



Native American Church of North America

United States, Canada and Mexico

FORTY-FIRST ANNUAL CONFERENCE
Wind River Reservation - Ethete, Wyoming
June 14-17, 1990

MINUTES

The 41st Annual Conference of the Native American Church of North America was called to order by the President at 9:20 a.m. on Friday, June 15, 1990. Thirty groups affiliated with the NACNA were present. (See list attached.) Mr. Felix Goes Back of the Arapahoe Business Council gave the invocation and welcomed the delegates and members.

The first order of business was consideration of the tentative agenda which was revised as follows:

NACNA Affiliation & Certification

NACNA By-Laws - Amendments

Saturday, June 16

1. -Non-Indians Participating in NAC Prayer Services
(Non-Indian in-laws)
- Destruction of Burial Grounds
- 2.. Status/Removal of Treasurer
3. Increase Blood Quantum Requirements in Texas Law From One-Fourth to One-Half Degree
4. Non-Indians Profiting from Sale of Paraphernalia to NAC Members
5. Request of NAC of Shonto, AZ That They be Authorized to Set Up Savings Account for NACNA
6. Oregon Delegates to Present Background on Smith case
7. Proposed Action Plan for Development of Federal Legislation & Consideration of Proposed Resolution
8. Presentation on Oregon Case by Native American Rights Fund (NARF)
9. 42nd Annual Conference - Invitations

On motion of Wayne Lee, second by Ben Nakai, the agenda was adopted as revised. (For-46, opposed-0, abstentions-0)

Minutes of NACNA meetings were read and actions taken as follows:

40th Annual Conference, June 6-9, 1989

On motion of Joe Teller, second by Phillip Daugherty, the minutes were accepted as read. (For-43, opposed-0, abstentions-1)

Officers' Meeting, March 10, 1990

On motion of Tony Lee, second by Katherine Wallace, the minutes were accepted as read. (For-46, opposed-0, abstentions-0)

The question was raised regarding the changes made on the authorization permit form when the draft was adopted at the last conference. The President explained that the minor changes were suggested by the Texas Department of Public Safety (TDPS).

Motion by Ned McKinsley, second by Tony Lee, that the ratification of the authorization permit be placed on the agenda. Motion carried. (For-44, opposed-0, abstentions-0)

Special Meeting, May 11, 1990

Motion by Ned McKinsley to accept the minutes as read. The question was raised regarding the legality of this meeting since there is no provision for special meetings in the By-Laws. Mr. McKinsley withdrew his motion until the amendments to the By-Laws have been considered.

Reports of Executive Officers

President: Reported on conference call with the Vice President, Editor and NARF attorney to get clarification of issues raised at last conference and to offer the support of the NACNA to the Smith case.

Authorization permit form approved at last conference was transmitted to the TDPS which suggested minor changes for clarification.

Attended the Mid-Year Conference in Texas on February 17-18, 1990. A prayer services was held in which non-Indians were allowed to participate. The TDPS Narcotics Service representatives were at the site and were aware of what was taking place.

Made trips to Oregon, Washington State and California to meet with members.

40th Annual Conference

"Motion of Francis Primeaux, second by Tony Lee, to support Al Smith as member of the Native American Church in Oregon case. Motion and second withdrawn. Motion of Elliott Ricehill, second by Wilfrid Cleveland, that executive officers meet with Native American Rights Fund attorneys to get clarification of issues. Motion carried. (For-33, opposed-0, abstentions-1)"

On motion of Ben Nakai, second by Ralph Delgarito, the President's report was accepted. (For-28, opposed-14, abstentions-0)

Vice President: Spoke of his trip to the Mid-Year Conference in Texas. He was distressed by the fact that non-Indians were allowed to participate in the prayer services held at the Cardenas residence.

On By-Laws amendments, he apologized for the delay in getting the proposed amendments to the membership but indicated that the drafts were being typed and would be ready for consideration before the conference was concluded.

On motion of Ned McKinslay, second by James Tso, the report of the Vice President was accepted. (For-42, opposed-0, abstentions-1)

Secretary: Reported on an informal meeting between members and Lt. Kenneth Maxwell of the TDPS Narcotics Service held at the Cardenas home during the Mid-Year Conference. Members of NACNA, Navajoland and Oklahoma groups were present. The meeting was held in connection with non-Indians who were permitted to participate in prayer service. Lt. Maxwell stated that, while no arrests would be made, he wanted to serve notice that the Texas law would be strictly enforced. On a question regarding non-Indian in-laws, he stated that there are no exceptions to the law.

The NACNA members who were in Texas had good reason to believe that the non-Indians were able to transport a large supply of peyote out of Texas since they were familiar with routes where no checkpoints were set up.

She met with Ada Deer, the new President of NARF, regarding future working relationships between NARF and NACNA.

Convened a special meeting in Denver on May 11, 1990 for the purpose of discussing the appeal for rehearing in the Smith case which has since been denied. Members participating in the meeting authorized the President, Reuben Snake and Gordon Thunder to proceed to Washington, D.C. to meet with church leaders regarding joint efforts on the issue of restoration of religious freedom.

Court cases -

- Peyote Way Church of God case to come to court on August 8 when arguments will be heard.
- Toledo truck driver case (Albuquerque) in which Navajo male was refused employment because of NAC membership - case dismissed.
- California case in which Navajo female was refused employment for same reason - applicant failed test so she will not pursue case.

Texas NAC charter for group incorporated by Frank Takesgun has been reactivated. Asks who authorized this action.

Concludes report by reading letters from TDPS, DEA and BIA. (Copies attached.)

In answer to the question as to who authorized support for the Smith case since action taken at last conference was for the Executive Officers to meet with NARF to get clarification of issues raised, the President answered that the support was given by a previous administration. The Secretary read excerpts from minutes of 1987 and 1989 conferences which constitute the only references to the case.

38th Annual Conference

"Smith vs Oregon Employment Division - two members terminated from their jobs because of policy on drug use and denied employment compensation won their case in Oregon court. The State of Oregon appealed to the Supreme Court. An agreement to authorize Native American Rights Fund to provide legal representation and file an amicus brief on behalf of NAC was sent by the President."

SATURDAY, JUNE 16

The President called the meeting to order at 9:45 a.m.

