



Excerpts from the Minutes of the Regents of the University of California, Regular Session, October 27, 1950

TRANSCRIBER NOTE:

This excerpt from the meeting minutes includes a list of attendees and only those sections that pertain to the loyalty oath controversy. Page numbers reflect those of the original source. Missing words, misspellings, and other typographical errors found in the original are followed by bracketed notes.

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[Excerpts from Minutes of October 27, 1950]

San Francisco
October 27, 1950

A special meeting of The Regents of the University of California was held this day at 2:00 p.m. in 910 Crocker Building.

Present: Regents Ahlport, Canaday, Collins, Ehrman, Fenston, Harrison, Heller, Neylan, and Steinhart (9).

In attendance: Secretary and Treasurer Underhill, Vice-President - Business Affairs Corley, Attorney Calkins, Controller Lundberg, Assistant Secretary Woolman, Engineer Weaver, Mr. Maynard Morris of the Office of Public Information, Newspaper representatives and guests.

Upon motion of Regent Fenston, Regent Ehrman took the Chair.

The Secretary announced that this special meeting was called on a motion adopted by The Regents at a regular meeting held on October 20, 1950. The purpose, as directed, was to consider matters pertaining to the application to the University of the State Oath of Allegiance. The Secretary certified that a notice of this meeting was mailed to each Regent in accordance with the provisions of the By-Laws, which notice read as follows:

"TO THE REGENTS OF THE UNIVERSITY OF CALIFORNIA:

"Berkeley, California
October 23, 1950

"A special meeting of The Regents of the University of California will be held at 2 p.m., Friday, October 27, 1950, in 910 Crocker Building, San Francisco, to consider matters pertaining to the application to the University of the State oath of allegiance.

"Very truly yours
Robert M. Underhill"

APPLICATION TO UNIVERSITY STATE OATH OF ALLEGIANCE:

2. The following tally of the number of employees who have signed the State oath of allegiance as of the close of business October 26 was presented by the Controller:

	<u>Number of Signatures</u>	<u>Out of Approximate Total of:</u>	<u>% Signed</u>
Berkeley	2,669	7,000	38
Los Angeles	984	4,700	20.9
San Francisco	1,195	1,750	68.3
Davis	1,117	1,400	79.8
Riverside	200	250	80.0
Santa Barbara	452	700	64.6
Mt. Hamilton	No report	50	No report
La Jolla	99	150	66.0
Various projects	<u>No report</u>	<u>4,000</u>	<u>No report</u>
	<u>6,716</u>	<u>20,000</u>	<u>32.0</u>

In commenting upon the above report the Controller stated that it is not an accurate indication of what the final count may be, as the signing has been going on at Berkeley for three days and on the other campuses for only two days. Late reports indicate that larger numbers of employees were signing this morning.

The Chairman then opened the meeting for discussion of the State oath and its application to the University. When asked for his opinion, the Attorney questioned the advisability of discussing the matter in detail in an open meeting and for this reason stated that he would speak in generalities. There was no question in his mind that if the matter involved the sanctity of The Regents' contracts with employees or if it were an intrusion of the constitutional rights of The Regents, it should be resisted. With respect to the constitutional question he said that generally it was the intention of the majority of the members of the Constitutional Convention of 1879 that the University of California would be entirely free from legislative control in all matters, subject,

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however, to the right of the Legislature to take such action as may be necessary for the security of its funds. It must be determined whether in the exercise of the police powers of the State certain limitations may be imposed on The Regents, and if the statute is a proper exercise of police powers, is it a power that can take away constitutional rights of The Regents. With respect to the limitation of the Legislature to regulate the University, a question is raised as to whether the statute is necessary for the security of the University's funds. In addition, there are questions of legislative intent involved, although reading the act itself does not indicate an intent on the part of the Legislature that the University be included. The Attorney went on to say that the problem is so complicated and involved, it will take an enormous amount of research and he thought it might be well for a legal committee of the Board to be appointed to discuss the matter.

Regent Ehrman felt that the Attorney was quite right in not expressing at this time any definite legal opinion, for the reason that an Attorney who expresses an unqualified opinion on a subject and afterwards must defend a client whose case is opposed to that opinion, is necessarily in an embarrassing position and could not properly go into court and make an argument directly contrary to the position he formerly had taken. He stated that he believed it was rather early for The Regents to come to a definite conclusion, as the matter involved a matter

of policy which will depend in a large part upon the percentage of employees who will sign the oath. Regent Neylan agreed, stating that he wished to renew at this time his own concern in respect to (1) the independence of the University, and (2) the validity of the contract The Regents have entered into. He said that while there may be a large number of signers it is conceivable that there will be a residuum of nonsigners [sic], men of repute and eminence, who may feel some reluctance to sign this additional oath in view of the fact that they have already complied with The Regents' regulations in regard to a non-Communist declaration.

Regent Neylan went on to say that his fears have been accentuated because reputable members of the faculty have called to his attention the fact that there has been a campaign, which he thought was malicious, as to the matter of tenure, and he believed it might have a bearing ultimately on the signing of the State oath. He said he had been puzzled as to the basis of misunderstanding with regard to tenure until it had been called to his attention that some misgivings had arisen due to the change in wording in the letter of appointment that was sent out. He then commented on ways in which this had been exploited and called particular attention to a document which was published by Professor Ernst H. Kantorowicz, which sets forth certain conclusions that are very bitter and hostile toward the University. Regent Neylan quoted several passages from Professor Kantorowicz' [sic] booklet and called attention to false statements contained therein. He thought that among the many highly respected members of the faculty there may be some who are concerned about whether there is any substance to these remarks for the reason that The Regents have not responded to the attacks which have been made upon them. He believed that sooner or later The Regents would have to take some action to protect the University against those who would destroy it. It had been brought to his attention, he said, that the Academic Senate has appointed a Committee to study the matter of tenure and he thought it might be salutary for the Board to consider the matter of appointing a committee of The Regents to meet with the faculty committee so that there might be a clarification of the entire matter of tenure. He, therefore, moved that such a committee be appointed. The Chair ruled that since the matter of tenure, or the appointment of a committee to discuss tenure, was not included on the call for the special meeting, Regent Neylan's motion was out of order. In view of his ruling, Regent Neylan gave notice that he would present the matter at the next meeting and he requested the Secretary to include it on the agenda for that meeting. Regent Ehrman added that while he would not object to the appointment of a committee to meet with the faculty, he believed that it should be done later when more is known about the attitude and objectives of the Senate group.

Returning to the matter of the application of the State oath to the University, Regent Steinhart stated that he did not believe The Regents could stand by for an indefinite period of time and take no action in this matter. The statute in question is a law of the State and if The Regents decide that no legal determination should be sought he, as a Regent, would be unwilling to continue to act possibly contrary to that law. He, therefore, requested that at the next meeting of the Board the Attorney render his opinion so that The Regents can come to a decision without further delay as to what action they intend taking. Regent Ehrman brought out that the law is going to be tested as to its constitutionality by certain [word unclear] and other public employees and he thought it might be possible that the Board will [word unclear] the decision of the court on that question.

Regent Harrison then moved that the Board go into Executive Session for [word unclear] with the Attorney. Regent Ahlport seconded the motion, and it was unanimously carried.

And then The Regents went into Executive Session.

(See Volume III - page #310)

And then The Regents adjourned.