

TUESDAY AFTERNOON

ARCHIVES	46,366	47,205
UCBWM	3,147,834	3,204,776
UCBHM	2,983,793	3,037,768
PENSION BDS	1,029,682	1,079,682
OCIS	745,202	758,682
OCLL	1,193,323	1,214,909
SC	1,240,733	1,263,177
COM. ON DEV	158,239	161,101
	<u>1,398,972</u>	<u>1,424,278</u>
OC	784,800	798,997
UC NEWS	253,018	257,595
	<u>1,037,818</u>	<u>1,056,592</u>
CRJ	1,026,855	1,045,430
CCW	403,998	411,360
	<u>1,430,853</u>	<u>1,456,790</u>
TOTAL	\$14,850,000	\$15,150,000

Court made a wholesale overturning of laws concerning religious rights. Two Native American Indians were fired for use of peyote.

Mr. Rufus Cushman (MASS) spoke in favor of the resolution. At first Mr. Cushman had not been enthusiastic about attending this committee. Now he is very angry at himself for allowing the "Peyote decision" to escape him and Justice Scalia for the ruling.

The Rev. Donald Severson (CPC) spoke in favor of the resolution.

91-GS-78 VOTED The Eighteenth General Synod adopts the Resolution "Restoration of Religious Liberties."

RESTORATION OF RELIGIOUS LIBERTIES

Theological and Biblical Basis

While the Bible does not mandate a Constitutional guarantee of religious liberty, the Bible is the story of a people who suffered oppression in Egypt, who fled Egypt at the call of God to form a human community in faith response to God's call, and who struggled to maintain faithful community, a place where people might worship God with integrity and develop human community as called by God with integrity. When Assyria or Rome challenged these basic rights and this basic call, the people struggled to restore the right to maintain their religious practice and identity.

The United Church of Christ was formed primarily by people whose ancestors fled Germany or England in part because of religious oppression, and who helped shape the U.S. Constitution and the Bill of Rights which guarantees that no people shall be oppressed because of their religion. Religious freedom is a core principle of the United Church of Christ, allowing for many different peoples, many different Biblical and theological views to be welcomed into the community and enrich the community. What the United Church of Christ has historically affirmed for itself, it has also affirmed for the nation: that each person has the freedom and the responsibility to live a life in faithfulness to God and how that person hears the call of God.

Rationale for Why Synod Should Act

When the Supreme Court effectively strips away the Constitutional guarantee of freedom of religion, if the United Church of Christ, a denomination devoted to religious liberty, does not raise its voice in protest, then perhaps it is time to accept severe limits on freedom of religion.

Previous General Synod Policy

The Second General Synod - Call to Christian Action in Society, 1959

Background

When the Supreme Court ruled, on April 17, 1990 in Employment Division of Oregon v. Smith that cases could be decided without the balancing test from the Sherbert v. Verner decision, which said that there must be a compelling state interest to override free exercise of religion, Justice Scalia, writing for the majority, said, "It is horrible to contemplate that federal judges will regularly balance against the importance of general laws the significance of religious practice." It is this loss of

Mr. Peter W. Schmehl, co-chair of the Budget Committee, affirmed the work of the Rev. Doris Powell as Director of Finance and Treasurer.

25. EXTENSION OF TIMELINE ON INCLUSIVE LANGUAGE RESOLUTION OF THE SEVENTEENTH GENERAL SYNOD

Ms. Juanita Helphrey introduced the delegates to the recommendation of the Executive Council regarding extension of time line for the Inclusive Language Resolution passed by the Seventeenth General Synod and called the delegates' attention to Advance Materials Section II, p. 25.

The Rev. Bill Hulteen, Office of Church Life and Leadership, spoke to General Synod about the need to extend the time line.

Mr. John Warner (NY) asked if General Synod was being asked to defer to General Synod 19 or for 4 years. Mr. Hulteen answered that the interim report will come to General Synod 19 with the final report to General Synod 20.

91-GS-77 VOTED: The Eighteenth General Synod extends the time line for the Inclusive Language Resolution of Seventeenth General Synod for an additional biennium, with the final report to be given at General Synod 20.

26. RESOLUTION "RESTORATION OF RELIGIOUS LIBERTIES"

The chairperson of Committee 10 was Ms. Carol Griffin (CAL.N.)

Ms. Griffin presented the committee recommendation found in committee Report Part 4, page 13 and moved the adoption of the Resolution "Restoration of Religious Liberties."

Mr. Scott Couper-Dey (PNE) spoke in favor of the resolution asking if the delegates know the Supreme Court has taken away their freedom of religion? Last April 17 the Supreme

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the traditional balancing of religious freedom with other interests that has shocked religious leaders as well as the dissenting four justices. Justice O'Connor, in her dissent, writes, "the First Amendment at least requires a case-by-case determination of the question, sensitive to the facts of each particular claim." While there is no absolute claim to religious practice, there is a significant Constitutional claim that requires, when free exercise of religion has been curtailed, to review that claim with strict legal standards. Now, all such strict legal standards have been removed.

