



Minutes of the Academic Senate, Southern Section, April 24, 1950

TRANSCRIBER NOTE:

This excerpt from the meeting minutes includes a list of attendees and only those sections that pertain to the loyalty oath controversy. Page numbers reflect those of the original source.

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MINUTES OF THE ACADEMIC SENATE, SOUTHERN SECTION

Meeting of April 24, 1950
Volume 8

The Southern Section of the Academic Senate met at 10:00 a.m., Monday, April 24, 1950, in Room 19, Chemistry Building, with approximately three hundred voting members in attendance. Vice-Chairman C. Spling presided at the beginning of the meeting and Chairman H. G. Sproul presided during the latter part.

1. Vice-Chairman Epling called the meeting to order. He stated that it was a special meeting called under the provisions of Bylaw 18, and that with the exception of those who had been invited, such as the members of the faculty of Santa Barbara, all other persons should leave.
2. The Secretary presented the minutes of the meeting of March 28, 1950, and they were approved as submitted.
3. The following material was distributed to Senate members before the meeting:

[Report of Alumni Council Special Committee]

CALIFORNIA ALUMNI ASSOCIATION
University of California
Berkeley, California
Office of the Executive Manager
April 19, 1950
President Robert Gordon Sproul
University of California
Berkeley, California
Dear President Sproul:

The Alumni Council of the California Alumni Association has today unanimously adopted the enclosed report and recommendations of its special committee to implement the University's anti-Communist policy.

In accordance with the Council's approval, this report is forwarded to you herewith with the request that it be presented to the Board of Regents for their consideration at their April 21st meeting at Davis.

Yours very sincerely
(signed)

Stanley E. McCaffrey
Executive Manager

April 19, 1950

Alumni Council
California Alumni Association
University of California
Berkeley, California

Fellow Californians:

Our Alma Mater's policy on Communism and related issues is of deep concern to all Californians, as well as to the Board of Regents, President Sproul, our distinguished faculty, the students on the several Campuses, the people of our State and Nation. This matter is one of the paramount issues of the day.

Our Alumni Committee, speaking for the 36,000 members of the California Alumni Association who are representative of the 100,000 Alumni, was requested by President Sproul and members of the Board of Regents and faculty representatives to prepare for the Board of Regents our recommendations as to an appropriate solution of the matter under review.

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To that end, the Committee has conferred with almost all members of the Board of Regents individually, has talked to representatives of the Faculty Committee on many occasions, to representatives of the Faculty who believe the "Loyalty Oath" is indispensable, to hundreds of alumni of the University, to heads of the Student Bodies and other student representatives of various Campuses of the University. Conferences have been held with the President of the University, Governor Warren, and the Chairman of the Board of Regents, all of whom have been most helpful in giving their views to the Committee.

In order to resolve any difficult problem, it is necessary first to define the problem. For the sake of clarity, we feel our findings as to the problem involved should be stated:

The problem is two-fold and, in our opinion, is so considered by all groups and individuals we have interviewed. The divisions of the problem are:

1. Should faculty and other employees of the University be required to declare individually their status with respect to membership in the Communist Party?
2. Should the President and the faculty have the same right of review in cases of members who refuse to conform to a firm policy which excludes members of the Communist Party from employment in the University, and the right to recommend to the Regents the action to be followed, as they do in all other matters affecting tenure?

On the first point, that of a firm policy of excluding members of the Communist Party from employment in the University, there is general agreement that, in view of world conditions of today and the realistic fact that we are in a "cold war" with Russia, such a policy is necessary and essential when the future of our youth is involved. Furthermore, it is undeniable that a member of the Communist Party cannot meet the basic responsibility of a Faculty member with respect to impartial scholarship and free pursuit of truth.

The Alumni of the University and the public of the State of California have strong feelings on this point. Any weakening of this policy by Regents, Faculty, or the President would, in the opinion of the Committee, have disastrous effects on the future of the University.

Therefore, in the opinion of the Committee, the question becomes one not of whether the faculty should declare themselves individually with respect to membership in the Communist Party, but rather the best methods of such declaration.

