



Basis for Court Action

BASIS FOR COURT ACTION in case of dismissal for not signing the Regents' required agreement.

1. The standard oath is all-inclusive.
2. No different oath has at any time in the history of the University been required.
3. The fact that only the standard oath has been required has in the minds of all employes of the University set an unvarying qualification in respect thereto.
4. The restoration of the standard oath together with an agreement designed to accomplish substantially the same result as an augmented oath such as was recently retracted, set a new condition of employment, or of renewal of tenure and pension rights of employes of the University.

To confront employes with such new conditions which can be shown to be illegal, unjust, ineffectual, unAmerican and stultifying to the signatory employe is practically duress, considering the penalty (a) of loss of position and accumulated tenure and pension rights and (b) to publicly and falsely prejudice the reputation of one who refuses to sign, by causing the inference that the refusal to sign was by reason of membership in the Communist Party or other organization which advocates overthrow of the Government by force or violence and that he does have committments in conflict with

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his responsibility with respect to impartial scholarship and free pursuit of truth. Even though the one who refuses to sign refuses on grounds that the requirement of signing as a prerequisite to University employment is repugnant and stultifying to one in the teaching profession, the person will be subject to prejudice to a greater degree than to glorification for having had the courage not to sign so preposterous an agreement.

5. Employes of the University or new employes who may be ineligible under the agreement will not hesitate to sign the agreement. The fact of signing will be a cloak of immunity to them and render their detection by the University more difficult. Communists do not hesitate to commit perjury for the cause of Communism. Every ex-Communist who testified that Harry Bridges was a Communist also testified that he (the ex-Communist) had denied under oath that he was a Communist when still a member of the Party. To the extent that the agreement is intended as a screen against Communists it will fail. Many employes who have been dropped for non-signing may be replaced by subversives who have no scruple about signing, in fact welcome the opportunity to make their detection and dismissal more difficult.
6. The objective of the agreement appears to be (1) to lay the basis of a criminal prosecution against any employe who

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later is proven to have been a Communist at the time of signing, basing the case upon acceptance of employment and payment under a false representation, and (2) to provide against Communist and other committments in conflict with an employe's impartial scholarship and free pursuit of truth.

As to 6 (1) there is no state law denying payment of state funds to a Communist, and no state law declaring the Communist Party as other than a legal party.

As to 6 (2), The mere signing of such an agreement does not prove that the employe's scholarship will be impartial and that his teaching will be in pursuit of truth. The existing high standing of the faculty in these respects is due to the conscientious handling by the faculty of fitness of its members. The new agreement in no way lessens the dependence of the Regents upon the faculty for detection of unfit personnel. In the event of the faculty's finding unfit by reasons of suspected false signing or breach of the agreement an employe who has signed the agreement, the agreement will throw upon the Regents the burden of proving that the party breached the agreement. The contract thus reduces the freedom of the faculty and Regents in maintaining the University free of subversive infiltration, and creates a burden of expense for defending the Regents' acts of dismissal, under a contract of the Regents' own inauguration.

More effective maintenance of impartial scholarship and free pursuit of truth can be accomplished both by the Faculty

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and Regents under a rule than under a contract.

Furthermore, if the object of the Regents is to provide by contract for impartial scholarship and free pursuit of truth, then the contract is wholly inadequate in providing against innate, environmental or acquired prejudices which may be as fatal to impartial scholarship and free pursuit of truth as they (the Regents) insist that each employe shall declare Communism to be, under the wording of the agreement. In other words, the agreement is both ill-advised and inadequate to accomplish its stated purpose.

The agreement opens the faculty of U.C. to subversive infiltration and the state to costly litigation over dismissals.