



Minutes of the Special Committee to Discuss the Oath Requirement with the Advisory Committees of the Academic Senate, September 29, 1949

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The Committee went into executive session.

The Chairman announced that the purpose of the meeting was to try to explore the situation which has arisen in connection with the oath requirement and particularly to ascertain the facts. He said that, unfortunately, an impression seems to have been created that there is something in the nature of a controversy between The Regents and the faculty, and added that insofar as that represents any statement of unfriendliness or lack of pride in the faculty on the part of The Regents it is erroneous. He then reviewed the action taken by The Regents in order that the members of the faculty would be advised of the background leading up to the oath requirement. He read in their entirety the minutes of June 24 of the special committee to prepare a resolution pertaining to communist activities and related matters, at which meeting the committee approved, with minor changes, a form of oath proposed by the Advisory Committees of the Academic Senate and recommended to The Regents the adoption of the following statement of policy.

That, reaffirming the position of the University on the subject of communism, the following policy be adopted, and that a statement of said policy be issued by the Secretary of The Regents on behalf of The Regents of the University of California, the President of the University, and the Advisory Committees of the Northern and Southern Sections of the Academic Senate:

"At its birth the University of California was dedicated to the search for truth and its full exposition.

"The primary obligation of The Regents of the University of California has been to stand steadfastly for that freedom of the human mind and spirit which has enabled the assemblage of distinguished scholars constituting the faculty to continue to pursue these objectives.

"The Regents gladly share with the faculty the responsibility to keep the University free from those who would destroy this freedom.

"Today this freedom is menaced on a world-wide basis by the Communist Party through its determination by fraud, or otherwise, to establish control by the State over the thoughts and expression of thoughts by the individual.

"Therefore, The Regents reaffirm their declaration of policy adopted in 1940 that membership in the Communist Party is incompatible with objective teaching and with search for the truth.

"Pursuant to this policy The Regents direct that no member of the Communist Party shall be employed by the University.

"Any person who is or shall become a member of the Communist Party or otherwise undertakes obligations or advocates doctrines inconsistent with this policy shall, after the facts have been established by the University

Administration, and after the traditional consultation with the Committee on Privilege and Tenure of the Academic

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Senate in cases of members of the faculty, be deemed to have severed his connection with the University."

and to implement the above stated policy, that the following oath be subscribed to by all members of the faculty, employees and administration of the University:

"I do solemnly swear (or affirm) 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 my office according to the best of my ability; that I am not a member of the Communist Party, or under any oath, or a party to any agreement, or under any commitment that is in conflict with my obligation under this oath."

That report was transmitted to the Board and was unanimously adopted, its adoption being predicated upon the belief by The Regents that the statement of policy and proposed oath were satisfactory to the Advisory Committees of the Academic Senate and was in accord with the desires and wishes of the faculty committees. Regent Harrison stated that it was, therefore, with a great deal of shock that The Regents learned at their last meeting of the objection by the Academic Senate to the policy. He said it would be helpful if one of the members of the faculty group would tell the committee what the attitude was with respect to the matter; whether the representations made to the Board on June 24 were true; and what efforts were made to sustain the position taken at that time by the Advisory Committees.

Speaking for the Northern Advisory Committee, Professor Lehman stated that the first knowledge the members of the faculty had of The Regents' action was in an announcement published in the Faculty Bulletin in May, 1949, which was over the Secretary's signature and read as follows:

The Regents of the University of California have directed me to include in acceptance letters when 1949-50 appointments are made an oath of allegiance in the form to be set forth therein, and that all faculty and employees must take the oath as part of the acceptance. This procedure is about to go into effect for new appointees for the remainder of this fiscal year, but persons taking the oath of allegiance now will not be required to do so again on next annual appointments. Salary checks cannot be released until acceptance letters have been returned to this office properly signed before a Notary Public.

