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## Letter to Senate Member, March 4, 1950

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Dear Senate Member:

The following important business concerning the loyalty oath was transacted at a general meeting of Non-Senate Academic Employees on Friday, March 3:

1. Passed by a vote of 110-1:

"In accordance with the position of the Academic Senate of the University of California, Northern Section, enunciated in the Adams' resolution passed November 7, 1949; and with the position of the American Association of University Professors, presented in the report of its Committee on Academic Freedom and Tenure and unanimously reaffirmed by the Council of the Association October 29-30, 1948;

We believe that academic freedom means that a scholar is to be judged solely on his professional competence and performance in the academic field;

We believe the Regents' policy on employment as enunciated on June 24, 1949 and the loyalty oath to implement this policy are in direct conflict with the principles of academic freedom and are detrimental to the cause of free education everywhere;

We ask all to join with us in demanding that the policy and oath be rescinded."

A motion from the floor to oppose the oath but not the policy failed to receive a second.

2. A "Save-the-University" meeting to be held in the near future under joint sponsorship of all recognized campus organizations that wish to participate was approved.

3. A resolution was passed unanimously urging Governor Warren "to consult with leaders of community and university organizations, and to seek their advice and recommendations in order that his two new appointments (replacing Regents Giannini and Fleishhacker, whose terms have expired) may better represent the interests and welfare of the people of California."

4. The Steering Committee secured general approval of explorations with the faculty concerning a possible agreement for group withdrawal of services in the event that any member is fired for not signing the oath. Reflecting the group feeling that these measures did not go far enough, a resolution was made from the floor, and amended, to the following effect:

Motion:

"To express our sentiment as to the desirability of withdrawal of our services to the university in the event that any of our members is fired for not signing the oath."

Amended:

"This to be a show of sentiment not now binding on each individual voting, in order to indicate to the faculty our desire for united action along these lines."

This resolution was passed 146-2.

## **ACADEMIC SENATE, NORTHERN SECTION Excerpts from Resolutions passed on November 7, 1949.**

"The Academic Senate, Northern Section, reaffirms its position regarding the loyalty oath taken at its meeting on September 19, 1949. In future discussions which may be held with the Regents regarding the oath, representatives of the Senate, Northern Section, should be guided by the two resolutions passed on September 19, 1949."

The text of those two resolutions follows:

1. "The faculties assembled in the Senate, Northern Section, wholeheartedly concur in the University policy as set forth in University Regulation Number 5 which prohibits the employment of persons whose commitments or obligations to any organization, Communist or other, prejudice impartial scholarship and the free pursuit of truth."
2. "The members of the Senate request the privilege of affirming their loyalty to the principles of free constitutional government, by subscribing voluntarily to the oath of loyalty sworn by officers of public trust in the State of California."

"In welcoming the opportunity to continue discussions with the Board of Regents, the Academic Senate, Northern Section, wishes to make entirely clear its position with respect to the following matters:

"The Senate approves the agreement between the Advisory Committees and the Board of Regents upon the 'objectives of the University Policy excluding members of the Communist Party from employment' in this University, but emphasizes that it is the objectives of 'impartial scholarship and the free pursuit of truth' which are being approved, not the specific policy barring employment to members of the Communist Party solely on the grounds of such membership."

### **[Attachment]**

Contents:

- I. Excerpts from the State of California Constitution
- II. American Association of University Professors' Position on Academic Freedom
- III. Phi Beta Kappa's Statement of Policy on Freedom of Teaching
- IV. American Association for the Advancement of Science, Statement on Civil Liberties of Scientists.

#### I. Excerpts from the Constitution of the State of California:

A. Article IX, Section 9:

"The University shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its Regents and in the administration of its affairs..."

B. Article XX, Section 3:

"Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of the office of, according to the best of my ability.'

"And no other oath, declaration, or test shall be required as a qualification for any office or public trust."

## II. Excerpts from the Official Position of the American Association of University Professors on Academic Freedom:

A. Report of Committee A for 1948 passed unanimously by the Council of the Association on October 29 - 30, 1948, printed in the A.A.U.P. Bulletin, Spring, 1949. pp 56-57.

"The fourth section of the report of the Committee for 1947 is concerned with the purport of the following paragraph of the 1940 Statement of Principles on Academic Freedom and Tenure:

"The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinion of others, and should make every effort to indicate that he is not an institutional spokesman."

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"The language of this statement was intended to and does leave the teacher free to advocate his own political and social views within the limits of law-abiding citizenship and professional propriety. This statement is intended to safeguard the teacher from the tendency, ever present among some groups, to say that because of his function he is not as free as other citizens to promulgate his political or social views and that he cannot affiliate with groups of which other citizens are rightfully members.

