BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of: Opinion requested by Claude D. Morgan, Church State Council, Pacific Union Conference of Seventh-Day Adventists	No. 75-005 December 3, 1975

BY THE COMMISSION: We have been asked the following questions by Claude D. Morgan, Church State Council, Pacific Union Conference of Seventh-Day Adventists:

The Pacific Union Conference of Seventh-Day Adventists is the administrative organization for the Seventh-Day Adventist Church of California. The Church State Council is a non-profit corporation controlled by the executive committee of the Pacific Union Conference.

(1) Is the legislative advocate employed by the Church State Council to oppose union shop legislation required to register as a lobbyist and file reports pursuant to Chapter 6 of the Political Reform Act?

(2) Are lobbying activities or payments by the Church State Council to oppose legislation which would reduce penalties for marijuana possession within the exemption contained in Government Code Section 86300?

CONCLUSION

(1) The tenets of the Seventh-Day Adventist Church forbid members from joining labor unions. Thus, lobbying activities undertaken for the purpose of opposing the union shop are exempted from the reporting requirements of Chapter 6 because such activities protect the right of church members to practice the tenets of their religion. Government Code Section 86300(c).

(2) Lobbying activities or payments to influence legislative action directed at reducing penalties for marijuana possession are not within the exemption of Government Code Section 86300 because the law in question does not affect the right of church members to practice the tenets of their religion.

ANALYSIS

(1) Before analyzing the scope of the exemption provided in Government Code Section 86300,[1] it should be emphasized that the provisions of Chapter 6 do not encroach on any religious liberty secured by the Constitutions of the United States or the State of California. A long line of constitutional cases speak of absolute protection for religious beliefs (West Virginia State Board of Education v. Barnette, 319 U.S. 624 (1943); Cantwell v. Connecticut, 310 U.S. 296 (1939)) and of the need for a compelling state interest in order to prohibit religious practices (Wisconsin v. Yoder, 406 U.S. 205 (1971); Sherbert v. Verner, 374 U.S. 398 (1963)). However, the provisions of Chapter 6 infringe on neither religious beliefs nor practices. The lobbying provisions of Chapter 6 prohibit the making of contributions and certain gifts; additionally, they require that a person employed as a lobbyist register with the Secretary of State, establish a lobbyist account, and file periodic reports. The burden which Chapter 6 imposes is comparable to the filing requirements imposed by federal and state tax laws. In neither case is there a coercion of religious belief or compulsion or prohibition of religious practice. Watchtower Bible and Tract Society v. Los Angeles County, 181 F.2d 739 (1950); Grojean v. American Press Co., 297 U.S. 233, 250 (1936). Accordingly, the exemption contained in Section 86300 for religious organizations was provided by the voters as a matter of policy and was not constitutionally compelled.

Section 86300 provides in pertinent part:

> The provisions of this Chapter are not applicable to:
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> ....
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> (c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

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[1] All statutory references are to the Government Code unless otherwise noted.

This exemption contains several elements. First, the church, which is represented by the lobbyist, must be a "bona fide church or religious society." We do not doubt that the Seventh-Day Adventists meet this criterion. See Sherbert v. Verner, supra.

We conclude, moreover, that the phrase, "church or religious society" includes an organization created and controlled by a bona fide church as a subsidiary in order to advance the goals and doctrines of a church. Thus, the Church State Council as a corporation owned and directed by the Seventh-Day Adventist Church may receive the exemption.

Second, the exemption applies only to persons when they represent the Church solely for the purpose of protecting the public right to practice church doctrine. If a person represents the Church in connection with legislative or administrative matters which do not involve the public right to practice church doctrine, he must register as a lobbyist and file reports disclosing his lobbying activities.

It is the phrase, "for the purpose of protecting the public right to practice the doctrines of such church" that requires particular attention in the instant case. This provision limits the exemption in Section 86300 to lobbying activities which protect the right to practice religious doctrine. Thus, if lobbying activities are to be exempted from the scope of Chapter 6, they must be directed at influencing state action which would have the effect of restricting a person's right to practice the tenets of his religion.

Applying this test, we conclude that a church lobbyist is exempt from the provisions of Chapter 6 when he opposes legislation which would prohibit practices established in church doctrine or would compel behavior inconsistent with religious tenets. Moreover, lobbying activities directed at laws which condition a social benefit on actions inconsistent with a person's religious beliefs also fall within the exemption. However, activities designed to influence state action which is merely immoral or unwise in the eyes of the church, and which does not specifically interfere with the members' ability to practice their religious doctrines, do not fall within the exemption provided by Section 86300.