Many of the faculty members thought that this had to do only with new appointments since those on tenure are not appointed annually but are merely informed of their salary rates each year. Later a few of the members procured a copy of the oath, as first designed, and these men were greatly concerned about its ambiguities. The majority of the faculty, however, first became aware of the form of the oath at the Senate meeting, which was called for June 14. That was a meeting with some agitation which occasionally broke through the surface, and the full discussion made it clear that the Senate, as a whole, preferred deletion of the oath to any other solution of the problem. However, it was brought out that public relations might make it desirable to revise instead of delete and that the faculty should not put itself in an opponent position to The Regents. The Senate then adopted, with a unanimous vote, minus six, the resolution which was presented to The Regents' special committee on June 24. Following this action of the Senate, the Advisory Committee addressed a letter to the President requesting that the objectionable clause in the oath be deleted or that it be revised in the manner

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set forth in the letter. Having no information to the contrary, the members of the faculty supposed that The Regents' position was taken as the result of the Tenney bills then before the Legislature, but these bills were voted down at the same time The Regents accepted the form of revised oath proposed by the Advisory Committee.

After conferring with groups and large numbers of individuals, the Advisory Committee on August 24 sent the President a memorandum which was intended to communicate to him that the situation had changed in view of The Regents' action to hold letters of appointment until after oaths were received. This was followed by further discussions between the Advisory Committee and certain of the original group of dissenters and resulted in the adoption by the Senate on September 19 of the following resolution:

1. The faculties assembled in the Senate, Northern Section, whole-heartedly concur in the University policy, 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.

It was the object of the Advisory Committee in recommending this resolution to the Senate to bring all the members of the faculty into a unified attitude—to achieve unity and to find the highest possible ground upon which unity could be procured.

In explanation of the change in attitude towards the oath as originally proposed by the Advisory Committees, Professor Lehman stated that the faculty is composed of men given to examining things carefully and slowly, and a matter such as this normally would have a preliminary discussion, would be considered by a subcommittee, and the report of the subcommittee would come on as a special order of business at the next Senate meeting. In the present situation, however, on a matter of highest importance the Senate was forced into quick action, since the members were not aware of the oath requirement until late in May. After more leisurely consideration of the problem they saw the whole thing in a different light.

It was brought out by Regent Harrison that there was no action taken by The Regents which contemplated withholding the knowledge of the oath until May. He added that The Regents are now in the peculiar position of being asked to withdraw action which was adopted with the full approval of the faculty.

Professor Huberty then discussed at some length the action taken by the Southern Section of the Academic Senate and by its Advisory Committee. This paralleled to a great extent the actions of the Northern Section as described by Professor Lehman and resulted in the adoption by the Southern Section of the Senate of the following resolution:

1. The faculties assembled in the Senate, Southern Section, concur in the policy set forth in University Regulation No. 5. They also believe that the University should prohibit employment of any person whose commitments or obligations, Communist or other, demonstrably prevent objective teaching and the free pursuit of truth.

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2. The members of the Senate request the privileges 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 commenting on the attitude of the southern members, Professor Miller stated that in ratifying the oath adopted in June they were prompted by a desire to carry out The Regents' intentions in keeping communist teaching off the campuses and in keeping the faculties free from communist influence. As the weeks went on there was a deeper understanding of the implications and consequences and a growing conviction that the oath did not implement this intention. When asked what he considered a proper implementation, Professor Miller said The Regents could rely upon the faculty to implement the policy and to keep from the campuses not only members of the communist party but also persons whose activities gain communist objectives. He went on to

say that if a man is found to be an incompetent teacher or scholar, as he must be if his thinking and teaching are prejudiced, then the Committee on Academic Privilege and Tenure would have no option but to recommend his dismissal. Regent Ehrman called attention to a recent article in the newspapers concerning a former University faculty member who is under investigation by the House Un-American Activities Committee and asked what the attitude of the faculty was toward such cases. Professor Lehman replied that the man in question was cleared by the F.D.I. and, no doubt, there are other cases where communists can slip through. However, Professor Lehman felt that the faculty would be more likely to discover their want of intellectual integrity by their contacts with them at the club and elsewhere than by any oath.

