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OATH OR DECLARATION OF ALLEGIANCE

HISTORICAL

1. In 1922 the Local Government Act (NI) of that year introduced a declaration of allegiance for members of local authorities in an attempt to prevent local authorities from purporting to "opt out" of Northern Ireland altogether; at the same time a declaration was applied to salaried officers in local government. The oath of allegiance for civil servants and teachers was introduced in the following year by the Promissory Oaths Act (NI) 1923 when it was argued that it was illogical to impose a higher standard of loyalty in local government than in central government.

PRESENT POSITION IN GREAT BRITAIN

2. The Civil Service

Civil Servants of the United Kingdom Government (including United Kingdom Civil Servants working in Northern Ireland) are not required to take an oath of allegiance.

3. Local Authorities and Public Bodies

Neither members nor officers of local authorities or other public bodies or teachers in Great Britain are required to take an oath or make a declaration of allegiance to Her Majesty or to the Government of the United Kingdom.

POSITION IN NORTHERN IRELAND UP TO LOCAL GOVERNMENT RE-ORGANISATION

4. The Northern Ireland Civil Service and Teachers

All full-time civil servants including industrials and all teachers including those in voluntary schools are required by the Promissory Oaths Act (NI) 1923 to take an oath of allegiance to Her Majesty and Her Government of Northern Ireland.

5. Local Authorities

Every member and every officer of a local authority is required by the Local Government Act (NI) 1922 to make a declaration of allegiance to Her Majesty and Her

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Government of Northern Ireland. Officer has been interpreted as meaning only salaried staff so that weekly paid and manual workers have never been required to make such a declaration. See paragraph 10.

6. Public Bodies

A most confused situation has grown up over the years. Officers of some Boards and Commissions are required to take an oath; officers of other Boards and Commissions are not so required. Members, as distinct from officers, are not required to take an oath. In a recent piece of legislation - the Housing Executive Act (NI) 1971 - there was no provision for either members or officers to take an oath.

7. The Police

Members for the Police Authority for Northern Ireland are not required to take an oath or make a declaration of allegiance, but officers of the Royal Ulster Constabulary are required to take an oath of service to the Sovereign and to the Government of Northern Ireland without favour or affection, malice or ill-will, under the Constabulary Act (NI) 1922.

REORGANISATION OF LOCAL GOVERNMENT

8. The preparation of legislation for the reorganisation of local government made it necessary to consider whether existing arrangements, both for the staffs immediately affected and more generally, should be re-enacted or whether they should be revised in any way. Some of the factors in the situation were:-

- (a) The Ministry of Agriculture had long found it difficult to observe its statutory requirements in administering the oath to its temporary forestry workers and drainage gangs.
- (b) Parliamentary Questions had recently sought to ridicule the fact that men engaged on such work had to take an oath at all.
- (c) The Ministry of Development faced the prospect of similar difficulties after 1 April 1973 in relation to ex-local authority staffs engaged in roads, water and sewerage works.
- (d) The existing position was confused and illogical.
- (e) As recently as 1971 Parliament had enacted the Housing Executive Act which required an oath from neither members nor officers of the Executive.

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9. After consideration of all the circumstances the Government proposed that the reorganisation legislation should provide that:-

- (a) Civil Servants should continue to take an oath of allegiance but power should be taken to exempt by order laid before Parliament such industrial staff as might be specified. This would have meant amendment of the Promissory Oaths Act (NI) 1923.
- (b) Teachers should continue to take an oath of allegiance.
- (c) Local government members as elected representatives should continue to make a declaration of allegiance.
- (d) Non-elected members of statutory bodies should not be required to make a declaration of allegiance.
- (e) Employees of local government, Area Boards and the Housing Executive, should make a declaration to respect the Constitution and observe the laws of Northern Ireland but that power would be taken to exempt certain classes of industrial workers.

10. The Local Government Bill, therefore, made provision for a declaration of allegiance by members and a declaration to respect the Constitution as set out in 9(e) above for employees. During the parliamentary passage of the Bill, however, the Government bowed to pressure and accepted a back-bench amendment that both local government members and officers should make a declaration of allegiance to Her Majesty and to Her Government of Northern Ireland. The Bill received Royal Assent on 23 March 1972 and will be effective in this aspect as from 1 April 1973. With this exception, the legal requirements in respect of oaths of allegiance remain as set out in paragraphs 4 to 7 above.

11. However, as a result of this decision the Education and Health Reorganisation Bills were amended prior to presentation to provide for a similar declaration to be made by chief officers and other prescribed officers (no change was made in the proposal that members should not take an oath or make a declaration).

MATTERS FOR DECISION

12. Mr Channon has now decided that, in the draft Education and Libraries Bill and the Health and Personal Social Services Bill which are currently being turned into

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draft Orders in Council, the provisions for a declaration by certain officers of the respective Area Boards should be removed, without prejudice to wider policy in relation to oaths of allegiance.