Policy Statement

WHEREAS, on April 17, 1990 the Supreme Court ruled in *Employment Division, Dept. of Human Resources of Oregon v. Smith* that the Free Exercise Clause of the First Amendment of the Constitution guaranteeing religious liberty permitted the State of Oregon to prohibit sacramental peyote use by the Native American Church;

WHEREAS, this ruling against the fundamental sacrament of the Native American Church which has a religious tradition of over a thousand years is exactly what the Constitutional guarantee of freedom of religion should protect and such state interference in religious practice should only be permitted when there is a compelling state interest in conflict with the religious practice that absolutely forces interference with religious practice;

WHEREAS, in *Sherbert v. Verner* in 1963 the Supreme Court developed just such a balancing test, so that when governmental action or regulation imposes a significant burden on sincere religious practices, the burden of proof is on the government to show that there is a "compelling state interest" forcing the government to limit freedom of religious practices because they conflict with fundamental purposes of society;

WHEREAS, in *Thomas v. Review Board* in 1971 the Supreme Court further refined this Constitutional standard, so that if the state feels there is a compelling state interest that Courts agree overrides the Constitutional protection of religion, the burden of proof is also on the State to show that the means adopted to force those whose religious consciences are violated by the State regulation are the least restrictive means available;

WHEREAS, in *Employment Services v. Smith*, the Supreme Court, by a 5 to 4 ruling of the new socially conservative majority on the Court, made the astonishing claim that "we have never held that an individual's religious beliefs excuse him (sic) from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate" (88-1213, p. 6), overturning the whole notion of any balancing test of religious liberty practice, abandoning the Constitutional standards of "compelling state interest" and "least restrictive means available" previously established;

WHEREAS, the Court went on to claim that "the only decisions in which we have held that the First Amendment bars application of a neutral, generally applicable law to religiously motivated action have involved not the Free Exercise Clause alone, but the Free Exercise Clause in conjunction with other constitutional protections, such as freedom of speech and of the press" (88-1213, p. 8), thereby making it clear that there is no longer any independent protection or meaning to the Constitutional protection of Freedom of Religion, but that such a right is only valid if backed by some other First Amendment

Right, effectively removing Free Exercise of Religion from the Constitution;

WHEREAS, a fundamental purpose of the Bill of Rights, to protect minorities in certain areas such as religious practice from the will of the majority, has been utterly denied by this ruling, which states that "leaving accommodation to the political process will place at a relative disadvantage those religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself or in which judges weigh the social importance of all laws against the centrality of all religious beliefs." (88-1213, p.17);

WHEREAS, this ruling appears to be inconsistent with the original intent of the framers of the Constitution, inconsistent with the Constitutional text, inconsistent with precedent;

WHEREAS, the United Church of Christ is made up of people who came to this country from many places in order to find a place where freedom of religion could be practiced, and the United Church of Christ intends to keep this freedom at its center.

BE IT THEREFORE RESOLVED, the Eighteenth General Synod:

-expresses its outrage and fundamental opposition to this interpretation of Free Exercise of Religion by the Supreme Court;

-endorses the principles contained in the Religious Liberties Restoration Act, introduced in Congress in 1990 by Representatives Stephen Solarz (D/NY), Paul Henry (R/IL), Don Edwards (D/CA), James Sensenbrenner (R/WI), and by Senators Joseph Biden (D/DE) and Orrin Hatch (R/UT), a bipartisan initiative to restore prior Supreme Court decisions by requiring government to demonstrate that any law restricting the free exercise of religion (1) is essential to furthering a compelling governmental interest and (2) is the least restrictive means of furthering that interest;

-calls on United Church of Christ members to work for passage of this legislation; and

-urges all church people to work even harder to insure freedom of religion at a time when the Supreme Court is making this fundamental challenge to religious liberty.

Subject to the availability of funds.

27. RESOLUTION "CALLING FOR THE PASSAGE OF THE CIVIL RIGHTS BILL, 1991"

Ms. Griffin moved the adoption of the Resolution "Calling for the Passage of the Civil Rights Bill, 1991" and asked permission for Ms. Patricia Eggleston, United Black Christians, to speak to this issue.

Mr. H. Benjamin Bullard (CONN) stated this resolution is calling for a task force and asked if this task force would take precedence over the Seventeenth General Synod mandate to establish a task force which has not yet been done. Ms. Eggleston said it would not take precedence.

The Rev. Norman Jackson (HI) asked why American Indians are excluded. Ms. Griffin said they are included.