

Newsweek

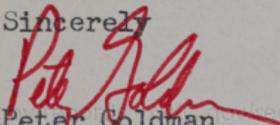
444 Madison Avenue • New York, N. Y. 10022

Peter Goldman
Senior Editor
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Dear Mr. Harmon:

Here is the transcript in the Malcolm X eviction case. A single page is missing from the back, but nothing substantive got lost. The underlinings and marginal marks are all mine. Once again, I would like it returned to me at the above address when you're finished with it; there's no urgency about the time, but it is important to me to keep my own files intact.

Sincerely



Peter Goldman

1 CIVIL COURT OF THE CITY OF NEW YORK
2 COUNTY OF QUEENS

3 -----X
4 MUHAMMAD'S TEMPLE OF ISLAM, INC., :

5 -against- :
6 MALCOLM X LITTLE :
7 :
8 Respondent :
9 -----X

10 Trial Term
11 Part VIII
12 Queens, New York
13 June 15, 1964

14 B e f o r e :

15 HON. MAURICE WAHL, Judge

16 A p p e a r a n c e s :

17 JOSEPH B. WILLIAMS, ESQ.
18 Attorney for Petitioner
19 1261 Fulton Street
20 Brooklyn, New York

21 SUTTON & SUTTON, ESQS.
22 Attorneys for Respondent
23 135 West 125th Street
24 New York, New York.

25 BY: PERCY SUTTON, ESQ., Of Counsel

Morris Sayburn, CSR
Official Court Reporter

2 INDEX

3	<u>Witnesses for the Lendlord</u>	<u>Page</u>
4	Joseph X Gravitt	Direct 4
5		Cross 15
5		Redirect 25
6		Recross 29
6		Redirect 39
7	Curtis X Kenner	Direct 41
8		Cross 45
8		Redirect 47
9		Recross 48
9		Redirect 75
10	Mao Cwans	Direct 52
11		Cross 65
11		Redirect 67
12		Recross 67
12		Redirect 71
13		Recross 71
14	Thomas J. X Ridges	Direct 236
15		Cross 240
15		Redirect 246
15		Recross 246
16	<u>Witnesses for the Respondent</u>	
17	Joseph X Gravitt	Direct 107
18		Cross 117
18		Redirect 120
19	Malcol X Little	Direct 127
20		Cross 153
20		Redirect 199
21		Recross 205
21		Redirect 218
22		Recross 219
22		Redirect 223
23		Recross 226
24		
25		

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INDEX (continued)

Witnesses for the Respondent (continued)

Page

Charles Morris	Direct	228
	Cross	231
	Redirect	234
	Recross	235
Motions		93
Landlord rests		93
Respondent rests		236
Both sides rest		247

EXHIBITS

Landlord's

Page

1	11
2	11
3	92
4 (for identification)	86
5	104
6 (for identification)	170
7 (for identification)	170
8	208

1
2 THE COURT: All right.

3 Suppose you open up briefly. Tell
4 me what the case is about.

5 MR. WILLIAMS: If your Honor please,
6 this is an ordinary holdover action which is
7 brought by the religious corporation to gain
8 possession of a parcel which it purchased in
9 1959 from a former minister who is now occupying
10 it.

11 The minister severed his association
12 with the organization around February or March
13 of 1964 and since that time the religious
14 organization has been seeking to gain possession
15 of this home which is a parcel which was pur-
16 chased with the funds of the religious corpora-
17 tion and all the expenses and so forth have
18 been paid by the corporation and in effect
19 is a parsonage.

20 THE COURT: All right.

21 What is the defense?

22 MR. SUTTON: The defense, your Honor,
23 is that, number one, this was not in fact
24 corporate property, and, number two, there has
25 been no severance of relationship as alleged

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in the petition.

THE COURT: All right. Proceed.

MR. SUTTON: At this time, we ask that all persons who appear here as witnesses be excluded from the courtroom who will give testimony.

THE COURT: I would do that only if those witnesses have something to testify as to the facts of the case.

MR. WILLIAMS: I have no objection.

THE COURT: Take your witnesses outside.

MR. WILLIAMS: I have talked with Mr. Sutton about a stipulation.

I have one witness who is not presently here who is on his way. I will take him out of order.

MR. SUTTON: No objection.

JOSEPH X. GRAVITT, residing at 1585 Madison Avenue, New York, called as a witness by the Petitioner, being duly affirmed, testified as follows:

DIRECT EXAMINATION:

BY MR. WILLIAMS:

1

Q Mr. Gravitt, are you familiar with Muhammad's

2 Temple of Islam, Inc.?
3

4 A Yes.

5 Q Is that a religious corporation organized in and
6 within the State of New York?

7 A Yes.

8 Q And you are an official of that organization?

9 A I am, sir.

10 Q What position do you hold?

11 A Position of captain.

12 Q Now, sir, do you happen to know the respondent
13 here, Malcolm X Little?

14 A Yes, I do.

15 Q How long have you known him?

16 A Approximately, twelve, thirteen years.

17 Q In what capacity have you known him, sir?

18 A As his aide.

19 THE COURT: As what?

20 THE WITNESS: Aide and friend.

21 Q Did you know him as the minister of Muhammad's
22 Temple of Islam, Inc.?

23 A Yes.

24 Q Do you know for what period of time he was a
25 minister?

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A From 1954 until 1964.

Q Now, sir, prior to March of 1964, do you know whether or not the Temple had arrangements with Mr. Malcolm X Little as minister?

A Arrangements?

Q For salary?

A Oh, yes.

Q Do you happen to know what that was?

A Yes.

Q Were other thing included in this that he was to receive as emoluments other than money?

A Yes.

Q What were they?

A Place to live.

Q When he first came here in 1954, where did he live, sir?

MR. SUTTON: Excuse me, Mr. Williams, objection.

THE COURT: Yes, I will take it subject to connection.

Q In 1954 you say he came to New York?

A Yes.

Q Where did he first visit?

A On Humphrey Street in East Elmhurst, Long Island.

- 1
- 2 Q Do you know with whom he lived?
- 3 A With Brother Curtis X. Kenner.
- 4 Q Curtis Kenner?
- 5 A Yes.
- 6 Q This was not an apartment?
- 7 A This was a room.
- 8 Q Now, do you know what the rent was on that room?
- 9 A I don't know exactly what the rent was but I
- 10 know that he was paid.
- 11 Q Who paid the rent?
- 12 A The Temple.
- 13 Q Were there any other expenses paid for the
- 14 minister?
- 15 A Room, board; all these things were paid.
- 16 Q Now, did there come a time when the minister
- 17 moved from Mr. Kenner's house?
- 18 A Yes, sir.
- 19 Q Where did he move then?
- 20 A 99th Street in East Elmhurst.
- 21 Q What type of a building was that?
- 22 A It was a two-family apartment--two-family flat.
- 23 Q Do you know who paid the rent there, sir?
- 24 A Yes, sir.
- 25 Q Who paid that rent?

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A Temple of Islam.

Q Who paid the light and gas?

A It was all included in the rent.

Q Now, sir, did there come a time sometime in

December when there was some discussion with respect to
Minister Malcolm X Little? Withdrawn. Did there come

a time in the Fall of 1954 when it was discussed that a
building would be purchased?

1954?

A Yes, sir.

Q Were you in on that discussion?

A Yes, sir.

Q As a result of those discussions, was a building
purchased?

A Yes, sir.

Q Who purchased the building?

A Muhammad's Temple of Islam.

Q What building did they purchase, sir?

A 23-11 97th Street.

Q Do you know how that building was purchased?

A Yes, sir.

Q How was it purchased?

A Well, it was first purchased by a trustee.

Q What trustee was that?

A Curtis Kenner.

1

2 Q Did he take title to the building?

3 A Yes.

4 Q Do you know where Curtis Kenner got the money
5 from?

6 A Yes.

7 Q Where?

8 A The funds came from Muhammad's Temple of Islam.

9 Q These were corporate funds?

10 A Yes, sir.

11 Q Did he close title?

12 A Yes.

13 Q Did there come a time when Curtis Kenner did
14 something else with this property?

15 A Yes.

16 Q What did he do with it?

17 A He turned it back into the name of Muhammad's
18 Temple of Islam.19 Q Do you know how much cash went into this trans-
20 action?

21 A No, sir, I don't know exactly how much.

22 Q Was this house bought with a mortgage or
23 without a mortgage, if you know?24 THE COURT: Do you concede that,
25 counsel?

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Gravitt - direct

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MR. SUTTON: Be happy to.

THE COURT: Can you concede all of this?

MR. SUTTON: Yes. I don't understand why he's asking it.

THE COURT: Yes. Concede it and save time.

MR. SUTTON: Certainly, but as to where the funds came from, I will not concede.

THE COURT: Ask him.

MR. WILLIAMS: Mr. Sutton, will you concede that title went from Curtis Kenner to Muhammad's Temple of Islam by deed dated January 10, 1960?

THE COURT: You are members of the bar. Act like it. You are brothers in the same profession.

MR. SUTTON: You have shown me a deed, yes.

MR. WILLIAMS: At this time, I offer into evidence as Landlord's Exhibit 1, the deed.

MR. SUTTON: I object to it. The title policy is not relevant.

Gravitt - direct

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2 THE COURT: You will concede there
3 is a title policy?

4 MR. SUTTON: Yes.

5 THE COURT: You concede that for the
6 record. What difference does it make?

7 MR. SUTTON: Yes, certainly.

8 THE COURT: Good. Two and two is
9 four. Get down to the real issues. All
10 right.

11 Marked Landlord's Exhibits 1 and 2.

12 MR. SUTTON: I am stipulating to the
13 title policy.

14 THE COURT: All right. Nobody is
15 asking you to pay the insurance.

16 (Deed marked Landlord's Exhibits
17 1 and 2.)

18 Q Did there come a time when this building--what
19 was this building that was purchased that is represented
20 by Landlord's Exhibit 1? The deed for that property?
21 What was that property purchased for?

22 A ~~For the purpose of the ministry, Parsonage.~~

23 Q ~~Who occupied that building?~~

24 A ~~Anyone who was in the ministerial capacity.~~

25 THE COURT: What kind of a capacity?

1 Gravitt - direct 12
2 THE WITNESS: Ministerial capacity.
3 THE COURT: Ordained by who?
4 THE WITNESS: By the Honorable Elijah
5 Muhammad.
6 THE COURT: What faith?
7 THE WITNESS: Muhammad's Temple of
8 Islam.
9 THE COURT: Who ordained this minister?
10 THE WITNESS: Mr. Muhammad.
11 THE COURT: Proceed.
12 Is that recognized by law?
13 MR. WILLIAMS: It's incorporated by
14 the State of New York.
15 THE COURT: To ordain anybody as a
16 minister without going to school? Theological
17 school?
18 MR. WILLIAMS: I didn't go into the
19 theological aspects of it.
20 THE COURT: I am asking because he
21 has talked about a minister. A minister
22 graduates from a theological school and is
23 ordained by a church.
24 MR. WILLIAMS: I have not been into
25 that phase of it.

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THE COURT: I am remarking because
of the terminology used here.

Proceed.

Q Did there come a time when Minister Malcolm X Little's services were terminated?

A Yes.

Q How were they terminated?

A He terminated it himself.

Q What did he do, sir?

A First, he put into the paper that he no longer was a member of Muhammad's Temple Number 7. He left the Nation of Islam.

MR. SUTTON: I object to this.

THE COURT: I didn't hear that.

Your words are not too clear.

MR. SUTTON: It's hearsay.

THE COURT: Strike it out.

Q After March of 1964 did he perform any duties in Temple #7?

A No.

Q In March 8th--from March 8th to the present time has he performed any duties for the religious organization, sir?

A No, sir.