It is our feeling, after many days of study, that there is a better method of implementing this policy than the continuance of the Loyalty Oath, even as an alternate.

Our reasons are these:

The Loyalty Oath has become a symbol not only at the University but throughout the Nation as something that Faculty should not be required to take because taking any other than the Constitutional Oath is an infringement on the fundamental rights of man and, therefore, sets them in a special class. We are not passing on the merits of the feeling, but we must recognize its existence not only at the University but throughout the Academic World.

It is the conviction of our Committee that the same purposes that the Regents and the general public, as well as Faculty, wish to accomplish by implementation of their policy of excluding members of the Communist Party from employment in the University can best be accomplished by other means for the following reasons:

- a. The right of the Regents to prescribe conditions of employment is indisputable. When an individual accepts conditions of employment,

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he is subject to legal penalties if he violates such conditions. The incorporation in a contract of the policy of excluding members of the Communist Party from employment in the University, therefore gives a better means of dealing individually with each employee of the University.

- b. On the University Faculty there is a large group of aliens. These men are valuable members of the Faculty. Such individuals cannot be required to take the Oath in its present form. They can be required to state, as a condition of employment, that they are not members of the Communist Party.

On the second point, that of tenure, the Committee finds almost unanimous opinion among all groups that there should be no departure from right of review by Faculty and President, with right to recommend to Regents. It is recognized that the Regents, as the governing body of the University, have and cannot delegate the final authority affecting employment.

Our Committee endeavors have been to determine the most effective way of implementing these objectives. Our Committee has unanimously agreed as follows:

1. The firm policy of excluding members of the Communist Party from employment in the University, in which both the Regents and Faculty agree, can best be accomplished by the simple inclusion in a "New Contract of Employment" of a statement which reads:

"Having taken the Constitutional Oath of office required of public officials of the State of California, I hereby formally acknowledge my acceptance of the position and salary named and also state that I am not a member of the Communist Party or any other organization which advocates the overthrow of the Government by force or violence and that I have no commitments in conflict with my responsibilities with respect to impartial scholarship and free pursuit of truth.

"I understand that the foregoing statement is a condition of said employment and a consideration of payment of said salary."

2. All parties be required to sign the Constitutional Oath in the form required of all State officials (except for non-citizens who cannot be required to sign this form).
3. All parties be invited to sign the "New Contract of Employment". Those who have already signed the so-termed "Loyalty Oath" will not be required to sign the "New Contract of Employment" for the current academic year; they may do so if they wish and thereupon may withdraw their "Loyalty Oath" if they so desire.
4. All parties who are not citizens be required to sign the "New Contract of Employment", with omission of the reference to the Constitutional Oath.
5. Non-signers of the "New Contract of Employment" and (except in the case of non-citizens) of the Constitutional Oath, and who fail to sign for any reason (other than as provided in paragraph 3 above) may petition through the President for a hearing by the Committee

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on Privilege and Tenure, after which the Regents will consider the findings and recommendations of the Committee and the President before making a decision. This has been the long standing procedure on this and similar matters and in no manner interferes with or changes the so-termed "Tenure or Review" privileges which are so close to the hearts of the faculty.

Of necessity in good administrative procedure, it is essential that the Constitutional Oath and the "New Form of Contract", effective for the balance of the current academic year, be signed promptly (not later than May 15, 1950) and, in the case of any non-signer, that petition to the President for review by the Committee on Privilege and Tenure be made not later than May 15, 1950, and the review, findings and recommendations be completed within one month thereafter (by June 15, 1950).

Under this program, the present "Loyalty Oath" will be superseded by this simple but more effective "equivalent affirmation".

For the academic year beginning July 1, 1950 (and each subsequent academic year) the same requirements of Constitutional Oath and form of contract are to be observed as to all Faculty members and employees, with full preservation in each instance of the right of petition and review.

The final results of the above program would be that the "common objectives" of the Regents and Faculty alike of barring members of the Communist Party from employment by our University would have been accomplished thoughtfully and thoroughly.

To implement this program we recommend that:

1. Copies of this report be forwarded to President Sproul as our Council's fulfillment of his request for recommendations.
2. President Sproul be requested to present these recommendations to the Board of Regents at its April 21st meeting for prompt action.
3. The recommendations included in this report be made known to the many Regents, Faculty members and friends of the University of California who have assisted the Committee in its task, and for whose advice we are grateful.

