



STATE OF OREGON

INTEROFFICE MEMO

CONFIDENTIAL

TO: Gerry Thompson

DATE: October 23, 1984

FROM: Bob Oliver *BO*

SUBJECT: Church-State Meeting

The following is a summary of my notes taken at the meeting involving representatives of the Rajneesh and the Attorney General's office, on the evening of Thursday, October 18. I did not begin taking notes until you had left.

There was an extended discussion of some general legal issues relevant to the lawsuit. Bill Gary indicated the central issue was that of "control." If the church exercises control, through any mechanism whatever, the existence of the city is unconstitutional.

Durham asked if the crucial issue is whether non-Rajneesh would be able to come and live in the city at their pleasure. Gary said this was part of the solution, but not the sole answer. Gary went on to say the church-state issue involves two sub-issues. On the one hand, any arrangement which smacked of allowing a church to control a governmental unit necessitated continual scrutiny to see that constitutional guidelines were not violated. On the other hand, it is abhorrent to American principles that government would be placed in the position of scrutinizing the internal activities of religious leaders and their followers as a means of insuring they were not controlling a governmental unit.

Asked whether problems would be diminished if Rajneeshpuram came under multiple ownership, Gary said this again was not the total solution, although he conceded it did make the case "muddier." He maintained the continued relevancy of the situation existing at the time of incorporation, whatever might happen later. The fact that a church controlling a governmental unit allows multiple ownership within its jurisdiction does not, of itself, prove the lack of control by that church.

There was an extended discussion of the role of the LDS church in Mountain State communities, and of various communities throughout the country where all the property is under a single ownership. Nothing came out of this discussion.

Durham denounced the Attorney General's office for failing to be affirmative in helping people correct their legal problems. Marla Rae repeated her earlier assertion that the Attorney General cannot give legal advice to private citizens. K.D. said they are not private citizens, they are a de facto city. Bill Gary said that is the whole issue before the group, and the Attorney General cannot give legal advice to an entity he already has ruled is not a governmental unit.

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Gary observed that even if the Attorney General's office did drop this suit, somebody else would pick it up. K.D. said that undoubtedly was true, but it would not be "as big a deal" if somebody other than the State of Oregon were plaintiffs.

Gary reasserted his earlier observation that the key issue is "giving up control" on the part of the church.

K.D. asked Gary, "Does your office want to try for a settlement?" Bill Gary at length affirmed the lack of political motivations in this lawsuit, and said "Of course" his office would like to resolve the matter in a way which did not involve extended, expensive and inflammatory litigation. However, Gary said, discussion of a settlement in this case is not like settling a "fender-bender," because it is impossible for the Attorney General to negotiate constitutional issues.

As Gary had said earlier, it became necessary for him and his associates to depart. He said this should not be construed as a statement on their part that the proceedings had been worthless. K.D. and Durham joined in asking whether Gary would be willing to meet again. Gary guardedly said something to the effect that he could not say the discussions were unproductive, and he would be agreeable to another meeting. He cautioned that he could not make any commitments as to the course of future meetings without consulting the Attorney General himself.

Durham at this point concluded his remarks by expressing the willingness of the Rajneesh to accept virtually any conditions set forth by the Attorney General as necessary to resolve constitutional objections, so long as the integrity of the Rajneesh community was maintained. K.D., Jayananda and Sangeet expressed concurrence. Sangeet observed that when she joined the Oregon State Bar she took an oath to support the Constitution, and oaths are as meaningful to Rajneesh as to anyone else, so she was anxious to help correct any constitutional deficiencies.

At this point, I took charge of the meeting and asked the participants when they wished to come together again. It was agreed they would work through our office in arranging another meeting.

Gary and his associates hastily departed to another meeting. The Rajneesh lingered, and asked me what my assessment was of the meeting. I reminded them of our role as moderators, not mediators. I said it would not be realistic to expect much out of a first meeting among adversaries in any dispute, and everyone should reserve judgment until the second meeting. They appeared encouraged by the willingness of Gary and his associates at least to talk further. They said they will come again at any time when another meeting can be arranged.