1

Gravitt - direct

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2 Q As a matter of fact, he has established another
3 group, is that correct?

4 A Yes, sir.

5 Q He is no longer affiliated with the group that
6 owns the premises in question.

7 A No, sir.

8 Q And he is still occupying the property?

9 A Yes, sir.

10 Q Who pays the mortgage on that property now?

11 A Muhammad's Temple of Islam.

12 Q Who pays the utilities?

13 A Muhammad's Temple of Islam.

14 Q Did there come a time when Muhammad's Temple
15 of Islam stopped paying the utilities of gas and light?

16 A Yes.

17 Q When was that?

18 A Around March, I think.

19 Q Is that when he ceased performing for the Temple?

20 A Yes.

21 Q Now, what taxes are paid on this property?

22 A Well, the usual taxes what--when you say "taxes"--

23 Q Is that property tax exempt?

24 A Yes.

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MR. WILLIAMS: No further questions.

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THE WITNESS: Yes.
THE COURT: Nobody else?
THE WITNESS: No.
THE COURT: Just Malcolm?
THE WITNESS: Yes.

CROSS EXAMINATION

BY MR. SUTTON:

Q Mr. Joseph, you said you were captain and you spoke with the authority of a captain, an official within Muhammad's Temple of Islam Incorporated?

A That's right.

Q Tell me, sir, is there such a position in this incorporated body of the State of New York Muhammad's Temple of Islam Incorporated under the religious corporate law which provides for a captain?

MR. WILLIAMS: If your Honor, please,

I raise one objection.

May I approach the bench with Mr.

Sutton for a moment?

THE COURT: Yes.

MR. SUTTON: No objection.

(Discussion held at the bench off

the record.)

Q Under the religious--you were organized under

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the religious corporate laws of the State of New York?

A Yes.

Q Under your corporate structure is there authorized a captain as an official of the Muhammad's Temple of Islam?

A No, sir.

Q Didn't you testify that you were in an official capacity which qualified you to testify here? That you were a captain?

A That's right.

Q Yet, there is no such position in the Muhammad's Temple of Islam, is there?

A There is a position in--

Q Is that of captain?

A Yes, that's right.

Q Under what portion of the religious corporate laws is there a captain authorized in Muhammad's Temple of Islam?

A I don't know of any.

Q Yet you occupied this position?

A Yes, I occupy the position of captain.

Q The basis of your testimony here is from your authority of your position as captain in Muhammad's Temple of Islam, is that right?

A Yes.

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Q You say there was an agreement entered into sometime in the year 1954, was it, whereby the respondent here, the tenant Malcolm X Little was retained by Muhammad's Temple of Islam Incorporated?

A When you say "retained," how do you mean?

Q As a minister. Was he employed as a minister?

A That's right. He was appointed.

Q Were you present when--

A He was appointed.

Q (continuing) --he was appointed by Muhammad's Temple of Islam?

A No, but by Mr. Muhammad himself.

Q I don't understand. The petitioner here is Muhammad's Temple of Islam. Did Muhammad's Temple of Islam ever enter into an agreement as you say in your petition with Malcolm X Little to employ him?

A I don't understand your question.

Q Your petition reads in paragraph 2 that prior to March 1964 your petitioner--and the petitioner is Muhammad's Temple of Islam--entered into an agreement with Malcolm X Little. All I want to know is who on behalf of Muhammad's Temple of Islam entered into this agreement with Malcolm X Little?

A The only answer that I could give to that is

1
2 that he was appointed when he came in 1954.

3 Q What about this agreement of employment between
4 the petitioner and--

5 A When he comes, that was the agreement of em-
6 ployment. That was between him and Mr. Muhammad.

7 Q So you can't really testify as to any agreement?

8 A I didn't say I could. Not as far as he was
9 concerned. I told you that Mr. Muhammad was the one.

10 Q On direct examination didn't you say that there
11 was an agreement? You were able to describe what the
12 agreement is. You said he had a house; he got paid a
13 salary and so forth.

14 A Well, he did.

15 THE COURT: How do you know all of
16 this?

17 THE WITNESS: Because he received it.

18 THE COURT: How do you know? Who
19 told you? Were you there at the time?

20 Counsel is asking you and properly so,
21 how do you know all of these facts? Did
22 somebody tell you about it?

23 THE WITNESS: No, I know. I was
24 there with him.

25 THE COURT: He's asking you.

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Q You were there when he was employed?

A I was there when he had received whatever it was, supposed to be given to him; contributed to him.

Q No, sir. I'm talking about the agreement of employment which you allege in your petition. In the second paragraph you say there was an agreement of employment running between Muhammad's Temple of Islam.

All I'm asking is who on behalf of Muhammad's Temple of Islam employed Malcolm X Little, as you said?

A I don't know. I don't understand the question. That's the reason I can't answer. All I know is that he was appointed by Mr. Muhammad as the minister.

THE COURT: How do you know that?

Who told you that?

THE WITNESS: He told me himself.

THE COURT: Who?

THE WITNESS: Mr. X who received the letter.

THE COURT: Who is X?

THE WITNESS: Mr. Little.

THE COURT: He told you that when?

THE WITNESS: In 1954.

THE COURT: Were you there at the

time the so-called agreement was entered into

1
2 between the tenant Little and Muhammad's
3 Temple of Islam? Were you there at the time?

4 THE WITNESS: No, I was not there.

5 THE COURT: Who was in charge of
6 that place?

7 THE WITNESS: When you say "who is
8 in charge" now?

9 THE COURT: No, at that time in 1954.

10 THE WITNESS: His name was Mr. Soltan.

11 THE COURT: I can't accept these
12 statements.

13 MR. SUTTON: I ask the testimony be
14 stricken.

15 THE COURT: I will give you a chance
16 to connect them properly.

17 MR. WILLIAMS: Thank you.

18 THE COURT: Proceed.

19 Are you finished?

20 MR. SUTTON: I ask his testimony
21 with regard to an agreement be stricken.

22 THE COURT: I will take it subject
23 to connection.

24 MR. SUTTON: Then, may I finish?

25 THE COURT: Yes. Proceed.

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MR. SUTTON: Thank you.

THE COURT: Your point is well taken

but I have to give him the opportunity to present it.

MR. SUTTON: Certainly.

Q Now, sir, you did say that you also had been a friend to Mr. Little--Minister Malcolm X Little?

A That's right. We were brothers.

Q And that you had observed certain things through the years, is that right?

A I don't know what you mean.

Q Such as receipts of money by him in his employment as you have described it of the Temple. Is it employer-employee relationship?

A Yes.

Q Sir, isn't it actually true that Minister Malcolm X Little organized and incorporated Muhammad's Temple of Islam?

A When you say "organized," how do you mean?

Q Yes?

A Ho.

Q It isn't true? Didn't he incorporate it himself, sir?

A When you say "incorporate," do you mean did

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he go down and do the--

Q Yes.

A With help.

Q Minister Malcolm X Little was the incorporater--
was one of the incorporaters of this body?

A That's right.

Q Along with Mr. Kenner and Mr. Callaway?

A That's right.

Q When after this incorporation of this body was
there entered this agreement between the corporate body
Muhammad's Temple of Islam and Malcolm X Little to
employ Malcolm X Little as a minister at a salary and

to give him a home and to let him use that home only
as long as he was minister? When was that agreement made?

A He was already doing that in the front. He
was employed.

Q There was never an employment agreement made
between Muhammad's Temple of Islam and Malcolm X Little
as to his--

A As far as--

Q (continuing) -- performance as a minister,
his use of funds for the purpose of housing, et cetera?

A Yes, as far as I know that agreement was made
with him and Mr. Muhammad.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

1
2 Q So the agreement was not made between Muhammad's
3 Temple of Islam as suggested in your petition but by some-
4 one outside of the corporation, is that correct?

5 A Well, the religious leader, as far as I know. I
6 don't know.

7 Q Now, the religious leader is the Honorable
8 Elijah Muhammad?

9 A That's right.

10 Q He was not the religious leader of Muhammad's
11 Temple of Islam? He was not a trustee?

12 A I don't know. All I know he was the religious
13 leader of Muhammad's Temple of Islam, Incorporated.

14 MR. SUTTON: We are concerned with
15 the corporate structure. That is the issue
16 in here, the corporate structure. Was he
17 an officer of the corporate structure so he
18 could speak on behalf of the corporate body.

19 THE WITNESS: As religious leader
20 he was. He could speak.

21 Q Sir, was he a member of the corporate body,
22 Captain Joseph? Was he a member of Muhammad's Temple
23 of Islam or did he occupy any office in Muhammad's
24 Temple of Islam?

25 A Yes. He was the head of the movement of the Nation

1
2 of Islam. He was the one that--that was the leader,
3 Mr. Muhammad.

4 Q Was that before the corporation body was
5 organized or after?

6 A All the time; always has been as far as I know.

7 Q So far as you know as between Muhammad's Temple
8 of Islam from the time that it was organized until the
9 present, there has been no agreement by any person of
10 Muhammad's Temple of Islam apparently in authority with
11 Malcolm X Little to employ Malcolm X Little?

12 MR. WILLIAMS: I object to the
13 form of the question.

14 THE COURT: This is cross examination.
15 This is proper.

16 Q Is that right?

17 A As far as I know.

18 MR. SUTTON: All right. Nothing
19 further.

20 REDIRECT EXAMINATION

21 BY MR. WILLIAMS:

22 Q Now, sir, isn't it a fact that the Temple
23 existed before it was incorporated as a religious body
24 in the State of New York?

25 A Yes.

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MR. SUTTON: I object.

THE COURT: Why?

MR. SUTTON: That it existed, the Temple that we are talking about, Muhammad's Temple of Islam, Incorporated.

THE COURT: You are talking about the corporate structure. He's talking about the religious structure.

MR. SUTTON: I would have no objection if he rephrased it.

MR. WILLIAMS: I'm referring to the religious corporation.

Q Now, the religious society operated for some time before it was incorporated, is that not correct?

A Yes, sir.

Q And that arrangements had been made with the body and the minister before it was incorporated?

A Yes.

Q Was this continued after the religious society was incorporated in the state under the laws of the State of New York?

A Yes, sir.

Q Now, is it not a fact that the body agreed to give Minister Malcolm a certain amount of money plus

1
2 living expenses?

3 A Yes.

4 MR. SUTTON: Objection. I didn't
5 mind when he led on direct to get to the
6 point but not on redirect. I have to object.

7 THE COURT: Don't take him by the
8 hand.

9 MR. WILLIAMS: I'm not doing that.

10 THE COURT: You musn't lead.
11 Continue.

12 Q Will you tell the court the agreement as to
13 what he was receiving when he first came here which was
14 adopted by the religious corporation?

15 MR. SUTTON: Objection. "Which was
16 adopted."

17 THE COURT: Does he know of his own
18 knowledge.

19 MR. WILLIAMS: I think he does.

20 THE COURT: All right. I will take
21 it.

22 A When he first came here, I didn't know what he was
23 because he was sent here by Mr. Muhammad to New York but
24 after 1955, well he got it through donations. Then, in
25 1956 or 1957, around in there, then he was given a salary.

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Q What salary?

A A set salary, \$150 a week and all expenses.

Q Now, this was done through the trustees of Muhammad's Temple of Islam, is that correct?

A As far as I know, yes.

Q This was prior to 1964, is that correct?

A Yes.

Q Did you know as a matter of fact whether he received this salary?

A Yes, sir, he received it.

Q Do you know who paid him that salary?

A Well, the secretary usually does that.

Q Do you know who paid him that salary?

A The religious group. They donated to it.

Q Now, the money for living expenses, was that also paid by the religious corporation?

A Yes.

Q Was that paid through check or cash?

A Cash.

Q Were the mortgage payments on this house paid by check or cash?