13. It must be appreciated, however, that the omission of these provisions will give rise to some serious anomalies and inconsistencies, both within the services immediately concerned and more widely. The situation would then be as follows:-

- (a) While officers of Area Education Boards would not be required to make a declaration or take an oath, teachers (whether employed by the Boards in "controlled" schools or otherwise employed in "voluntary" schools) would do so.
- (b) The officers of District Councils would be required to make a declaration of allegiance, and civil servants to take an oath, while officers employed by Area Boards (a kind of hybrid between local and central government) would have to do neither.
- (c) Most of the salaried Area Board employees will have been local authority employees formerly required to make a declaration. Thus, the number of persons so required would be reduced, while leaving unresolved the question of manual workers in the Ministry of Agriculture, and other manual workers hitherto employed by local authorities ^{will} henceforth work for the Ministry of Development.

14. Other considerations include:-

- (a) It is difficult to say what, if any, has been the practical effect of the widespread use of the oath and declaration. Public servants or local authority members are subject to the ordinary sanctions of the law and it is doubtful whether the oath or declaration represents any very substantial additional deterrent.
- (b) The form of the oath or declaration is inappropriate for anyone who is not a civil servant. A member of a local authority or a teacher in a voluntary school, in particular, are not in any accepted sense servants of the Crown; local authority employees are not in the service of the Government. Yet they are all required to promise to give faithful service to the Government.

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- (c) However ineffective the present arrangements may be in practice, they are regarded by many shades of unionist opinion as having at least a symbolic importance and as a not unreasonable requirement from those who are prepared to accept a weekly or monthly pay cheque drawn on public funds.

15. In this situation there are various options theoretically open. At one extreme it would be possible to proceed with the Orders in Council on Education and Libraries and Health and Personal Social Services including provision for a declaration by officers. The argument in favour of doing this is that they represent the will of the Northern Ireland Parliament as demonstrated in the debate on the Local Government Bill. But almost certainly the proposal that members of staff of Area Boards should make a declaration of allegiance as a condition of employment would run into trouble at Westminster. It is likely too that the position of teachers would be brought up and highlighted and contrasted with the position of teachers in Great Britain. Real emphasis would be placed on these differences if some teachers entering the profession in September refused to take the oath and pointed out that they could apply for a job in Great Britain without any oath requirement.

16. At the other extreme it would be possible to tidy up a very untidy situation by arguing that Northern Ireland as part of the United Kingdom should be brought into line with practice in Great Britain where neither civil servants nor employees of local government and statutory bodies are required to take an oath. This would entail:

- (a) altering the Education and Libraries Bill and the Health and Personal Social Services Bill as debated at Stormont and published respectively;
- (b) amending the Local Government Act 1972 before 1 April 1973; and
- (c) introducing an Order to amend the Promissory Oath Act (NI) 1923.

17. This course of action would probably be represented in unionist circles as a flouting of the democratically expressed will of the majority and of the Northern Ireland Parliament, and as a further piece of appeasement.

18. In between these two extremes there is a variety of different courses of action which shift the balance one way or another. For example:-

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- (a) retain the oath for officers, that is, civil servants, teachers, local government officers, officers of Area Boards etc (with provision for exemption of industrial workers);
- (b) restrict the wording of the oath to rendering "true and faithful allegiance and service to Her Majesty Queen Elizabeth II Her heirs and successors according to law" thus excluding the Government of Northern Ireland;
- (c) require no oath or declaration from members of public bodies apart from the declaration of acceptance of office required from District Councillors under Section 7 of the Local Government Act.

19. This solution would still require amendment of the Local Government Act 1972 against the expressed wish of Parliament and amendment of the Promissory Oaths Act of 1923 to exclude industrial workers. In addition the solution would mean amending the Housing Executive Act 1971 to impose an oath on officers of the Housing Executive who are not required to take one at present.

20. The wording of the different declarations and oaths is given in the appendix.

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APPENDIX

FORM OF OATHS AND DECLARATION

- (a) The form of oaths set out in the schedule to the Promissory Oaths Act (NI) 1923 is as follows:-

"I swear by Almighty God that I will render true and faithful allegiance and service to Her Majesty Queen Elizabeth II, Her heirs and successors according to law and to Her Government of Northern Ireland."

- (b) The form of declaration set out in the schedule to the Local Government Act (NI) 1922 is as follows:-

"I hereby declare that I will render true and faithful allegiance and service to Her Majesty Queen Elizabeth II, Her heirs and successors according to law and to Her Government of Northern Ireland."

- (c) The form of declaration for officers of local authorities set out in Part 2 of Schedule 1 to the Local Government Act (NI) 1972 is as follows:-

"I hereby declare that I will faithfully discharge the duties of the office to which I am appointed by District Council and that I will render true and faithful allegiance and service to Her Majesty Queen Elizabeth II, Her heirs and successors according to law and to Her Government of Northern Ireland."

This form of declaration was adopted in relation to Area Boards and was included in Schedule 17 to the Health and Personal Social Services Bill and Schedule 12 to the Education and Libraries Bill.

- (d) The form of declaration for a Councillor on acceptance of office set out in Part 1 of Schedule 1 to the Local Government Act is as follows:-

"I having been chosen Councillor for the district of hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability and that I will render true and faithful allegiance and service to Her Majesty Queen Elizabeth II, Her heirs and successors according to law and to Her Government of Northern Ireland."

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