

CABRILLO TIMES AND GREEN SHEET January 26, 1978

Harry rejects fire chief's views on candle ban issue

District attorney Phil Harry hasn't changed his position on enforcing fire code regulations that seemingly ban the use of hand-held candles in local churches.

Writing to Capitola Fire Chief Harold Jarvis, Harry said:

"My position is very simply that, in terms of the buildings where worship services take place, they must comply with the fire code, but the manner in

which the worship service is conducted, insofar as these candles are concerned, is beyond the reach of the Fire Code."

Jarvis had written to Harry last week, telling the District Attorney that fire departments need support from him in "life safety" issues.

Jarvis, a long-time critic of Aptos Fire Chief Richard Chinn, told Harry:

"Whether I personally and professionally agree with Chief Chinn or not is immaterial as regards the life safety of persons protected fire agencies in this county.

"What is of material importance is our ability to perform our duties along these lines if we are left powerless due to an attitude in the District Attorney's office. I am deeply concerned, as is my fire prevention officer, that your statements regarding the candle incident will give support to any and all groups or individuals who do not wish to accede to the stringencies of the Life Safety Code, with the ultimate result that we will have more and more confrontations than ever before.

"Making every effort to protect people from the tragedies of fire and explosion is our life's work," Jarvis added. "We cannot and will not stand idly by and allow the tools of our trade to be taken from us."

The issue was brought to the forefront Christmas Eve when Asst. Chief Nick Baumgartner of the Aptos fire department cited the pastor and members of the Christ Lutheran Church in Aptos for violating the fire code. Worshipers were called to the alter railing where they held candles during a portion of the service.

Harry refused to prosecute the issue

saying he believed it to be a violation of the Constitution's

First Amendment guarantee of freedom of religion.

"This form of worship has been accepted by all kinds of religions over the centuries and I do not intend to try in any way to interfere with religious worship ceremonies," Harry told Jarvis.

"On the other hand, the buildings themselves, not being required for the worship ceremony, must be in compliance with all of the fire codes as they are not protected by the First Amendment of the Constitution of the United States."

Jarvis in his letter to Harry included a copy of an editorial from "Fire Journal" magazine, published by the National Fire Prevention Association, on the disastrous Beverly Hills Supper Club fire in Kentucky last year.

Harry pointed out that the supper club wasn't a church, there were no worship ceremonies in progress and the fire did not start from candles.

And he added: "I agree with the editorial that had those fire codes been enforced, it is unlikely that anyone would have died at the Beverly Hills Supper Club."

The District Attorney said firemen should take note of one point in the editorial — more public support of the codes is needed as a step towards proper enforcement.

"It is my opinion that in attempting to enforce something like the requirement that candles would not be permitted in a worship ceremony contravenes that intention, works against the public's understanding or proper enforcement, and in the long run, does much harm to the proper enforcement of the fire codes.

"The public at large wants to use candles in their worship ceremonies. They see no fire hazard involved when they are holding the candles in their own hands. They think that the

attempt to change their worship ceremonies after so many centuries is an infringement of their Constitutional right to worship in the manner they see fit and any attempt to change that ceremony will result in the undermining of their respect for the fire departments, for the chief involved, and for the fire codes themselves which, God forbid, would result in a total disregard for the other fire codes."