A I think check--cash--I don't know exactly.

It was paid but--I know it was paid. I saw the receipts.

Q Now, in December 1963, do you know what salary

1

2 Minister Malcolm was receiving?

2

3

A \$150.

4

Q Were there any other emoluments he was receiving?

5

A I don't understand.

6

Q Did he get anything else? Was he getting

7

living expenses?

8

A Yes. Telephone, gas, electricity, heat; all

9

those things.

10

Q Was this part of the salary that he was to

11

receive?

12

A He was receiving a salary plus those expenses.

13

Q You say this premise was purchased for the

14

purpose of use for the minister for that particular temple?

15

A Yes.

16

Q And the only person who was to live in that

17

building is the person who was to use that temple?

18

A Yes.

19

MR. WILLIAMS: That's all.

20

RE CROSS EXAMINATION

21

BY MR. SUTTON:

22

Q Captain Joseph, when Mr. Williams first asked

23

you if you knew about any agreement--when I asked you

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about any agreement between Muhammad's Temple of Islam and

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Minister Malcolm as to the terms of his employment you

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said no. Is it still true you don't really know any of the terms of employment?

A In this respect because the terms was made between he and Mr. Muhammad by him being a minister then he had direct contact with Mr. Muhammad, therefore, he and Mr. Muhammad made the agreement.

Q You had no personal knowledge of an agreement existing between Muhammad's Temple of Islam, Incorporated and Malcolm X Little?

A Now I do because I know after a period of time, yes.

Q What did you know? Did you know he received a salary?

A Yes.

Q Did you also know that during the term of his ministry with Muhammad's Temple of Islam that Minister Malcolm gave back to the Mosque every penny received from public appearances? Did you know that?

A I don't have any knowledge of that.

Q What was your official position within Muhammad's Temple of Islam?

A Captain.

Q Were you a trustee?

A When you say "a trustee"--

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A I don't recall the month.

Q Were you an officer then of Muhammad's Temple of Islam? Were you a trustee or an officer authorized to reach an agreement of employment?

MR. WILLIAMS: May I ask one question?

Clarify what you are talking about, the religious society or the legal entity. If it is, put in Inc.

MR. SUTTON: I didn't know. There has been no testimony that there was a separate organization known as Muhammad's Temple of Islam without the Inc.

Is there such an organization?

MR. WILLIAMS: I think that there would have to be a religious society before there could be an Article 10 religious corporation because without an incorporated society-- religious society, then you could not incorporate under the law.

THE COURT: Yes, but nobody could represent the corporation Muhammad's Temple of Islam, Inc. They're the ones who are listed here as being the petitioning party here. Nobody else has the power to act for

1
2 them unless somebody on behalf of this
3 petitioner says, "I authorize him to sue
4 for us."

5 MR. WILLIAMS: When I started out
6 I said I had one witness who was a trustee
7 who was not here.

8 THE COURT: I understand. You will
9 have a chance to prove it.

10 Then his objection is well taken under
11 the circumstances. Mr. Sutton is raising a
12 certain point which is well taken. You have
13 other witnesses that may supply the information.

14 Q Did you represent the corporation in any dis-
15 cussion with Minister Malcolm with regard to his employ-
16 ment, the petitioner corporation?

17 A Not as corporation but as a member, as the
18 captain of the religious body.

19 THE COURT: As what?

20 THE WITNESS: As a captain. That's
21 one of the names they use.

22 THE COURT: What other names?

23 THE WITNESS: Minister, secretary,
24 captain.

25 THE COURT: What are the duties of

WILLIAMS
ERASE

1
2 a captain? What does he do?

3 THE WITNESS: To teach the men, to
4 keep them clean; you know, teach them higher
5 morals, et cetera.

6 THE COURT: Does he have any
7 religious duties at all?

8 THE WITNESS: Pray, et cetera.

9 THE COURT: Pray?

10 THE WITNESS: All different things.
11 There's a lot of things you do.

12 THE COURT: I don't know, because
13 it's an unusual term to use in a religious
14 organization.

15 Proceed.

16 Q Did you have--did the Muhammad's Temple of
17 Islam, Incorporated in 1956, when you say that you
18 were a party to an agreement of employment as between
19 Muhammad's Temple of Islam, Incorporated and Minister
20 Malcolm X, did you have at that time a set of bylaws
21 which governed your--

22 MR. WILLIAMS: I object to the
23 question because I don't think there has
24 been any testimony where he said he was a
25 part of the agreement or he was a party to

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the agreement.

THE COURT: He said he was there.

MR. WILLIAMS: Yes, sir.

THE COURT: I will take it.

Q If you were there, who represented the corporation?

A He did. He was the minister. The minister of the temple is the one who is in charge.

Q Yes, sir, but you said there was an agreement of employment between the corporation--

A I said it was an agreement of employment between he and Mr. Muhammad.

Q So far as you know, sir. Let's go back as far as you know, of your own personal knowledge. Withdrawn. During the entire life of Muhammad's Temple of Islam, Incorporated, you have no personal knowledge of any agreement of employment between Muhammad's Temple of Islam, Incorporated and Minister Malcolm X, do you?

A I have an agreement as far as what he told to us that the agreement was, he and Mr. Muhammad and then he in turn brought it to the and they agreed to what he said and Mr. Muhammad said--

THE COURT: Repeat your question.

Q Do you have any personal knowledge, sir, of

1

2 an agreement of employment made between Muhammads's Temple
3 of Islam, Incorporated and Minister Malcolm X? Were
4 you present and heard an agreement reached as between
5 the Temple--an officer of the Temple, a person authorized
6 to represent the Temple and Minister Malcolm X?

7

A He was the one. He was the one who received
8 the information.

9

MR. SUTTON: I object. That is
10 not responsive.

11 MR. WILLIAMS: You ought to explain

12 it. He said yes.

13 THE WITNESS: Yes.

14 THE COURT: Proceed.

15

A He is the minister of the temple. Whatever
16 communication he received from Mr. Muhammad, he was the
17 one that comes back and makes known to the body
18 what they said and we act on it. That's what we did.
19 The body then acted on it.

20

Q As far as you know, you never heard any
21 agreement reached between Muhammad's Temple of Islam,
22 the incorporated body that's the petitioner here and
23 Minister Malcolm X with regard to the terms of his employ-
24 ment, is that correct?

25

MR. WILLIAMS: I object. He testified

1
2 that the agreement was between the body after
3 he came back.

4 Now Mr. Sutton, I ask you again to talk
5 with respect to--are you speaking of the
6 trustees or the body in plenary session?

7 THE COURT: He may answer his own
8 way.

9 What is your answer?

10 A He brings--he comes back and said what Mr.
11 Muhammad said what he was to receive. He told the body
12 and they acted on it. They said o. k. That's what
13 they did.

14 THE COURT: When was that? Before
15 the incorporation of it?

16 THE WITNESS: It was being done before
17 the incorporation and after the corporation
18 they agreed again, and, you know, the body
19 agreed to do what he said, Mr. Muhammad.

20 Q What body?

21 A The body.

22 Q What body?

23 A The body of the members.

24 Q When did that meeting take place between the
25 body of members?

1
2 A I don't recall the exact date but it was in
3 1956, I believe.

4 Q Was it before December 1956?

5 A I don't recall if it was before.

6 Q Where did the meeting take place?

7 A At our Temple.

8 Q Who represented the Temple in the dealings with
9 Minister Malcolm X?

10 A He was one of the representatives and there
11 was others, too. He was himself because he was the
12 minister.

13 Q He reached the agreement with himself, Captain?

14 A No, he was the--in other words, when by him
15 being the minister, he communicates with Mr. Muhammad,
16 so Mr. Muhammad instructs him on what to do. Then, he
17 comes back and let's us know what Mr. Muhammad said and
18 then he brings it. Then he tells us and he brings it
19 to the body and we act on it.

20 Q When did the body act?

21 A When he brought it to them.

22 Q When was that?

23 A In 1956. Sometime in 1956. I don't recall
24 the month.

25 Q Was it January?

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A I don't recall.

Q Tell me, was there a meeting called?

A Yes, it was a meeting there.

Q How was notice given of the meeting?

A Through the members. They would notify--you know, to come out to a special meeting. They have meetings. They have meetings all the time.

Q Under the corporation charter, under your bylaws, what is the manner of giving notice of a corporate meeting for the purpose of employing a minister?

MR. WILLIAMS: I object. That man said he is not an officer of the corporation.

THE COURT: I will accept it. If he doesn't know, he will say so.

Q Do you know?

A No, I don't.

MR. SUTTON: Nothing further of this witness.

REDIRECT EXAMINATION

BY MR. WILLIAMS:

Q Now, Captain, just one further question. Do you know who the three trustees were of Muhammad's Temple of Islam?

Mr. SUTTON: Objection. This is

not in the nature of rehabilitating a witness.

MR. WILLIAMS: I just asked a question.

THE COURT: I will give him leeway.

MR. SUTTON: I used the phrase "rehabilitating a witness." That was in effect what he tried to do.

THE COURT: You are not prejudiced by it. There is no jury here.

Q Do you know who the three original trustees were of Muhammad's Temple of Islam, Inc.?

A Yes.

Q Who were they?

A Malcolm, Curtis and Ronald Callaway.

Q Were they trustees for the religious corporation that was organized under the laws of the State of New York from the time of its incorporation until March 1954?

A Yes.

MR. SUTTON: Objection. There is no end as to how long we will stay here on the same witness.

MR. WILLIAMS: I'm finished.

THE COURT: All right. Step down.

Next witness.

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MR. SUTTON: May I reserve my motion
to strike his testimony as not being relevant
until later?

THE COURT: Yes.

CURTIS H. KENNER, residing
at 2535 Humphrey Street, East Elmhurst, Long Island,
New York, called as a witness by the petitioner,
being duly affirmed, testified as follows:

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q Do you know the respondent here, Malcolm X
Little?

A Yes, I do.

Q In what capacity have you known him?

A As a minister of the Temple of Islam.

Q Were you one of the original trustees along
with him when Muhammad's Temple of Islam was originally
incorporated?

A Yes.

Q Now, Mr. Kenner, do you recall in December--
December 1959 when there was some discussion in the
Temple with respect to buying a parsonage?

A Yes.

Q As a result of that discussion, did you do

1 anything?

2 A Yes, sir.

3 Q What did you do?

4 A Well, at that time of the purchase of the
5 parsonage, I personally billed it myself. I personally
6 billed them.

7 Q Do you know the address of those premises?

8 A Not offhand, no.

9 Q Where did you get the money for this purchase?

10 A It was given to me by the Temple of Islam.

11 Q None of this was your own money?

12 A No, it wasn't.

13 Q Now, that was at the time of the contract?

14 A Right.

15 Q When you went to the closing, did you have other
16 monies--did you take title?

17 A Yes, I took title.

18 Q And you paid some money when you went to take
19 title?

20 A That's right.

21 Q Whose monies were these monies?

22 A All the Temple's money.

23 Q All the money that was spent to purchase these
24 premises was the Temple's money, is that correct?
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A That's right.

Q Was there a mortgage on this building?

A Yes, there was.

Q Did you sign the mortgage also?

A Yes.

Q Was that mortgage subsequently paid off?

A Yes.

Q Where did the money come from, if you know?

A From the Temple, from my knowledge.

Q What did you do with the property after you got it?

A After I purchased the property, then I in turn turned it back over to the Temple. I threw it back to the Temple in my name to the Temple.

Q Was that by deed dated 15 January 1960?

A Yes, around there.

Q I show you this document which is Landlord's Exhibit 1 in evidence and ask you if you can recognize it. Is that your signature there, sir?

A Yes, sir, it is.

Q Is that a document which you turned the premises over to Muhammad's Temple of Islam?

A Yes.