These recommendations are the thoughtful and sincere conclusions of the Committee as to the manner in which the University may best be served. Careful consideration has been given to the many suggestions and

views of Regents, Faculty, Students and Alumni — given with the purpose of achieving in a forth right, broad manner the mutual objectives of all. For the fine spirit and cooperative disposition of those whom the Committee has consulted, it cannot adequately express its appreciation.

Respectfully submitted
S.D. Bechtel, Chairman
Paul L. Davies
Milton H. Esberg, Jr.
Kathryn K. Fletcher
Don H. McLaughlin

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RESOLUTION ADOPTED (21-1 vote) BY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA AT THEIR MEETING OF APRIL 21, 1950:

"The Regents of the University of California confirm and emphasize their policy designed to bar members of the Communist Party from employment by the University as members of the faculty or otherwise as embodied in various statements and resolutions including those of October 11, 1940, and June 24, 1949, which are hereby reaffirmed.

"The Regents are gratified that the Academic Senate, both northern and southern sections, has concurred in this policy by an overwhelming vote, reported on March 22, 1950.

"The Regents have given further consideration to the most effective methods for the implementation of this established policy, and it is their view that the objective previously defined and announced can best be achieved in the following manner:

"After July 1, 1950, which will mark the beginning of a new academic year, conditions precedent to employment or renewal of employment of American citizens in the university shall be (1) execution of the constitutional oath of office required of public officials of the State of California, and (2) acceptance of appointment by letter which shall include the following provision: Having taken the constitutional oath of office required of public officials of the State of California, I hereby formally acknowledge my acceptance of the position and salary named and also state that I am not a member of the Communist Party or any other organization which advocates the overthrow of the Government by force or violence, and that I have no commitments in conflict with my responsibilities with respect to impartial scholarship and free pursuit of truth. I understand that the foregoing statement is a condition of my employment and a consideration of payment of my salary."

"Inasmuch as aliens are not lawfully subject to an oath of allegiance to the United States or the State of California, their letters of acceptance wshall be drawn without reference to such oath, but shall otherwise in all respects be identical with those of American citizens.

"In any case of failure to sign the constitutional oath and the prescribed form of letter of acceptance, the right of petition and review (referred to below) will be fully observed.

"The foregoing is intended to govern employment and re-employment after June 30, 1950. For the balance of the current academic year, to wit, until July 1, 1950, account must be taken both of the large majority of faculty and employees who have subscribed to the loyalty oath of June 24, 1949 — and of the minority who have not. The Regents have on various occasions indicated that an alternative affirmation would be accepted from the latter group if in form approved by the Regents. It is hereby provided that execution of the constitutional oath of office required by public officials of the State of California, and acceptance of appointment in the form herein stated, will be acceptable affirmation in lieu of the oath of June 24, 1949.

"The Secretary of the Regents shall promptly mail to all faculty members and employees of the university new letters of acceptance of appointment for the academic year of 1949-1950 containing the text of the provision set forth above, and accompanied by the text of the constitutional oath of office of the State of California.

"Acceptance in the form prescribed shall be obligatory for all who have not filed with the Secretary the loyalty oath previously required by the Regents. Those who have already taken the latter oath need not follow the described procedure for the current academic year, but may do so if they wish. In such case, the oaths to which they have subscribed may be withdrawn.

"In the event that a member of the faculty fails to comply with any foregoing requirement applicable to him, he shall have the right to petition the President of the University for a review of his case by the Committee on Privilege and Tenure of the Academic Senate, including an investigation of and full hearing on the reasons for his failure so to do.

"Final action shall not be taken by the Board of Regents until the Committee on Privilege and Tenure, after such investigation and hearing, shall have had an opportunity to submit to the Board through the President of the University, its findings and recommendations. It is recognized that final determination of each case is the prerogative of the Regents.

