Philadelphia Ethical Society, Ethical Society of St. Louis, Brooklyn Society for Ethical Culture, Westchester Ethical Society, Washington (D.C.) Ethical Society, and the Ethical Culture Society of Long Island."

The Ethical Movement was founded by Doctor Felix Adler in 1876. In its early stages it was more in the nature of social reform, and, while that feature is not emphasized today, it is still concerned with many social matters, such as, for instance, race relations, labor and management and such international affairs as world federation, United Nations and the like.

The central thesis or proposition of the Ethical Movement is that morals, ethical conduct and right living are good in themselves, and for that reason must be practiced, and not because of any command or sanction of any deity or Supreme Being. It is a tenet or dogma that ethics are not derivative; that they do not proceed from the command or authority of any extraneous power or authority of any creed or institution, and that the creeds and dogmas of the traditional religions are good to the extent only that they reflect principles as conceived by the Movement.

The principle of self-help is important in the Ethical Movement. Its basis is fundamentally the negation of a personal God or any Supreme Being or any deity concerned with the affairs of men to whome men might appeal or thank for the blessings of mankind; that we mortals alone are responsible for our blessings and ills; and that, if we are to be helped, we must help ourselves.

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The Ethical Movement does not require any of its members to believe in, or have any concept of God. It is claimed that its members may differ as to the existence or non-existence of a personal God or Supreme Being or as to whether there is or is not personal survival after death. The record, however, discloses no member who believes in a Supreme Being or divine power to be worshiped and obeyed as the creator and ruler of the universe. The climate or atmosphere of the Movement would not sustain any such belief. There are some who believe in some inanimate force which is called various names, such as "Indefinable power which pervades the universe", "Cosmos", "Nature", "Truth", "Righteousness", "Greatest Good", and the like. Notwithstanding the claimed indifference to the beliefs of its members, the underlying principle of the Ethical Movement is opposed to belief in any personal God or Supreme Being, who controls the universe, who concerns himself with the affairs of men, who is the fountain of all truth and good, and from whom flows all principles of morality, ethics and righteousness. It is not that it is not known whether such Supreme Being exists, but rather an affirmative position that there is no such being.

The Ethical Movement has accepted those principles and doctrines of the traditional religions that comport with its idea of ethics and morality, but, as observed above, not because of any divine sanction. Such principles and doctrines include, for example, the Fifth to the Tenth Commandments in the Decalogue, the second great commandment of Jesus that one love his neighbor as himself and the Golden Rule, although the latter, with a Kantian twist, is stated to be "So act as to elicit the best in others and you will thereby draw out the best that is in yourself".

There is really little new in the Ethical Movement. It draws a great deal upon the later philosophy of Kant and

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New England transcendentalism as expressed by Emerson.[3] It embodies much of the stoic philosophy - the later stocism of the Roman imperial times,[4] and, indeed, a little of the epicurean, especially the Persian phase, the Sufi, so beautifully expressed by Fitzgerald in his translation of the Rubaiyat.[5] It is quite similar to the philosophy of the latitudinarians of the Seventeenth Century. It contains a great deal of Platonism and Socratic philosophy.

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(3) It is interesting to note that Emerson foretold or predicted the establishment of the Ethical Movement. What is more interesting is that Kant, Emerson and Adler studied for the ministry and all lost their belief in personal God or Supreme Being along the way. The same was true of the great French ethicist Renan who studied to be a Catholic priest.

(4) Marcus Aurelius: Meditations

"Whatever is good has the quality from itself.

"Among all things in the universe, direct your worship to the greatest. And which is that? * * *. It is the reigning power within you, which disposes of your actions and your fortune.

"As you are a member of society yourself, so every action of yours should tend to the benefit and improvement of it. So that when you do anything which has neither immediate or remote reference to general advantage, you make a breach in your life, destroy its unity. * * *.

"And, in a word, never throw away your legs to stand upon crutches.

"Let everyone's fault be at his own door."

(5) The Rubaiyat, Fourth Edition of Fitzgerald's translation.

"XXVII

Myself when young did eagerly frequent
Doctor and Saint, and heard great argument
About it and about; but evermore
Came out by the same door where in I went.

"LXIV

Strange, is it not? that of the myriads who
Before us pass'd the door of Darkness through,
Not one returns to tell us of the Road,
Which to discover we must travel too.

"LXV

The Revelations of Devout and Learn'd
Who rose before us, and as Prophets burn'd
Are all but Stories, which awoke from Sleep
They told their comrades, and to Sleep return'd.

"LXXII

And that inverted Bowl they call the Sky,
Whereunder crawling coop'd we live and die,
Lift not your hands to It for help--for It
As impotently moves as you or I."

Experts of probity, produced as witnesses for the petitioner, affirmed that in their opinion the Ethical Movement was a religion; that the Washington Ethical Society is a religious society and that its activities in its property are religious services. Many philosophic writers maintain the same, and while some of their articles are subjective, many are objective. In many dependable lists of religions is found the name of the Ethical Movement or the American Ethical Union (although such names are omitted in other lists). The right to perform a religious service of marriage has been granted the leader of the Washington Society, Dr. George E. Beauchamp, by the United States District Court for the District of Columbia.(6) The Internal Revenue Service of the Treasury Department has exempted the American Ethical Union from income taxation, and several State taxing areas have exempted the real estate of local ethical societies from taxation, all on the ground that they are religious and educational institutions. It can be said, the Court believes, that in many fields and areas, official, philosophical, religious and encyclopedic, the Ethical Movement is regarded as a religion.(7)

The tenets and activities of the petitioner, the Washington Ethical Society, conform to the principles of the Ethical Movement. Ethics and morality are taught by its leaders and practiced by its members, most, if not all of whom, are moral and upright persons and good citizens, and lead a righteous life. In its property are conducted Sunday Services and Children's Sunday Assembly. It should be observed that the Sunday Services involve little; if anything of God or any superhuman or supreme being, but are more of a social character. In addition there are conducted therein weddings,(8) funerals and naming ceremonies, somewhat similar to

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(6) It should be noted that the certificate granting the right to marry was signed only by a clerk of the office of the Clerk. The names of the Judge and Clerk were typewritten.
(7) See Findings of Fact 13, 14, 15 and 16 herein.
(8) By the leader who is authorized by the United States District Court to perform marriage ceremonies as a minister of a religious society.

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christianings. The entire property, with the exception of the third floor, is used regularly and primarily to carry on the activities of the petitioner.

As indicated in the beginning of this opinion the only error assigned by the petitioner in its petition is that the taxing authority failed to hold that its property was exempt under (a) the "existing law" or (b), more specifically, under Subsections (m) and (n), which is saying the same thing, since those subsections are the sole existing law relating to exemption of property of religious institutions. The same grounds for relief were stated by petitioner's counsel in his opening statement at the trial. When counsel came to write the brief, however, he raised a constitutional question by claiming that neither the assessing authority of the District nor this Court has the authority to determine in this case whether the petitioner is a religious institution in the face of that clause in the First Amendment to the Constitution which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". While there is some question as to whether the constitutional question is raised too late, especially since no error relating to it was assigned in the petition, the Court feels that it should be considered and disposed of.(9)

The Court believes that the position of the petitioner is not well taken. Here the petitioner, an owner of real estate, which in the normal course is subject to taxation, claims that an exemption be made or an exemption granted to it, because, it contends, it belongs to a special class, namely, that of a religious organization or church. It has come into this Court to establish its claim to exemption

(9) See Trustees of St. Paul Methodist Church v. District of Columbia, 94 U.S. App. D.C. 78, 212 F.2d 244, and McCeney v. District of Columbia, ___ U.S. App. D.C. ___, 230 F.2d 832 (decided March 8, 1956) wherein the tax liability was determined on questions not raised in the petition or before this Court, but for the first time by the Court of Appeals in the opinions. A fortiori, a court of first instance should do the same.

