

# Staff "loyalty" programme declared unconstitutional

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THE US District Court for the Eastern District of Pennsylvania held on 8 April 1986, in the case of William H. Hinton v. Donald J. Devine, et al; that Executive Order No. 10422 of 9 January 1953, as amended, under which the International Organizations Employees Loyalty Programme had been instituted, was unconstitutional in that it violated the First Amendment rights of US citizens. The District Court also enjoined the US government from publishing, communicating, or advising any third parties, including any international organizations, as to the loyalty of William H. Hinton or any other US citizen.

The International Organizations Employees Loyalty Board, created under President Eisenhower's Executive Order, had tried, the District Court said, to create a so-called "loyalty security programme" for US citizens employed, or desiring to be employed by, international public organizations, such as the United Nations or the United Nations specialized agencies.

This was the second test case brought before a District Court. The first case of David Ozonoff v. William P. Berzak, et al, was brought before the District Court for the District of Massachusetts in 1971 by the Bill of Rights Foundation on behalf of Dr. David Ozonoff, a former employee of WHO, challenging the constitutionality of the Executive Order. After a ten-year delay the District Court rendered a judgement in favour of Dr. Ozonoff on 6 September 1983. The US government appealed the decision and on 21 September 1984, the Court of Appeals unanimously held that the Executive Order was unlawful as applied to a WHO applicant and that the Executive Branch could not require Dr. Ozonoff to submit to a loyalty investigation pursuant to the Order. Significantly, the Court addressed itself to the government's argument that "the Order may affect America's international relations." In response, the Court said:

"The appellee is a medical doctor. He is not a politician, a diplomat, or even an administrator. He does not want to represent the United States abroad, engage in diplomacy, or practice politics. He seeks to work for an international organization that fights disease. His object--prolonging human life--is technical and scientific, not political. His employer is an international organization, not the American government."

The Court of Appeals thus affirmed the judgement of the District Court. This was the first judicial decision concerning the constitutionality of the International Organizations Employees Loyalty Programme. The Government decided not to appeal to the Supreme Court against the judgement of the Court of Appeals.

It may be recalled that regulations were promulgated during the "McCarthy era" in the course of which many US citizens were discharged from their positions in the UN, UNESCO, FAO and other international organizations. These discharges were held illegal by the Administrative Tribunals of those organ-

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izations. The International Court of Justice rejected attempts to set aside those decisions; nevertheless, the employees were never reinstated.

The background of these dismissals involved grand jury proceedings and hearings of the Internal Security Subcommittee of the US Senate Judiciary Committee which pilloried scores of loyal and highly competent, indeed in some cases, distinguished, public employees. It is, therefore, gratifying to learn, at least after 30 years, that two US District Courts and one Court of Appeals have decided to declare the Executive Order unconstitutional.



## Awards to UNDP and UNICEF

The United Nations Association of Connecticut and the Committee to Commemorate the Birthdays of Hugo Grotius (16th century peace activist and founder of international law) co-sponsored "The 403rd birthday celebration of Hugo Grotius" on 10 April, at Fairfield University, Bridgeport, Connecticut.

The celebration included a debate by distinguished political scientists and journalists, entitled: "Machiavelli and Grotius--alive and well in 1986". In honour of the occasion, UNICEF was awarded the Humanitarian prize, and UNDP the Peace prize. The busts of Grotius were by the famed sculpture, Dominico Mazzone.

Right to left: Ruth Steinkraus Cohen, Chairperson of the Grotius Committee, and well-known leader of the United Nations Association of Connecticut. Edward Omotoso (UNDP), who accepted the Peace prize for UNDP, representing the Administrator, Bradford Morse. Dr. Edward Dew, of Fairfield University's Political Science Department. Joan Dydo, who accepted the Humanitarian award for UNICEF, representing the Executive Director, James Grant.



## Department of Trivia

June was named from the Roman, Junius, a clan name akin to juvenis: young. An old Roman superstition was that June marriages were lucky--"Good to the man and happy to the maid". The festival of Juno Moneta was held on the calends of June, and Juno was the great guardian of women from birth to death.

The referendum on 16 March 1986 saw a turnout of 2,102,976 voters; in favour of accession to the UN were 511,548, against 1,591,428. In percentage terms this meant 24.3 per cent in favour, 75.7 per cent against, with 50.4 per cent of the voting population taking part.

The vote in the six largest cantons was as follows:

	Yes	%	No	%	Participation %
ZURICH	113,989	28.7	282,665	71.3	54.6
BERNE	74,345	22.8	252,119	77.2	51.2
VAUD	33,650	25.2	99,668	74.8	41.0
ST. GALL	24,709	19.2	103,735	80.8	52.0
LUCERNE	22,544	19.7	91,999	80.3	57.6
GENEVA	26,354	30.2	60,776	69.8	46.2

would have moved in favour of the Western industrialized countries?

First, Mrs. Pometta said, Switzerland had 6 million inhabitants; secondly, it was only one vote. As a neutral country, Switzerland could not be aligned politically. Problems had to be judged objectively according to the rules of international law, and a neutral country could not vote systematically with one group or another. The price one paid for neutrality entailed a degree of isolation. In reply to Mr. Wepfer's question whether Switzerland would vote for a free market and human rights, she said that Switzerland voted according to the principles of international law, according to the principles of the Charter, and in matters such as economics, or press freedom, according to its own political set of values. As Switzerland accepted freedom of the press as part of its democracy, it had to accept it internationally. Therefore, she said, it was not difficult to be a member of the UN.

Mr. Morello said that Sweden offered a close parallel as far as neutrality was concerned, but that Sweden had participated fully in the UN. He asked her what she saw as the differences between the two

countries, especially as Sweden was also considered as a country with moral leadership.

Mrs. Pometta saw the comparison as difficult. She said that the three or four neutral European countries all followed the rules of neutrality, but politically they voted in different ways. Switzerland was different in that the majority of the people didn't follow the leadership as far as joining the UN was concerned.

She saw not being a member of the UN as a drawback, particularly when it came to putting forward Switzerland's viewpoint concerning the affairs of the Secretariat. If we were to compare the UN to a parliament of countries, and she was the member of parliament, she would have a constituency but would not have a voice. This was the sad fact.

The TV programmes' host, Michael Littlejohns, said it should be made clear that Switzerland was already a member of all the specialized agencies except the World Bank and the International Monetary Fund, and Mrs. Pometta added that Switzerland was active in these institutions but to pursue a coherent policy, the Government believed it was also essential to be a member of the UN.

## Administrative Issuances—April 1986

ST/SGB/218	CONVERSION OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION TO SPECIALIZED AGENCY STATUS AND CONSEQUENT EFFECT ON THE UNITED NATIONS OFFICE AT VIENNA - E,F	ST/IC/86/5	ACTION TAKEN BY THE GENERAL ASSEMBLY ON PERSONNEL QUESTIONS DURING THE FORTIETH SESSION - E,F
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ST/IC/85/75/ Add. 2	INFORMATION CIRCULAR - E,F	ST/IC/86/22	THE 1985 GENERAL SERVICE PROMOTION REGISTER - REPRODUCTION, TELECOMMUNICATIONS AND TECHNICAL STAFF - E,F