Q You didn't make any other transfers to any other

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Kenner - direct

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2 person once you received title to the property?

3 A No, I did not.

4 Q Now, sir, as a trustee of Muhammad's Temple of
5 Islam, Inc., do you know what Minister Malcolm's salary
6 was?

7 A No, I don't know his salary exactly, no.

8 Q Did the trustees meet at any time to fix his
9 salary or was it fixed by the body?

10 A It was agreed by the body as to how much salary
11 he's getting after. He was also given a salary by Honorable
12 Elijah Muhammad.

13 Q Now, when he first came into New York, did he
14 stay in your house?

15 A He lived at my home, yes.

16 Q Who paid you the rent?

17 A The Temple of Islam paid me the rent.

18 Q Did there come a time when the trustees found
19 it unsuitable for him to live in a room in your house?

20 A Yes.

21 Q What did they do after that?

22 A They rented an apartment for him at another
23 brother's home.

24 Q Now, do you know who paid the rent and the
25 utilities there?

1

2 A As far as I know, the Temple paid the rent there.

3

MR. WILLIAMS: No further questions.

4 CROSS EXAMINATION

5 BY MR. SUTTON:

6 Q You say that you are a trustee of the Muhammad's

7 Temple of Islam, Incorporated, sir?

8

A Yes.

9

Q When was the last time that Muhammad's Temple

10 of Islam, Incorporated had a meeting of the trustees?

11

A Well, sometime--a month or so ago but I don't

12

know the exact date.

13

Q Before the March date when you began this action,

14

when was the last time before that that you had a meeting

15

with the board of trustees?

16

A I don't recall exact dates.

17

Q When was the last time there was a corporate

18

meeting of the petitioner Muhammad's Temple of Islam,

19

Incorporated?

20

A They usually hold the meeting about once a

21

year but exact dates, I don't recall.

22

Q Have you continued to be elected every year?

23

A Yes.

24

Q How did you get notice of these meetings?

25

A Well, we have meetings at our temple regularly.

1 We communicate. We notify one another by word of mouth.

2 Q As a trustee you have knowledge of the bylaws
3 and rules and regulations of the law, wouldn't you?

4 A Yes, sir.

5 Q Would you tell the court what provisions you
6 had in your bylaws for the removal of a minister?

7 A Well, now, this I can't say exactly, but it
8 was well understood by the body.

9 Q No, just tell me what there is, what rules and
10 regulations, not what was understood by the body. Tell
11 me what rules, regulations and bylaws existed for the
12 removal of a minister?

13 MR. WILLIAMS: I am going to object.
14 If there is such a rule, produce it, Mr. Sutton
15 and let's go, if there is a bylaw.

16 MR. SUTTON: He's here.

17 THE COURT: It's proper cross examination.
18 If he wants to be bonded by his answer, he may.

19 A I don't know of any set of rules that were set
20 up particularly to remove a minister but I do know--

21 Q You don't have any?

22 A No.

23 Q That's all, sir. Did you know of any rules for
24 the--by which you employed under the corporate charter or
25

1
2 rules or bylaws of Muhammad's Temple of Islam, Incorporated--
3 what procedure is there for the employment of a minister?

4 A I believe you had better ask me the question
5 again.

6 Q All right. Do there exist any written rules,
7 regulations, bylaws for the operation of Muhammad's Temple
8 of Islam, Incorporated?

9 A Not that I recall.

10 Q You know of no rules or regulations, is that
11 correct?

12 A In writing, no.

13 MR. SUTTON: All right. Thank you.

14 Nothing further.

15 THE COURT: A short recess, counselor.

16 Are you finished with the witness?

17 MR. WILLIAMS: No, sir, I am not.

18 THE COURT: All right, then proceed.

19 REDIRECT EXAMINATION

20 BY MR. WILLIAMS:

21 Q You say you had a trustee meeting around March
22 of 1964?

23 MR. SUTTON: No, he didn't. Objection.

24 MR. WILLIAMS: Oh, yes, he did.

25 MR. SUTTON: He didn't say that.

1
2 Q When did you say you had a trustee meeting?

3 A I said within a couple of months.

4 Q What business did you take up at that meeting?

5 MR. SUTTON: Find out what it was. He
6 said a couple of months ago.

7 THE COURT: Yes, fix the time.

8 Q Would it be around March?

9 A Yes, around there.

10 Q What was the purpose of that meeting?

11 A Well, at that particular meeting we discussed
12 the minister's home and what-not and who the home belonged
13 to, stuff of that sort.

14 Q As a result of that meeting, was there any
15 action taken?

16 A Yes, there was.

17 MR. WILLIAMS: No further questions.

18 RECROSS EXAMINATION

19 BY MR. SUTTON:

20 Q Tell me about this meeting. You said there
21 was a meeting.

22 A Yes.

23 Q Board of trustees?

24 A Yes.

25 Q Tell me who was on the board of trustees at

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at this meeting.

A Well, it was about three of us. There was myself and Callaway and Henry--Minister Henry.

Q When was he elected to the board of trustees?

A It's not recorded. I don't know the exact date.

Q When was the last election of the board of trustees?

A Dates, I don't recall.

Q Give me any year there was an election, sir.
Just one election.

A I would say sometime in the last two or three years, sometime in there. I don't know the exact date.

Q So there hasn't been an election of trustees in three years?

A Well, not any that I know of that was elected.

Q Then, as a matter of fact, you don't have any board of trustees meeting that was ever held, do you, sir?

A I don't remember any dates.

Q No, I'm saying the year.

A Yes, I do.

Q What was the last year?

A 1954 there was one and this year.

Q 1954?

A Yes, we had a meeting. We do have meetings

1

2 approximately once a year but they weren't elected for
3 office or anything of that type.

4

Q As a matter of fact, not since you have been
5 organized has there been an election of the new trustees,
6 isn't that correct?

7

A I believe sometime around--it was some other
8 brother elected to the body. I think, Brother Henry.

9

Q When was that?

10

A The exact date, I don't recall.

11

Q The last five years?

12

A Less than that, I believe.

13

Q Do you have any records of anything with you
14 as a trustee that could give us some inkling?

15

A I could look at the records. My attorney has
16 the records.

17

MR. SUTTON: Would you give me the
18 records?

19

MR. WILLIAMS: I don't have that.

20

MR. SUTTON: Do you have any records
21 of the meeting of the board of trustees?

22

MR. WILLIAMS: Wait a minute. I
23 have. All I have is a copy of a letter from
24 the board of trustees, March of 1964.

25

MR. SUTTON: I want to find out the

1
2 last meeting of the board of trustees where
3 they were elected. I'm concerned with the
4 validity of the acts of trustees so I'm
5 questioning a trustee to find out and he said
6 you have the records.

7 MR. WILLIAMS: I state for the court
8 I don't have any records of any meetings of
9 the board of trustees.

10 I have in my possession a letter sent
11 out by the trustees dated March 26, 1964.

12 MR. SUTTON: That's the validity of
13 that question. That's the reason I asked
14 for it.

15 MR. WILLIAMS: If your Honor, please,
16 may I be heard with respect to this?

17 If it is the contention here that the
18 trustees have acted in a manner in which they
19 have acted, then I think Mr. Sutton that this
20 is a matter for another forum and the entire
21 situation you say is illegal because they
22 certainly acted and had sufficient authority
23 to act and pay the salary and the rest.

24 MR. SUTTON: That's not what I am
25 saying at all.

Owens - direct
Kenner - recross

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THE COURT: Anything further?

MR. SUTTON: No, nothing further of

this witness.

THE COURT: Are you finished?

MR. WILLIAMS: Yes.

THE COURT: Short recess.

(Whereupon, a short recess was had.)

THE COURT: All right. Proceed.

M A E O OWENS, residing at 23-54
95th Street, East Elmhurst, New York, called as
a witness by the plaintiff, being duly affirmed,
testified as follows:

DIRECT EXAMINATION:

BY MR. WILLIAMS:

Q Mr. Owens, are you an officer of the religious
society Muhammad's Temple of Islam?

A Yes.

Q What office do you hold?

A Secretary.

Q Were you appointed to that position or were
you elected to that position?

A I was appointed to it.

Q Now, I direct your attention to sometime in
March--strike that. Is it your duty to receive communications

2 for the religious society and for the religious corpora-
3 tion and distribute it to the various officers?

4 A Yes, that is correct.

5 Q Now, how long have you been in this capacity?

6 A Since February 1960.

7 Q In that capacity, have you had occasion to
8 have contact with Minister Malcolm X Little, the respondent
9 herein?

10 A Yes.

11 Q What type of relationship did you have? What
12 type of contact did you have with him?

13 A The contact of the secretary-treasurer of the
14 corporation.

15 Q Did you have anything to do with the disbursements
16 of the funds?

17 A Yes.

18 Q Did you ever disburse funds to Minister Malcolm?

19 A Yes.

20 MR. SUTTON: May I interrupt this
21 question now on corporate funds or religious
22 society funds.

23 MR. WILLIAMS: Mr. Sutton, the--

24 MR. SUTTON: May I object to the
25 question then as being indefinite.

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Owens - direct

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THE COURT: Clarify the question.

Q On the funds that the religious society had, are they disbursed by the religious corporation, sir?

A Yes.

Q Now, will you explain now this interrelation-ship of this religious society and the religious corporation?

A I don't understand how you mean.

Q Are the people in the religious society the same people in the religious corporation?

A By all means.

Q One body and two corporations, is that correct? One body of men and two corporations?

A Yes, the religious and the corporate.

Q These funds are distributed through a common fund, is that correct?

A Yes.

Q Is that through a checking account?

A Through cash mostly.

Q Is there a checking account?

A Now there is, yes.

Q In what name is this checking account?

A Muhammad's Temple of Islam, Incorporated.

Q Now, when you say that you paid Minister Malcolm

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Owens - direct

55

2 this salary--

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MR. SUTTON: Objection. He hasn't

4

said that he paid Minister Malcolm's salary.

5

THE COURT: Yes.

6

MR. WILLIAMS: All right. Question

7

withdrawn, Mr. Sutton.

8

Q Did you testify that you paid funds to Minister

9

Malcolm?

10

A Yes, I did.

11

Q For what purpose did you pay him?

12

A For the position that he occupied as minister

13

of the temple.

14

Q How much did you pay him?

15

A Paid \$150 a week.

16

Q How often did you pay him?

17

A Every week.

18

Q For how long a period of time?

19

A Ever since I came into the position in February

20

1960 I did this.

21

Q Did you pay him by check or by cash?

22

A By cash.

23

Q Was that at his request?

24

A Yes, it was.

25

Q Do you know where the Temple's parsonage is?

1

2 A Yes.

3 Q What address is that?

4 A 23-11 97th Street.

5 Q Did you make any payment on the account with

6 respect to any of those premises?

7 A Yes.

8 Q What payment did you make?

9 A We paid the mortgage every month. We have
10 been doing it since that time, 1960. We paid all the
11 utilities, gas, electricity, even certain furnishings
12 and things.

13 Q Who paid the mortgage last month?

14 A We did, the Temple Incorporation.

15 Q Did you pay that by check?

16 A Yes.

17 Q Where were these funds taken from?

18 A From the Temple treasury.

19 Q Now, sir, did you ever pay Minister Malcolm
20 in that three-year period any more than \$150 in cash?

21 A As a salary?

22 Q Yes.

23 A No.

24 Q Now, sometime during March--February or March
25 of 1964 did you receive some communication directed to

1
2 Minister James X?