"In order to provide a reasonable time for the completion of the foregoing procedures, the Regents hereby fix May 15, 1950, as the date on or before which the constitutional oath and contract form shall be signed, and June 15, 1950, as the date on or before which all proceedings before the President and the Committee on Privilege and Tenure shall be completed and their findings and recommendations submitted to the Regents.

"The regulations and procedures herein enacted as applied and enforced by the administrative authorities of the university will henceforth govern and control over all previous actions of the Regents to the extent they may be inconsistent with such previous actions, to the end that the policy of the Regents and the Academic Senate barring members of the Communist Party from employment in the university may be fairly and effectively implemented.

4. Mr. Epling said that later there would be legislation proposed to the Senate by the Steering and Policy Committees which would make recommendations to the President concerning non-Senate academic and administrative employees (hereinafter referred to as NSAAE). There were two groups waiting and would sit with the Senate unless there were objections: (1) representatives from the NSAAE; and (2) representatives from the student body.

At this point R. M. Dorcus expressed interest in the reasons for the student body representation.

P. A. Dodd explained that those invited were members of the steering committees of these two groups. He thought it would be very helpful for future action for them to be present while the meeting was sitting as a committee of the faculties in order that they might inform their groups correctly of the action.

R. M. Dorcus was concerned with the precedence of inviting members of the student body to attend a Senate meeting.

Mr. Dodd said it seemed to the Steering Committee of the faculty to be the best possible way to let these groups know what was going on as much of the subject matter today was very interesting to them also. Later on legislation would be proposed regarding the NSAAE of the University. He felt it would be very helpful for these representatives to sit in only as observers while they were meeting as a committee of the faculties. They would be asked to leave when the meeting resolved into the Senate again. The representatives were members of the steering committees of the NSAAE and of the student group.

M. A. Wenger added that the chairman of the student steering committee was a graduate student and a research assistant in the University. They had met with the Faculty Steering Committee and it seemed appropriate to let the students know the position of the faculty.

P. A. Dodd continued that they had met with the faculty group, and he thought it important that they should do so to prevent detrimental mass demonstrations. He thought it would do no harm and might do a lot of good. It might save the faculty grief later on.

D. F. Pegrum said he was quite confused. He had understood that the faculty was meeting at a closed session of the Academic Senate, and he thought this meeting should be held first, and then after that invite the non-academic groups in.

Mr. Epling stated that he expected shortly to hear a motion to be resolved into Committee of the Whole. President Sproul would arrive soon to preside during the Senate meeting. Mr. Epling then asked if there was the motion.

M. E. Hahn took the floor to point out that no student group had been officially concerned in the matter, and that the aforementioned representatives had no status either with the student government or with the administration. The faculty was not dealing with official representatives of the student government. Therefore he thought the Senate should take a look at this fact, whatever its action.

H. Miller moved that no one except members of the Senate be present during this discussion. The motion was seconded.

J. W. Caughey said this motion would exclude members of the Santa Barbara faculty who were guests at the meeting.

M. R. Huberty moved an amendment that members of the faculty of Santa Barbara be included.

Mr. Miller and his seconder agreed to the amendment.

The motion as amended was accepted by the Vice-Chairman.

M. A. Wenger said that about a week ago Mr. Dodd had written a letter to a group of students who had kept a group of students from having a meeting. Mr. Dodd had acted in the firm belief that a demonstration might harm the faculty. Criticism was aimed at Mr. Dodd by the students for his action, and Mr. Wenger thought the faculty owed it to Mr. Dodd to let the students in on what is going on, and should deny the motion.

J. P. Seward felt it was an issue which concerned NSAAE as well as students and saw no reason why the faculty should keep these groups out of the meeting. He would therefore vote against the motion.

B. Dyer said he would vote for the motion. He thought the meetings of the groups should be at the level of steering committee conferences.

Mr. Miller restated his motion as follows: that this meeting be limited to the faculties of the colleges and campuses present, excluding non-faculty members.

Mr. Epling called for a vote on the motion. A voice vote was taken and Mr. Epling stated the motion had not carried.

R. M. Dorcus requested a show of hands.

Mr. Miller again restated his motion: to include in this section of this Senate only members of the faculties of the various campuses who have members here present. Or to state it negatively, to exclude from this meeting

non-members of the faculties.

