SOCIO-ENGINEERING PROBLEMS REPORT No. 59

"LOYALTY OATHS & REGULATIONS"

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Stage:	Resolution	Notices	Letter of Protest	Ref. to Math.Th. of History	Memo	Calif. Supr.Ct.

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Stage:	Cachelle Gov.C.L.	SEPR 59 Revised	

LOYALTY OATHS & RESOLUTIONS.

The background for this study is the development of loyalty oaths in the U.S.A. and in particularly the State of California. After loyalty oaths and questionnaires were required for all federal employees a number of states established loyalty oaths. The Board of Regents of the University of California started the ball rolling in California with a loyalty oath for university employees. Then the State established the requirement for all state employees, and later extended the loyalty oath requirement to churches, educational and charitable organizations claiming the tax exemptions granted them under the California Constitution.

Freedom of Speech and The First Unitarian Church of San Jose.

Early in 1953 a controversy developed in the First Unitarian Church of San Jose as to the policy for letting other groups use the church social hall. Some members of the Board of Trustees were afraid that the presentation of controversial subjects in the church social hall would be dangerous. Others felt that the maintenance of freedom of speech was one of the fundamental principles associated with the history of Unitarianism, and that to retreat from standing for freedom of speech would be a tragic break from our tradition.

Membership Meeting of March 13, 1953.

The following resolution was passed at a late hour after a prolonged discussion:(1)

> "It is recommended to the Board of Trustees that Hattie Porter Hall should be made available for open discussion to all groups provided representatives of both sides of controversial subjects are invited, and the Board of Trustees is requested to establish the administrative procedure for carrying out this policy."

1. Original resolution and notes filed under 5077 and File 59.

[illegible]

Section 19, Art. 20 was added to the Constitution on Nov. 4, 1952, viz:

Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section. (New section adopted November 4, 1952.)

[illegible]

[illegible]

On January 13, 1951 the following bill had been introduced in the California Legislature:

Deerings California Codes
Revenue and Taxation

Section 22.

Declaration of loyalty upon claiming exemptions. Effect of failure to declare loyalty. Construction of Section.

Any statement, return, or other document in which is claimed any exemption, other than the homeowner's exemption, from any property tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State shall contain a declaration that the person or organization making the statement, return, or other document does not advocate the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means, nor advocate the support of a foreign government against this country in event of hostilities. If any such statement, return, or other document does not contain such a declaration, the person or organization making such statement, return, or other document shall not receive any exemption from the use to which the statement, return, or other document is purported. Any person or organization who makes such declaration knowing it to be false is guilty of a felony. This section shall be construed so as to effectuate the purpose of Section 22 of Article XIII of the Constitution. (Added by Stats. 1953 ch 1303 Sec. 1.)

[illegible]

[illegible]

[illegible]

April 27, 1953 [illegible]

May 6, 1953 Announcement [illegible]
to committee

May [illegible], 1953 Sent [illegible] and [illegible]

June 3, 1953 Senate committee [illegible]
on Atomic [illegible]

June [illegible], 1953 [illegible]

June 11, 1953 To [illegible]

June [illegible], 1953 Signed [illegible]

The above bill became [illegible] 1953, but [illegible] not come [illegible] until January, 1954 when the [illegible] Atomic [illegible] prepared to [illegible] the bill.

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AS POLITICAL THREAT

The congregation of the First Unitarian-Universalist Church [illegible] has voted 23 to 5 against [illegible] the loyalty oath in claiming tax exemptions and agreed to test the validity of the oath provision.

The action was affirmed Sunday by the church trustees after receipt of word from the American Unitarian Association counsel in Boston, Mass.

The vote on testing validity of the oath provision was 26 to 5, with a number not voting.

The congregation voted to sign the claim for State [illegible] tax exemption, but to strike out the loyalty oath declaration, and append an explanatory note on reasons for refusal.

PREPARED TO [illegible]

Trustees said they would [illegible] out the state tax form [illegible] penalties, pay the tax due, then file a claim for refund. If the claim is rejected, they will file suit.

On the county property tax exemption, the congregation voted to sign the exemption claim, with the loyalty oath declaration struck out, then [illegible] and for [illegible] [illegible] by the county.

[illegible] the church property at 160 N. [illegible] St., is [illegible] by the American Unitarian Association.