"The general conclusion reached in the deliberations in reference to the Communist party mooted in the report of the Committee for 1947 was that 'guilt is personal.' This statement was said to mean:

"...If a teacher, as an individual, should advocate the forcible overthrow of the government or should incite others to do so; if he should use his classes as a forum for communism, or otherwise abuse his relationship with his students for that purpose; if his thinking should show more than normal bias or be so uncritical as to evidence professional unfitness, these are the charges that should be brought against him. If these charges should be established by evidence adduced at a hearing, the teacher should be dismissed because of his acts of disloyalty or because of professional unfitness, and not because he is a Communist. So long as the Communist Party in the United States is a legal political party, affiliation with that party in and of itself should not be regarded as a justifiable reason for exclusion from the academic profession.'

"In this connection, to quote another statement from the report of last year, the Committee said that 'this Association regards any attempt to subject teachers to civic limitations not imposed upon other citizens as a threat against the academic profession and against the society which the profession serves.'"

B. Summary by Ralph E. Himstead, General Secretary, A.A.U.P., in a letter printed in the A.A.U.P. Bulletin, Autumn, 1949.

"The test of a principle is in a crisis. The tests of the principles of freedom vouchsafed us in the Bill of Rights of the Constitution always come during periods regarded by some as crises, in which it is argued by some that

the principles are not applicable because the situation is unusual..... The Annual Reports of Committee A (on Academic Freedom and Tenure) for 1947 and 1948 make it clear that, in the light of the facts then known to the Committee, it was the considered judgement of the Committee that the factor of communism in the academic profession did not warrant either the abandonment of the longstanding principle in Anglo-American law that guilt is personal or the abandonment of the well-established principles of academic freedom and tenure, which assure the maximum of freedom for the individual, limited only by the bounds of professional and civic propriety and a full measure of due process to the individual in situations in which his exercise of freedom is called in question...."

"The formula, guilt by association, is not only too elementary to be effective, but it is also dangerous — dangerous because those who endorse it are in effect inviting legislatures to assist in finding members of the academic profession who are members of the Communist Party by such means as un-American activities investigations, teachers oath laws, examination of textbooks by legislative committees and kindred measures. The rationale of this formula is the rationale of un-American activities investigations, teacher oath laws, and legislative examination of textbooks, all of which are inimical

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to the integrity of our educational institutions. It is also because of this consideration and other pertinent considerations, discussed in the Report of Committee A for 1947, that we of the Committee regard the formula, guilt by association, and those who endorse it, as lacking in realism....."

### III. Phi Beta Kappa, Statement of Policy on Freedom of Teaching:

(Jointly issued by Phi Beta Kappa's Executive Committee and Committee on Qualifications on June 13, 1949. Printed in The Key Reporter, Autumn, 1949.)

"As a Society committed since 1776 to the promotion of liberal studies and the ideal of freedom in education, Phi Beta Kappa is firmly opposed to efforts, from either the extreme right or the extreme left, to restrict within our institutions of learning the impartial analysis and evaluation of any and all literary, political, economic, social or religious tenets."

"The never-ending search for truth by the open and inquiring mind is a basic necessity for the survival of the democratic way of life. To the fundamental concepts of our democratic tradition, including the freedom to teach or publish the results of honest and competent inquiry, the overwhelming majority of college teachers are deeply devoted. To impose upon them loyalty tests not required of other professions, or for outside non-professional bodies to investigate their professional competence or integrity, affects adversely the morale of both college teachers and their students. In institutions where such practices obtain, teachers are being intimidated and students are being led to believe that colleges dare no longer engage in the disinterested pursuit of truth, but must become instruments of propaganda. Phi Beta Kappa is bound to be concerned whenever conditions prevail in our schools and colleges which threaten in such ways the American principle of freedom of teaching."

"The Committee on Qualifications is required by the Society's constitution to inform itself regarding the status and practices of institutions sheltering chapters of Phi Beta Kappa which may jeopardize the Society's ideals and to report such practices to the Society for appropriate action."

"The Committee feels that at this time it is especially important to call upon all the institutions with which its chapters are associated to withstand the emotional pressure, from whatever quarter, to substitute dogma for critical analysis."

### IV. American Association for the Advancement of Science:

(Excerpts from a Statement on Civil Liberties of Scientists released by the Council and Executive Committee of the A.A.A.S. and printed in the August 19, 1949 issue of Science. The Statement specifically deals with the Federal Loyalty Order, Executive Order No. 9835.)

1. "If the Loyalty Order is to be retained, a drastic revision is essential. Instead of focussing on an employee's associations, it should focus on his behavior in overt acts."
2. "Judge Cardoza once wrote, "Experimentation there may be in many things of deep concern, but not in setting boundaries to thought, for thought freely communicated is the indispensable condition of intelligent experimentation, the one test of its validity."

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3. "Unless there is elimination of the Order's present emphasis on attitude rather than conduct, the nation will suffer heavily from the present loyalty program."
4. "Until the Loyalty Order deals with the way employees act, rather than with the way they supposedly think, we shall inhibit the freedom and encourage the insecurity of our public servants. The cost will in the end be borne, not by the employees who are deprived of their normal freedom to believe and behave as they wish within the limits law has set - it will be borne by the nation as a whole."