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and now says that the Court cannot determine whether or not it is what it claims to be and is entitled to the exemption. The cases on this point cited by the petitioner do not support its claim. In two cases, relied upon by the petitioner in relation to another phase of the case, exemption from military service was claimed by registerants on the ground that their conscientious objections to such service were the result of their "religious" belief. By the very nature of things, the military administrative agency was called upon, as was the Assessor in this case, to pass on the validity of such claim to exemption, and the court's jurisdiction, as here, was invoked by the claimants to decide whether the administrative determination was correct, which involved, necessarily, the decision by the Court as to what was religion and, if the beliefs or philosophies of the claimants to exemption were religious. We can find no suggestion that such procedure violated the First Amendment. And the same is true of the many other cases cited by both sides involving definitions of religion, and the claims of persons and organizations that they were religious. The fact that the adherents to the Ethical Movements and its leaders in good faith believe it to be a religion, while persuasive in the ultimate determination of the main questions presented, seems to the Court to be immaterial in the disposition of the constitutional question. It is apparent in Berman v. United States, 156 F.2d 377, cited by the petitioner, the person there claiming exemption sincerely believed that his objection to military service was the result of religious belief. He was, nevertheless, held not to be exempt.

What must now be resolved or answered is the question stated at the beginning of this opinion: is the petitioner a church or a religious society within the meaning of Subsections (m) and (n) of the exempting statute?

With respect to Subsection (m) the respondent claims that the petitioner is not a church because it was organized under Chapter 6

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of Title 29 of the Code, and not under Chapter 5, which relates to the incorporation of churches and religious societies with congregations. Such position is not well taken. If the petitioner performs the functions, or carries on the activities of a "church" and its property is "primarily and regularly used by its congregation (members) for public religious worship" as those terms are meant in Subsection (m), its property is exempt, and must be so declared. There is such a thing as a de facto church. The term does, however, connote a religious society, and, if it is to succeed it must appear that its activities are religious, -- that the Ethical Movement of which it is a constituent and active member is a religion and what it does in its property is religious worship. The respondent denies that it is such a society and insists its property is not used for religious worship.

In respect of the petitioner's claim to exemption under Subsection (n), the respondent likewise has a double barrel objection to the petitioner's claim. In the first place it contends that it is not a religious corporation or society, and that its activities do not involve, or consist of religious worship, study, training and (or) missionary activities. The other contention is that, even assuming that the petitioner is a religious society, it is not of the class of "religious corporations or societies" contemplated in Subsection (n) or those that Congress intended should be favored. In so arguing the respondent relies upon Congressional Report No. 1634, which accompanied the Real Estate Exemption Act of 1942 (Chapter 8 of Title 47, D.C. Code, 1951 Ed.) in so far as such report relates to Subsection (n). The report in part recites:

> "The committee realizes the difficulty of classifying certain types of buildings as places where public worship is carried on, and at the same time, to differentiate between that class of building and buildings which are used primarily and regularly for religious worship, study, training, and missionary activities. This latter class of buildings was brought sharply to the attention of the committee and every effort was made to include under

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language in subparagraph (n) those buildings which are entitled to exemption because of the character of work carried on within. Such buildings are the so-called houses of study erected in the vicinity of the Catholic University of America and on grounds contiguous thereto."

As the Court understands the respondent's position it is not that, in order for property to be exempt under Subsection (n), it must be one of the houses of study that cluster around the Catholic University, but that it must be a similar building in purpose regardless where it is located and to what university or school attached. In other words it must be a house of study, but not necessarily Catholic. There is a great deal in the contention of the respondent that merits serious consideration. It has given the Court some pause. While it is true that Congress in enacting Subsection (n) had in mind the study houses at or around the Catholic University, the language of the subsection is so plain that recourse to the Congressional report is of little assistance. Under such provision the Court believes that the exemption is extended to buildings "primarily and regularly used for religious worship, study, training and missionary activities" of any religious corporation or society, regardless of its location or whether connected with a university or not. Calvary Baptist Church Extension Ass'n. v. District of Columbia, 81 U.S. App. D.C. 330, 158 F.2d 327.

The Congressional report, however, is of interest and value in determining what Congress had in mind by the use of the term "religious". The petitioner does not claim that its property is used for religious study and missionary activities. The Court does not believe that its activities are such within the meaning of Subsection (n) or Congressional intent. If its property, therefore, is to be exempt it must appear, as it does in connection with Subsection (m), that the property is primarily and regularly used for religious worship. Whether the property is so used is now what the Court must determine.

There is one question, the answer to which will unlock the door to the solution of the problem. What is religion? If that can be answered, the meaning of "religious worship" will be clear. It is a question of definition, legal, and ordinary when it is considered that, after all, what we are trying to determine is

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what Congress meant when it enacted Subsections (m) and (n). The answer is by no means easy, and has given the Court a great deal of difficulty. One respectable philosopher has declared that "I do not myself believe that Religion can be defined".(10) The difficulty arises from the very personal nature of religion to almost everyone. And he who must decide the issue must continually be on guard lest his personal feelings influence him, because, as is stated in the Encyclopedia of Religion and Ethics, "Every reader tends to approach the subject with certain more or less definite preconceptions touching some of the most essential terms or elements of religion". The Court would be less than fair if it did not state that the conclusion at which it arrived is not entirely free from doubt, or one of which the Court has a firm conviction, but rather is the final and best answer that the Court can make after prolonged and serious study of the matter.

The recognition of the petitioner and its parent organization as religious societies, and their doctrines and ethical principles as religion by competent experts, authors, officials, taxing authorities and the like, has greatly impressed the Court and has prompted or tempted the Court to accept such appraisal as the ultimate determination of, or answer to the problem. Certainly the opinions expressed are persuasive. The Court believes, however, that, while such evidence, like any other must be weighed and considered, it is not conclusive. In the final analysis the Court must determine whether or not the petitioner is a religious society, or, to put it differently, whether the doctrines, principles, morals and ethics which it expounds have that content which makes them religion, and whether the activities which it carries on in its properties are "religious worship".

St. James (James 1:27) is frequently quoted on the subject of religion which he defines thusly: "Pure religion and undefiled before God the Father is this, to visit the fatherless and widows in their affliction, and to keep himself unspotted from the world". There is, of course, in such definition a recognition of a Supreme Being, but here again we must realize that St. James' personal concepts no doubt influenced his definition.

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(10) C. C. J. Webb, Group Theories of Religion.

In that beautiful and remarkable book, The Golden Bough, Sir J. G. Frazer, observed that religion is "a propitiation or conciliation of powers superior to man which are believed to direct and control the course of nature and of human life", which, of course, was a recognition of the superhuman or supernatural.

The issue is squarely presented and the line of demarcation is clearly drawn by Dr. Donald Lee Jamison, Professor of Philosophy of Religion, Baptist Theological Seminary, Philadelphia, Pennsylvania, in Philosophy Studies Religion in this language:

> "Religion would therefore be defined as belief in a superhuman personality, expressed in worship and service. It follows from this definition that an organization, association or society, in order to qualify as a religion, must profess belief in a superhuman personality (a God) as a definite object of worship and service. Failing in this, it might be accepted as a philanthropic organization, and association for ethical culture, or a philosophical society, but it could not be recognized as a religion."