NACNA By-Laws - Amendments

There was much discussion on the procedure for considering and adopting the amendments proposed by the committee chaired by the Vice President. The following actions were taken:

Motion by Tony Lee, second by Hoskie Benally, to change the name of the NACNA by adding the word "Indian" after Native American and before Church of North America. Motion was defeated. (For-2, opposed-43, abstentions-0)

Motion by Wilfrid Cleveland, second by Tony Yazzie, to adopt the amendments proposed by the committee. Motion carried. (For-41, opposed-0, abstentions-2)

1. -Non-Indians Participating in NAC Prayer Services (Non-Indian In-Laws)

Mr. Moore of NARF was asked what could be done about non-Indians who persist in participating in prayer meetings despite the laws. He suggested the following:

- a) NACNA and chapters should "police" those who sell peyote to non-Indians and refer matter to tribal and Federal authorities (and state, if it has jurisdiction).
- b) Get enactment of tribal laws making it a crime (tribal misdemeanor) to sell peyote to non-Indians.
- c) NACNA could meet with DEA regarding NACNA restrictions on membership and ask the Department of Justice Drug Enforcement Administration to prosecute non-Indians under Federal laws which only exempt from prosecution the religious use of peyote by members of the Native American Church.

(The issue regarding non-Indian in-laws was not addressed as it was referred to earlier in Secretary's report.)

-Destruction of Burial Grounds

(Since this was in reference to a specific case, the NARF attorney agreed to discuss this with the delegates concerned.)

Regarding secretarial expenses, she reported that the only funds she received during the year was \$55.00 which the President raised to help with sending out conference notices.

On motion of William Stone, second by Hoskie Benally, the Secretary's report was accepted. (For-46, opposed-0, abstentions-0)

Editor: Reported that two newsletters were published since the last conference. The cost of the July '89 issue was \$345.00 and the December '89 issue was \$381.00 which reflected an increase of 100 mailings. He indicated that he solicits advertisements from various sources to keep costs for the church down.

On motion of Tony Yazzie, second by Ben Nakai, the Editor's report was accepted. (For-50, opposed-0, abstentions-0)

Treasurer: Gladys Brylla gave the report on behalf of the Treasurer who was absent. She and Sharon Rockboy took care of conference expenses for the Treasurer who has been ill. She reported that receipts totalling \$1,765.49 were all paid out for conference expenses.

On the question regarding a detailed accounting, the Executive Officers will obtain the information from the Treasurer and provide a report.

On motion of Gordon Thunder, second by Tony Yazzie, the report on behalf of the Treasurer was accepted. (For-37, opposed-0, abstentions-2)

Certification & Affiliation

The President stated that the State of Texas has requested assistance in identifying legitimate NAC groups. He referred to a list of groups registered with the state which includes some questionable groups. It was suggested that part of the solution would be for the NACNA to certify the groups which are affiliated with the NACNA.

Motion by Tony Lee, second by Ned McKinsley, that affiliation and certification procedures be incorporated in the By-Laws. Motion carried. (For-43, opposed-0, abstentions-0)

2. Status/Removal of Treasurer

Motion by Ben Nakai, second by Billy Isaac, that the Treasurer be replaced. Motion was defeated. (For-33, opposed-14, abstentions-3)

(Article 4, Section 5. Any officer may be removed from office for malfeasance or neglect of duty by two-thirds vote of an Annual Convention.)

Motion by Gordon Thunder, second by Wilbert Cleveland, to have the Secretary assume the duties of the Treasurer. Motion carried. (For-30, opposed-7, abstentions-2)

Motion by Ned McKinsley, second by Anthony Yazzie, that all checks be signed by two officers. Motion carried. (For-35, opposed-0, abstentions-3)

Motion by Ned McKinsley, second by Ruth Watson, that the President be given authority to oversee management of fiscal matters. Motion carried. (For-15, opposed-13, abstentions-0)

* * * *

Motion by Ben Nakai, second by Ned McKinsley, to table items 3 to 5 and to proceed to item 7 since no action is required on these items. Motion carried. (For-38, opposed-0, abstentions-0) (Item 6 was addressed throughout conference.)

The President was asked who authorized the making of the video which was shown on TV. He called on Wayne Lee of the Native American Indian Religion of Eastern Dine Chapter to respond since this group agreed to sponsor the prayer service which was taped. Mr. Lee stated that his group felt strongly that the American public had to be educated. He regretted that it caused so much hard feeling among members and his own family.

7. Proposed Plan of Action for Development of Federal Legislation and to Consider Proposed Resolution

Steve Moore of Narf briefly discussed the work of the newly-formed Coalition to Restore Religious Freedom which has been meeting to explore the possibility of getting legislation enacted to grant an exemption for the religious use of peyote to the NAC. He reported that the group foresees problems with getting specific legislation passed so they developed a draft bill entitled "Religious Freedom Restoration Act of 1990" which would provide that "a governmental authority may not restrict the right of any person to the free exercise of religion."

In response to questions raised, Mr. Moore stated that this bill would not pass if it contained language specific to the NAC's use

of peyote. He also indicated that an amendment to the Controlled Substances Act of 1970 would have little chance of passing during this Administration. The proposed bill he discussed would not help the Native American Church. On a question of whether the U.S. Congress would pass legislation on an issue which has been declared unconstitutional, he answered that he didn't think so.

There was some discussion on a Proposed Action Plan which was developed by Reuben Snake which would establish an NACNA Ad Hoc Steering Committee to coordinate activities with the above mentioned coalition. The action plan also provides that any funds raised for this effort would be channeled through another non-profit organization on the condition that these funds are to be administered by Mr. Snake. No action was taken on the proposed plan.

On motion of Ned McKinsley, second by Ben Nakai, the President is authorized to appoint people to the Ad Hoc Steering Committee. Motion carried. (For-47, opposed-0, abstentions-2)

Motion by Kado Holiday, second by Wilfrid Cleveland, to retain the Native American Rights Fund as legal consultant and representative of the NACNA. Motion carried. (For-47, opposed-0, abstentions-1)

On motion of Ned McKinsley, second by Billie Isaac, the minutes of the special meeting were accepted. (For-31, opposed-13, abstentions-1)

8. Presentation on Oregon Case by Native American Rights Fund
(Case discussed throughout conference.)

9. 42nd Annual Conference - Invitations

The following invitations were considered and voted on as follows:

NAC/Winnebago, NE	2
NAC/Rocky Boy Chapter, MT	22
Eastern Dine Chapter, Native American Indian Religion, NM	18

The delegates agreed that the conference should be held on Father's Day weekend



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240



JUN 12 1990

Mr. Emerson Jackson
c/o Mr. Elk Sr.
P.O. Box 13
Ethete, Wyoming 82520

Dear Mr. Jackson:

In response to your letter dated May 14, 1990, I am sorry to report that I cannot attend your annual conference. My staff did not realize that I had a previous engagement to conduct training for the Bureau of Land Management. I apologize for any inconvenience this may cause you. Per our discussion, I believe your major concern is what drugs does the Department of the Interior test for? We test for the following drugs: Opiates, Amphetamines, Cocaine, PCP, and Cannabinoids. These are the only drugs we test for.