Regent Dickson then discussed at some length the attitude of the public toward communist influences in our schools as shown by polls that have been taken throughout the country. These polls indicate that an overwhelming majority of the people believe that communists should not be allowed to teach in our colleges and University. He felt strongly that the University should not stand counter to that opinion. He also informed the committee of a rumor he had heard to the effect that if the University of California does not adhere to a firm policy and require the dismissal of all communists from its faculty, there is to be prepared for submission to the people an amendment to the State Constitution which will bear upon the University and its academic staff. It was his opinion that if such a proposal is allowed on the ballot it will be the most destructive thing in the entire history of the University. While striving to promote the welfare of the University, he asked that the committee members and the faculty representatives give careful thought to the possible damage which will come to the University if The Regents fail to stand firmly on the question of communism.

In review, Regent Neylan again went over the events leading up to the adoption by The Regents of the oath requirement, stating that on March 25, upon recommendation of the President, The Regents prescribed a form of oath. Subsequently, after some delay, opposition developed to that oath and there was much publicity given to it. Then a meeting of the Senate was held, and thereafter on June 24, upon solicitation of the Advisory Committees of the Academic Senate and the President, the form of oath was revised. On that day a carefully prepared statement was agreed upon and The Regents were happy in the thought that they had shared the responsibility with the faculty and had proceeded in good faith to act in accordance with the wishes of the Academic Senate. Regent Neylan wanted to know why at the meeting of the Academic Senate on September 19 there appeared to have been no effort made whatsoever to have the Senate support or ratify the action of its Advisory Committee. On the contrary, there seemed to be a special pleading to get away from the meaning and substance of the agreement

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had between the President and Advisory Committees which induced The Regents' action on June 24. He also asked why Professor Lehman in his discourse had stressed the desirability of unity. It was Regent Neylan's opinion that any solution of a debatable matter which results in unity is a weak solution and a surrender to an undivided minority. He felt that when a responsible body of scholars solved a problem by backing away from conflict with a minority, all to do obeisance to an abstract thing called unity, it embraced a very dangerous course of action. He then referred to Professor Miller's proposed implementation of The Regents' policy, stating that in his opinion it was most inadequate and adding that the Senate had offered no affirmative method of meeting the menace of communism.

In reply to Regent Neylan's comments Professor Lehman discussed the matter of unity, stating that the faculty has now, after what is the traditional time for discussion and consultation, presented a view which is unanimous except for one and unanimously backed in the South. Referring to the repudiation by the Senate of its Advisory Committee's action, Professor Hildebrand informed the group that every effort was made to reassure the faculty that The Regents had no intention of interfering with academic freedom, nor did its oath requirement signal a campaign against the faculty. He called attention to the fact that the Advisory Committees had no opportunity to consult with the Senate prior to the time its proposal was presented the The Regents, and in preparing its recommendation it could only strive to represent the views of the faculty as a whole.

Professor Hildebrand was confident that an overwhelming majority of the Senate would have signed the oath if it had not been tied up with the annual salary notices. He was also confident that if the Senate's latest requests were approved, the Committee on Privilege and Tenure would take a stronger stand than it has ever done in the past against communist influences on the campus. He was of the opinion that the faculty should be held responsible, and that not only a man's membership in the communist party but his attitude toward other subversive teachings would become evident to the colleagues with whom he comes in contact.

At this point the meeting adjourned until 2 p.m.

The meeting reconvened at 2 p.m.