3 A Yes.

4 Q What did you do with that communication?

5 A This was a communication that came from the
6 national headquarters.

7 Q What did you do with it?

8 MR. SUTTON: Objection. Not re-
9 sponsive to the question.

10 THE COURT: Yes.

11 Q What did you do with it, sir?

12 A I turned it over to the trustees.

13 Q After you turned that over to the trustees,
14 did anything happen?

15 A They met and they passed a resolution.

16 Q Was anyone instructed to do anything after
17 this meeting?

18 A Yes, they drew up a resolution instructing
19 me to institute eviction proceedings against the former
20 Minister
21 administrator.

22 Q Do you have a copy of that letter with you, sir?

23 A Yes, I do.

24 MR. WILLIAMS: Will you mark this
Landlord's Exhibit 3 for identification, please?

25 THE COURT: Mark it.

1

Owens - direct

58

2

(Copy of letter marked Landlord's
Exhibit 3 for identification.)

3

4

Q I show you Landlord's Exhibit 3 for identifi-

5

cation and ask you if that is the letter that you re-

6

ceived (handing)?

7

A Yes, it is.

8

Q After you received that letter you then pro-

9

ceeded to institute these proceedings, is that correct?

10

A Yes.

11

MR. WILLIAMS: I now offer this in

12

evidence as Landlord's Exhibit 3 in evidence.

13

MR. SUTTON: Objection. Self-serving.

14

I would be happy to question on the

15

voire dire.

16

MR. WILLIAMS: I will hold it subject

17

to connection. I will let it stay for identifi-

18

cation.

19

THE COURT: He wants to question on

20

the voire dire.

21

MR. WILLIAMS: Go ahead.

22

EXAMINATION BY MR. SUTTON:

23

Q You said there was a board of trustees meeting

24

held in February or March, is that right?

25

A Yes.

1
2 Q Where was that board of trustees meeting held?

3 A I was not there personally but I heard it was
4 at the Temple.

5 Q You don't know whether it was held or not, do
6 you?

7 A I received a resolution signed--

8 Q Yes, sir. The question is: Do you know of
9 your own personal knowledge that a board of trustees
10 meeting was held?

11 A I know the result of the meeting was--

12 MR. SUTTON: Will you direct him to
13 answer it?

14 THE COURT: Yes, answer the question.

15 Q You were not present at any board of trustees
16 meeting?

17 A No.

18 Q You don't know whether or not, of your own
19 knowledge, in fact a board of trustees meeting was held?

20 All you know is that you received some communication from--
21 allegedly from the board of trustees, is that correct?

22 A Yes.

23 Q Now, sir, this board of trustees that you got
24 this communication from--you are a member of the board,
25 aren't you?

1

Owens - direct

60

2

A I'm the secretary of the corporation.

3

Q Are you a member of the board of trustees?

4

A Officer of the corporation.

5

Q Are you a member of the board of trustees?

6

A In that capacity, yes, as secretary.

7

Q So, as a secretary of the corporation, you

8

in that capacity are a member of the board of trustees?

9

A Yes.

10

Q And you say this trust board meeting was held

11

in February or March of 1964?

12

A Yes.

13

Q Which month was it, sir? February or March?

14

A It was in March. I'm not positive of the exact

15

date.

16

Q But it was March?

17

A Yes.

18

Q Who were the members of the board who were

19

present according to the information which you received

20

secondhand? You were not present but you heard that

21

there was a board meeting.

22

A Yes. Ronald X. Henry X--

23

Q Wait a minute.

24

THE COURT: What are these X's for,

25

Mr. Witness?

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THE WITNESS: It has to do with the names that are assigned to the various members as they join the temple.

THE COURT: Does everybody get an X name?

THE WITNESS: Yes.

THE COURT: Proceed.

Q Who else, sir?

A Ronald X, Henry X and Curtis X.

Q Yes, sir. Now, are these from your own personal knowledge as secretary to the corporation--withdrawn--rules secretary to the board of trustees?

A To the board of trustees?

Q Yes.

A I am secretary to whatever it involves.

Q Do you normally take minutes and things of that nature when the board of trustees meets?

A I wasn't at that meeting. When they do meet, I do.

Q When was the last meeting at which you were? What meeting were you last at? Withdrawn. Poor English. The last meeting was when, sir, of the board of trustees which you attended?

A Well, we meet every month. We meet once a week.

1

Owens - direct

62

2 Q You do?

3 A Yes.

4 Q When was the last meeting of the board of
5 trustees?

6 A Well--

7 THE COURT: Aren't you going too far
8 afield, Mr. Sutton?

9 MR. SUTTON: You want to find out.

10 THE COURT: It's a long voire dire.

11 Q So you were never present when this resolution
12 was passed? You were not present?

13 A Not at the meeting, no.

14 Q You just received this communication from them?

15 A Yes.

16 Q Had you ever received any other communication
17 from the board?

18 MR. WILLIAMS: I object.

19 THE COURT: Why waste time? Your
20 objection is well taken for the time being.
21 Sustained.

22 MR. SUTTON: Nothing further.

23 EXAMINATION (cont'd) BY MR. WILLIAMS:

24 Q Are you familiar with the signatures of Ronald
25 X, Henry X and Curtis X, sir?

1

2 A Yes.

3

4 Q Have you seen them write in the past?

5

6 A Yes.

7

8 Q A number of times?

9

10 A Yes.

11

12 Q I ask you to look at Landlord's Exhibit 3 in

13

14 evidence and tell the court whether or not--

15

16 THE COURT: It's for identification.

17

18 MR. WILLIAMS: Yes, I'm sorry.

19

20 Q Landlord's Exhibit 3 for identification contains
21 the signatures of those gentlemen?

22

23 A Yes, it does.

24

25 MR. WILLIAMS: I now offer this in
26 evidence.

27

28 MR. SUTTON: I still object, your
29 Honor.

30

31 THE COURT: May I see that before I
32 make a ruling?

33

34 (Document handed to the court.)

35

36 THE COURT: I will have to sustain
37 the objection. Where are these people?

38

39 MR. WILLIAMS: They're here. I could
40 hold it for later.

41

42 MR. SUTTON: They're not in the courtroom,

43

1

are they? We excluded all the witnesses.

2

3

MR. WILLIAMS: Mr. Sutton--

4

THE COURT: You can identify it then

5

at the proper time.

6

Right now, Mr. Sutton's objection is
well taken.

7

8

MR. WILLIAMS: Thank you, sir.

9

THE COURT: Proceed.

10

Q Do you have the letter you received from
Chicago?

11

12

A Yes, I do. Here it is.

13

Q And you say this is the letter that was handed
over to the trustees after it came from Mr. James X?

14

15

A Yes.

16

Q Upon receipt of that letter, there was action
taken and you instituted these proceedings?

17

18

A That's right.

19

Q Do you know how many rooms there are in this
property?

20

21

A Not exactly. I would say at least nine, maybe
ten rooms.

22

23

Q Do you know whether or not it's occupied by

24

anyone other than the former Minister Malcolm X Little?

25

A As far as I know, it's just himself and his

1

family.

2

3

Q And he is still in possession of those premises?

4

A Yes.

5

MR. WILLIAMS: No further questions.

6

THE COURT: Cross examination.

7

CROSS EXAMINATION

8

BY MR. SUTTON:

9

Q Mr. Owens, you were asked the question by your

10

attorney, he said one body and two corporations. What

11

are the two corporations, sir?

12

A Two corporations. I know of the spiritual

13

body; spiritual and religious organization.

14

Q Was the spiritual body incorporated?

15

A This is one and the same in essence.

16

Q He said one body and two corporations. I'm

17

trying to understand whether they are two corporations

18

or just one corporation.

19

MR. WILLIAMS: I may have made an

20

error when I gave it to him.

21

Q So, there is the spiritual body that is un-

22

incorporated and a religious body that was incorporated,

23

is that correct?

24

A Yes, that is correct.

25

Q It is the corporate body that is bringing this

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proceeding, is that right?

A That's right.

Q This is the corporation body that owns a house?

A Yes.

Q And according to your petition, it was a corporation body that reached an agreement with Minister Malcolm, is that correct?

A No, as to his agreement, I can't testify because I wasn't in the position at that time. I don't have the records of such but that it existed was the situation I inherited at the time from the one who preceded me in my position.

Q You signed a petition?

A Yes.

Q Is this your signature on the petition before the court here?

A Yes.

Q In your petition you say that there was an agreement, prior to March 1964 your petitioner as employer entered into an agreement with Malcolm X Little as employee by the terms of which agreement your petitioner engaged said Malcolm X Little. What knowledge do you have of this agreement?

A That was given to me by the one I inherited

1
2 the position from.

3 Q Do you have any personal knowledge of any
4 agreement?

5 A No, I don't.

6 MR. SUTTON: Nothing further.

7 THE COURT: All right.

8 REDIRECT EXAMINATION

9 BY MR. WILLIAMS:

10 Q All during the time that you were with Mr.
11 Malcolm, did Minister Malcolm perform the duties of
12 minister?

13 A Yes.

14 Q And as trustee for the temple?

15 A Yes.

16 MR. WILLIAMS: No further questions.

17 RECROSS EXAMINATION

18 BY MR. SUTTON:

19 Q You say as a trustee he did?

20 A As the president of the corporation.

21 Q Yes, sir, but as a trustee did he perform duties?

22 A Explain your distinction.

23 Q You just answered as a trustee.

24 A I said as the minister of the temple and
25 president of the corporation he fulfilled those duties.

1

2 Q Did he ever hold trustee meetings?

3

A He was hardly around some time.

4

Q Did he ever hold trustee meetings during the
5 term of his office there, sir?

6

A Let me see--

7

Q I will make it more specific. From the year
8 1956 until March of 1964, did Minister Malcolm X ever
9 call a board of trustees meeting?

10

MR. WILLIAMS: I object to the
11 question because I think the witness testified
12 he went into the office in 1960.

13

MR. SUTTON: All right.

14

Q From 1960 then. Your own attorney said
15 1960 and I will take 1960. Did Minister Malcolm ever
16 call a board of trustees meeting?

17

A Not that I know of.

18

Q Did you ever attend any board of trustees
19 meeting called by anyone else between 1960 and 1964?

20

A I attended the meetings of the body and the
21 officers of the corporation, but as just the trustees
22 themselves, I don't recall such a meeting.

23

Q You said you paid Minister Malcolm \$150 a
24 week.

25

A That's right.

1
2 Q And you began paying him in 1960?

3 A On that question I have the records on this
4 but I'm not exactly sure as to exactly when that amount
5 of \$150 began but I know it was--it was \$125 and then at
6 a later date it was increased to \$150 but I'm not positive
7 of that.

8 Q You actually paid him? Actually handed money
9 over to him?

10 A Yes.

11 Q It was always in cash to Minister Malcolm X?

12 A Yes.

13 Q This was money paid each week by you?

14 A That's right.

15 Q What would happen in the weeks he was out of
16 the city?

17 A I would save it until he came back.

18 Q But you were the person who made the payments?

19 A That's right.

20 Q There was no fund from which Minister Malcolm
21 collected the money himself? You actually paid him?

22 A I paid him, right.

23 Q I see. And you said on direct examination
24 you paid the \$150 a week at his request in cash?

25 A At his request.

2 Q You said you were asked if you paid in cash
3 or check?

4 A Oh, yes.

5 Q He requested you to give it to him in cash?

6 A Yes.

7 Q Did you have a checking account at that time?

8 A No.

9 Q So even if he requested a check you couldn't
10 have given it to him?

11 A We could open an account if we wanted it.

12 Q Did you pay any of your bills by check?

13 A Not at that time.

14 Q When did you begin paying by check?

15 A Since March.

16 Q From 1960 you disbursed the funds and you
17 gave Mr. Malcolm \$150 a week and you didn't sign checks?

18 A No checks, no.

19 Q All cash?

20 A Yes.

21 Q Were payments of other bills made by cash?

22 A Yes.

23 Q All by cash?

24 A Yes.

25

MR. SUTTON: Nothing further.