Again, I apologize for not being able to attend, but if I can answer any questions concerning the Department's Drug-Free Workplace Program or drug testing, please call me at your convenience at (202) 208-5638.

Sincerely,

David L. Mathews
Drug Program Manager
Department of the Interior

TEXAS DEPARTMENT OF PUBLIC SAFETY

5805 N. I. AMAR BLVD. - BOX 4087 - AUSTIN, TEXAS 78773-0001
512/465-2000



JOE E. MILNER
DIRECTOR

JAMES R. WILSON
ASST. DIRECTOR



COMMISSION
ROBERT B. HOLT
CHAIRMAN
CALVIN R. GUEST
ALBERT B. ALKEK
COMMISSIONERS

April 26, 1990

Emerson Jackson, Sr., President
Native Church of North America
P. O. Box 541
Window Rock, Arizona 86515

Dear Mr. Jackson:

Reference is made to our telephone conversation of April 25, 1990 and your inquiry about the status of the peyote exemption in Texas in light of the recent Supreme Court decision.

Although I have not personally read that decision, it is my understanding that the high court simply stated that the right to use peyote is not protected by the United States Constitution. The court went further to say that states like Oregon can ban the use of peyote if it so desires.

As you know, the state of Texas makes peyote available to your church and its members who meet the statutory requirements by way of an exemption in the law. I have heard of no movement to change the Texas statute.

Simply stated, peyote in Texas is still available to your organization as it has been in the past. It will continue to be available unless the Texas Legislature changes the law.

So, business as usual.

Sincerely,

Adolph Thomas
Captain
Narcotics Service

AT:cn



Native American Church of North America

United States, Canada and Mexico

May 9, 1991

NOTICE OF THE 42nd ANNUAL CONVENTION

TO: MEMBERS OF THE NATIVE AMERICAN CHURCH OF NORTH AMERICA
MEMBERS OF OTHER NATIVE AMERICAN CHURCH GROUPS

Your attention is called to Article 6, Section 1 of the By-Laws of the Native American Church of North America, as amended, which reads:

THE ANNUAL CONVENTION OF THE NACNA SHALL BE HELD AT A PLACE AND DATE DETERMINED AT THE PREVIOUS CONVENTION UNLESS OTHERWISE DIRECTED BY THE ANNUAL CONVENTION.

In accordance with this provision, notice is hereby given of the 42nd Annual Convention to be held at the following location and time:

CHIPPEWA CREE RESERVATION
STONE CHILD COLLEGE
Box Elder, Montana
June 13 - 16, 1991

Your attention is also called to Article 6, Sections 2 & 3 which read:

2. VOTING AT THE ANNUAL CONVENTION SHALL BE LIMITED TO TWO CONVENTION DELEGATES PER EACH CHAPTER OR ORGANIZATION AFFILIATED WITH NACNA. EACH DELEGATE SHALL HAVE ONE VOTE AT THE ANNUAL CONVENTION.
3. VOTING IS TO BE RESTRICTED TO GROUPS WHO HAVE PAID THEIR AFFILIATION DUES. OFFICIAL DELEGATES WILL BE RECOGNIZED ONLY UPON PRESENTATION OF PROPER CREDENTIALS AND SHALL INCLUDE CURRENT MEMBERSHIP CARD, CHARTER AND BY-LAWS.

The attached delegate authorization form must be completed and signed by the President or highest official of the affiliate group. The President will appoint a Credentials Committee to review the credentials of the delegates before they are seated. To facilitate this process, each affiliate group should have

on file with the Secretary a list of officers and a copy of the chapter's By-Laws and charter.

The executive officers and official delegates will be provided with lodging. A block of rooms has been set aside at the La Havre Inn, Havre, MT (30 miles). Official delegates need to call for reservations. Enclosed you will find information on other motels in the area. A camp site and facilities are available near the conference site. Also, for those who will be flying in, the nearest airport is in Havre.

If you need any further information, you may call the President of the Rocky Roy NAC Chapter, William Denny, at 406/395-4582; NAC Coordinator, Videll Stump at 406/395-4338; or the NACNA Secretary at the number given below.

Mary Natani
Mary W. E. Natani
SECRETARY

608/251-2438

* * * * *

CONFERENCE PROGRAM

June 13 Thursday
All Day - Registration

June 14 & 15 - Friday & Saturday
9:00 a.m. - Plenary Sessions

June 16 - Sunday
Fellowship

Faint handwritten notes and stamps, including "CONFERENCE PROGRAM" and "June 13 Thursday".

TENTATIVE AGENDA ITEMS

1. Election of Officers
2. Court Cases - Updates
 - Peyote Way Church of God, Inc. v. Richard Thornburgh, et al, Cause No. 88-7039
 - Other
3. State Laws: After the Supreme Court Decision
 - Texas Controlled Substances Act
 - States Which Have Granted Legislative Exemptions
 - Other States
4. Uniform Authorization Permits - Update
5. NACNA Affiliation & Certification



Native American Church of North America

United States, Canada and Mexico

OFFICERS

PRESIDENT

Emerson Jackson, Sr.
P. O Box 541
Window Rock, Arizona 86515
602/729-2175

VICE PRESIDENT

Wesley Parker, Sr.
Box 453
Macy, Nebraska 68039
402/837-5317

TREASURER

Clarence Rockboy
P. O. Box 572
Lake Andes, South Dakota 57356
605/487-7072

SECRETARY

Mary W. E. Natani
130 Sunny Meade Lane #2
Madison, Wisconsin 53713
608/251-2438

EDITOR

Ted Cleveland
~~Rt. 2 Box 86~~
~~Beaver City, Oklahoma 73932~~
P.O. Box 311
Montezuma Creek, UT 84534

Executive Officers

Present: Emerson Jackson, Sr., President
Wesley Parker, Sr., Vice President
Ted Cleveland, Editor
Mary Natani, Secretary