In opening the discussion Professor Olmsted commented on the attitude of the members of the Southern Section of the Academic Senate. He said that actually in June the issue was almost exclusively a matter of the wording of the oath, but during the summer the faculty members had an opportunity to devote more reflective thought to the problem and they began to realize that the oath was not the only element involved. Many of them were more disturbed about the original policy itself in that they considered it a blanket disqualification. He felt that if the policy had been adopted by The Regents after consultation with representatives of the faculty it would have received a much greater degree of support. He thought that while a great majority of his colleagues would strongly favor a declaration that The Regents would not employ communists, they hoped to see that policy implemented in such a way that the establishment of facts would be a strictly individual affair and that a man would not be disqualified until after he has been heard. In addition, he said that the faculty feels that a matter of this kind which affects the conditions of employment and of tenure is so fundamental that it should be adopted only after the most careful discussion with the people it involves.

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Regent Neylan did not think it was a justifiable plea that the Board of Regents should retreat from a position it was induced into by the Academic Senate on the theory that the Senate, in laying the foundation for inducing The Regents, had acted either hastily or without mature thought.

Discussion then turned on a form of statement that might be agreed upon by both the faculty members and The Regents' committee and ultimately agreed upon by the full Board. Regent Dickson suggested that the following might be satisfactory:

To correct any confusion that may have arisen as to the attitude of the University of California with respect to subversive influences as they may affect our institution, the Board of Regents issues the following statement of policy:

First: Subversive influence, either communistic or in any other form that shall have for its objective the destruction of the American principles of government, will not be tolerated within the University.

Second: The President of the University is hereby authorized to make a careful investigation into any reported violation of this policy, and to dismiss any person who, in his judgment, is in violation of this policy.

Third: Every member of the Faculty and Administrative Staff is urged to cooperate in the maintenance of this principle.

The President is hereby authorized to secure from the Faculty and from the Administrative Staff—by formal oath or a voluntary statement—assurances of support of the University's policy as herein enumerated.

In commenting on this Professor Hildebrand stated that he would like to see what would happen if the faculty were given the opportunity to state in its own way its position in respect to its loyalty, and he ventured that if requested so to do all the faculty would respond. It was Regent Fenston's thought that undoubtedly the matter could be handled on a compromise basis, but he could not see how The Regents could retreat very much from

their original position without harming the prestige of the University, especially in view of the publicity the matter has had, not only locally but throughout the nation.

Professor Miller brought out that the oath in its original form is united with the policy and that the request of the Senate in September separates the two. He went on to say that the faculties are wholly in agreement with the policy, and they are not only willing but anxious to make affirmation of their loyalty in the terms of the oath mentioned in their last request. However, the tying of the oath to the policy represents to them the imposition of a blanket political disqualification upon University service. It is their thought that if the oath is a requirement, it cannot be voluntarily affirmed; and if the oath is a condition of service, the faculty could be accused of not having reached its conclusions by impartial logic and thought. If it is understood that the outlawing of communists is based upon the grounds that communism is incompatible with truth and impartial scholarship, then the faculty would agree 100% on the exclusion of communists on the theory that they are not seekers of the truth. Professor Miller said that if there is a blanket political disqualification of service with regard to communism, a precedent will have been established which

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may lead in the future to the disqualification of other minority groups, which he felt would be the destruction of the University. In the opinion of Regent Neylan communism is not a political party but a criminal conspiracy and he did not think that the disqualifying of a person for membership in the communist movement would set a bad precedent any more than the dismissal of members of Murder, Inc. He then suggested a statement which would read substantially as follows:

"The Academic Senate, after mature study, feels its suggested revision of the oath was not sound. The faculty subscribes to the statement of policy issued by the Board on June 24 but believes that policy can be implemented more effectively than presently planned. The faculty representatives request suspension of the compulsory aspects of the oath for 60 days to give the matter further consideration. The faculty committee will present to The Regents a method which it may deem to be a better implementation of the policy."