We find that Sir E. B. Taylor in Primitive Culture gives the "minimum definition" of religion as "the belief in spiritual beings."

Immanuel Kant, the great German philosopher who seems to be the "patron saint", so to speak, of the Ethical Movement, and whose "categorical imperative" that moral law must unconditionally be followed is the corner stone of the Ethical Movement, did not contend in the Critique of Pure Reason that his analysis and resort to a posteriori rather than a priori judgments proved the unreality of God or of the immortal soul, but merely that these matters are beyond human knowledge. It is clear, however, that he had faith in the existence of God and in personal immortality, - certainly in his early years of speculation. What is interesting is that he defined religion as "the recognition of all duties as divine commands" in the sense that the clarification of our consciousness of duty leads to the postulation of a holy Supreme Being whose will is revealed in the moral law.

In the National Encyclopedia there is an article by Dr. Walter Theodore Brown, Professor of Religion, Yale University,

wherein he observes that "Religion springs from a spiritual interpretation of nature, man and human history; and the idea of God is the determinative conception of all religious development".

On the other hand we have the definition of religion by Dr. Horace Friess, a distinguished philosopher, and author and teacher of religion at Columbia University. He defines religion as the "dedication of life to supreme values" and in this he is supported by Dr. Douglas Clyde Macintosh, Dwight Professor of Theology at Yale University, who considers religion as the belief in the reality of values.(11) Dr. Friess, it must be pointed out, while sincere, was not objective, since he was closely associated with Dr. Felix Adler, having married his daughter, and being what he termed Dr. Adler's "literary executor". Moreover, he has been adherent to the Ethical Movement and one of its leaders in New York City.

The definition of Dr. George E. Beauchamp, the cultured and worthy leader of the petitioner, is in no substantial respect different from that of Dr. Friess. It is the following:(12)

> " * * * religion is man's ultimate beliefs, those things by which he not only leads his life, but those things which he gives his ultimate commitment. In other words, the distinction between religion and philosophy, as I see it, is that philosophy, you give intellectual acceptance to, but religion is that which you believe with your heart, as well as your mind, that by which you lead your life."

Reverend Ross A. Weston, minister of The Unitarian Church of Arlington, Virginia, who testified on behalf of the petitioner that the petitioner is a religious society or group, did not accept as a definition of religion the service and adoration of God or a god, expressed in forms of worship and obedience to divine commands. In his opinion religion is "That which binds man together", and that God is Truth.

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(11) Problems of Religious Knowledge.
(12) Transcript of Testimony, page 232.

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Dr. Hugo Schiff, an able and learned rabbi of the Jewish religion, called as an expert for the petitioner, was of the opinion that the petitioner was a religious organization. It should, however, be noted that he defined religion as "to do justice, to love mercy, and to walk humbly with thy God".

"Religion, for all the various definitions that have been given of it", says Dr. David Saville Muzzey, the eminent leader of the Ethical Movement, "must mean the devotion of man to the highest ideal that he can conceive. And that ideal is a community of spirits in which the latent moral potentialities of men shall be elicited by the reciprocal endeavors to cultivate the best in their fellow men."(13)

In the Encyclopedia Americana it is stated that "some sociologists refer to religion as 'the collective expression of human values'" which is close to opinions of Drs. Friess and Macintosh. That such is not the generally accepted view which can be seen from excerpts from the same article in that same reference book which follows:

> "Although it is impossible to give a conclusive definition of religion, there are certain characteristic forms of human activity and belief which are commonly recognized as religions: worship, separation of the sacred from the profane, belief in the soul, belief in gods or God, acceptance of supernatural revelation, and the quest for salvation."
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> * * * *
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> "The Philosophic God is a part of some philosophic systems. The God is not a god of religion, although it may be identified with the universal god of a particular cult. The idea of this type of God is gained through philosophic inquiry without reference to specific religious traditions. Religions are concerned only with the conceptions of deity which include the necessity for worship. * * * "

Having recourse to the recognized dictionaries for the definition or ordinary meaning of religion, we find that in Webster's New World Dictionary (1956) it is defined as:

> "1. belief in a divine or superhuman power or powers to be obeyed and worshiped as the creator(s) and ruler(s)

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(13) Ethics as a Religion, By David Saville Muzzey, page 95.

of the universe. 2. expression of this belief in conduct and ritual. 3. a) any specific system of belief, worship, conduct, etc., often involving a code of ethics and a philosophy: as, the Christian religion, the Buddhist religion, etc. b) loosely, any system of beliefs, practices, ethical values, etc., resembling, suggestive of, or likened to such a system: as, humanism is his religion. 4. a state of mind or way of life expressing love for and trust in God, and one's will and effort to act according to the will of God, especially within a monastic order or community: as, he achieved religion. 5. any object of conscientious regard and pursuit: as, cleanliness was a religion to him. 6. (Obs.), a) the practice of religious observances or rites."

With the possible exception of two well known dictionaries, all of the leading lexicons (14) define "religion" substantially the same as Webster's New World Dictionary. The definitions in two dictionaries excepted are slightly different in emphasis. The first is Webster's New Collegiate Dictionary (1953), upon which the petitioner seems to rely, and which defines "religion" as:

"1. The service and adoration of God or a god as expressed in forms of worship. 2. One of the systems of faith and worship. 3. The profession or practice of religious beliefs; religious observances collectively; pl., rites. 4. Devotion or fidelity; conscientiousness. 5. An awareness or conviction of the existence of a supreme being, arousing reverence, love, gratitude, the will to obey and serve, and the like; as, man only is capable of religion."

The other is The American College Encyclopedic Dictionary (1952). Its' definition is the following:

"1. the quest for the values of the ideal life, involving three phases: the ideal, the practice for attaining the values of the ideal, and the theology or world view relating the quest to the environing universe. 2. a particular system in which the quest for the ideal life has been embodied; the Christian religion. 3. recognition on the part of man of a controlling superhuman power entitled to obedience, reverence and worship. 4. the feeling or the spiritual attitude of those recognizing such a controlling power. 5. the manifestation of such feeling in conduct or life."

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(14) Oxford English Dictionary, New Century Dictionary (1956), Webster's New Twentieth Century Dictionary (1956), Funk & Wagnall's New Practical Standard Dictionary (1956), Swan's Anglo-American Dictionary (1952) Thorndike-Barnhart Comprehensive Desk Dictionary (1955), Chamber's Twentieth Century Dictionary (1952), The Winston Dictionary (1952)

When one comes to consider the matter of the definition of "religion" as spelled out in the decisions of the Federal and State courts he finds it somewhat confused.

In the opinion in a case involving the Morman religion, Reynolds v. United States, 98 U.S. 145, 25 L.Ed. 244, 249, it is stated that James Madison, in a "Memorial and Remonstrance" against a bill in the Virginia legislature in 1784 establishing a religion, demonstrated "that religion, or the duty we owe the Creator" was not within the cognizance of civil government; and that Thomas Jefferson in a reply to an address to him by the Danbury Baptist Association said that "Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship. * * * " Later, in another case involving the same religion, Davis v. Beason, 133 U.S. 333, 342, 33 L.Ed. 637, 639, 10 S.Ct. 299, Mr. Justice Field asserted that "The term 'religion' has reference to one's views to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. It is often confounded with cultus or form of worship of a particular sect, but is distinguishable from the latter."