[illegible] who voted to sign the oath form said they would do so "under protest."

Howard [illegible], chairman of the board of trustees of the San Jose church, said "provisions of the statute which require an oath of loyalty [illegible] of religion [illegible]."

[illegible]

The Rev. [illegible], pastor of the church in [illegible], said on the [illegible] that "if a person is [illegible] the freedom of the church will be seriously [illegible] the right of the state to use the threat of its taxing power is [illegible] on a [illegible] political basis."

He said George [illegible], San Francisco tax attorney, claims the current law "links the signing of a loyalty oath to tax exemption and it could amount to a penalty, and not a mere denial of exemption."

In cases where the churches cannot in conscience sign the oath, the tax power might well [illegible] threat of existence, [illegible] said.

The San Jose church's action follows similar action taken by Palo Alto and Los Angeles Unitarian churches. The Palo Alto board of trustees voted to pay the state [illegible] tax, striking out the loyalty oath declaration. In Los Angeles, the church voted [illegible] to [illegible] to sign the oath and then contest its validity in the courts.

California loyalty oath for churches brings Unitarian protests; some refuse to sign

California Unitarian churches—including some of those which agreed to sign as well as those which have refused—have protested a new amendment to the California State Constitution which requires that authorized officers of the church sign a state loyalty oath to obtain tax exemption. Rev. J. Ford Lewis, minister of the First Unitarian Church of Stockton, Calif., and chairman of the newly formed Unitarian Committee on Public Affairs of California, reports that three groups have so far elected not to sign: Van Nuys, Los Angeles and the Unitarian fellowship of San Mateo. Several others in effect refused—they signed, but struck out the oath—Berkeley, Palo Alto, and San Jose. Palo Alto and San Jose agreed to pay the tax; San Jose plans to bring suit to recover.

San Francisco, Oakland, Santa Barbara, Stockton, Santa Monica and Sacramento have agreed to sign the oath.

A number of the churches took different steps to oppose the measure, according to Rev. Frank Ricker, executive secretary of the Pacific Coast Unitarian Council. Berkeley attached a protest statement to the oath. The church wrote its own application for county property tax exemption without the oath and did not use the standard form. San Jose explained on its franchise declaration (with the oath crossed out) that it would pay the tax, file for refund and sue; on the property declaration, that it would sign with the oath crossed out and then file suit for declaratory relief and injunction.

The Pacific Coast Unitarian Council signed under protest, alleging possible violations of the First and Fourteenth Amendments to the U. S. Constitution. Oakland recommended establishment of a continuing committee to work against the oath. Stockton overwhelmingly opposed the oath in principle but favored complying as long as the law is on the books. Santa Monica pro-tested and signed. Long Beach, Pasadena, Riverside, and the incorporated fellowships have not yet reported their action.

San Diego's board voted unanimously to sign. Santa Barbara's decision was made by the board; Sacramento's by the congregation. In a few cases the March 15 filing deadline for exemption claims made a congregational meeting impossible, Mr. Ricker said.

Other Churches have taken similar action. The Northern California-Nevada Council of Churches is protesting vigorously and the Northern and the Southern California chapters of the American Civil Liberties Union will carry some church test cases to the courts.

In Los Angeles, the Board of Trustees passed on the decision to a congregational meeting with a recommendation that the oath be rejected. The congregation, according to a newspaper story, voted 206 to 31 not to sign the oath and to test the law in the courts.

A statement of the church board released to the papers said that "The new California statute requiring a declaration of political opinion from churches and other institutions, in return for tax exemption, is a frontal assault on freedom of religion as guaranteed by the First Amendment of the U. S. Constitution." The board said that "neither this church nor any religious bodies known to us advocate the use of force and violence or other unlawful means of overthrowing the government," but that it considered the loyalty oath requirement unconstitutional.

The oath which has aroused the controversy reads as follows: "This organization does not advocate the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means nor advocate the support of a foreign government against the United States in the event of hostilities."

The First Unitarian Church of Berkeley announced today it will pay [illegible] city and county taxes of more than $[illegible] rather than sign the oath required for tax exemption.

"Believe it we are qualified in every respect [illegible] church property tax exemption," said Henry Luther, president of the board. "We have paid the first installment on our taxes [illegible] on the grounds of [illegible] we cannot [illegible] with conscience." The tax installment came to $[illegible] [illegible] Berkeley and $[illegible] to Alameda County.