2 REDIRECT EXAMINATION

3 BY MR. WILLIAMS:

4 Q Any reason why the payments were made in cash?5 A There was talk concerning taxes.

6 THE COURT: Concerning what?

7 THE WITNESS: Taxes.

8 THE COURT: Taxes?

9 THE WITNESS: Yes.

10 Q Who told you this about taxes?11 A The minister himself.

12 THE COURT: Who? Just a moment.

13 Who told you?

14 THE WITNESS: The minister himself.

15 THE COURT: Who is the minister him-
16 self?

17 THE WITNESS: Malcolm X.

18 THE COURT: You mean the tenant here?

19 THE WITNESS: Yes.

20 THE COURT: Proceed.

21 RECROSS EXAMINATION

22 BY MR. SUTTON:

23 Q What did he tell you?

24 A The exact words, I don't remember.

25 Q When did he tell it to you?

1
2 A When I first inherited the position.

3 Q You don't remember the exact words and you
4 don't remember the time?

5 A That's right.

6 MR. SUTTON: Nothing further.

7 THE COURT: Did he understand he was
8 trying to avoid taxes?

9 THE WITNESS: I don't understand the
10 purpose.

11 THE COURT: Did he, himself, tell you
12 that?

13 THE WITNESS: No. He was trying
14 to evade the tax?

15 THE COURT: No, the question about
16 being paid in cash instead of by check so he
17 wouldn't have to pay a tax?

18 THE WITNESS: The request of paying
19 cash was made by him and there was some mention--
20 reference to taxes.

21 THE COURT: Who mentioned that?

22 THE WITNESS: He did.

23 THE COURT: What did you say?

24 THE WITNESS: What did I say?

25 THE COURT: Yes.

MILERS HALL
ERASE

2 THE WITNESS: I said nothing. I just
3 complied with his request and paid all payments
4 in cash.

5 RECROSS EXAMINATION

6 BY MR. SUTTON:

7 Q You don't remember when he said it?

8 A Around the time I took the position.

9 Q Where did he say it?

10 A I can't be exactly sure of the location.

11 Q Who was present?

12 A We had conversations at his home and at the
13 temple pertaining to this.

14 Q Who was present at the time he said this?

15 A I can't name the specific place. I have not
16 named the specific place.

17 Q Do you know the specific place?

18 A No, I don't.

19 Q Do you know who was present wherever it was?

20 A Myself and him.

21 Q Nobody else? Is that right?

22 A The question is misleading because I have not
23 defined exactly where it was. I said there was a men-
24 tion of taxes. I haven't defined it when and where.

25 Q What did he say?

1

2 A I don't remember the exact words because I
3 asked would there be--how would these payments be made.
4 I was being paid to pay different bills pertaining to
5 the temple. He said it would be in cash.

6 Q Who said that?

7 A I would have to say--I can't be exactly sure
8 but it was during our talks between myself and Malcolm X
9 and there was another party involved.

10 Q Was it Malcolm X who told you to pay in cash?

11 A I can't be exact.

12 MR. SUTTON: Nothing further.

13 THE COURT: How often did you pay him?

14 THE WITNESS: Every week.

15 THE COURT: How long a period of time?

16 THE WITNESS: Since 1960.

17 THE COURT: Did you file any portion

18 with the state or--

19 THE WITNESS: Tax exempt.

20 THE COURT: You were paying him a
21 salary, weren't you?

22 THE WITNESS: They were, the leaders
23 were donating to him in certain fixed amounts.

24 THE COURT: You said you paid him
25 \$150 each week and he wanted it in cash so he

1 wouldn't worry about taxes, is that right?

2 THE WITNESS: No, I didn't say that.

3 MR. SUTTON: He didn't say that.

4 Just a moment.

5 THE COURT: That's the inference I
6 gather.

7 MR. SUTTON: I don't want to infer,
8 that's the reason I questioned him at length.

9 THE COURT: I'm trying to ascertain
10 the facts of what was said about the taxes.

11 THE WITNESS: As I said before, it
12 was mentioned, a word about taxes being the
13 reason why cash payments but what they meant,
14 I don't know.

15 THE COURT: All right. Anything
16 else?

17 MR. WILLIAMS: Nothing further.

18 THE COURT: All right.

19 MR. WILLIAMS: If your Honor please,
20 can I recall Curtis Kenner?

21 THE COURT: Yes.

22 CURTIS X KENNER, was
23 recalled as a witness by the plaintiff, was
24 reminded his affirmation was still binding and
25

1

2 testified further as follows:

3 REDIRECT EXAMINATION

4 BY MR. WILLIAMS:

5 Q Mr. Kenner, I show you this paper and ask you

6 if your signature appears thereon?

7 A Yes.

8 Q Did you affix your signature there as a trustee

9 for Muhammad's Temple of Islam, Inc.?

10 A Yes.

11 MR. WILLIAMS: I offer this as

12 Landlord's Exhibit 3 in evidence.

13 MR. SUTTON: May I question on the

14 voire dire?

15 THE COURT: Yes.

16 EXAMINATION BY MR. SUTTON:

17 Q Sir, you affixed your signature thereto?

18 A Yes.

19 Q When did you do that?

20 A According to this paper it was March 26th.

21 Q That is your only recollection by looking at

22 the paper?

23 A I don't recall--I don't remember the date ex-

24 actly, no.

25 Q Do you remember a board of trustees meeting

1

2 that took place before March 26, 1964?

3 A As I said before, I don't remember dates. Ex-
4 act dates, I don't remember.

5 Q But was there a board of trustees meeting that
6 took place before?

7 A Yes.

8 Q When?

9 A Dates, I don't recall.

10 Q You signed this on March 26th, didn't you, sir?

11 A Right.

12 Q All right. There had been a board of trustees
13 meeting before this, is that correct?

14 A There have been some.

15 Q Have been some?

16 A Yes.

17 Q Was there one particular one in which some action
18 was taken that affects this case here?

19 A The one you have there.

20 Q When was that board of trustees meeting?

21 A Sometime around that date you got on the paper.

22 Q Around March 26th?

23 A Yes.

24 Q Where was it held?

25 A It was held at the office of the Honorable

2 Elijah Muhammad.

3 Q When you were on the witness stand before and
4 when I asked you about board of trustees meeting you
5 didn't remember.

6 MR. WILLIAMS: I object.

7 A I don't remember dates.

8 MR. WILLIAMS: That's not so.

9 THE COURT: Proceed.

10 Q Who was present at this board of trustees
11 meeting?

12 A The three names mentioned. They are Ronald,
13 Henry and Curtis, all brothers.

14 Q How had the board of trustees meeting been
15 called? By written notice or by oral notice?

16 A Oral notice.

17 Q How many members were there at that time on
18 the board of trustees?

19 A Well, the three of us. They were serving on
20 the board of trustees but with other brothers there,
21 members of the religious--

22 THE COURT: How many trustees on the
23 board?

24 THE WITNESS: Three.

25 THE COURT: Altogether?

1

THE WITNESS: Is Yes.

2

3

Q Three? Who are they?

4

A The three that you have there.

5

Q Curtis Kenner, Ronald Callaway and Henry Dawson.

6

These were the three persons who were on the board of trustees?

7

8

A Yes.

9

Q When were they elected to the board of trustees?

10

A Yes.

11

Q When, sir?

12

A I was elected when the corporation was first

13

formed by the people who were forming the corporation at

14

that time, who was Minister Malcolm X and Brother Ronald

15

at that time. Since Minister Malcolm was the president

16

at that time we mostly was guided by his saying, his

17

doings at that time.

18

Q Yes, sir. But there came a time when he was

19

no longer there?

20

A Yes.

21

Q Someone was elected in his place, is that

22

correct?

23

A Well, I can't answer that exactly, but I

24

would say--

25

Q As a matter of fact--

1

2 A He left and there was someone appointed in his
3 place.

4 Q Appointed?

5 A Yes.

6 Q Who appointed him?

7 A The minister that is residing in his place
8 at that time.

9 Q He appointed a trustee?

10 A Yes, he appointed a trustee.

11 Q Was this one of the trustees who acted to
12 give the authority to the secretary to bring eviction
13 proceedings?

14 A I don't think I follow your question.

15 Q Well, let me rephrase it. You say that a
16 trustee was appointed by the minister?

17 A No, I did not say that.

18 MR. SUTTON: Maybe I didn't under-
19 stand.

20 MR. WILLIAMS: I object.

21 Q Who was this person Henry Dawson, the person
22 who replaced the minister?

23 A I didn't say Henry Dawson replaced him. I
24 said--you asked me the question who replaced him. Now,
25 he was a minister. He was a minister appointed after

1 he left.

2 Q I misunderstood you. I'm sorry. But there
3 were three persons present at this board of trustees
4 meeting that was held on or about the time the letter
5 was written?
6

7 A Yes.

8 Q Who were the three people?

9 A Henry Dawson, and Ronald Callaway and Curtis
10 Kenner.

11 Q Do you know when you were elected to the
12 board of trustees?

13 MR. WILLIAMS: Your Honor, this is
14 not proper *voire dire*.

15 THE COURT: It's proper.

16 A I was a part of the party when the corporation
17 was set up in the beginning.

18 Q Were you re-elected for one year?

19 A That's right.

20 Q Were you ever reelected after that one year?

21 A Every year I was reelected because in our
22 religious organization we don't take everything one
23 hundred per cent by paper. We trust one another to
24 the extent--the leading minister would telephone us,
25 "It's all right for you this and so." We take his

1
2 advice. We went along with that. We didn't hold
3 regular meetings.

4 Q So that the only way you were continuing to
5 be reelected was because you took the advice of the
6 minister. All right. How did you elect Henry X
7 Dawson?

8 A After he--

9 MR. WILLIAMS: I object. The
10 witness has testified how Dawson got--he
11 was appointed by Minister James X.

12 MR. SUTTON: I thought you objected
13 to that before.

14 MR. WILLIAMS: No, he just said that.
15 That's his testimony.

16 Q Is that your testimony that the trustee was
17 appointed by whom?

18 A By the minister who was James X.

19 Q And it was this trustee who acted together
20 with you and Ronald X Callaway, is that right?

21 A Yes.

22 Q That assigned you to whatever action was
23 necessary here?

24 A Yes.

25 Q Sir, you say he was appointed?

2 MR. WILLIAMS: Objection.

3 THE COURT: Overruled.

4 Q He was appointed by the minister?

5 A As I said, the minister usually runs the show
6 in the Temple of Islam. Therefore, the minister that
7 was appointed after Minister Malcolm left was James X.
8 Therefore, he had the authority to appoint other people
9 to act in the position.

10 Q Was it on that authority that the person Henry
11 X Dawson met with you and Mr. Callaway?

12 A Along with the understanding from the body in
13 general.

14 Q What was that understanding, sir?

15 A Well, you see, if the minister is going to
16 appoint somebody for a position, he first brings it
17 before the whole group of the temple. If they decided
18 on it, then they appoint him to that position.

19 Q There was such a meeting?

20 A Yes.

21 Q When was that held?

22 A Exact date I don't remember.

23 Q Just the month, please.

24 A I don't know the month. I would say sometime
25 around the time this particular letter was sent to us

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because all this took place around the same time.

Q Would you say that was in March?

A Sometime around that, yes.

Q How many other people did the minister appoint to the board of trustees at the same time?

A Well, I believe all the rest of the trustees was from the very beginning under the control of Minister Malcolm at the time.

Q Who were they?

A Callaway and myself.

Q You Mr. Kenner and Mr. Callaway continued to be reelected every year and the method of reelection was understood that you were to continue to serve as long as the minister made no objection, is that it?

MR. WILLIAMS: If your Honor please, I'm objecting.

THE COURT: Why are you objecting?