In United States v. Macintosh,(15) 283 U.S. 625, 75 L.Ed. 1302, 1310, 1315, 51 S.Ct. 90, definitions of religion are found in both the majority and dissenting opinions. They were substantially the same. Mr. Justice Sutherland in the former opinion observed: "We are a Christian people (Church of the Holy Trinity v. United States, 143 U.S. 457, 470, 471, 36 L.Ed. 227, 231, 232, 12 S.Ct. 511), according to one another the equal right of religious freedom, and acknowledging with reverence the duty of obedience to the will of God". In the dissenting opinion of Chief Justice Hughes stated what seemed to be the commonly understood meaning of religion

(15) Dr. Douglas Clyde Macintosh, Dwight Professor of Theology, Yale University, to whose treatise, Problems of Religious Knowledge, reference has before been made. See page 30 hereof.

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in these words:

> " * * * . The essence of religion is belief in a relation to God involving duties superior to those arising from any human relation. As was stated by Mr. Justice Field in Davis v. Beason, 133 U.S., 332, 342, 33 L.Ed. 637, 639, 10 S.Ct. 299, 8 Am Crim. Rep. 89: 'The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being, and character, and of obedience to his will'. One cannot speak of religious liberty, with proper appreciation of its essential and historic significance, without assuming the existence of a belief in supreme allegiance to the will of God. Professor Macintosh, when pressed by inquiries put to him, stated what is axiomatic in religious doctrine."

A case upon which the petitioner relies is United States v. Kauten, 133 F.2d 703, 708. One Kauten was classified 1-A for military service in 1941 under the Selective Training and Service Act of 1940. He appealed from the classification on the ground that "by reason of religious training and belief" he was "conscientiously opposed to participation in war in any form", under Section 5(g) of the Act, which exempted from military services those persons who had conscientious objections "by reason of religious training and belief". Judge Augustus N. Hand, in affirming the conviction of Kauten for failure to appear, because his objections were philosophical or political rather than religious, ~~The learned judge~~ felt called upon to define religion, which he did by the following language:

> "It is unnecessary to attempt a definition of religion; the content of the term is found in the history of the human race and is incapable of compression into a few words. Religious belief arises from a sense of the inadequacy of reason as a means of relating the individual to his fellow-men and to his universe - a sense common to men in the most primitive and in the most highly civilized societies. It accepts the aid of logic but refuses to be limited by it. It is a belief finding expression in a conscience which categorically requires the believer to disregard elementary self-interest and to accept martyrdom in preference to transgressing its tenets. A religious obligation forbade Socrates, even in order to escape condemnation, to entreat his judges to acquit him, because he believed that it was their sworn duty to decide questions without favor to anyone and only according to law. Such an obligation impelled Martin Luther to nail his theses on the door of the church at Wittenberg and, when he was summoned before Emperor Charles and the Diet at Worms, steadfastly to hold his ground and to utter the often quoted words: 'I neither can nor will recant anything, since it is neither right nor safe to act against

conscience. Here I stand. I cannot do other. God help me. Amen.' Recognition of this obligation moved the Greek poet Menander to write almost twenty-four hundred years ago: 'Conscience is a God to all mortals'; impelled Socrates to obey the voice of his 'Daimon' and led Wordsworth to characterize 'Duty' as the 'Stern Daughter of the Voice of God.'"

United States v. Downer, 135 F.2d 521, followed. It too involved a claim to exemption from military service under the Selective Training and Service Act of 1940. Randolph G. Phillips claimed that he was conscientiously opposed to participation in war in any form "by reason of religious training and belief". There appears in the opinion facts concerning the draftee as follows:

> "He received his early religious training in the Presbyterian Church, although he stated he was not now a member of any religious sect or organization. He is opposed to killing men, or assisting directly or indirectly in the killing of men, and refused a commission in the Navy in December, 1941, because of his objection to participating in the war effort in any way. He would not fight even to repel invasion, but believes that 'war is ethically and invariably wrong!'"

In the face of the Government's claim that a registrant's opposition to war must be definitely traceable to some religious belief or training, the majority of the judges sitting as the United States Court of Appeals for the Second Circuit, through Judge Clark, held that the objection of the registrant was sincere and conscientious; and that under the definition of "religion" in the Kauten case, he was entitled to exemption from military service.

United States v. Badt,(16) 141 F.2d 845, (Certiorari denied, 328 U.S. 817, 90 L.Ed. 1599, 66 S.Ct. 979), is close to the instant case. It extended the rulings in the Kauten and Phillips (U.S. v. Downer) cases. It was decided in 1944. Here again was a registrant under the Selective Service Act claiming exemption from military service on the ground that his objections were conscientious and were based on religious training and belief. He

(16) There was a second case (152 F.2d 627), which is not important here.

appealed from a classification of 1-A to the appeal Board. The Hearing Officer submitted a comprehensive report. With relation to this case the report recited:

> "This registrant is intelligent, well educated and a real pacifist since his college days. There can be no doubt as to the sincerity of his opposition to war. The question in the case is whether it is by reason of religious training and belief. He denies any belief in a Deity, except in so far as there may be a moral force in the Universe. No reference to the latter appears in his original papers but was advanced by him at the hearing in the course of a discussion. The witness Frank, who is registrant's first cousin and a highly intelligent person, stated both to the agent and at the hearing that registrant's view was that of a philosophical humanitarian. Mr. Frank added the view that this philosophy is so close to religion that it might well be a substitute for it. This question perhaps epitomizes the question in the case.
>
> "As the hearing officer understands humanitarianism, it is a view that mankind is sufficient to itself, that it owes no obligation to any power except humankind and that it may achieve perfection in and of itself without the interposition of any Deity or supernatural power. As this hearing officer has said in other opinions, he is of the view that 'a religious belief' necessarily connotes some concept of Deity. Freedom of religion means the freedom to worship. To the man on the street, the word 'religion' obviously means something connected with the Church or with worship. This is exemplified in this particular case by the repeated statements of witnesses that this registrant is not 'religious'. Among scholars the word 'religion' certainly involves Deity and worship. Polytheism, monotheism, primitive religion, higher religion, ethical religions, universal religions are all terms used by scholars in discussing man's beliefs as to supernatural power and the relationship of humankind to such power. 'Ethical' and 'religious' are not synonymous terms. The word 'worship' describes an attitude toward a power or a person; not used to describe devotion to an idea."

Although Judge Augustus N. Hand, in reversing the appeal board's affirmance of the classification, held the registrant could obtain exemption if it were found that he objected to "participation in any war <u>under any circumstances</u> because of the compelling voice of conscience" (Emphasis supplied), he felt constrained to overrule the Hearing Officer's views as to the nature of the registrants beliefs by saying:

> "It is evident from the foregoing that the hearing officer, though referring at the end of his report to certain considerations which militate against the claim that the relator is a conscientious objector, placed his decision upon the ground that the relator was not a conscientious objector because his opposition to war

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was based on humanitarian considerations and not on any obligation to a Deity or supernatural power. In other words, he reached a conclusion as a matter of law which was directly opposed to our decision in United States v. Kauten, 2 Cir., 133 F.2d 703. There we said that 'a conscientious objection to participation in any war under any circumstances * * * may be basis of exemption under the Act' 133 F.2d page 708. We also said that such an objection 'may justly be regarded as a response of the individual to an inward mentor, call it conscience or God, that is for many persons at the present time the equivalent of what has always been thought a religious impulse.'"