Absent: Clarence Rockboy, Treasurer

Official Delegates

NAC of IL:	Anthony Yazzie, Joseph Teller
Native American Indian Religion, Eastern Dine Chapter:	Norman Benally, Wayne Lee
NAC of British Columbi, Canada;	Stanley & Katherine Wallace
White Cross NAC, WI:	Roger Funmaker, Cecelia Lonetree
Thoreau Chapter of NACNA, NM:	Olsen Nez, Ralph Delgarito
Teepee Nupa Chapter, ND:	Evelyn Young, Mary Hill
NAC of Omaha Tribe, NE:	Rodney Morris, Joseph Parker
Greater Eau Claire Area, WI:	Gordon Thunder, Berna Big Thunder
NAC of Wasatch Front, UT:	Mike & Bessie Etsitty
NAC of Wisconsin:	Wilfrid & Wilbert Cleveland
Tomah-LaCrosse Chapter, WI:	Phillip & Suzette Daughtery
NAC of Oregon:	Lee Berry, Irmin Sanchez
Tonalea Chapter of NACNA, AZ:	Billy Isaac, John Fowler
Black River Falls Chapter, WI:	George Hinsley, Alberta WhiteEagle
Wisconsin Dells Chapter, WI:	Amos Decorah, LeRoy Sloan
NAC of Aneth Extension, UT:	Ben Nakai, Jimmy Tso
NAC of Shonto Chapter #3, AZ:	Ruth Watson, Jimmie Donald
NAC of Northwestern NM:	Leslie Bitsie, Willie Scott
NAC-Winnebago, NE:	Victor Smith, Jeanette Rice
NAC of Confederated Salish & Kootenai Tribes, MT:	Mike & Lorraine Big Crane
NAC of Arizona:	Ned McKinsley, Kado Holiday
NAC-Rocky Boy Chapter, MT:	Harriet Standing Rock, Francis Eagleman
NAC-Four Corners. NM,	Hoskie Benally, Tony Lee
Monument Valley NAC, UT:	Bobby Smith, John Bigman
NAC of Wyoming:	Starr Weed
NAC of Beaver Lake, Saddle Lake & Cold Lake/First Nation, Canada	Alex Red Crow, Ron Lameman
NAC of Canada, North Battleford:	William Stone, Archie Baptiste
NAC of Long Plain, Canada:	Ted Wescoupe, Gordon Francis
White Mountain NAC, AZ:	Ronnie Lupe
NAC of California:	Sammie Beetso

On motion of Gordon Thunder, second by Ned McKinsley, the 41st Annual Conference of the Native American Church was adjourned at 5:35 p.m. Motion unanimously carried.


Mary W. E. Natani
SECRETARY

Approved: _____

THE GOVERNMENT PULSE

JUSTICE

One Nation, Under Court Rulings

By Ruth Marcus
Washington Post Staff Writer

For more than 15 years, members of the Sikh religion, who wear turbans, received an exemption from the federal regulation requiring construction workers to wear hard hats.

Last November, the Occupational Safety and Health Administration lifted the exemption. The agency was not responding to reports of injuries, but to a Supreme Court ruling on a seemingly unrelated topic.

The court ruled that Oregon did not have to alter its drug laws to allow Native Americans to use peyote during religious rituals. In that opinion, the court established a new standard for judging whether a law impinges on religious freedom, a standard most civil liberties lawyers and religious organizations believe provides far less constitutional protection.

In the 11 months since the ruling in *Employment Division v. Smith*, its impact has been demonstrated not only by the rescinded OSHA rule, but also in court decisions involving Hmong immigrants and Jews trying to prohibit autopsies, Muslim inmates asking not to be served pork, Amish buggy drivers arguing against traffic safety regulations, and churches seeking exemptions from zoning laws and attempts to have their buildings declared landmarks.

The problem with the decision is that the United States Supreme Court has gutted the Free Exercise clause of the First Amendment," says Forest Montgomery, counsel for the National Association of Evangelicals.

The court in *Smith* said that an otherwise valid law does not violate the First Amendment as long as it is not targeted at religion and affects only religious practices, not beliefs. Previously, courts had used a far stricter test: whether the infringement on religion was justified by a "compelling state interest" and was as minimal as possible.

The ruling has forged a strange coalition of religious and civil liberties groups. They unsuccessfully petitioned the Supreme Court to reconsider the decision and are now seeking a legislative solution, the Religious Freedom Restoration Act.

Sponsored last year by Democratic Rep. Stephen J. Solarz of New York and Republican Rep. Paul B. Henry of Michigan and soon to be reintroduced, the bill essentially would reinstate the old standard for testing federal, state and local laws. Proponents say the bill would be based on Congress's own power to enforce the provisions of the Bill of Rights.

Urging his colleagues to support the legislation, Solarz warned last year that the *Smith* decision "could jeopardize the use of ceremonial wine, the right of public school students to take time off for religious holidays, the exemption of church interiors from landmark laws, the practice of kosher slaughter and the right of students to wear religious garments like yarmulkes."

Among those backing the bill are groups more often fighting than agreeing on legal principles: from the American Civil Liberties Union and People for the American Way to the National Association of Evangelicals and

Justices' decision stirs a crisis among faiths



IF THE SUPREME COURT HAD MADE ITS RULING ON RELIGIOUS USE OF ILLEGAL DRUGS DURING THE PROHIBITION ERA
BY BOB FOR THE AURON BEACON JOURNAL, OHIO

Beverly LaHaye's Concerned Women for America.

They point to a number of recent court rulings, in addition to the OSHA action, that make Solarz's warnings more than hypothetical:

- When Laotian immigrant Neng Yang died suddenly at age 23, the Rhode Island medical examiner insisted on performing an autopsy. He overrode the wishes of the man's parents, Hmong refugees whose religion views autopsies as an abhorrent mutilation of the body that prevents the spirit from being set free.

- Yang's parents filed suit, claiming that the forced autopsy infringed on their religious freedom. In January 1990, U.S. District Judge Raymond J. Pettine upheld their claim. Ten months later, when Pettine was deciding how much money the family should be awarded, the judge announced—"with deep regret" and "the deepest sympathy for the Yangs"—that the *Smith* decision forced him to reverse his ruling.

- Just one week after the *Smith* decision, the justices overturned a Minnesota Supreme Court ruling that it violated the free exercise right of an Amish man to require him to display a fluorescent orange triangular emblem on his buggy—something the Amish consider an improper worldly symbol. The justices instructed the Minnesota court to reconsider that decision in light of *Smith*.

The state court eventually ruled for the Amish man, who asked to be allowed to outline his buggy in reflective tape and carry a lantern instead. But noting the problems that *Smith* presented, it did so on the basis of the state, not federal, constitution.

- The justices on March 4 overturned a Washington state ruling granting a church an exemption from Seattle's historic preservation law. They ordered the Washington Supreme Court to review *Smith* in reaching its decision. The court also declined to hear a case in which a federal appeals court, citing *Smith*, rejected a New York church's attempt

to overturn its landmark designation.

- The federal appeals court in Chicago ordered a lower court to review a Muslim prison inmate's complaint about meals containing pork but noted that *Smith* "cut back, possibly to minute dimensions, the doctrine that requires government to accommodate, at some cost, minority religious preferences."

- In a case similar to the Yangs', a federal judge in Michigan ruled against a Jewish woman after the state performed an autopsy on her son. Judaism prohibits autopsies.

