Corporation Sole
An Introduction

To understand the Corporation Sole, one must understand how a "church", as an entity, is protected by the Constitution for the United States and the U.S. code.

In Title 26 of the United States Code (USC) and Income Tax Regulation 5 - June 26, 1977, edition published by Commerce Clearing House, Section 1.513-2(ii) vol. 1, page 33, 471-42, and in The Law of Tax Exempt Organizations by Bruce Hopkins, published by Lerner Law Book Co., 1977 (page 107), it states the following: *The term "church" includes a religious order to a religious organization if such order or organization is: (a) an integral part of a church;*

(b) is engaged in carrying out the functions of a church, whether as a civil law corporation or otherwise. (note "or otherwise", you do not have to incorporate and thus become a creature of the state.)

However, the option does remain for the church to incorporate if it desires. There are both advantages and disadvantages to both sides of this question. One item of interest is the position taken by the State on the rights of incorporated entities. Official IRS Audit Guide, Section 242.31, addressing corporation books and records it states: The privilege against self incrimination under the Fifth Amendment does not apply to corporations.

The theory for this is that the State, having created the corporation, has reserved the power to inquire into its activities. Now, if we truly subscribe to the doctrine of "separation of church and state", we should give this matter our full attention. If we incorporate a church, the church gives up the Right and becomes controlled, at least to a degree, by the State. If we remain Unincorporated (as one who is not a 14th Amendment citizen), we retain all of our Rights under the Bill of Rights, (i.e., the first ten amendments to the Constitution for the united States of America). We elect to remain unincorporated.

In summary, under the previously stated regulation (1.511-2(ii)), a "church is an organization the 'duties' of which include the ministration or sacerdotal, (i.e. priestly) functions and the practices of a particular religious body. A Church may also include a religious order or other organizations which is an 'integral part' of a church and is engaged in carrying out functions of a church."

The 8th US District Court said in a decision in 1974: "Neither this Court, nor any branch of this Government, will consider the merits of fallacies of religion, nor will the Court compare the beliefs, dogmas, and practices of a newly organized religion with those of an older, more established religion, nor will the Court praise or condemn a religion, however excellent or fanatical or preposterous it may seem. Were the Court to do so, it would impinge upon guarantees of the First Amendment" [See "Law of tax and Exempt Organizations: by Bruce Hopkins, published by Learner Book Co. 1977, pg. 110, in your local law library] The Universal Life Church vs. United States, 372 F.Supp. 770,776 (E.D. Cal 1974)

From the above, we can at least say this. "Under the Constitution for the United States of America, we as citizens enjoy the right of freedom from religion, that is, state defined religion." Abington School District vs. Schempp 374 U.S. 203 1963

From these decisions we may conclude that any claim to church status cannot be subjected to evaluative criteria or government standards, as such action would tend to prescribe the form and content of religious beliefs and practices. Also, whatsoever rights, privileges and exemptions or immunities are granted to any church, and/or religion, are also and must on the same basis and to the same extent, be granted to all churches and/or religions.