Berman v. United States, (9th Cir.) 156 F.2d 377, 380 (Cert. den. 329 U.S. 795, 91 L.Ed. 680, 67 S.Ct. 480, and rehearing denied, 329 U.S. 833, 91 L.Ed. 706, 67 S.Ct. 621), likewise involving a claim to exemption from military service under the Selective Training and Service Act of 1940, held exactly opposite from Kauten, Downer and Badt cases, supra. After quoting from decisions in the Supreme Court on the subject, Judge Stephens speaking for the majority of the Court observed:

"It is our opinion that the expression 'by reason of religious training and belief' is plain language, and was written into the statute for the specific purpose of distinguishing between a conscientious social belief, or a sincere devotion to a high moralistic philosophy, and one based upon an individual's belief in his responsibility to an authority higher and beyond any worldly one. * * * Faith 'which passeth all understanding' carries on. The intellectually satisfying Mediations of Marcus Aurelius do not suffice for the boy in the fox hole, under fire. His philosophy is not called upon in that agonizing hour. He goes directly to his God to bolster his flagging strength and courage. * * * "

"There are those who have a philosophy of life and who live up to it. * * * no matter how pure and admirable his standard may be, and no matter how devotedly he adheres to it, his philosophy and morals and social policy without the concept of deity cannot be said to be religion in the sense of that term as it is used in the statute. * * * "

Petition for certiorari to the Supreme Court was denied, 329 U.S. 795, 91 L.Ed. 680, 67 S.Ct. 480; and petition for rehearing was denied, 329 U.S. 833, 91 L.Ed. 706, 67 S.Ct. 621.

It is interesting and, perhaps, important to note that Congress did not consider that the Second Circuit had correctly defined "religion" in accordance with its intent in enacting the Selective Training and Service Act of 1940, because when it came to enact the Selective Service Act of 1948 (50 U.S.C.A. 456(j)) it endeavored to make certain that there would be no further

misunderstandings. In Section 6 of the Act "religious training and belief" are defined as follows:

> " * * *. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views of a merely personal moral code."

Equally significant is the fact that by amendment of June 27, 1950, to the Nationalization Act of 1940 (c.477, Title III, chap. 2 sec. 337, 66 Stats. 258, Sec. 1448, U.S.C.A.), a definition of "religious training and belief" identical with the definition of such term in the Selective Service Act of 1948, was adopted.

In passing, it should be observed that, while the definitions just quoted and referred to are in statutes different from the one here under consideration, and while they were adopted in a session of Congress later than that wherein the District of Columbia exempting statute was enacted, nevertheless they do indicate what Congress understands by the word "religious", which, perhaps, is another way of saying that it reflects the ordinary acceptation of the term. Indeed that is in substance what the United States Court of Appeals for the Ninth Circuit held in George v. United States, 196 F.2d 445 (Petition for Certiorari denied, 345 U.S. 843, 97 L.Ed. 656, 73 S.Ct. 58). After reviewing the encyclopedic and judicial definitions of the word "religion", Judge Yarkwich said:

> "So it is evident that the definition which Congress introduced into the 1948 Amendment comports with the spirit in which 'Religion' is understood generally, and the manner in which it has been defined by the courts. It is couched in terms of the relationship of the individual to a Supreme Being, and comports with the standard or accepted understanding of the meaning of 'Religion' in American Society. It covers the case of most persons who derive inspiration from what has been called 'the Life of God in the Soul of Man'. This accords with what modern religious philosophers call 'la religion dynamique' (See, Henri Bergson, Les Deux Sources de la Morale et de la Religion, 1932 pp. 223 et seq.; Reinhold Niehbuhr, The Nature and Destiny of Man, 1943, Vol II, pp. 26, 75-76).

United States v. DeLime, 223 F.2d 96, arose under the Selective Service Act of 1948, and brought into focus the definition

of "religious training and belief" in Section 6(j) thereof. Exemption from military service was denied the registrant, DeLime. The basis is the following from the opinion of Judge Biggs of the Third Circuit:

> "Even if there were evidence that the defendant had based his claim for exemption generally on religious grounds, his claim does not come within the scope of the statutory definition of religious grounds providing for exemption. Section 6(j) of the Act states: 'Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, * * *.' There is no evidence that the defendant's belief had 'relation to a Supreme Being.' On the contrary, the record contains the defendant's many denials of any belief in a Supreme Being. In completing his Form-150, the defendant stated that he did not believe in a Supreme Being 'in the generally accepted sense.' At the hearing before the Local Board the defendant affirmed that his belief was 'not based on any theory of relation to a Supreme Being.' He said: 'I am an agnostic. I know what I believe. I do not accept the existence of a Supreme Being but believe if one exists, no man would know. In other words, I do not believe that there is one, but am open to proof that there could be one.'"

Minersville School District v. Gobitis, (3rd Cir.), 108 F.2d 683, arose because of two children refusing to salute the flag of the United States, as required by the law of Pennsylvania. The decision, it is true, was reversed in the Supreme Court (310 U.S. 586, 84 L.Ed. 1375, 60 S.Ct. 1010), but not in respect of the United States Court of Appeals views about religion, which might be explained by saying that the Court thus defined "religion";

> "The religious philosopher says:
> 'Religion is squaring human life with superhuman life. * * * What is common to all religions is belief in a superhuman power and adjustment of human activities to the quirements of that power, such adjustment as may enable the individual believer to exist more happily.' Hopkins, The History of Religions, p. 2.
>
> "The legal philosopher says:
> 'The term 'religion' has reference to one's views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will.' Davis v. Beason, 133 U.S. 333, 342, 10 S.Ct. 299, 300, 33 L.Ed. 637."

See also: United States v. Bendick, 220 F.2d 249.

The situation as to the State cases is no better than that relating to the Federal. The most important, certainly the one

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most cited is State v. Amana, 132 Iowa 304, 109 N.W. 894, 8 L.R.A., N.S., 909, 11 Ann. Cas. 231. It is relied upon by the petitioner in this case and, interestingly, by Judge Stephens in Berman v. United States, supra, for support of his decision which is directly contrary to the petitioner's theory. It concerns the Amana community in Iowa, which was conducted along communistic lines. The State of Iowa contended that the Amana Society was not a religious corporation. What was decided was that the fact that the society was communistic did not make it less, or non-religious. What should be borne in mind is that the central tenet of the society was a belief in God and in the divinity of Jesus Christ. If it does anything, it supports the respondent's contention that religion is the recognition of and belief in a Supreme Being (or beings), the worship thereof and obedience to its will.

Jones v. State of Nebraska, 28 Neb. 495, 44 N.W. 658, 7 L.R.A. 325, is cited by the petitioner in support of its petition and a portion of the opinion is isolated and quoted. Even when taken out of its setting the quoted portion of the opinion is so general in its complexion that it is of no help. But what is important is that the church there involved was Presbyterian and there was no question as to its religious character. Moreover, impliedly the Nebraska Supreme Court believed that religion implied recognition and belief in God or a Supreme Being, since we find in the opinion such language as "It may be presumed that no sincere follower of the Master will so far forget his duty as to indulge in railings or unjust accusation".

People v. Deutsche Evangelisch Luterische, etc., Confession, 249 Ill. 132, 94 N.E. 162, involved a claim of exemption from taxation of real estate of a corporation on the ground that it was being used for religious purposes. The Supreme Court of Illinois after stating the well known rule that "one claiming a benefit under the statute is required to show clearly that the property is exempt within the contemplation of law" (citing cases) went on to say:

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" * * * While religion in its broadest sense, includes all forms and phases of belief in the existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this state it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools, and religious instruction. * * * "

In State v. Powers, 51 N.J.L. 433, 17 A. 969. "Religion" was defined in this manner:

"The next question is whether a person's belief, as to punishment of perjury by the Deity, is to be classed among his religious principles. This is, I think equally clear. Religious principles are those sentiments concerning the relations between God and man, which influence human conduct."