"The government is almost always going to win under the reasonableness test" set out in *Smith*, says J. Brent Walker, associate general counsel of the Baptist Joint Committee on Public Affairs.

- Smith* "is being taken for all it's worth" by lower courts handling religious freedom cases, says University of Texas law professor Douglas Laycock. Laycock is representing a group of Cubans in Florida who argue that the city of Hialeah's rule restricting animal slaughter interferes with their right to practice Santeria, an Afro-Caribbean religion that includes animal sacrifice as part of worship services.

A federal judge upheld the city ordinances under the old compelling state interest test. The case is now before the federal appeals court in Atlanta where, Laycock says, the *Smith* decision has made his job infinitely harder.

"It's devastating to all those churches that are a little bit out of step with the modern ethos, and it's going to affect not just strange little groups like the Santeria or the Indians but lots of groups that are much more mainstream but not so mainstream that they're happy to comply with the rules and regulations of the modern administrative state," Laycock says.

The difference, says Marc Stern of the American Jewish Congress, is not so much that religious groups would automatically win under the previous test but that with *Smith* in place, there is little room left for argument.

In announcing the new test set out in *Smith*, Justice Antonin Scalia, joined by four other justices, said it would be "courting anarchy" to find that the Constitution requires carving out religious exemptions from general laws. He said it might result in "religious exemptions from civic obligations of almost every conceivable kind"—ranging from compulsory military service to payment of taxes to required vaccinations.

Scalia acknowledged the ruling would "place at a relative disadvantage those religious practices that are not widely engaged in" but said that was an "unavoidable consequence of democratic government." Chief Justice William H. Rehnquist, and Justices Byron R. White, John Paul Stevens and Anthony M. Kennedy joined Scalia's opinion.

Justice Sandra Day O'Connor agreed with the bottom line of the ruling: that Oregon did not have to exempt Native American rituals from its drug laws. But she used the old test and criticized the majority approach, which she said "is incompatible with our nation's fundamental commitment to individual religious liberty."

Georgetown University law professor Mark Tushnet, one of the relative handful of defenders of the *Smith* decision, says the practical consequences of the ruling have been greatly exaggerated. He says judges are likely to be unsympathetic to especially outside-the-mainstream religious practices even under the compelling state interest test.

In addition, he says, "when something actually happens that bothers people a lot and the courts say, 'Our hands are tied,' legislatures are likely to respond reasonably. . . . The bottom line social reality is not that much different after *Smith* than it was before."

For example, responding to the plight of the Hmong, the Rhode Island legislature amended the state's autopsy law to provide more protection to religious groups.

But the Baptist Joint Committee's Walker said the constitutional protection for free exercise of religion was put in place precisely for the purposes of protecting religious minorities in situations where the majority—in the form of legislatures—was unwilling to do so.

"That's the reason for the Bill of Rights in the first place—to take certain issues of fundamental importance outside the political process, and to say these are rights we all have, whether we are in the majority or the minority."

While the broad coalition of groups that support the Solarz bill makes its prospects good, one potential roadblock has emerged: Some believe it would strengthen abortion rights advocates' claims that legislative restrictions on abortion violate their religious beliefs.

In a letter to Solarz last month, the National Right to Life Committee warned it would oppose the legislation unless it is amended to state that it does not confer any abortion rights. It noted a similar dispute over a bill designed to overturn the Supreme Court's *Grove City College v. Bell* ruling—restricting the scope of a civil rights law—stalled that legislation for three years.

THE GOVERNMENT PULSE

JUSTICE

One Nation, Under Court Rulings

By Ruth Marcus
Washington Post Staff Writer

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In the 11 months since the ruling in *Employment Division v. Smith*, its impact has been demonstrated not only by the rescinded OSHA rule, but also in court decisions involving Hmong immigrants and Jews trying to prohibit mitzvot, Muslim inmates asking not to be served pork, Amish buggy drivers arguing against traffic safety regulations, and churches seeking exemptions from zoning laws and attempts to have their buildings declared landmarks.

The problem with the decision is that the United States Supreme Court has gutted the Free Exercise clause of the First Amendment, says Forrest Montgomery, counsel for the National Association of Evangelicals.

The court in *Smith* said that an otherwise valid law does not violate the First Amendment as long as it is not targeted at religion and affects only religious practices, not beliefs. Previously, courts had used a far stricter test: whether the infringement on religion was justified by a "compelling state interest" and was as minimal as possible.

The ruling has forged a strange coalition of religious and civil liberties groups. They unsuccessfully petitioned the Supreme Court to reconsider the decision and are now seeking a legislative solution, the Religious Freedom Restoration Act.

Sponsored last year by Democratic Rep. Stephen J. Solarz of New York and Republican Rep. Paul B. Henry of Michigan and soon to be reintroduced, the bill essentially would reinstate the old standard for testing federal, state and local laws. Proponents say the bill would be based on Congress's own power to enforce the provisions of the Bill of Rights.

Urging his colleagues to support the legislation, Solarz warned last year that the *Smith* decision "could jeopardize the use of sacramental wine, the right of public school students to take time off for religious holidays, the exemption of church interiors from landmark laws, the practice of kosher slaughter and the right of students to wear religious garments like yarmulkes."

Among those backing the bill are groups more often fighting than agreeing on legal principles: from the American Civil Liberties Union and People for the American Way to the National Association of Evangelicals and

Justices' decision stirs a crisis among faiths



IF THE SUPREME COURT HAD MADE ITS RULING ON RELIGIOUS USE OF ILLEGAL DRUGS DURING THE PROHIBITION ERA
BY BOB FOR THE AKRON BEACON JOURNAL, OHIO

Beverly LaHaye's Concerned Women for America.

They point to a number of recent court rulings, in addition to the OSHA action, that make Solarz's warnings more than hypothetical:

- When Laotian immigrant Neng Yang died suddenly at age 23, the Rhode Island medical examiner insisted on performing an autopsy. He overrode the wishes of the man's parents, Hmong refugees whose religion views autopsies as an abhorrent mutilation of the body that prevents the spirit from being set free.

- Yang's parents filed suit, claiming that the forced autopsy infringed on their religious freedom. In January 1990, U.S. District Judge Raymond J. Pettine upheld their claim. Ten months later, when Pettine was deciding how much money the family should be awarded, the judge announced—"with deep regret" and "the deepest sympathy for the Yangs"—that the *Smith* decision forced him to reverse his ruling.

- Just one week after the *Smith* decision, the justices overturned a Minnesota Supreme Court ruling that it violated the free exercise right of an Amish man to require him to display a fluorescent orange triangular emblem on his buggy—something the Amish consider an improper worldly symbol. The justices instructed the Minnesota court to reconsider that decision in light of *Smith*.

