

subjected to any conditions which the state desires to impose. Cf. *Speiser v. Randall*, 352 U.S. 531 (1958) and *Sherbert v. Verner*, 374 U.S. 398 (1963).

The oath raises serious constitutional questions under the First, Fourth and Fifth Amendments. It has no reasonable relationship to the purpose for which distribution of funds under the OEO is designed. The oath constitutes an infringement on the rights of freedom of speech and privacy which encompass the right to remain silent, or to refuse to proclaim one's loyalty, or to make any statement, unless some clear and present danger requires it.

The terms of the oath are vague and indefinite. What is meant by the terms "bear true faith and allegiance to the United States" and "will support and defend the Constitution and laws of the United States?" Specifically, is there implicit in these terms a promise to bear arms in any or all wars?⁷ Does the second phrase stated above imply a disavowal of any intent to change any law or constitutional provision now in effect?^{8a}

The Supreme Court has dealt with affirmative oaths in two recent cases. In both the oaths were found unconstitutional, either because of infringement with the right of free association, *Elfbrandt v. Russell*, 384 U.S. 11 (1966)⁸ or because of a denial of due process resulting from the vagueness of the oath, *Baggett v. Bullitt*, 377 U.S. 360 (1964).⁹

We agree with the statement of the National Association of Social Workers that:

"We do not see how the poverty program is involved in matters affecting the security and safety of the U.S. . . . It is our firm conviction that benefits and services including employment opportunities should be available without regard to race, color or political beliefs."

The fact that the oath itself serves no purpose is seen by the fact that a special exemption is provided citizens of Cuba. This exemption indicates that loyalty to the United States as manifested by the oath is apparently not regarded even by the bill's drafters as essential for participation in the Job Corps.

Oaths of allegiance have historically been required as part of the ceremonies when individuals assume government positions. Their value has been largely ceremonial.

Recently, however, there has been an undesirable trend—reflected in this bill, and in the National Science Foundation and National Defense Education Act—of requiring oaths of allegiance as a condition for getting a federal grant or funds. This demands the historical importance of oaths.

The Washington Star in a perceptive editorial stated the case against disclaimer loyalty oaths when the Economic Opportunity Act was first being debated. Much of what the Star said is also relevant to the affirmative oath found in H.R. 8311.

"They are demeaning and insulting to selected groups of citizens. They are superfluous, since any substantial 'disloyalty' to the Nation has always been punishable as treason. Finally, they are a monumental exercise in futility, since obviously anyone in any field who had determined to practice 'disloyalty' to the United States would not hesitate to take an oath that he had no such intention.

"The oaths have alienated parts of our intellectual community from the whole society and convinced many of our best friends abroad that we were in the grip of a national paranoia. It would be a sign of maturity if the whole silly business would drop in every State. The sooner the better."¹⁰

Similarly, Justices Douglas and Black in their concurring opinion in the case of *West Virginia State Board of Education v. Barnette*, 319 U.S. 627 at 644, in-

⁷ Cf. *Girouard v. United States*, 328 U.S. 61 (1946); ^a *Keyishian v. New York Board of Regents*, 35 U.S. Law Week 4152 (1967).

⁸ The oath in *Elfbrandt* as reported in 384 U.S. at 12 stated that:

"I, (type or print name) do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of (name of office) according to the best of my ability, so help me God (or so I do affirm)."

The opinion of the court by Justice Douglas dealt primarily with the legislative gloss on the oath regarding Communist Party membership.

⁹ The oath in *Baggett* as reported in 377 U.S. at 361, 362, stated that:

"I solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States."

¹⁰ Washington Star, June 14, 1964.