Regent Neylan felt that if recitals to this effect were embodied in a public statement, they would clarify in the public mind the fact that The Regents had not forced the oath on the academicians, that the oath originated on the academic side of the institution, and that the Academic Senate now feels that the form of oath it suggested was not sound, but that it subscribes to the statement of policy issued by The Regents on June 24. Under such a proposal The Regents would not be abolishing the oath but would suspend its compulsory aspect for 60 days while the Academic Senate undertakes to work out an effective means of implementing the policy. Regent Dickson could not agree to a statement which brought up the origin of the oath as he felt it would be damaging to the prestige of the President and the faculty. He again suggested the adoption of a statement such as the one he proposed earlier. In this connection, Regent Harrison felt that the policy approved by The Regents in June adequately and accurately sets forth the attitude of The Regents toward communism, and he could not see that it was desirable to substitute a new form. Speaking for the faculty Professor Hildebrand thought that both of the suggested statements had elements of great promise. When asked if they thought that within a period of sixty or ninety days a solution could be arrived at which would be satisfactory to both the faculty and The Regents, the members of the Advisory Committees were confident that agreement could be reached. Professor Olmsted expressed his concurrence with the approach suggested by Regent Neylan, stating that it offers two very important features:

- (1) a basis upon which contracts can be released before October 1; and
- (2) it would permit a certain amount of deliberation and careful and mature thought without a sense of a deadline to meet.

The group again discussed the faculty's attitude toward the statement of policy adopted in June and reference was made once more to the Academic Senate's latest resolution which would prohibit the "employment of

persons whose commitments or obligations to any organization, communist or other, prejudiced impartial scholarship and the free pursuit of truth." It was stressed that this had wider implications than The Regents' policy—it includes more than communists—and in addition it puts the whole matter on a more personal basis. The faculty representatives did not feel that they were prepared to endorse the statement of policy adopted by The Regents in June until they had again referred the matter back to the Academic Senate for further deliberation. They expressed the faculty's feeling that determination of their fitness to be members of the University staff should be put on the basis of honesty, integrity, and freedom from bias. They also felt that the imposing of an oath other than the one required of state officers generally will be taken as reflecting a suspicion of their loyalty.

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After further discussion of the oath requirement and the statement of policy the faculty representatives retired from the meeting.

The Regents' committee then gave consideration to a form of recommendation to be presented to the Board at the meeting the following day. It was the general consensus of opinion that the Board should not retreat from the oath requirement unless and until the faculty can offer a better implementation of the policy.

Concerning appointment letters it was felt that they should be held for the time being, but that salaries should be released from month to month while this matter is pending.

It was agreed that a statement would have to be released after the Board meeting the next day and attention was given to the form such a statement should take. Regent Neylan felt that the public should be given the facts concerning the origin of the oath requirement and that it should be pointed out that the Board and the faculty are going to explore methods of effectively combating communism. Until a better method is offered, the oath requirement will stand. Regent Neylan added that the faculty should be aroused to the menace of communism and that it should return to a position where the overwhelming majority takes charge rather than being harried by a dissident minority.

The committee carefully studied the suggested statements presented by Regents Neylan and Dickson, and after considering each point and the views expressed by the faculty representatives, voted unanimously to present to The Regents the recommendation set forth hereafter:

RECOMMENDATION:

Your Special Committee to discuss the oath requirement with the faculty committees recommends that the following statement be adopted as the action of the Board, and that the Secretary be authorized to release it to the Press:

The Board of Regents of the University of California reaffirms its announced policy that no member of the communist party shall be employed by the University.

In implementing this policy, the Board heretofore has adopted a form of oath which was formulated by the President and the Advisory Committees of the Academic Senate.

The Advisory Committees of the Academic Senate now advise the Board that after more mature consideration, the Senate would like to have a portion of that oath deleted.

In the absence of a better method of implementing its policy, the Board stands on its requirement of the oath.

The Board, however, will be glad to consider any method which the faculty may deem to be a further or better implementation of the policy, and request that such suggestions be made within 60 days.

And then the meeting adjourned.