The state court eventually ruled for the Amish man, who asked to be allowed to outline his buggy in reflective tape and carry a lantern instead. But noting the problems that *Smith* presented, it did so on the basis of the state, not federal, constitution.

- The justices on March 4 overturned a Washington state ruling granting a church an exemption from Seattle's historic preservation law. They ordered the Washington Supreme Court to review *Smith* in reaching its decision. The court also declined to hear a case in which a federal appeals court, citing *Smith*, rejected a New York church's attempt

to overturn its landmark designation.

- The federal appeals court in Chicago ordered a lower court to review a Muslim prison inmate's complaint about meals containing pork but noted that *Smith* "cut back, possibly to minute dimensions, the doctrine that requires government to accommodate, at some cost, minority religious preferences."

- In a case similar to the Yangs', a federal judge in Michigan ruled against a Jewish woman after the state performed an autopsy on her son. Judaism prohibits autopsies.

"The government is almost always going to win under the reasonableness test" set out in *Smith*, says J. Brent Walker, associate general counsel of the Baptist Joint Committee on Public Affairs.

Smith "is being taken for all it's worth" by lower courts handling religious freedom cases, says University of Texas law professor Douglas Laycock. Laycock is representing a group of Cubans in Florida who argue that the city of Hialeah's rule restricting animal slaughter interferes with their right to practice Santeria, an Afro-Caribbean religion that includes animal sacrifice as part of worship services.

A federal judge upheld the city ordinances under the old compelling state interest test. The case is now before the federal appeals court in Atlanta where, Laycock says, the *Smith* decision has made his job infinitely harder.

"It's devastating to all those churches that are a little bit out of step with the modern ethos, and it's going to affect not just strange little groups like the Santeria or the Indians but lots of groups that are much more mainstream but not so mainstream that they're happy to comply with the rules and regulations of the modern administrative state," Laycock says.

The difference, says Marc Stern of the American Jewish Congress, is not so much that religious groups would automatically win under the previous test but that with *Smith* in place, there is little room left for argument.

In announcing the new test set out in *Smith*, Justice Antonin Scalia, joined by four other justices, said it would be "courting anarchy" to find that the Constitution requires carving out religious exemptions from general laws. He said it might result in "religious exemptions from civic obligations of almost every conceivable kind"—ranging from compulsory military service to payment of taxes to required vaccinations.

Scalia acknowledged the ruling would "place at a relative disadvantage those religious practices that are not widely engaged in" but said that was an "unavoidable consequence of democratic government." Chief Justice William H. Rehnquist, and Justices Byron R. White, John Paul Stevens and Anthony M. Kennedy joined Scalia's opinion.

Justice Sandra Day O'Connor agreed with the bottom line of the ruling: that Oregon did not have to exempt Native American rituals from its drug laws. But she used the old test and criticized the majority approach, which she said "is incompatible with our nation's fundamental commitment to individual religious liberty."

Georgetown University law professor Mark Tushnet, one of the relative handful of defenders of the *Smith* decision, says the practical consequences of the ruling have been greatly exaggerated. He says judges are likely to be unsympathetic to especially outside-the-mainstream religious practices even under the compelling state interest test.

In addition, he says, "when something actually happens that bothers people a lot and the courts say, 'Our hands are tied,' legislatures are likely to respond reasonably. . . . The bottom line social reality is not that much different after *Smith* than it was before."

For example, responding to the plight of the Hmong, the Rhode Island legislature amended the state's autopsy law to provide more protection to religious groups.

But the Baptist Joint Committee's Walker said the constitutional protection for free exercise of religion was put in place precisely for the purposes of protecting religious minorities in situations where the majority—in the form of legislatures—was unwilling to do so.

"That's the reason for the Bill of Rights in the first place—to take certain issues of fundamental importance outside the political process, and to say these are rights we all have, whether we are in the majority or the minority."

While the broad coalition of groups that support the Solarz bill makes its prospects good, one potential roadblock has emerged: Some believe it would strengthen abortion rights advocates' claims that legislative restrictions on abortion violate their religious beliefs.

In a letter to Solarz last month, the National Right to Life Committee warned it would oppose the legislation unless it is amended to state that it does not confer any abortion rights. It noted a similar dispute over a bill designed to overturn the Supreme Court's *Groves City College v. Bell* ruling—restricting the scope of a civil rights law—stalled that legislation for three years.

Peyote Way Church of God
Star Rt # 1 Box 7X
Willcox, AZ, 85643

At a meeting of the Board of Stewards of the Peyote Way Church of God, Inc., held at the Mother Church near Klondyke, AZ, on June 4, 1991 Deaconess Norah Booth was chosen to represent the Peyote Way Church of God at the 1991 International Native American Church Conference.

On behalf of the Board of Stewards and Rev. Immanuel Trujillo we wish to express our thanks for the invitation to address this 1991 Conference. We hope that our two Churches can work together in mutual respect and understanding to promote respect of the Holy Sacrament Peyote, and to protect the Holy Sacrament Peyote for future generations.

As the wise Native Americans knew, " We do not inherit the earth from our grandfathers, we are borrowing it from our children".

Sincerely in Its Service



Rev. Anne L. Zapf

Rev. Anne L. Zapf, President
Peyote Way Church of God, Inc.



*The foregoing instrument was subscribed
and sworn to before me this 5th day of June 1991*

Matthew S. Kent, NOTARY PUBLIC

my Commission expires 1/13/95





Peyote Way Church of God
Star Rt. #1 Box 7X
Willcox, AZ, 85643

At the Annual Meeting of the Board of Stewards of the Peyote Way Church of God held on September 10, 1990, the officers were elected as follows:

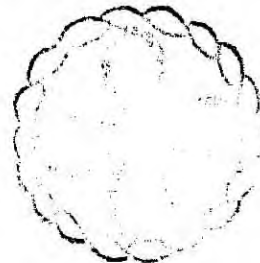
President - Reverend Anne L. Zapf, Third Degree
First Counselor - Rabbi Matthew S. Kent, Third Degree
Second Counselor - Deaconess Norah Booth, Second Degree
Counselor - Deacon William Gajewski, Second Degree
Secretary - Rabbi Matthew S. Kent,
Treasurer - Rev. Anne L. Zapf .

The voting members in attendance at the Annual Meeting were Deacon William Gajewski, Deaconess Norah Booth, Rabbi Matthew S. Kent, Rev. Anne L. Zapf, Robert and Rebecca Gomez, First Degree Clergy, and Rev. Immanuel P. Trujillo, Apostle (By Proxy).