The Supreme Court of Illinois in People v. Board of Education, 245 Ill. 334, 92 N.E. 251, 252, followed the foregoing concepts of religion. It held:

" * * * . Religion has reference to man's relation to divinity; to the moral obligation and worship, obedience and submission. It is defined by Webster as the recognition of God as an object of worship, love, and obedience; right feeling toward God, as rightfully apprehended. It deals with the soul. Its phenonema are spiritual. It controls external things. Things external cannot control it. * * * In the very nature of things, therefore, 'religion or the duty we owe to the Creator' is not within the cognizance of civil government, * * *."

After considering all of the foregoing sources bearing upon the meaning of religion, the Court concludes that the generally accepted (17) definition of religion and the meaning thereof which Congress intended in enacting Subsections (m) and (n) is substantially the same as that adopted and approved in the Selective Service Act of 1948 and the Naturalization Act of 1950, that is to say, "belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views of a merely personal moral code". It is

(17) The primary definition in Webster's New World Dictionary (1956) is "1. belief in a divine or superhuman power or powers to be obeyed and worshipped as the creator(s) and ruler(s) of the universe".

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realized, of course, that such definition is not applicable because found in act of Congress, since such acts relate to other matters and were passed by other Congresses, but rather, because it comports with the primary definition in most of the dictionaries and encyclopedias and in the majority of the decisions of the courts, and appears to be most generally accepted.

The Court does not believe that the Ethical Movement and its practices and the beliefs of its leaders and members are religion; or that the petitioner is a church, a religious society or corporation, or that its real property is, or was during the fiscal year here involved used primarily and regularly for religious worship, or for religious study training and missionary activities.

The insistence of the Ethical Movement that men live according to their individual concept of morality and ethics, which it, is claimed, should be governed by its version of the Golden Rule,(18) is commendable. Any one who responds to such imperative has little difficulty obeying Marcus Aurelius' self-admonition: "Live as on a mountain", or the urging of St. James "to keep himself unspotted from the world". Its practical results have been groups of moral and ethical people, in some respects superior in character to many adherents of the traditional religions. It makes better men and women, but, in the opinion of the Court, it is not religion. Viewing taxation as an important branch of the science of economics, exemption from taxation of religious institutions can be justified by the fact only that religion and religious societies teach people to be good, honest and law abiding, less likely to injure their neighbors, tortiously or contractually, and less apt to violate the criminal laws; and, by reason thereof, of economic value to the community. On any such basis the petitioner would be entitled to the same exemption as afforded a church. But one would have to be naive to believe that the

(18) "So act as to elicit the best in others and you will thereby draw out the best that is in yourself."

exemption to religious societies was based on any such consideration, that it was logical rather than emotional. The exemption was given to promote religion and the belief in, and the worship of God, and was due to our early religious background. Holy Trinity Church v. United States, 143 U.S. 465, 36 L.Ed. 226, 12 S.Ct. 511. And this is especially true as to Maryland (19) from which we have inherited so many of our legal concepts.

One of the principal claims of the petitioner is that the Ethical Movement is neutral as to its members' beliefs. It is contended that its adherents can believe in and worship a Supreme Being or not; that it is immaterial what they think. As stated by Alfred W. Martin, on of the leaders in the Ethical Movement, (See Aspects of Ethical Religion, p. 92) "Toward worship, theism, prayer, Ethical Societies take an attitude of strict neutrality, in order that the freedom of ethical fellowship may be kept absolutely inviolate. * * * Fifty years ago the founder of the Ethical Movement foresaw that its distinctive character would disappear were its members committed to 'worship', or to acceptance of theism and prayer". Dr. W. Edwin Collier, one of the outstanding leaders of the Ethical Movement, (20) in his book, Phases of Ethical Faith, in speaking of Ethical Societies had this to say: "They agree in allowing their members to differ as to the existence or non-existence of a personal God and as to whether there is or is not any such thing as personal survival after death. * * * . If however a member of the Movement has an over-belief in the existence of a personal God or in immortality, it is his own private affair and the Movement will

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(19) See District of Columbia v. Robinson, 30 App. D.C. 283, re: Maryland blasphemy laws. It has been said that Maryland's refusal to recognize common law marriage is due to its religious background.

(20) Director and Leader of the Philadelphia Ethical Society and formerly one of the ministers of the Ethical Church of London, England.

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make no effort to affirm or deny his speculations". (Emphasis Supplied) Such neutrality, if true, negatives religion. "A man's faith", said Carlyle, "does not consist in what he does not believe".

Notwithstanding the claim to neutrality the Court believes, that considering the exposition of the Ethical Movement by its outstanding and recognized leaders and by its founder, Dr. Adler, as evidenced by the various books, pamphlets and treatises produced and relied upon by the petitioner, the Movement is opposed to the belief in, and worship of any personal God or Supreme Being or beings. The existence of a Supreme Being in whom men believe and with whom they may communicate in praise and worship is not a tenet of the Ethical Movement. Such belief is discouraged, if not actively opposed. Of all the leaders of the Movement, the one who has been most prolific in his writings and the most quoted, is Dr. David Saville Muzzey. He has written a book, Ethics as a Religion, which is regarded by some as the mouthpiece of the Ethical Movement. The following is taken from the very distinguished author's chapter on An Ethical Concept of God:

> " * * * . What do such expressions as 'loving God' or 'obeying God' actually mean in our daily life? One cannot love infinite power and majesty. One can love only the qualities of goodness which one finds in one's fellow men, and one can obey only the dictates of ones own conscience. * * * Thus the 'God' we love is not the figure on the great white throne, but the perfect pattern, envisioned by faith,(21) of humanity as it should be, purged of the evil elements which retard its progress toward 'the knowledge, love and practice of the right'.
>
> "Is this ethical concept of a God (or Godhead) less real, less inspiring, less reasonable than the orthodox concept of an absolute creator and ruler of the universe? Is it not even more consistent with man's actual experience than the theistic concept of a God who determines all the vicissitudes of one's life and numbers the hairs of one's head? Does it not offer to the large number of men and women for whom the Jewish and Christian articles of belief and forms of worship no longer have significance, a faith to satisfy their intellect, enlist their enthusiasm, and beget in them a renewed sense of their dignity and responsibility as contributors to the building of the 'golden city' of light?"

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(21) In what?

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It is clear to the Court that the Ethical Movement, as explained in the various writings of its founder and its many leaders, and which were presented in evidence by the petitioner to demonstrate its character, does not measure up to the primary and generally accepted definition of "religion". The leaders of the Movement would not disagree with this statement. "It must by now", says Dr. Collier,(22) "be obvious that, in describing itself as a religion, the Ethical Movement is not using that word in its conventional sense of 'the outward form by which men indicate their recognition of the existence of a god or gods having power over their destiny'. There is indeed a definition in Webster's which would be applicable to the Ethical Religion: 'devotion or fidelity, as to a principle'. The fullness of meaning of the term 'religion' as adopted by the Movement can be better understood, however, with the help of several non-dictionary statements". (Emphasis Supplied) He then goes on to give some "non-dictionary statements", the first and a typical one by Dr. Eustace Hayden, Leader of the Chicago Ethical Society, in his The Quest of the Ages, being that "Religion is the shared quest for the values of a satisfying life". And in Dr. Muzzey's book and chapter mentioned above,(23) it is observed that "Religion, for all the various definitions that have been given of it, must surely mean the devotion of man to the highest ideal that he can conceive"; and later that "Religion has been almost exclusively concerned in the past with the problem of man's relation to God. The more practical problem is man's relation to his fellow man has been slighted. But more and more we are realizing that the individualistic conception of salvation which was the chief concern of our grandfathers is no guarantee of a spiritual society". (Emphasis Supplied)

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(22) Phases of Ethical Faith, page 13.
(23) Ethics as a Religion, Chapter on An Ethical Concept of God, pages 95 and 96.