MR. WILLIAMS: I think it's going too far afield.

You're not finished with your witness are you, Mr. Williams?

MR. WILLIAMS: Not as yet.

THE COURT: All right. I think you are taking a little too long. You're going

ERASE
COTTON CONTENT

1

2 into cross examination. NYC.gov/records NYC.gov/records NYC.gov/records

3

MR. SUTTON: All right. Then, may

4

I object?

5

THE COURT: Yes. For the time I

6

will sustain the objection. NYC.gov/records NYC.gov/records NYC.gov/records

7

Proceed.

8

REDIRECT EXAMINATION (continued)

9

BY MR. WILLIAMS:

10

Q Now, Mr. Kenner, before you met in March, be-

11

fore you signed this letter, did you receive or was there

12

placed before you some other communication with respect

13

to this matter?

14

A Yes.

15

MR. SUTTON: May I object? I don't

16

understand placed before him. Was this a

17

corporation?

18

MR. WILLIAMS: The members who

19

constituted the board.

20

A Yes.

21

Q What was that?

22

A It was a letter.

23

Q Do you know where that letter came from?

24

A From Chicago.

25

Q Did you read the letter?

PLEASE
RETURN TO
COTTON CONTENT

2 A Yes.

3 Q If I showed you that letter, would you be
4 able to identify it?

5 A Yes.

6 MR. SUTTON: Is If that is offered for
7 the purpose of introducing a letter--

8 THE COURT: Just take it easy. I'm
9 way ahead of you.

10 MR. WILLIAMS: Will you mark this
11 Landlord's Exhibit 4 for identification?

12 (Letter marked Landlord's Exhibit 4
13 for identification.)

14 Q Is that the letter you speak of that was re-
15 ceived and placed before the board before you acted on
16 the letter of March 26th? Can you tell from the front
17 of it?

18 A Yes, this is the envelope.

19 MR. WILLIAMS: I mark not the
20 contents but I offer the envelope in evidence.

21 MR. SUTTON: Objection.

22 THE COURT: Are you playing a game
23 with me?

24 MR. WILLIAMS: No, sir.

25 No further questions.

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THE COURT: Sustained.

What about your document? Are you talking about your document?

MR. WILLIAMS: I offer the document Landlord's Exhibit 3 in evidence.

MR. SUTTON: My objection was sustained. He has offered nothing further.

THE COURT: He testified he was present.

Let me see that document.

MR. SUTTON: It's self-serving.

THE COURT: Were you present at this meeting and these two gentlemen were there, too?

THE WITNESS: Yes.

THE COURT: When did you sign this document which is marked?

THE WITNESS: Around March 26th.

THE COURT: I beg your pardon?

THE WITNESS: Around March 26th.

THE COURT: The same date or there-after?

THE WITNESS: Sometime around that date. I don't remember the exact date.

THE COURT: It doesn't have to be

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the same but were you meeting on the date specified?

THE WITNESS: Yes.

THE COURT: Was there any discussion taken as to the activities set forth in this communication?

THE WITNESS: Yes, sir.

MR. SUTTON: May I question him?

THE COURT: Yes.

RECROSS EXAMINATION

BY MR. SUTTON:

Q You say a discussion took place. What discussion took place?

A Discussion took place concerning the matter of taking steps to remove the X minister from--

Q Did you keep minutes of this--

MR. WILLIAMS: Let him finish his answer.

MR. SUTTON: I'm sorry.

Q Did you keep minutes of this meeting?

A No, we didn't.

Q When did the meeting take place?

A Sometime around the date of the letter there in March.

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Q What is the date of the letter?

MR. WILLIAMS: Your Honor, may I object? He said a thousand times that--

THE COURT: All right. I have heard it.

Q What is the date that the letter was written?

A Sometime around that time.

Q Was it the day before?

A I don't remember exactly.

THE COURT: What do you mean? It couldn't be the day before the meeting, could it?

THE WITNESS: It could have been on or before the date.

THE COURT: He asked you the day before and you gave a very peculiar answer.

THE WITNESS: It could have been the day before.

THE COURT: It could have been the day before? In other words, you made the decision before you heard the evidence?

THE WITNESS: It would have to be after that day.

Q Sir, what else was discussed at this board of

1
2 trustees meeting?

3 A The main reason for holding this meeting was
4 to make some kind of preparation to reclaim the property
5 from the X minister that we must have to put the new
6 minister in there.

7 Q Was a resolution arrived at that board of
8 trustees meeting that you don't remember when it took
9 place?

10 A I do remember we did make a decision, it
11 would have to be brought before the court in order to
12 get X minister out.

13 Q But you made a resolution there that date?

14 A Yes.

15 Q Was that resolution recorded in any of the
16 records you have of your corporation?

17 A The letters that I know of I'm not--

18 Q So there is a board of trustees meeting you
19 don't remember when it took place. You didn't make
20 any record of the happening of the board of trustees
21 meeting, is that correct?

22 A As far as my knowledge is, action is the
23 letter that we give to the secretary to take action.

24 Q Who acted as secretary of the board of
25 trustees meeting?

2 Q Who acted as secretary?

3 Q Yes.

4 A Brother Ronald was making memorandums of it.

5 Q He made memorandums of it?

6 A Yes.

7 Q Did you see them made?

8 A Well, just little notes on a piece of paper

9 because we didn't go into a long formal meeting. We

10 just discussed it, more or less.

11 Q But no record was made of what occurred?

12 A No record to be posted or anything like that.

13 Q And the person Henry Dawson, that was the
14 person who was appointed as a trustee, is that correct?

15 A I only used the word "appointed," but if you
16 want to say "elected," you could say that also because
17 it was decided by the body in general, as I said before.

18 Q At a corporate meeting?

19 A Well, the corporate meeting. If you want
20 to say corporate, you could say it but it's the body
21 in general. That's the corporation also.

22 Q The spiritual body, is that the one that had
23 the meeting? Is that the one?

24 A Yes.

25 Q Was it the corporate body or the spiritual

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Kenner - recross

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body that your lawyer was talking about that held the meeting that elected--

A Because they were all within the same.

MR. SUTTON: I see. May I object?

Self-serving.

THE COURT: He says he was there.

MR. SUTTON: Not made in the course of business. There is no foundation laid to keep such a record.

THE COURT: It seems irrelevant but it was the course of procedure that was adopted in the past.

Your client must have been in accord with it. In any event, this sets forth what occurred on a certain date. And I will take it for what it's worth.

To be marked as Landlord's Exhibit 3.

(Document marked Landlord's Exhibit 3.)

THE COURT: Are you finished with this witness?

MR. WILLIAMS: Yes.

THE COURT: Step down, please.

MR. WILLIAMS: If your Honor please,

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MILLERS FALLS
I am looking at the hour. I have one further witness who has not come in yet. I would like to adjourn now and come back at two.

THE COURT: No, I would rather not.

We discussed something. I have that in mind.

How long will that witness take?

MR. SUTTON: Maybe it's something we can stipulate to.

THE COURT: Both of you come up, please.

(Discussion held at the bench.)

THE COURT: All right. Proceed.

MR. WILLIAMS: Landlord rests, your Honor. That's the Landlord's case.

THE COURT: Are you surprised?

MR. SUTTON: No, but I'm shocked, your Honor because there has been no showing of agreement.

THE COURT: Are you making a motion?

MR. SUTTON: Yes, out of my shock into the motion.

I move to dismiss at the end of the Landlord's case in that the Landlord has not made out a prima facie case. He lays it in

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2 holdover.

3 He alleges as a basis for his hold-
4 over proceedings that there was no agreement
5 existing between Muhammad's Temple of Islam,
6 Inc. and the owner of the property and an
7 agreement existing as to employment.

8 There was an employer-employee
9 relationship existing as between Muhammad's
10 Temple of Islam, Inc. and one Malcolm X Little.

11 There has been no direct testimony
12 here of an employer-employee relationship
13 existing.

14 The sole thing that has been offered
15 here is an allegation of payment of money but
16 this is not enough just showing payment of a
17 salary if it's earned as a salary at one time
18 and another time is termed as a gift but mere
19 payment of monies does not constitute an em-
20 ployer-employee relationship nor has proof
21 been offered here that a condition of the
22 employment was that he was to maintain the
23 premises and only to reside in the premises only
24 as long as he was the minister.

25 Further, there is no showing of

COTTON CONTENT

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2 termination of employment if indeed it
3 existed. First, it wasn't proved that it
4 existed and, secondly, there was no proof
5 of the termination.

6 I would go no further than to say
7 they have failed to make out a prima facie
8 case.

9 They don't even offer the elements
10 of proof under their allegations.

11 THE COURT: A man could live there
12 forever and ever.

13 MR. SUTTON: No, sir, that is not
14 my contention. It is my contention that
15 you must prove what you plead. You must
16 enter documentary evidence or offer testi-
17 monial evidence. They have not done it.

18 MR. WILLIAMS: May I be heard in
19 defense?

20 THE COURT: Just a moment, counselor.

21 All right. Proceed.

22 MR. WILLIAMS: I should like to
23 indicate, if your Honor please, that Mr.
24 Sutton has indicated that there has been no
25 documentary proof offered of an employee-

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employer relationship but I submit to the court that enough testimony has been adduced here to show this man was not working for nothing.

He received a salary of a fixed amount for a period of three years and gave direct testimony he paid him this amount for three years and he paid the light and gas.

The monies that bought the parsonage, the home, came from the funds of the religious corporation and further than that, that after March of 1964, that this tenant had performed no duties whatever with respect to the petitioner here.

You have heard testimony that a successor has been appointed who is now functioning, one James X and certainly the same temple can't have the same person occupying this one position at both times and further it has been indicated here that monies that were used to pay the minister's rent when he first came to New York and assumed his position

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2 before there was a legal corporation, was
3 supplied by the temple. He lived in
4 Brother Kenner's house. The temple paid
5 for that and it paid for the apartment and
6 all expenses of this home which now has tax
7 exemption due to the fact that it belongs
8 to and is considered the personage other-
9 wise there would be no reason to tax exempt
10 it.

11 MR. SUTTON: Still missing the
12 issue. It's whether or not there was an
13 agreement of employment.

14 There has been no direct testimony
15 as to any agreement of employment which had
16 limitations upon it and those limitations
17 were that you may only live in this house
18 as long as you are minister.

19 We may feel that one should be
20 allowed to live in a premise when he no
21 longer is minister but we must prove that
22 the ministry was terminated under the rules
23 and regulations of this particular corpora-
24 tion and that, number two, that there was
25 first an agreement of limitation at the time

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2 of employment if indeed there ever was an
3 employment.

4 THE COURT: It seems to me that
5 there is a marked disregard for formality
6 or legality on the part of your client.

7 They seem to disregard everything
8 which is proper and required. There should
9 have been some formal procedure adopted here
10 to say, "You are no longer wanted."

11 MR. SUTTON: There is a procedure
12 but they didn't follow that procedure.

13 MR. WILLIAMS: If your Honor please,
14 now may I say this: There has been testimony
15 that he left--there is a successor minister
16 and it's on this question that this procedure
17 has been followed in the manner throughout.

18 The way this has gone throughout is
19 due to one fact and that is now Mr. Sutton's
20 client is trying to capitalize on the fact
21 that these men went along. He was the
22 guiding light and we are now faced with the
23 question of whether or not, particularly
24 where a man has removed himself and is no
25 longer functioning and his successor is in

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2 his place, whether or not in this case this
3 is proper for Mr. Sutton to raise the question
4 as to whether or not he was properly removed
5 or not, is that Mr. Sutton is in court and he
6 should institute an action in that form and
7 that the crux of this matter is a simple
8 holdover proceeding where this property en-
9 joys tax exemption right now, not because
10 Minister Malcolm X lives in it but because it
11 was a parsonage connected with Muhammad's Temple
12 of Islam, Inc.

