

with whom they deal are far greater."¹⁴³

Thus, the court held unconstitutional the Article 36 exclusion from jury duty of atheists, agnostics and such religious groups (e. g., Buddhists) whose members do not believe in a Supreme Being.

Mrs. Murray (see *Murray v. Curlett*, *supra*) again challenged Maryland's law when she brought suit to attack state tax exemptions for religious organizations.¹⁴⁴ It was urged that the exemption violated, among other provisions, Article 36 of the Declaration of Rights and the First Amendment. The Court of Appeals upheld the validity of the exemption, pointing out that such a policy toward property dedicated to religious uses has long been regarded as reasonable and for a public purpose (and hence valid). The exemption was uniform and nondiscriminatory (property of atheistic organizations is also immune from the tax, the court said) and there were sufficient secular justifications for its constitutionality. The case has been appealed.¹⁴⁵

The most recent case to struggle with the church-state relationship problem was that of *Horace Mann League v. Board of Public Works*.¹⁴⁶ The State enacted statutes providing outright matching grants, for the construction of buildings, to four private colleges (Hood, Western Maryland, Notre Dame and St. Joseph). The grants were attacked prin-

cipally on the grounds that they violated the First Amendment of the federal Constitution and Article 36 of the Maryland Declaration of Rights.

The lower court dismissed the complaint. The Court of Appeals, in a 4-3 decision, found that the grant to Hood College was valid but that those to the remaining three institutions were unconstitutional. Each case, said the court, must be decided on its own facts. Every religious observance by a college does not sectarianize it; "the question of sectarianization depends upon a consideration of the observances, themselves, and the mode, zeal, and frequency with which they are made."¹⁴⁷ If the institutions are in fact sectarian, "no tax, in any amount, large or small, can be levied to support [the institutions], whatever they may be called or whatever form they may adopt to teach or practice religions."¹⁴⁸ The court found that, although Hood College was affiliated with a Protestant sect, that sect contributed only 2.2% of the school's operating budget, and there were no sectarian requirements for teachers or students; upon these facts the college was not sectarian in the legal sense under the First Amendment. The other schools, however, were denominationally oriented; their governing boards were controlled by religious orders; and their faculties were either committed to a Christian philosophy or were predominantly of one sect. Grants to these colleges were held unconstitutional.

On the other hand, the court found that none of the grants violated Article 36 of the Maryland Declaration of Rights ("... nor ought any person to be compelled to frequent or maintain, or

¹⁴³ *Id.* at 479.

¹⁴⁴ *Murray v. Comptroller*, 241 Md. 383, 216 A.2d 897 (1966).

¹⁴⁵ See Kauper, *Tax Exemptions for Religious Activities*, in *THE WALL BETWEEN CHURCH AND STATE* 115 (OAKS, D. H. ed. 1963). See also M. HOWE, *THE GARDEN AND THE WILDERNESS* 152 (1965).

¹⁴⁶ 220 A.2d 51 (1966).

¹⁴⁷ *Id.* at 65.

¹⁴⁸ *Id.* at 64.