

As a neurologist and psychiatrist, with personal experience in the use of mescaline in human subjects at the New York Psychiatric Institute, Department of Research Psychiatry (Paul Hoch, M.D., Director) in 1952 and 1953, it is my opinion that mescaline (which is the chief active constituent of peyote), while a hallucinogenic drug, is definitely not a narcotic, in the sense that it is a physically addicting drug, creating a physical dependency after prolonged use, as is the case with the opium alkaloids. In this regard, I am entirely in agreement with the views of J. Sidney Slotkin, contained in his book, *The Peyote Religion*, which was placed in evidence at the trial.

Recent correspondence in your journal (62:684-89) concerning the question of whether or not peyote is an addicting drug reflects much of the confusion currently existing in this field. I am in agreement with Maurer's views and definitely cannot go along with Barber's attempt at defining narcotic as an agent which "can alter or distort the user's perception of himself and the world." If this definition were to be accepted, ethyl alcohol would then have to be defined as a narcotic and its use proscribed on that basis. From a medical and psychiatric standpoint, the decisive question is whether a drug creates physical dependency, and only if this occurs is it to be regarded as a narcotic. I may add that Dr. Paul Hoch, who is one of the world's leading authorities on psychopharmacology, definitely states that mescaline is not a narcotic.

BERNARD E. GORTON, M.D.  
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#### COURT DECISION REGARDING PEYOTE AND THE NATIVE AMERICAN CHURCH

Copy of Transcript of Record, Superior Court, Coconino County,  
Flagstaff, Arizona, July 26, 1960, 3:00 P.M.

#### DECISION OF THE HONORABLE YALE McFATE IN THE CASE OF THE STATE OF ARIZONA vs. MARY ATTAKAI No. 4098

THE COURT: Well, Gentlemen, I have finally formulated my opinion with respect to this matter.

The defendant admits the possession of peyote, as charged in the complaint, and she is therefore guilty of the crime of illegal possession of peyote unless the statute under which she is charged is unconstitutional. Counsel for defendant strongly urges that it is in violation of the Fourteenth Amendment of the United States Constitution and of Article II, Sections 4, 8, 12 and 13 of the Arizona Constitution.

The Fourteenth Amendment of the United States Constitution prohibits any state from enacting any law which abridges the privileges and immunities of the citizens of the United States. Nor shall any state deprive any person of liberty without due process of law, or deny to any person the equal protection of the laws. The Arizona Constitution, Article II, Sections 4, 8, 12 and 13 covers substantially the same subject matter as the Fourteenth Amendment of the United States Constitution. Freedom of religious worship is guaranteed by these fundamental constitutional provisions.

The State of Arizona, under the police power, may regulate or prohibit the use or possession of substances, even though used in religious rites, if reasonably necessary to protect the public health or safety. Liberty of conscience secured by the provisions of our Constitutions may not be construed to excuse acts of licentiousness or to justify practices inconsistent with the peace and safety of the public.

The precise question before this court, therefore, is this: Is this statute prohibiting possession of peyote reasonably necessary to protect the public health?

The measure of reasonableness is: What, under all the circumstances, is fairly appropriate in order to accomplish the purpose of protecting the public health, and not necessarily what is best for that purpose.

The evidence in this case establishes that peyote is a small cactus which grows along the banks of the Rio Grande. When taken internally it produces—especially when the eyes are closed—extraordinary physiological and psychological effects such as bright colors and so-called visions, as though one were witnessing an actual scene; yet, while these effects are being produced, the subject is completely aware of his actual environment and in possession of all his mental faculties. And there are no harmful after-effects from the use of peyote.

Peyote is not a narcotic. It is not habit-forming. It is actually unpleasant to take, having a very bitter taste.

There is no significant use of peyote by persons other than Indians who practice peyotism in connection with their religion. There are about 225,000 members of the organized church, known as the Native American Church, which adheres to this practice. The peyote rite is one of prayer and quiet contemplation. The doctrine consists of belief in God, brotherly love, care of family and other worthy beliefs. The use and significance of peyote within the religious framework is complex. It is conceived of as a sacrament, a means of communion with the Spirit of the Almighty—and as an object of worship, itself, as having been provided for the Indian by the Almighty.