The Seventh-Day Adventist Church contends that a refusal to join labor unions is a religious tenet. The Church has submitted material to the Commission sufficient to support this

contention.[2/] Therefore, we conclude that the lobbyist employed by the Church State Council to lobby against state legislation opposing the union shop is exempt from the registration and reporting requirements of Chapter 6. When a state law imposes a union shop on an industry or trade, a Seventh-Day Adventist Church member is forced to choose between his livelihood and the dictates of his religion. To force a person to such a choice would severely interfere with his right to practice the doctrine of his church. Accordingly, Section 86300 exempts the church lobbyist from the reporting requirements of Chapter 6 when his lobbying activities are confined solely to such matters.

(2) The Seventh-Day Adventist Church has stated that it intends to publish literature which supports or opposes state legislation involving drugs, sex and gambling. Unless the exemption contained in Section 86300 is again applicable, the Church must disclose expenditures related to the literature as payments to influence legislative or administrative action pursuant to Section 86108.

2/ The following material is quoted from a pamphlet entitled, "Seventh-Day Adventists and Labor Unions," written by Melvin Adams, summarized and revised by John V. Stevens, Sr., President, Church State Council of Seventh-Day Adventists:

> Historically, Seventh-day Adventists have recognized a conflict between their convictions and the traditional purposes and activities of labor unions. In spite of the obvious good accomplished by the labor movement, as long ago as 1902 through its teachings the church admonished its members:
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> "We are not to unite ... with trade unions. We are to stand free in God, looking constantly to Christ for instruction." Vol. 7, Test., p. 84
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> James 5:1-11 depicts the conflict between the employer and employees over wages in the last days, which we believe applies to our current times. In this Scriptural passage there is not even a single hint that employees should unite and strike back to demand higher wages or better working conditions. Just the opposite is taught:
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> "Be patient." Vs. 7. "Be ye also patient." Vs. 8. "Grudge not one against another." Vs. 9.

Section 86108 contains two clauses, either of which can serve to activate the reporting requirements of Section 86109. Section 86108(a) requires an employer of a lobbyist to file periodic reports in conformity with Section 86109. Section 86108(b) requires any person who directly or indirectly makes payments to influence legislative or administrative action of $250 or more in any month to file the same reports.

If the Church lobbyist's activities directed at influencing legislative or administrative action are not exempted by Section 86300, he would be subject to the requirements of Chapter 6, and the Church would be an employer of a lobbyist. On the other hand, if the Church lobbyist participates only in activities which are exempt under Section 86300, he would not be subject to the requirements of Chapter 6, and the Church would not be the employer of a lobbyist. However, in the latter case, the Church, nevertheless, would be required to file periodic reports in conformity with Section 86109 if it made payments of $250 or more in a month for the purpose of influencing legislative or administrative action and the payments were not solely for the purpose of protecting the public right to practice the doctrines of the Church. Section 86108(b).[3/]

The foregoing can be illustrated by reference to a recently enacted marijuana law, which was opposed by the Seventh-Day Adventists. The law in question merely reduces the penalties for persons convicted of possession of marijuana.[4/] Church members will not, therefore, be prohibited from practicing their religious doctrine, compelled to act inconsistently with their religious doctrine, nor forced to choose between a social benefit and the dictates of their religion.

If the law in question required all citizens to smoke marijuana, or conditioned a social benefit on use of the drug, members of the Seventh-Day Adventist Church would be forced either to violate their religious doctrine or to choose between the social benefit and their religion. Similarly, if a religion required church members to smoke marijuana, a law which prohibited its use would force members to violate a tenet of their religion.

3/ The only exception would be if all of the payments were of the type described in Section 82045(c), which includes any "[p]ayment which directly or indirectly benefits any elective state official, legislative official or agency official or a member of the immediate family of any such official."

4/ SB 95, Chapter 248 - Approved by the Governor on July 9, 1975.

In the case before us, however, the legislation in question neither requires an act to which the religious doctrine objects nor prohibits an act which the religious doctrine requires. Whether the marijuana law in question is desirable or not, it clearly does not restrict the right of a Seventh-Day Adventist to practice his religion. Accordingly, if the Church's lobbyist attempted to influence this legislative action or if $250 or more were spent in a month by the Church for the purpose of supporting or opposing the law, compliance with the reporting requirements of Section 86109 would be required. The same analysis would apply to activities designed to influence legislation which, for example, permits abortion, consensual sexual activity among adults or consumption of alcoholic beverages by minors.

The exemption in Section 86300 is limited to actions protecting a church member's right to practice the tenets of his religion. If a church seeks to influence legislation or administrative action with respect to other issues, it must, like other persons, comply with the provisions of Chapter 6.

Approved by the Commission on December 3, 1975. Concurring: Brosnahan, Carpenter, Lowenstein and Miller. Commissioner Waters was absent.

Daniel H. Lowenstein
Chairman