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The Court does not believe that the Ethical Movement or the petitioner promotes, encourages or is concerned with, except to discourage, the belief in, the recognition of, the worship of, or the obedience of God or gods or a Supreme Being or beings. "Right Living", "Righteousness", "The Right", "Supreme Good", "Nature", "Cosmos", "Truth" or "an indefinable power that pervades the universe",(24) are not God or gods or a Supreme Being or in anyway superhuman or supernatural. All are natural. What is really meant by such terms is a "Philosophic God" as described in the Encyclopedia Americana quoted above.(25) Wordsworth's characterization of "Duty" as the "Stern Daughter of the Voice of God" was not only beautiful poetry, but beautiful imagery as well; and Menander's observation that "Conscience is a God to all mortals"(26) is but a metaphor.

The Court's conclusion that the petitioner is not of the class of corporations or societies favored in Subsections (m) and (n) is fortified by the fact that under both subsections the property must be primarily and regularly used for religious worship.(27) The Court believes, as Tillotson(28) said, that "The worship of God is an eminent part of religion, and prayer is a chief part of religious worship"; and that it is quite different from reverence of an idea or of human values and the like.

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(24) Dr. David Saville Muzzey - Ethical Religion, p. 28. It is clear from what follows that Dr. Muzzey does not mean God, but "the supreme ethical nature of reality". It is not as personal as even the Sufi concept of Deity:

"LI

Whose secret Presence, through Creation's veins
Running Quicksilver-like eludes your pains;
Taking all shapes from Mah to Mahi; and
They change and perish all--but He remains;"

The Rubaiyat, Fitzgerald's Translation, Fourth Edition.

(25) See ante, page 30.

(26) "I made them lay their hands in mine, and swear
To reverence the King, as if he were
Their conscience, and their conscience as their King."
TENNYSON, Idyls of the King.
"Thus Conscience does make cowards of us all", Hamlet, Act III, Scene I.

(27) And in addition, under Subsection (n), for "religious ** study, training and missionary activities."

(28) John Tillotson, Archbishop of Canterbury, (1691), religious writer.

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In Green v. State (Court of Criminal Appeals of Texas) 56 S.W. 915, 916, the appellate court approved a charge by the trial judge that "religious worship" meant "where a congregation has assembled for the purpose of performing acts of adoration to the Supreme Being, or to perform religious service in the recognition of God as an object of worship, love and obedience". Similar is the decision in People v. Board of Education, supra, where the Supreme Court of Illinois said:

> " * * * 'Worship' is defined by Webster as follows: '4. The Act of paying divine honors to the Supreme Being; religious reference and homage; adoration paid to God or a being viewed as God. * * * The worship of God is an eminent part of religion, and prayer is a chief part of religious worship. Worchester's definition is: adoration; a religious act of reverence; honor paid to a Supreme Being or by heathen nations to their deities. Worship consists in the performance of all those external acts and the observance of all those rites and ceremonies in which men engage with the professed and sole view of honoring God.' ***
>
> " * * * It (worship) includes prayer, praise, thanksgiving. * * * Devotional religious exercises constitute worship. Prayer is the chief part of worship. * * * Prayer is always worship. * * * Religion has reference to man's relation to divinity; to the moral obligation of reference and worship, obedience and submission. * * * It deals with the soul."

CF. San Antonio v. Y.M.C.A. (Ct. of Civ. App., Texas), 285 S.W. 844; Scottish Rite Bldg. Co. v. Lancaster County, supra, Nazareth Social Service Center, Inc. v. District of Columbia, 74 W.L.R. 117.

While the ceremonies conducted in the petitioner's property are of that high order essentially to make men and women moral and better individuals, to teach them to lead moral and ethical lives; and while what is taught to the children in the Children's Sunday Assembly touches upon religion (29) it is purely objective. None of it is religious worship as that term is generally understood. Reverence for morality, ethics and right living is not religious worship; and the objective inquiry and study of various religious faiths is not religion or even "religious study" within the meaning of Subsection (n).

(29) The Bible is discussed, like the books of other religions, but it is not taught as a guide to human conduct except to the extent that it comports with the Ethical Movement's concept of ethics. It is not regarded as divine revelation.

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There is no prayer, as that term is generally understood, in the services or in the marriage, funeral or naming ceremonies, nor is there any worship of a Supreme Being or beings. There is a book of songs, entitled "We Sing of Life". In it are 172 songs, all of which, with the exception of 23, are about things other than religious or superhuman or supernatural. The 23 songs referred to are true hymns, or religious songs, and in them we find such expressions relating to the Deity as, "God", "Giver of all", "Lord of all", "Creator" (with a capital "C") "Son of God" and "Jesus". There is even the famous hymn by Martin Luther, A Mighty Fortress is Our Lord, and All Creatures of our God and King, an English version of a poem by St. Francis of Assissi. There is also a portion of the Catholic Mass, Dona Nobis Pacem.(30) But that there will be no mistake or misunderstanding, the following was inserted in the "Foreword" to the book of songs:

> "All of the songs in WE SING OF LIFE are religious, using the word in a broad sense to include feelings of wonder and awe and the sensing of the intangible at the heart of the things. Some express an outreaching of sympathy, and understanding to embrace a growing fellowship that binds the past to the present and the far to the near, while others express personal longings. Some of the songs symbolize by the use of the word "God", the great and all - inclusive reality that binds humanity in one family and that somehow, the source of all things and stands for a foretaste of possible values yet to be achieved." (Emphasis Supplied)

The Court does not believe that the singing of even the hymns are prayer or religious worship. Most of the songs are about natural phenonema, many are folk songs. The religious ones apparently are regarded by some as old folk songs, and with respect to some members, no doubt, reflect a longing, perhaps nostalgic, for the emotional comforts of the traditional religions. Moreover there is nothing in the record to disclose which of the songs were used at the services of the petitioner. And even if religious songs were sung and even if such singing could be called prayer or worship, it could not be said that the petitioner's

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(30) (God) Give Us Peace.

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building was primarily and regularly used for such purpose.

The adoption of Sunday as the meeting day and festivals at Easter, Christmas, and even Good Friday, have no religious significance.(31)

Many leaders of the Ethical Movement point to Confusianism and Taoism, and some to the Quaker and Unitarian religions as religions that require no belief in a Supreme Being or beings or which are indifferent in respect of such beliefs by their devotees or adherents.

In the first place Confusianism is not, and was not by Confusius(32) intended to be a religion. He formulated a code of ethics, mostly for use by the Chinese gentlemen, somewhat in the nature of an ancient Lord Chesterfield. He was an agnostic, and the supreme importance he gave to tradition, order and rightness finally deteriorated among his followers into mere respect for age, ceremonial and good façade. Lao-tzu,(33) the founder of Taoism, was a great Chinese philosopher. His Tao(34) was a mystic nature philosophy of quietism, contemplation and receptivity, and perhaps selflessness. At first it was a code of ethics, but, paradoxically, it degenerated into a religion by the infiltration of the ancient worship of spirits and of innumerable deities and fairies. The Quakers,(35) whether Orthodox, Hicksite, Wilburite or Primitive, believe in a personal God, and pray to, and worship such deity. While it is true, no doubt, that some Unitarians, like the minister of that denomination who testified in this case, do not recognize or believe in a personal God, the majority of them do believe in a Supreme Being and worship Him.