Respectfully submitted

RABBI Matthew S. Kent

Rabbi Matthew S. Kent, Secretary



An estimated 100 police and troops stood guard yesterday outside the prison, which is in a residential neighborhood in western Matamoros.

Police said some prisoners were armed with automatic weapons.

Donald E. Wells, the U.S. consul in the border town, said last evening that Mexican authorities weren't likely to storm the jail, as some officials earlier had predicted.

"They have never done that historically. They usually negotiate their way back inside and they do not move back in with a show of force," he said.

The diplomat said that already "a

"We know the chief of staff has been talking to the prisoners, so we are fairly sure that there is no dangerous ongoing situation to the prisoners," Wells said.

He said some prisoners surrendered their weapons yesterday.

Authorities said the trouble began Friday evening after one prisoner, German Yepez, tried to shoot reputed drug lord Oliverio Chavez Araujo.

Chavez, 33, escaped with a minor wound to the jaw, but Yepez was killed by Chavez's armed bodyguards — also inmates.

fighting in the border town.

Eritrean rebels pressed their smaller insurgency with a new offensive. Dekemehare, about 25 miles south of Asmara, regional capital of the country's northernmost province, the government said.

In a broadcast on state-run radio, President Mengistu Haile Mariam's government accused the rebels of being insincere about wanting to negotiate an end to the conflict.

Peyote cactus makes Mexico's first list of endangered species

The Associated Press

MEXICO CITY — Mexico published its first list of endangered species, and the plant life includes peyote, a psychedelic cactus used in Native American religious ceremonies in both Mexico and the United States.

The roll call of the imperiled inhabitants of Mexican mountains, deserts, seas and vanishing tropical rain forests ranges from wolves, peregrine falcons and black coral to orchids, scorpions and sea turtles.

The list designates as protected 31 mammal species, 60 species of

birds, 13 reptile species, 47 species of fish and more than 200 species of plants — including the peyote cactus.

Mexico's Huichole Indians use the vision-inducing cactus in their religious rites, as do members of the Native American Church in the United States.

"Peyote's inclusion on the endangered list means the Huicholes can't use it anymore," said an ecology department official.

The official said the Huicholes had not been notified that their sacred plant was about to become off-limits.

N. Korea denies report about nuclear facility

BEIJING — North Korea's vice foreign minister today denied South Korean reports of a sharp increase in ground temperatures at a North Korean nuclear facility.

Chon In Chol spoke during a recess in negotiations with Japanese officials on establishing diplomatic relations between the two countries.

The session ended with the two sides deadlocked over Japan's demand that North Korea allow international inspection of its nuclear facilities.

Compiled by Michael Bowers from wire-service reports

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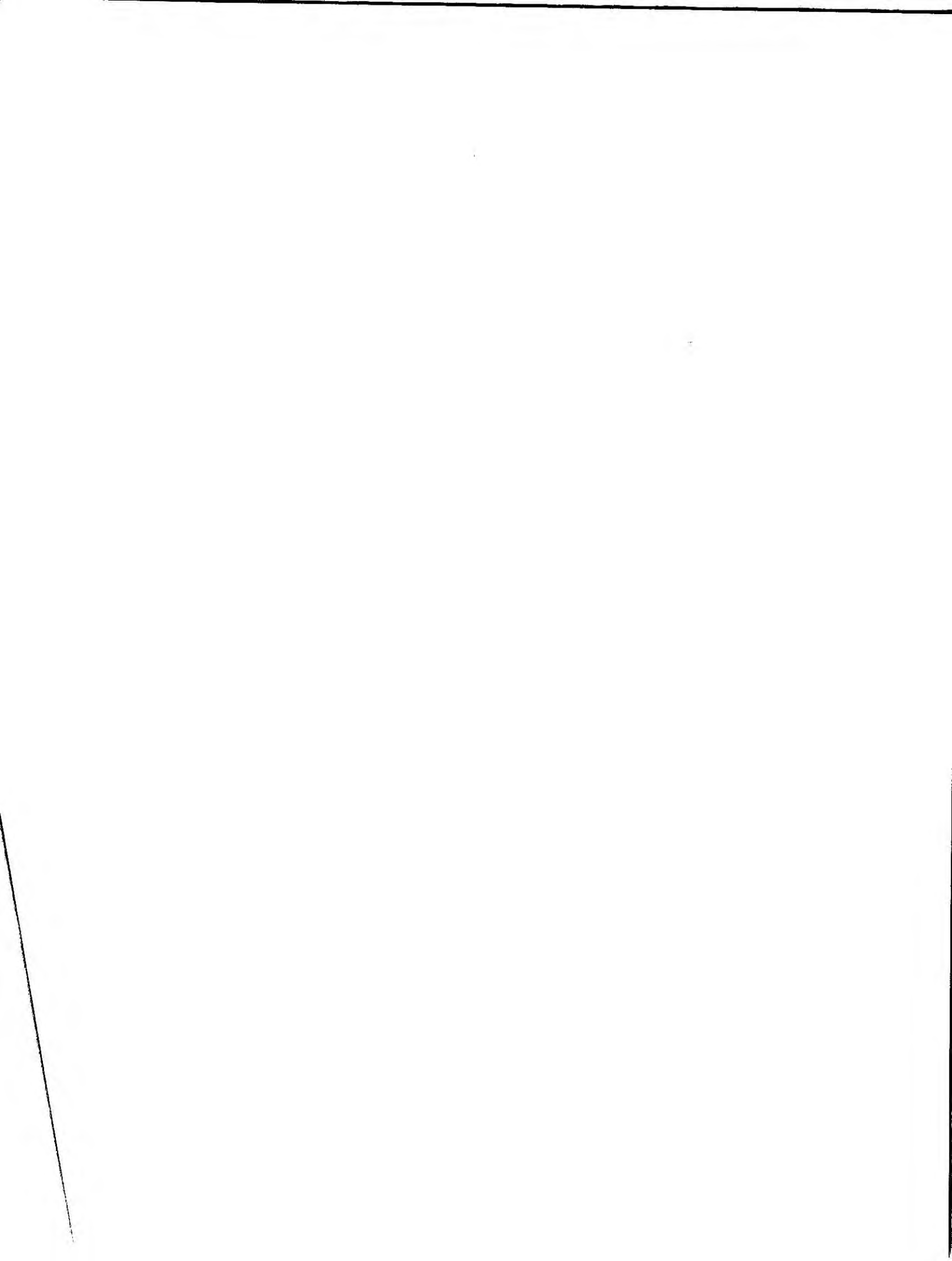
GOING OUT OF BUSINESS

