



Letter to the Board of Regents from William F. Cartwright, April 27, 1950

[Letter, April 27, 1950]

Berkeley, California
April 27, 1950
Board of Regents
Administration Building
University of California
Berkeley 4, California
Dear Sirs:

Since June 1940, there have been grave doubts as to the constitutionality of your employment policy, which may constitute an invasion of private political beliefs. We feel that your ruling of April 21, 1950, has strengthened this invasion.

The Non-Senate Academic Employees, motivated by concern for University welfare and the preservation of constitutional rights, wish to seek a ruling on this issue. Where questions of constitutionality are involved, it has been the American tradition to submit a test case to the courts for determination, so that the constitutional issues may be determined without the hazard of beclouding the issue with irrelevant legal matters. If such a test case can be presented, the courts will be able to make a clear decision on the legality of political tests for teachers, before the rights of individuals are further abridged and before further damage to the greatness of our University occurs.

Because an attempt by a single employee alone to receive a court ruling might be decided on grounds other than constitutional, we propose that a test case be instituted immediately.

Your last directive provides the basis for filing a test case at once. Our attorney, Mr. Robert W. Kenny, is prepared to ask for declaratory relief for NSAE members in the State Superior Courts. With your consent, we can immediately test the constitutionality of your actions with regard to the provisions, among others, of Article 9, Section 9, of the State Constitution, and Amendments 1, 5, and 14 of the Federal Constitution.

In addition to constitutional questions, there would seem to be conflict between your employment policy and the following requirements of University Regulation No. 5:

"The University respects personal belief as the private concern of the individual. It equally respects the constitutional rights of the citizen."

As fellow-citizens, and as fellow-members of the University community, we appeal to you to permit the courts to rule on the constitutionality of your actions.

Because you have set May 15, 1950 as a deadline for complying with your new contract provisions, we respectfully urge you to give this request your careful consideration, so that we may have your decision by May 9, 1950. If no reply is received by that date, we shall be forced to assume that you are unwilling to submit the validity of your action to judicial scrutiny.

Upon receipt of an affirmative reply from you, we shall arrange for our attorney to meet with your legal staff to devise the means whereby a test case can best be presented.

Sincerely

/s/ William F. Cartwright, Chairman
Non-Senate Academic Employees
for the Steering Committee