The issue of the oath came to a head for the first time [illegible] when it was pointed out by Dr. Raymond Cope, minister of the Berkeley church, which is situated on Dwight Way. The California State Legislature has given a blanket grant of tax exemption to a long list of categories and organizations which are given tax exemptions.

"It will be a pretty crushing blow to us financially," said Dr. Cope. He explained that since the church is situated near the University of California campus it has a heavy financial burden in working with students, and "many of the congregation are young and poor." Budget of the church is approximately $[illegible].

ACTION UNANIMOUS

Action of the board of trustees in the matter was unanimous, the minister said, pointing out that they represent "practically every political element." He explained that the board was certainly not "radical," since some trustees and many of the congregation have a deeply conservative political viewpoint.

Dr. Cope's letter accompanying the tax payment stated in part:

"The justification for the existence of a church in any culture is man's recognition that ultimate authority is 'the will of God'; true to the highest [illegible] to the requirements of the spiritual life. The church must, therefore, [illegible] itself to a search for that which is beyond all expressions to be found in the creeds, dogmas, moral codes, legislative enactments and social codes. That is not to say that these are wrong, but that the religious search requires that God's will transcend all of these human formulations and must itself be the object of the heart's sincere desire.

"The [illegible] recognized the form [illegible] and [illegible] to [illegible] the suppression of [illegible] worship has taken a [illegible] in the direction of spiritual [illegible].

"We must preserve the right to worship without being dictated to by the state as [illegible] to perform [illegible] the state in a [illegible].

INVASION OF FREEDOM

"To [illegible] this oath means the acceptance of the total invasion of our freedom of worship. The politicians [illegible] the church has always [illegible] the obligation to bring attention to unhealthy forces in our society; materialism, in all of its forms, nationalism which recognizes the rights of the State to dictate to the church are but two of the tendencies which the church must, in all conscience, oppose. The many nationalistic and militaristic societies, [illegible] with fear, intolerance, [illegible], injustice, and other non-religious emphases must always be held before the minds of men as destructive and idolatrous and as such must be opposed with all the strength the church has at its disposal. If this is not done the church has not fulfilled its mission in our society.

"We believe there is not one in our church who is interested in violence and who may be depended upon to defend our democratic institutions here after they have been repudiated by the secular arms of our society. The oath is so ambiguous a church finds it utterly impossible to meet the requirements of this law.

"A church having guaranteed the right of conscience and uncensored worship to all those who come to it for ministrations, is unable to guarantee that there may not be at least one person who is misguided enough to believe that some things in our government sacred to his forefathers should be changed. It must be obvious in a [illegible] that the oath, [illegible] that the people [illegible] are [illegible] to do it to [illegible] on both the [illegible] for [illegible] law to have [illegible] it would be necessary [illegible] all people who claim to be [illegible] that the oath is a prerequisite to the [illegible] a right to [illegible].

FURTHER DIFFICULTY

"There is one further difficulty, and it [illegible] practical authority [illegible] in signing this oath. Some of our people, who are of unquestioned loyalty, do not believe in such [illegible] of [illegible] and they persistently refuse to have our board of trustees sign in their behalf. We, therefore, find the requirement of having the church certified so that the oath represents the unanimous opinion of the group for whom we sign, or we sign for people who repudiate our right to sign for them."

Mills Hofferlin, Chesley Reyburn, Albert Meyer, Zylpha Cockrell, Joseph Fahry, Joseph Nukelan, Una Bell Linz and Walter Roberts, members of the board of trustees of the church, said the church is not planning any definitive court action, although it is considering taking appropriate action to support the churches who are contesting the oath declaration.

In paying the tax, say board members, our church shows its willingness to meet the requirements of the State until such time as the courts make a decision as to the constitutionality of the oath declaration as a prerequisite for tax exemption. There has been no appeal for funds and the tax payment will represent a sacrifice of the congregation.

This is the only Unitarian Church in Alameda County that is paying taxes rather than sign the oath declaration, Dr. Cope explained. A church in San Jose is paying a small tax, believed to be less than $[illegible], and a San Leandro church of another denomination also is paying a tax—a small one—rather than sign the oath. The Friends churches also are paying taxes in lieu of the oath-signing.

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