

**Anonymous**

Proposed Statement Concerning the Union's Present Policy on the UC Controversy, ca. 1950  
Part of James Ralston Caldwell papers, BANC MSS 67/97 c  
BANC MSS 67/97, Box 1, Folder 21 Loyalty Oath

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### **PROPOSED STATEMENT CONCERNING THE UNION'S PRESENT POLICY ON THE U.C. CONTROVERSY**

In the "Loyalty Oath" controversy at the University of California, the Regents, at their August meeting, have taken decisive action by dismissing some faculty members who were recommended, by the Senate Committee on Privilege and Tenure and by the President of the University, as fully qualified for the positions they held. This action brings to a clear issue the fundamental question of academic freedom and tenure which was defined by the Civil Liberties Union pamphlet of November 15, 1949, under the title, "Crisis at the University of California."

The Academic Senate has entered vigorous protest against this action of the Regents, condemning it as destructive of the work of the University. The Senate has also appointed a committee to raise funds, by voluntary subscription of faculty members, to pay the salaries of those dismissed until the action of the Regents can be reversed and the teachers restored to their positions.

In the field of legal action, eighteen of the dismissed professors have applied to the State District Court of Appeals, asking for a writ or mandate directing the Regents to reverse their action. The Court has granted a temporary stay of the Regent action until the case can be argued by counsel and, then, passed upon by the Court. The Faculty plea, as thus far presented, is based upon the technical point that the Regents, having, by executive action, at the July meeting, appointed the men in question, were not free, at the August meeting, to reconsider that action. Since this technical point does not touch upon the basic issues of academic freedom and tenure, nor upon the authority of State officials to impose "extra" oaths, the Civil Liberties Union has, thus far, taken no part in the suit.

The Union is, however, determined that, in whatever ways may prove possible, the underlying issues of the controversy shall be presented to the Courts.

The first of these deeper issues is that of the legal validity of what is called "academic tenure." This principle, with very few exceptions, is accepted throughout the nation, in the offering and accepting of faculty appointments. It has very great significance in guarding the freedom and integrity of higher education. Under it, at the University of California for example, teachers of the higher ranks are assured that they are subject to dismissal only on grounds of proved incompetence, criminality or neglect of duty. The current action of the Regents seems to the Union a clear violation of that pledge. The legal question is whether such a breach of faith will be forbidden by the Courts if the issue can be directly presented to them. In seeking for a decision on that question, the Northern California Branch is supported by the Southern Branch and by the National Board in New York.

The second issue which needs to be tested has to do with Faculty members who have not reached the status of "permanent tenure" as well as those who have reached it. This is the question of the authority of the Regents or of any other officials of the State to require, on penalty of dismissal, oaths or affirmations of loyalty other than the "standard" oath or affirmation, prescribed by the State Constitution. Under this heading are the dismissals

of a large number of teaching assistants. The Union stands ready to give assistance to any one of these who may seek legal reversal of the action in his case.

Third, it still remains to be seen whether any legal redress is available to Irving David Fox on the ground of his dismissal by the Regents in the middle of the last academic year. As already publicly stated by the Union, that action of the Regents is shown by their own records to have been wholly unwarranted and wanton in its destructive effect upon a promising academic career. Presumably no legal action in this case can be taken until other cases have been passed upon. But the Union is determined that it shall not be forgotten.

## **LEVERING ACT**

An act to add Chapter 8 to Division 4 Title 1 of the Government Code, relating to an oath or affirmation of allegiance for civil defense workers and public employees, declaring the urgency thereof, to take effect immediately.

The people of the State of California do enact as follows:

Section 1 Chapter 8 added to division 4 Title 1 of the Government Code, to read:

### **Chapter 8. OATH OR AFFIRMATION OF ALLEGIANCE FOR CIVIL DEFENSE WORKERS AND PUBLIC EMPLOYEES.**

3100. It is hereby declared that the defense of the civil population during the present state of world affairs is of paramount state importance requiring the undivided attention and the best efforts of our citizens. In furtherance of such defense and in the exercise of police power of the State in protection of its citizens, all public employees are hereby declared to be civil defense workers subject to such civilian defense activities as may be assigned to them by their superiors or by law.

3101. For the purpose of this chapter the term "civil defense worker" covers all public employees and all volunteers in any civilian defense organization accredited by the State Disaster Council. The term "public employees" includes all persons employed by the State or any county, city, city and county, state agency or public district, excluding aliens legally employed.

3102. Subject to the provisions of Section 3 of article XX of the Constitution, all civil defense workers shall within the first 30 days of employment take and subscribe to the oath or affirmation required by this chapter.

3103. The oath or affirmation required by this chapter is as follows:

"I, ....., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means, except as follows: ..... (if no affiliations, write in the words 'No exception') and that during such time as I am a member or employee of the ..... (name of public agency) I will not advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or

other unlawful means."

3104. The oath or affirmation may be taken before any officer authorized to administer oaths. No fee shall be charged by any person before whom the oath or affirmation is taken and subscribed.

3105. The oath or affirmation of any civil defense worker of the State shall be filed with the State Personnel Board within 30 days of the date on which it is taken and subscribed. The oath or affirmation of any civil defense worker of any county shall be filed from the office of the county clerk of the county. The oath or affirmation of any civil defense worker of any city shall be filed in the office of the city clerk of the city. The oath or affirmation of any civil defense worker of any other agency or district shall be filed with such officer or employee of the agency or district as may be designated by such agency or district.

3106. Compliance with this chapter shall, as to state employees, be deemed full compliance with Chapter 4, Part I, Division 5, Title 2 of this code, requiring taking of oaths by state employees.

3107. No compensation nor reimbursement for expenses incurred shall be paid to any civil defense worker by any public agency unless such civil defense worker has taken and subscribed to the oath or affirmation required by this chapter. It shall be the duty of the person certifying to public pay rolls to ascertain and certify that such civil defense worker has taken such oath or affirmation.

3108. Every person who, while taking and subscribing to the oath or affirmation required by this chapter, states as true any material matter which he knows to be false, is guilty of perjury, and is punishable by imprisonment in the state prison not less than one nor more than 14 years.

3109. Every person having taken and subscribed to the oath or affirmation required by this chapter, who, while in the employ of, or service with, the State or any county, city, city and county, state agency, public district or civilian defense organization advocates or becomes a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States by force or violence or other unlawful means, is guilty of a felony, and is punishable by imprisonment in the state prison not less than one or more than 14 years.

Section 4. This act is an urgency measure necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

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During the present emergency in world affairs loyalty and allegiance to the United States and the principles for which it stands are of utmost importance. Immediate assurance that persons in civil defense are loyal to this government and are not in fact advocates of its overthrow by force or violence is essential to the well being of the State and Nation, and the confidence of the people. It is therefore necessary that this act take effect immediately.