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(31) Dr. W. Edwin Collier, Phases of Ethical Faith, Chapter on Forms and Festivals, pp. 32 to 37 inclusive.

(32) His name was K'ung Ch'iu, and his honorary title was Ta fu tzu, which was latinized by the Jesuit missionaries into "Confusius".

(33) Sometimes spelled "Lao-tze".

(34) Usually thought to be a name for the elemental power in nature as the origin of all things.

(35) Society of Friends.

building was primarily and regularly used for such purpose.

The adoption of Sunday as the meeting day and festivals at Easter, Christmas, and even Good Friday, have no religious significance.(31)

Many leaders of the Ethical Movement point to Confusianism and Taoism, and some to the Quaker and Unitarian religions as religions that require no belief in a Supreme Being or beings or which are indifferent in respect of such beliefs by their devotees or adherents.

In the first place Confusianism is not, and was not by Confusius(32) intended to be a religion. He formulated a code of ethics, mostly for use by the Chinese gentlemen, somewhat in the nature of an ancient Lord Chesterfield. He was an agnostic, and the supreme importance he gave to tradition, order and rightness finally deteriorated among his followers into mere respect for age, ceremonial and good façade. Lao-tzu,(33) the founder of Taoism, was a great Chinese philosopher. His Tao(34) was a mystic nature philosophy of quietism, contemplation and receptivity, and perhaps selflessness. At first it was a code of ethics, but, paradoxically, it degenerated into a religion by the infiltration of the ancient worship of spirits and of innumerable deities and fairies. The Quakers,(35) whether Orthodox, Hicksite, Wilburite or Primitive, believe in a personal God, and pray to, and worship such deity. While it is true, no doubt, that some Unitarians, like the minister of that denomination who testified in this case, do not recognize or believe in a personal God, the majority of them do believe in a Supreme Being and worship Him.

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(31) Dr. W. Edwin Collier, Phases of Ethical Faith, Chapter on Forms and Festivals, pp. 32 to 37 inclusive.
(32) His name was K'ung Ch'iu, and his honorary title was Ta fu tzu, which was latinized by the Jesuit missionaries into "Confusius".
(33) Sometimes spelled "Lao-tze".
(34) Usually thought to be a name for the elemental power in nature as the origin of all things.
(35) Society of Friends.

In arriving at the opinion that the petitioner is not a church or a religious society or corporation the Court has not overlooked the fact that the United States District Court for the District of Columbia has granted to Dr. George E. Beauchamp, the Leader of the petitioner, authority to celebrate the rites of marriage, as one "in regular communion with the Religious Society of which he is a member". It should be noted that the names of the judge and clerk of that court are typewritten on the certificate, the paper being signed by a deputy clerk only. It is not a judgment of that court, but, if it were, it would not be binding, although extremely persuasive.

The Court is not unmindful of the fact that the Commissioner of Internal Revenue and several States and political subdivisions thereof have granted the Ethical Union and the real property of its constituent societies exemption from taxation on the ground that they are religious and educational institutions.

It has not been forgotten that in many encyclopedias and in a number of articles, publications, lists and the like the Ethical Movement or Ethical Culture is recognized as a religion; nor has the Court viewed as unimportant the testimony of the intelligent and cultured expert witnesses offered by the petitioner.

There has been kept in mind the fact that the leaders and adherents of the Ethical Movement and of the petitioner particularly, sincerely believe that the Movement is a religion, and that the petitioner is a religious society; and that such beliefs are not prompted by a desire for exemption from taxation. Likewise, there has always been present the knowledge that many have regarded Socratic and Platonic philosophies as religion, as well as the Stoic, especially the later forms; and that "The Dissertations of Epictetus are today a pillow book for many devout souls, and the Meditations of the philosophic Emperor Marcus Aurelius have been celebrated by latitudinarian theologians as the expression of the

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"absolute religion" which affirms no dogma but merely depicts high moral consciousness face to face with an inscrutable world".(36)

The Court has not been swayed by the fact that the Ethical Movement and, apparently, the petitioner are preoccupied with socialism or social matters. In recent years the traditional religions are trying to outdo each other in social reform, and some have even embarked on the muddy waters of politics; nor has the Court been influenced by the knowledge that the Movement and the petitioner are concerned so much with the things of this life. The Jewish dietary rules, the Catholic Lent and abstinence before holidays and the Mohammedan Ramadan are but sumptuary laws--for corporeal benefit and welfare, with religious sanctions to insure obedience. Even Sunday observance laws have been held to be health and physical welfare measures.(37)

All of the foregoing and much more bearing on the subject in question have been considered and examined by the Court; and while they are extremely persuasive and support the thesis of the petitioner, it is not believed that they should relieve the Court of the duty to determine whether, as a matter of law, the petitioner and its activities are religious. Such solution is by no means simple. It is so complicated by the diversity of definition and and opinion that a satisfying answer or a conviction of the truth may not be possible.(38)

(36) The Abiding Power of Greek Philosophy, Dr. Paul Shorey, Professor of Greek, University of Chicago. No doubt, Dr. Shorey had in mind the observation of the French philosopher, Renan, in his book, Marcus Aurelius, that "The religion of Marcus Aurelius is the absolute religion, that which arises from the simple fact of a high moral conscience facing the universe". It must be remembered, however, that Renan was an atheist, and more than anyone else was responsible for the agnosticism which pervades a large segment of the French populace. His analytical and brilliant mind, however, command attention and consideration of any philosophical pronouncement that he made.

(37) Hennington v. Georgia, 163 U.S. 299, 41 L.Ed. 166, 16 S.Ct. 1086.

(38) "'What is Truth', said jesting Pilate, but would not stay for an answer.'" Sir Francis Bacon, Essay on Truth

Because of the high regard which the Court has for the Ethical Movement and for the petitioner and for their attitude toward the categorical imperative that life be lived according to morals and ethics, and because of their benevolence and humanism, and of the conviction that the world is a better place because of their presence and influence, the Court has extended the study of all the vast amount of data and information that has been submitted by the petitioner and the arguments and contentions made by its competent counsel to make certain that exemption be not denied, if the petitioner be legally entitled thereto. The Court cannot, however, see how the petitioner can be said to be a church or a religious society within the ordinary meaning of that term or within the intended meaning of Congress; or that its activities within its property are "religious worship" or "religious study, training or missionary activities" as such terms are commonly understood or as contemplated by Subsections (m) and (n).

It is after all, a matter of definition. If the definition of "religion" by Drs. Freiss, Muzzey and Collier could be said to be the generally accepted meaning of that term; and, if the phrases "religious worship" or "religious worship, study, training and missionary activities" did not connote prayer to, belief in, and recognition of a Supreme Being who is the creator and ruler of the universe, the Court would not hesitate to cancel the assessment here involved. But as the Court sees it, it is otherwise.(39)

For the reasons stated the Court concludes as a matter of law that a real estate tax for the fiscal year ended June 30, 1956, assessed against Lot 811 in Square 137, in the City of

(39) The Court regrets that this opinion is so extended, but it considers it necessary for "a clear understanding for the basis of the decision". Minnesota Mining & Mfg. Co. v. Coe, 75 U.S. App. D.C. 131, 132, 125 F.2d 198, 199; District of Columbia v. Fadeley, ____ U.S. App. D.C. ____, 233 F.2d 667 (decided June 7, 1956).

Washington, District of Columbia, in the amount of $671.74, was validly assessed; and that such assessment is hereby affirmed.

Decision will be entered for respondent.

Jo. V. Morgan,
Judge.

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