J. W. Caughey suggested that Mr. Miller withdraw his motion and that the Section go into Committee of the Whole.

Mr. Miller said he wanted to get to the business at hand and would withdraw his motion.

R. M. Dorcus said the motion could not be withdrawn because it had been voted on.

J. A. C. Grant suggested that the motion was out of order as the Senate was discussing what it was going to do when it became a meeting of the faculties. This could

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not be done as they were two separate bodies.

Mr. Epling ruled the motion out of order.

C. Durrell moved that the Section constitute itself a Committee of the Whole.

The motion was carried and Mr. Epling named C. A. Dykstra as Chairman.

On vote, the Committee invited the representatives of the NSAAE group to attend as observers.

The Committee of the Whole sat in discussion from 11:00 a.m. to 1:20 p.m., at which time the Senate reconvened with R. G. Sproul as Chairman.

Mr. Dykstra then reported the actions taken by the Committee of the Whole:

(1) Recommendation of favorable action by the Section at its next meeting on the following resolution after certain amendments suggested in Committee have been made:

Proposed Resolutions (Submitted for Consideration by the Faculties of the Southern Campuses)

I

The Academic Senate, Southern Section, directs its Committee on Privilege and Tenure to act for it in accordance with the following principles and instructions:

1. This section of the Senate will continue to accept its responsibility for helping to maintain the freedom of the University in the selection of members of the faculty and in the protection of their academic freedom. It interprets the action of the Board of Regents of April 21, 1950 as a further recognition of this responsibility.
2. The Senate notes with encouragement that the Board of Regents has reestablished the principles of tenure, except in so far as they apply to members of the Communist Party. As a result of the Board's action of April 21, 1950, the Senate assumes that these principles fully protect the tenure and privileges of each member of the faculty (provided he is not a member of the Communist Party) who, for reasons of conscience or principle, does not sign the letter of acceptance of appointment adopted by the Board in its action of April 21, 1950.
3. The Committee should consider and make recommendations to the President concerning the cases of all members of the faculty who do not sign the letters of acceptance of appointment adopted by the Regents on April 21, 1950, and who have not taken the special oath previously required for the academic year 1949-50. In doing so the Committee should conduct an investigation of and a full hearing on the reasons why each individual has not taken one of these two actions. It should assume

in all cases that a member of the faculty meets the requirements for membership in the Faculty unless it finds convincing evidence to the contrary.

4. The Committee should concern itself in the next few years with a continuous review of the procedures imposed by the Regents on April 21, 1950, with reference to:
 - a. Whether prospective faculty members invited to come to the University refuse for reasons associated with these procedures.
 - b. Whether these procedures are cited as a reason for resigning by faculty members leaving the University.
 - c. Whether damage is done to the reputation of the faculty members who choose to have a hearing by the Committee in preference to signing the new letter of acceptance of employment — particularly with reference to clearance for work with the federal government.
 - d. Whether the University's reputation in the academic world is damaged by these new procedures.

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(2) Recommendation of favorable action by the Senate on the following resolution:

- A. The Senate recommends to the President that he appoint an administrative committee including members of the Senate to review and make recommendations concerning all non-faculty academic employees who do not sign the new contract form.
- B. The Senate recommends to the President that he appoint a committee to review and make recommendations concerning all non-academic employees who do not sign the new contract form.

(3) Recommendation of favorable action by the Section on the following resolution:

The Academic Senate, Southern Section, expresses its gratitude and appreciation to the California Alumni Council and its Special Committee for their devoted and understanding efforts in seeking a solution of a controversy which has seriously threatened the welfare of the University.

B. Dyer moved that the proposed Resolutions (1) and (2) be laid on the table for discussion at the next meeting of the Senate. The motion carried.

R. M. Dorcus moved to adopt the resolution of gratitude to the Alumni Council. The motion was approved.

5. C. L. Mowat announced that there would be a meeting of the A.A.U.P. in the same room immediately after the Senate adjourned.

The motion to adjourn was seconded and carried. The meeting adjourned at 1:30 p.m.

Attest:

R. H. Sorgenfrey, Secretary
Southern Section of the Academic Senate