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Legal
(Personnel) H #18

MEMORANDUM RE:- I.W.O.

A number of repressive statutes have recently been enacted in several states, other bills are under consideration which raise questions as to their impact upon members of the IWO and the organization itself.

The purpose of this memorandum is to analyze both the status of the IWO in the face of the Attorney General's list of so-called subversive organizations, on which the IWO has been included, and the status of the IWO under the state statutes.

I. The Present Status of IWO as a Fraternal Benefit Society Under State Laws

The IWO was originally incorporated in 1930 under the laws of the State of New York as a fraternal benefit society, and licensed to do business in New York State as such. Since 1930 the IWO has received licenses to conduct its business as a fraternal benefit society in eighteen other states and the District of Columbia.

These licenses have been periodically renewed as required under the various state laws.

As of this date, not a single state in which the IWO has been conducting its business has refused to renew the license of the IWO as a fraternal benefit society.

It should be borne in mind that in order to first procure such license and to have the same renewed as required by law, the IWO must comply with very stringent requirements pertaining to the keeping of books and accounts and the audit of its records by state officials.

In connection with the regular audits and examinations that are made of the books and records of the IWO, particularly by the officials of the New York State Insurance Department, not a single serious adverse comment has ever been made regarding the manner that the IWO has been conducting its affairs or the legitimacy of its activities and policies.

On one previous occasion, namely July 22, 1948, the Insurance Commissioner of the State of Massachusetts refused to renew the license of the IWO to conduct its business in that state. The Insurance Commissioner relied solely upon certain reports made by the infamous Dies Committee of the House of Representatives and a similar state Committee report. The IWO took this issue to Court where the Insurance Commissioner was called upon to produce evidence to sustain his charges against the IWO. The Commissioner could not produce any evidence since there wasn't any, and the Court directed the Insurance Commissioner of Massachusetts to renew the license of the IWO. A copy of the Court's decision in this matter is attached as Exhibit A.

Since the U.S. Attorney General placed the IWO on the list of alleged subversive organizations, the Commissioners of Insurance of two states in which the IWO is licensed and functioning requested the U.S. Attorney General to provide evidence of subversive activities

on the part of the IWO. The Attorney General refused both requests. This reflects the absence of any evidence with the Attorney General.

II. Status of the Suit Initiated by the IWO against the Attorney General of the United States

On Nov. 24, 1947, the United States Attorney General without any prior notice to the IWO or affording it an opportunity to defend itself, included the IWO on his list of so-called subversive organizations. No more arbitrary or arrogant act has ever been committed by an allegedly responsible federal official.

The IWO initiated a suit challenging the legality of this act of the Attorney General, pointing out the absence of due process of law in the manner in which the Attorney General acted and requesting the Court to declare the entire loyalty order and the procedure followed by the Attorney General thereunder as completely unconstitutional and in violation of the rights of the members of the IWO and of the organization itself.

In support of the complaint filed by the IWO, the organization pointed out that on many previous occasions the issue had arisen before federal government agencies regarding the character of the IWO.

In all of these situations, the federal agency involved has in effect condemned any effort to penalize persons because of their membership in the IWO.

Thus, on December 8, 1942, the Department of Justice wrote that membership in the IWO could not be made a basis for denying a person his request for naturalization as a citizen of the United States.

On September 16, 1943, the United States Civil Service Commission wrote that membership in the IWO could not be used as a ground for denying a person government employment. Copies of these letters are attached as Exhibits B and C.

However, the Attorney General of the United States not having any valid evidence against the IWO which could stand up in Court, the government has refused, in the case that has been filed by the IWO, to meet the IWO on the merits. Instead, the Attorney General filed a motion requesting the Court to dismiss the complaint of the IWO on the ground that that organization has not been injured by being placed on the list and has no legal standing in Court. In other words, a most technical point was the sole defense of the government.

The lower federal District Court has granted the motion of the government and has ordered the complaint of the IWO dismissed. The case is of course being appealed to the higher courts. It is to be hoped that the United States Supreme Court will not permit the Attorney General to continue operating under the Executive Order in the arrogant, arbitrary manner in which he has done, condemning organizations without any hearing or affording them any opportunity to be heard in self-defense and then, when challenged in Court, to hide behind a technical point that the organization so condemned has no legal standing to challenge the Attorney General's action.

In the meantime, some federal agencies have filed charges against certain federal employees because of their membership in the IWO, questioning the loyalty of such employees. The IWO proceeded to take this issue up with the Chairman of the National Loyalty Board which is responsible for the administration of the Loyalty Executive Order. As a result a letter has been obtained from the Chairman of the National Loyalty Board stating specifically that membership in the IWO alone could not justify a charge that such employee was disloyal and therefore should be discharged. A copy of this letter is attached as Exhibit D.

This letter has proved to be helpful in having dismissed charges filed against federal employees because of their membership in the IWO.

III. Effect of Repressive State Statutes

As part of the witch-hunting and thought control hysteria, state legislatures have given consideration and in some instances have enacted legislation designed to attack progressive organizations and progressives generally.

It is difficult to make any summary of the many bills which have been introduced and the laws that have been enacted in some of the states. It may suffice to discuss the Ober Law passed in Maryland to indicate what the situation is in the face of this type of legislation.

Essentially, the Ober Law makes it a criminal offense to be a "subversive." The subversive person is defined in the law as being one who either believes in or advocates or belongs to an organization which believes in or advocates the overthrow of the United States government by force and violence. It is important to note that the essential element of the alleged crime is to advocate a doctrine of overthrow of the government by force or violence. However, if the charge is that the individual is subversive because of his membership in a proscribed organization, the prosecution must prove that the individual knew that the organization was advocating the overthrow of the government by force or violence.

No official government agency has yet dared to charge the IWO as an organization which advocates the overthrow of the government by force and violence or any other illegal means. Any such charge would, of course, be false and untrue. The Attorney General of the United States in placing the IWO on his list of so-called subversive organizations has not dared to include the IWO among the organizations which the Attorney General claims advocate the overthrow of the government by force and violence.

In Maryland, the IWO is presently licensed and has been for some time authorized to conduct its business as a fraternal benefit society. Certainly this could not be the case if the government officials in Maryland were of the opinion that the IWO is an organization which advocates the overthrow of the government by force and violence.

It can therefore be stated as an absolute conclusion that the Ober Law cannot be held to apply to the IWO or its members. The IWO will of course continue to function as it has in the past in the State of

Maryland. Its membership in Maryland cannot be held to fall within the prohibitions of the Maryland law.

However, every progressive person must recognize that legislation such as the Ober Law is not designed solely to prosecute individuals or organizations which allegedly advocate the overthrow of the government by force and violence. History has proven that legislation of this sort -- such as the sedition laws in Jefferson's time and the criminal syndicalist laws enacted during the hysteria following World War I -- are aimed primarily against progressive organizations and all progressives. History has proved, as in the case of Nazi Germany and Fascist Italy, while the initial move of black reaction is directed against a political party, such as the Communist Party, eventually repression is directed against all liberal progressive thought and activity.

For this reason, even though the Ober bill may not on its face embrace the IWO and its members, it is imperative that this organization and its membership join with all other progressives in the fight to combat such legislation and where enacted, to obtain its repeal.

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