The Indians use peyote primarily in connection with their religious ritual. When thus consumed, it causes the worshiper to experience a vivid revelation in which he sees or hears the spirit of a departed loved one, or experiences other religious phenomenon; or he may be shown the way to solve some daily problem, or reproved for some evil thought or deed. Through the use of peyote, the Indian acquires increased powers of concentration and introspection, and experiences deep religious emotion. There is nothing debasing or morally reprehensible about the peyote ritual.

The use of peyote is essential to the existence of the peyote religion. Without it, the practice of the religion would be effectively prevented.

From the foregoing, it follows:

First, the only significant use made of peyote is in connection with Indian rites of a bona fide religious nature, or for medicinal purposes.

Second, there are no harmful after-effects from the use of peyote.

Third, it is not a narcotic, nor is it habit-forming.

Fourth, the practical effect of the statute outlawing its use is to prevent worship by members of the Native American Church, who believe the peyote plant to be of divine origin and to bear a similar relation to the Indians—most of whom cannot read—as does the Holy Bible to the white man.

The manner in which peyote is used by the Indian worshipper is not inconsistent with the public health, morals, or welfare. Its use, in the manner disclosed by the evidence in this case, is in fact entirely consistent with the good morals, health and spiritual elevation of some 225,000 Indians.

It is significant that many states which formerly outlawed the use of peyote have abolished or amended their laws to permit its use for religious purposes. It is also significant that the Federal Government has in no wise prevented the use of peyote by Indians or others.

Under these circumstances, the court finds that the statute is unconstitutional as

applied to the acts of this defendant in the conduct and practice of her religious beliefs.

There will therefore be an order dismissing this complaint and—

The lady is on bond, is she?

MR. ELY: Yes, sir.

THE COURT: All right.

— exonerating the bond and releasing the defendant.

MR. ELY: Thank you.

THE COURT: Court is adjourned.

[On April 25, 1961, the Supreme Court of Arizona dismissed the appeal of the above case. O.C.S.]

#### THE TOTEM POLES AT KAKE, ALASKA: A CORRECTION

Sir:

One of our leading Indians from southeastern Alaska has called our attention to a statement from Philip Drucker in a book prepared by him and published by the Smithsonian Institution (1958). In his descriptive and historical material relating to totem poles at Kake, the following is quoted from him: "It was at the behest of the Presbyterian Missionary at Kake that the village cut down its row of Totem poles." This statement was referred to the Rev. George J. Beck, who was the Missionary of the Presbyterian Church in the village of Kake at the time this happened. Mr. Beck has replied, and we quote from his letter:

As you know, I was the Missionary at Kake at the time and while I protested many times that this statement is untrue, I will do so again. I had nothing to do with the destruction of the Kake Totem poles. The Indian Doctor at Kake stirred up the people to the point that this drastic action was taken. These were burial poles, and the ashes of the sponsors of the poles were in the poles. The Indian Doctor told them that unless the poles were destroyed, evil spirits would bring illness and death to the village. I awoke one morning to find that the poles had been cut down and burned. They even mixed gun powder with the ashes of the departed and blew up the combination.

Recently, this information was called to the attention of the Smithsonian Institution in Washington, D.C. A letter has been received from Frank H. H. Roberts, Jr., Director of the Bureau of American Ethnology, in which he states it is almost impossible to get this correction to all those who hold copies of the book by Dr. Drucker. He has suggested that I bring this to your attention as the Editor of the *AMERICAN ANTHROPOLOGIST* and request that it be printed in your journal.

My informant from Alaska also states: "There are many more serious errors in the book. It is too bad that this man who certainly understands what a scientific record is, should have deviated from that standard and then published as true things that were untrue." I have been associated with the native people of southeastern Alaska for about 18 years and know how difficult it is to get accurate statements regarding such details so that it is easy for me to say that we can understand that Dr. Drucker could have been given inaccurate information and may not have known that the statements which he published were inaccurate. We do not intend to impugn his own integrity, but we have been urged to secure a public statement on this in the interest of truth in relation to a quotation from a Presbyterian Missionary.

J. EARL JACKMAN

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