13 THE COURT: You have given the best
14 argument for the court yet.

15 Couldn't the congregation send him
16 a letter saying, "You are no longer employed
17 by us, get out"?

18 MR. WILLIAMS: If your Honor please,
19 may I say this: If you will permit me to
20 reopen I have such a letter. If you will
21 permit me to reopen, I will introduce such
22 a letter.

23 THE COURT: I will give you a chance
24 to do that. Why didn't you do it before?

25 MR. WILLIAMS: For one reason.

2 MR. SUTTON: Because a letter
3 won't suffice, that's the reason.

4 THE COURT: Mr. Sutton is raising
5 the question of improper, no discharge at
6 all. He said you just came along here,
7 "Get out."

8 MR. SUTTON: I say two things.
9 There was not a proof of employment.

10 Each one said that a person in Chicago,
11 Honorable Elijah Muhammad employed him and
12 nobody could testify to the terms of the
13 employment, number one, and two, they can't
14 offer any termination because there is an
15 established procedure where there must be
16 a confrontation, a hearing before the minister
17 is discharged. That's why they're not
18 offering it.

19 MR. WILLIAMS: If your Honor please,
20 I have a copy of a letter--I would like to
21 continue--to show that a certified letter
22 was sent on March 10, 1964 to the minister.

23 THE COURT: What about it, Mr.
24 Sutton?

25 MR. SUTTON: I have a copy of it.

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2 I will be happy to come to the
3 bench and discuss it.

4 THE COURT: All right.

5 (Discussion held at the bench.)

6 THE COURT: All right.

7 MR. WILLIAMS: I now call upon

8 Mr. Sutton to produce the letter of March
9 10, 1964 sent to his client.

10 MR. SUTTON: I will be happy to.

11 THE COURT: You received it?

12 MR. SUTTON: Yes, I have it.

13 (Document handed to counsel.)

14 MR. WILLIAMS: I now offer this
15 letter in evidence as Landlord's Exhibit 5.

16 MR. SUTTON: For what purpose is
17 it offered?

18 MR. WILLIAMS: For the purpose of
19 showing that notice of termination of em-
20 ployment was sent and also contains a notice
21 to quit.

22 MR. SUTTON: May I examine on voire
23 dire?

24 THE COURT: How will you examine?

25 MR. SUTTON: Then it can't be

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2 offered if I can't examine.

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MR. WILLIAMS: It was sent to him.

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MR. SUTTON: Who is going to testify

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to the regular course of business?

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MR. WILLIAMS: You stipulated that

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your client received it.

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THE COURT: I don't see any need

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of examining anybody.

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I am taking it on the question of

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notice given to your client to vacate the

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premises.

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MR. SUTTON: No longer under the

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new rules is it required to send notice to

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vacate. No longer necessary under this

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type of proceeding. This is the first

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thing I checked because I thought I had

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them there.

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THE COURT: I disagree with you.

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MR. SUTTON: This is accepted on

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the basis of notice to vacate, is that

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right, similar to the ten-day notice.

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THE COURT: I'm not talking about

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the ten-day notice. You raised the issue

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before that your client was not aware of

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2 the situation. He was not properly discharged.

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MR. SUTTON: That's right.

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THE COURT: Notice to the effect that

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the landlord here or the petitioner here is

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seeking the premises. You maintain that

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no notice was received by your client?

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MR. SUTTON: No. I say no proper

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termination has been made. I'm not question-

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ing notice.

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THE COURT: I'm not going on that.

12

It will be marked for the purpose--

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MR. SUTTON: Marked for the purpose

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of--

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THE COURT: I am not--

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MR. SUTTON: I am asking if this is

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for the purpose of showing notice?

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THE COURT: It reads for itself.

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MR. SUTTON: No, because there is a

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lot of extraneous material.

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THE COURT: I read to you a moment

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ago what I was interested in.

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MR. SUTTON: Which portion?

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(Discussion held at the bench.)

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MR. SUTTON: All right.

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THE COURT: You admit he didn't vacate the premises?

MR. SUTTON: Limited purposes set forth in paragraph--

MR. WILLIAMS: No, no, don't you characterize.

THE COURT: You asked me a question. I'm not a witness on the stand, sir. It's marked as an exhibit, sir.

MR. SUTTON: Judge Wahl, what I am saying is that there is a lot of extraneous material.

THE COURT: I'm not concerned at all. I will take it as I think it proper under the circumstances. If I have to make a decision it will be in writing.

MR. WILLIAMS: All right.

THE COURT: Mark it Landlord's Exhibit 5 in evidence.

(Document marked Landlord's Exhibit 5 in evidence.)

MR. WILLIAMS: That's the Landlord's case.

THE COURT: In view of the fact that

2 we discussed something earlier this morning,
3 I will take your motion under advisement
4 and we will convene tomorrow morning.

5 In the meantime, leave your exhibits
6 with me.

7 Do you have any law you should like
8 to submit?

9 MR. SUTTON: Yes, I will do that
10 by this afternoon.

11 THE COURT: All right.

12 Adjourned to tomorrow morning at
13 ten o'clock.

14 (Whereupon, an adjournment was had until
15 10 o'clock a. m., June 16, 1964.)

16 THE COURT: Are you ready to proceed,
17 gentlemen?

18 MR. WILLIAMS: Yes, sir.

19 MR. SUTTON: Yes.

20 THE COURT: As I understand, the
21 Landlord rested yesterday.

22 MR. SUTTON: That is correct.

23 THE COURT: You had a motion before
24 me and I reserved decision on the motion.

25 MR. SUTTON: I should like, before

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putting on the respondent's case, to ask the court whether or not at the end of the entire case time might be allowed for bringing to the court a brief based on the minutes of the trial.

I would ask for time with time for the landlord to reply to that brief anything that he thinks is appropriate.

MR. WILLIAMS: One week.

THE COURT: Do you want to submit, too, or do you want to see his first?

MR. WILLIAMS: I want to see his.

MR. SUTTON: One week after the securing of the minutes.

It is hereby stipulated by and between the counsel for the parties hereto that the respondent should have one week after the receipt of the minutes for the purpose of submitting a brief to the court and that the petitioner should have five days thereafter to submit opposing brief; it being further stipulated that no undue delay should be taken in securing the minutes.

THE COURT: And the time of the

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court shall run from the last submission.

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MR. SUTTON: Yes.

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THE COURT: Is that agreeable to both

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sides?

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MR. WILLIAMS: Yes, it's agreeable

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to me.

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THE COURT: All right. Proceed.

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MR. SUTTON: Respondent calls as his

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first witness, Captain Joseph,

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THE COURT: He was sworn yesterday,

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gentlemen?

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MR. SUTTON: Yes.

14

THE COURT: All right.

15

You are still under oath, Captain

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Joseph.

17

JOSEPH X GRAVITT, was called

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as a witness by the respondent and testified as

19

follows:

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DIRECT EXAMINATION

21

BY MR. SUTTON:

22

Q Captain Joseph, how long have you been a

23

member of the Muhammad's Temple of Islam, Incorporated?

24

A I don't understand your question.

25

Q How long have you been a member of the Muhammad's

ERASE

COTTON

Gravitt - direct

108

2 Temple of Islam, Incorporated?

3 A I have been a member ever since 1952.

4 Q I meant of the corporation. The corporation
5 came into existence in 1956. Have you been in since
6 its inception?

7 A I have been in ever since 1952.

8 Q I am speaking, Captain Joseph, of the corporate
9 body. Have you been in since they incorporated the
10 corporate body of the temple?

11 A Yes.

12 Q Since there was an organization of the corporate
13 body of Muhammad's Temple of Islam, Incorporated, the
14 petitioner here, did you ever hear an agreement reached
15 between the corporate body and the respondent Malcolm X
16 Little with regard to his employment by the petitioner
17 Muhammad's Temple of Islam, Incorporated?

18 A I heard what he said.

19 Q You heard what he said?

20 A He was the one that said it, right.

21 Q He stated to you the terms?

22 A He stated to the body the terms of the employ-
23 ment.

24 Q Tell us what he said and when he said it, sir.

25 A When he came--you see, he was the minister.

WILLIAMS

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2 He had the correspondence with Honorable Elijah Muhammad.
3 When he comes back, he was the one that teaches us what
4 the Honorable Muhammad says. What he says, goes.

5 Q When did he tell you this?

6 A Well, when he come back, whenever he came back
7 he would tell us.

8 Q Did he tell you anything about the terms of
9 his employment with Muhammad's Temple of Islam, Inc.?

10 A When you say "the terms"---

11 Q You stated in your petition--rather, the body
12 has stated--the Muhammad's Temple of Islam, Incorporated
13 has stated in its petition that prior to March 1964,
14 your petitioner, meaning Muhammad's Temple of Islam,
15 Incorporated, entered into an agreement with Malcolm X
16 Little.

17 A Yes.

18 Q Now, I am concerned about that agreement,
19 whether you have any personal knowledge of that agree-
20 ment than you stated?

21 A The agreement with he and the Honorable Elijah
22 Muhammad?

23 Q Not the temple, the petitioner here and--

24 A What he said was what the Honorable Elijah
25 Muhammad--what he said, the Honorable Elijah Muhammad

2 told him, he came back and told us. That was it.

3 There were no questions on it.

4 Q When did this take place? When did he tell
5 you what Mr. Muhammad said?

6 A When he came back in 1956.

7 Q How did he relate this to you? Did he gather
8 you together in a room?

9 A Yes, that's right, in a mosque or wherever we
10 had the meeting at.

11 Q This was with regard to his employment, is
12 that correct?

13 A When he was supposed to do his employment,
14 what he was supposed to do, taking care of it.

15 Q What did he say?

16 A That he received X amount of dollars.

17 Q How much did he say he received?

18 A \$150.

19 Q This was in 1956?

20 A Yes.

21 Q What else did he say, sir?

22 A And that he was supplied with the necessary
23 living quarters, et cetera.

24 Q What else did he say?

25 A That was about the gist of it.

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Q That's all he said?

A That's all I can remember.

Q Is that all he said?

A That's all I can remember.

Q Did he tell you what he was supposed to do for receiving the necessary money and quarters?

A That was understood. He was a minister.

Q Maybe you can help us by explaining everything you heard, either from Muhammad's Temple of Islam or from Minister Malcolm himself as to the terms of his employment with Muhammad's Temple of Islam, Incorporated?

A The understanding I had was that he was a minister.

Q Don't tell me the understanding. Tell me what was said. You can't report what your understanding was.

MR. WILLIAMS: Place the time. Fix the time.

MR. SUTTON: At any time because he was uncertain as to the time. I will take any time.

THE COURT: Did you take a portion of this yesterday, Mr. Sutton?

MR. SUTTON: He was not my witness.

1 Gravitt - direct

112

2 THE COURT: This is slightly repetitious.

3 MR. SUTTON: I don't remember having

4 covered that with this witness.

5 Q At any time, sir, did you ever on any date
6 since you have been a member of Muhammad's Temple of
7 Islam, Incorporated, hear an agreement reached between
8 Muhammad's Temple of Islam, Incorporated and Malcolm X
9 Little with regard to the terms of his employment as a
10 minister?

11 MR. WILLIAMS: I am objecting to
12 the form of that question.

13 THE COURT: He may answer it.

14 Answer it.

15 A Yes.

16 Q When, sir?

17 A During 1956, around that particular time.

18 Q Who did you hear the discussion as between
19 who represented Muhammad's Temple of Islam, Incorporated
20 and who represented Malcolm X Little.

21 A He represented himself. He was the minister.
22 He has the authority to come forth and say these things
23 as the minister because he was the top official in it.

24 Q So the agreement of employment was entered
25 into between himself, you say, and the temple?