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## Letter to John Francis Neylan, April 18, 1950: Banc Mss C-B 881, Box 177: 1950 #2 Loyalty Oath

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### [Letter, April 18, 1950]

April 18, 1950  
John F. Neylan  
San Francisco, Calif.  
My dear Jack:

Commencing with a close personal friendship with Benjamin Ide Wheeler and strengthened and refreshed by many experiences during the past fifty years, I have come to feel a deep and sincere interest in the University of California. Because of that interest, I am prompted to write you this very frank and earnest letter.

I am greatly concerned with the differences which have recently arisen between the Regents and the very numerous faculty of the University resulting from President Sproul's request to the Regents that they require members of the Faculty to take what is commonly called the anti-communist oath. Many questions have been raised with reference to the validity of that oath as well as the policy of the Regents in requiring it. Of these I will refer to but one, leaving the others to the lawyers and the Courts.

At the time that the Faculty was informed that the oath was demanded unconditionally, the University was approaching the end of its academic year.. the faculty was intent upon graduations grades and classification, upon the climax of Commencement day. All of the forces constituting the University were working in harmony; it had reached an eminence never before excelled in all the long years of its proud existence. It had a faculty of able men, adequate to their task. Some of them had helped to make the University; at the very moment that the oath was demanded all of them were supporting it in its honorable competition with like institutions all over the world. Into this harmony the discord of the oath was introduced. The Faculty was composed of proud and sensitive scholars. They were not Communists or sympathizers with any portion of its philosophy. They had already taken an oath which completely covered the matter in controversy. They were completely innocent of the imputations of the oath. This was not questioned; the Regent knew it as a fact. When this oath was demanded of them, these men felt that it was an implication of disloyalty to a service to which they had for years been faithful. They felt that their proven integrity removed them from the obligation to put it in writing. They felt it to be an indignity to require an honest man to swear to his integrity; that it was an insult to ask a man in the very act of performing the

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duties of his employment if he would give the state a loyal service. They felt that in demanding this unnecessary oath the Regents were trifling with their personal dignity, with rights which were their American heritage. I think that when the Regents demanded the oath they were influenced by a prevailing hysteria, admirable in its proper application, but which should not be permitted without cause to sweep aside our American heritage, to deprive us of our human rights, the protection of our human dignity. The Faculty felt that it was an indignity to demand that they repeatedly declare the loyalty they had always practiced.

The well intentioned Regents in their zeal to exclude Russian influence from the University would practicing the worst feature of Communism, crushing the spirit of the individual for what they mistakenly thought was the benefit of the state. They would strengthen the government of the University by crushing the spirit of the man who made it. The Regents are mistaken if they think that they can make better teachers out of their faculty, men capable of inspiring youth beyond their power to teach them, by compelling them to compromise their principles. They may be able to beat them into obedience but that is a poor substitute for appreciation, for the zeal and enthusiasm which appreciation engenders. I don't in any way doubt the good faith of the Regents, but in their zeal I think that they went too far. The great Justice Holmes states the rule to be "that in the exercise of its powers the State may go right up to the border of personal rights but that it must not cross the line."

It took centuries for men to climb from servility and servitude and dumb obedience to America and our Bill of Rights. The story of that climb could be told in the lives of those who for pure principle as this Faculty is doing today, resisted, many times with their lives, the power which would deprive men of their human birthright. America was born in protest such as this. Our Declaration of Independence was conceived in defense of such rights as this Faculty is asserting today, and to the support of such rights, its authors pledged their "lives, their fortunes and their sacred honor".

We like men who give us no trouble, who sign without asking a question. But it is less agreeable men, men like this Faculty who through the centuries have won for us our liberties and who will preserve them. Numbers here and elsewhere have taken the oath to which this Faculty take exception. Most of them thoughtlessly, some have "crooked the pregnant hinges of their knees that thrift might follow fawning".

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A member of the Faculty a few days ago publicly announced not only that he had signed the oath here, but a similar one elsewhere on many occasions and stated that he could not understand why other members of the faculty should refuse to do likewise. This man's philosophy is not without precedent. In my long experience on the Bench, I found women who were indifferent to a husband's infidelity provided he gave them support. But these women were not permitted to establish the measure of better women's tolerance. We all know the men who care little for their good name provided they "get the money". This man's easy attitude towards honor should not provide for prouder and more sensitive men the standard by which they must live.

I have just read a brief announcement in the public press that Dean Roscoe Pound had announced his "approval of the oath". He is one of the most distinguished legal scholars in America. I think that if we had his statement before us that we would find that this eminent man said only that the Regents had the power to demand the oath as they did.

In deference to his great learning, I will accept this judgment. But if Dean Pound has gone so far as to say that the Regents here in the circumstances of this case had the right to do so, I differ with him. My judgment on that point is as good as his.

Emphasis is placed upon the fact that four other states have required the oath and that it was taken without protest. I do not know the conditions there. It is worthy of note however, that forty-three other states under exactly the same circumstances refrained from requiring the oath.

I fear the consequences of what the Regents are demanding. Can't you compromise this unhappy difference? There will be no mass resignations. Financial reasons, the support of families, the love of their students, the fear of unworldly man with dependents to take risks involving unknown consequences. The great majority may accept the alternative of the Regents and will remain in humiliation, even in bitterness. But some will accept exile; at what cost to the University? The loss of one Morse Stephens or one Charles Mills Gayley would be irreparable. It is being suggested that conditions might result which would cost us President Sproul. Sproul is one of the props of this state, the inspiration of the youth of California. A man of whom it can

truthfully be said that he could not be replaced. Are there any men here so mad that they would risk his loss? I don't want to live to see the University stagger as it would be if we lost him.

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This is a great moment in the history of our University, for you probably the most fateful in your life. The Regents are men past their youth. They have all been successful in their careers, they are secure in their futures. When they returned from Santa Barbara to their safe independence they left this splendid body of devoted men with two tragic alternatives, to compromise their principles and in humiliation to remain in their previously proud employment or with their families to take to the road seeking a new home and employment with all the sad hazards incident to such a quest.

I do not think that the Regents realized the results of their well meant action.

The oath was a well meant patriotic jesture, but it had no other value. What you sought by the oath has already been given you, three deep. You have the original oath of the faculty which covers the whole matter. You have the proven worth and loyalty of the faculty over many years which is more than an oath and which renders them immune from question, the demand that they wear their loyalty on their sleeves. Lastly you have the great vote of the Faculty by which they gave you more then the oath asked for. All that remains of complete obedience is a formal signature to a meaningless oath.

Dear Jack, don't incur the sure injury to our University which will follow the "sign or get out" policy of the Santa Barbara meeting. Be big, Jack, and save the University. Can't you say at your Davis meeting that you are convinced of the honesty with which the Faculty assert their position, that they are not in rebellion against authority, but in what they believe is defense of their rights, and that for the sake of the University you will accept the terms proposed by them at Santa Barbara. That is what Lincoln would do were he there; that Jack, is what I hope you will do.

Sincerely