HUGE SAVINGS

SALE

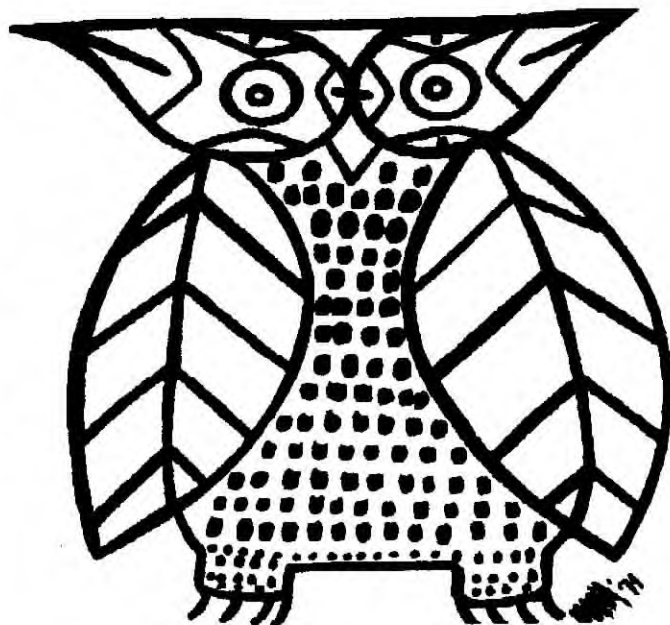
HUGE SAVINGS

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Peyote Way Church of God
Star Rt #1 Box 7X
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Edited by Rev. Anne L. Zapf, President

The Sacred Record



religious observance (see The Sacred Record, July and August, 1990). Please write to your Congressional Representatives asking them to support this Bill

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We've been pretty busy around here making our last minute preparations for winter. Matthew has been especially busy filling Christmas Pottery orders. The final days of summer brought many Spirit Walkers, finishing off the last of our supply of the Holy Sacrament Peyote.

A three-judge panel of the U.S. Fifth Circuit Appeals Court, in Houston, heard oral arguments appealing Judge Robert Maloney's ruling against the Peyote Way Church of God on August 8. Two weeks before the scheduled oral arguments, our attorney received a call from representatives of the Native American Church of North America. They requested a meeting to discuss the effect of our appeal on the Native American Church.

Two days later, we met with two attorneys representing the Native American Church and one Native American Church member at our attorney's office in Safford. The attorneys requested that we drop our appeal. They stated that they had a "generic" bill which would accomplish recognition of the religious use of the holy sacrament by non-Indians. They expressed confidence that they could work for the good of both our Churches. The N.A.C. representative indicated that the Native American Church would work with the Peyote Way Church. After several hours of discussion, they requested that we ask for a delay in our oral arguments. Their major concern was that the judges would rule that the Texas and Federal statutes concerning Peyote are unconstitutional, and that the exemption for the N.A.C. would be struck down.

The Board of Stewards was advised of the situation and gave serious consideration to their request over the next week. Our attorney researched their arguments carefully and learned that their fears were unfounded. Should the judges in the Fifth Circuit Court of Appeals determine that the exemption is unconstitutional, the law itself would have to be struck down, making the Holy Sacrament Peyote legal! We felt that our best course was to continue our appeal for justice. We are, as always, ready to work with the Native American Church.

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We would like to encourage support of the "Religious Freedom Restoration Act of 1990", introduced by Congressman Stephen Solarz. The Bill (#HR5877), now in Committee, was prompted by the recent Supreme Court ruling in Oregon vs Smith which stated that the State did not need to show a compelling interest in enforcing laws which restrict

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It is a sad comment on the priorities of our Government that our domestic needs receive less financial assistance than a potential war which is destined to kill our sons and daughters in Saudi Arabia. NO war is a righteous war.

Last Rights

by Joseph Ingle

Joseph Ingle is a clergyman, but he doesn't meet his congregation in Church. He ministers to the Inmates of Death Row. In Last Rites Joe Ingle attempts to reveal to the reader the nature of our criminal justice system by relating the true stories of thirteen death row inmates.

Ingle recounts his own stormy relationship with God as a Seminary student. How he chose to receive his clerical training in Harlem where he observed the strong religious convictions of his predominantly poor black neighbors. And how later, a prison uprising in Attica, New York, drew Ingles attention to the needs of prison inmates.

His first visit to a prison reveals to Ingle the depth of societal stereotypes. He is momentarily seized by panic when he is locked in a cell block with "these animals". An inmate befriends him and introduces him to the other inmates, dispelling his fears.

Ingle becomes an intermediary between the inmates and the prison administration and forms an organization dedicated to the improvement of

prison conditions and the protection of inmate's rights.

It's true that some of the death row inmates Ingles describes had killed, but others were victims of circumstance who believed that the Judicial system would give them justice. Almost all of the individuals described were poor and were poorly represented, or misrepresented in court. The courts often refused to rehear a case, even when there was substantial evidence which proved an individual's innocence. Often the political ambitions of the Governor or a judge would condemn the individual to certain execution. Status as a death row inmate also guaranteed that the individual would be treated poorly.

Several incidents which Ingle relates remind the reader that prisons strip the individual of dignity and self respect, and create a condition in which humans can be treated inhumanely.

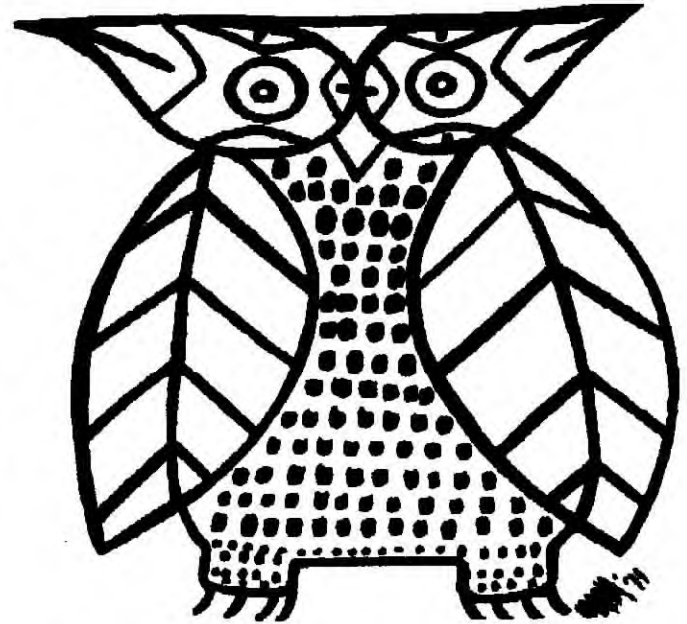
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\$2.00

DECEMBER 1990

Peyote Way Church of God
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