

1-1-2010

Resisting McCarthyism: To Sign or Not to Sign California's Loyalty Oath [Review essay]

Glen Gendzel

San Jose State University, glen.gendzel@sjsu.edu

Follow this and additional works at: https://scholarworks.sjsu.edu/hist_pub



Part of the [History Commons](#)

Recommended Citation

Glen Gendzel. "Resisting McCarthyism: To Sign or Not to Sign California's Loyalty Oath [Review essay]" *California Legal History* (2010): 349-358.

This Article is brought to you for free and open access by the History at SJSU ScholarWorks. It has been accepted for inclusion in Faculty Publications, History by an authorized administrator of SJSU ScholarWorks. For more information, please contact scholarworks@sjsu.edu.

**RESISTING
MCCARTHYISM:**
To Sign or Not to Sign California's Loyalty Oath

BOB BLAUNER

Stanford: Stanford University Press, 2009

328 pp.

REVIEW ESSAY BY GLEN GENDZEL*

Imagine the University of California, the nation's top public university system, mired in crisis. Its renowned faculty are demoralized and depleted by waves of layoffs, resignations, and forced retirements. Promising young scholars turn down UC job offers; established academic superstars depart for more hospitable employment elsewhere. So many classes are cancelled that already crowded classrooms get jammed beyond capacity and UC students are unable to finish their degrees on time. Politicians in Sacramento gleefully pander to the public by attacking UC professors as elitist, out of touch, and morally suspect. The university's prestige suffers, the value of a UC degree declines, and a miasma of mistrust poisons campus life. Things get so bad that the UC Academic Senate officially declares the university "a place unfit for scholars to inhabit" because it has embarked on "a tragic course toward bankruptcy" (p. 202).

Imagine this crisis happening to the University of California — not today, but in 1950. The crisis came not from budget cuts but from a self-inflicted wound: the so-called "loyalty oath." Starting in 1949, the UC Board of Regents, on its own initiative, required all UC employees to sign

* Professor, Department of History, San José State University.

an oath declaring that they did not belong to the Communist Party. No UC professors were even accused of being communists, but the penalty for not signing the Regents' oath was automatic dismissal from the university regardless of rank, tenure, or job performance. Actual membership (or non-membership) in the Communist Party had no bearing on whether faculty could keep their jobs; what mattered was whether they signed the oath. UC professors objected to the loyalty oath because it was coercive, it violated academic freedom, it imposed a political test for employment, and perhaps worst of all, it abrogated tenure. Most faculty members eventually signed under extreme duress, but a substantial minority chose to fight the oath. The result was nearly two years of agitation, recrimination, controversy, moral anguish, bureaucratic wrangling, political grandstanding, financial hardship, interrupted careers, several heart attacks, and the firing of over thirty eminent scholars and teachers. Ultimately the issue was resolved by the intervention of the governor, an act of the state Legislature, and a ruling of the state Supreme Court — all of which left no one satisfied but everyone relieved that at least the ordeal was over.

There was nothing new about a mandatory oath of loyalty for UC faculty. Since 1942, all California state employees had been required to swear allegiance to the state and federal constitutions. But in 1949, as the Cold War intensified, as Communism spread across Europe and Asia, and as revelations of Soviet espionage in the United States began to emerge, UC employees were singled out for a special anti-communist oath. Strong opposition arose immediately, though the ranks of non-signing professors dwindled as it became clear that they really would lose their jobs. Non-signers insisted that Communist Party membership alone should not disqualify anyone from university employment. Only demonstrably disloyal professors who advocated violent overthrow of the United States government in their teaching or their scholarship should be subject to dismissal — and even then, they should only be disciplined by the faculty itself through its own self-governing committees after a proper evidentiary hearing, not by the administration. To dismiss a professor merely for presumed membership in the Communist Party, rather than for any actual act of disloyalty, constituted guilt by association and denial of due process. Even worse, the non-signers protested, it violated academic freedom

and foreshadowed a totalitarian-style purge of intellectuals such as had occurred in Soviet Russia, fascist Italy, and Nazi Germany in the 1930s. At UC, the non-signers included no actual communists but many European refugees from fascism who were already familiar with ideological purges and who sensed one in the making.

During the controversy, the faculty offered an olive branch to the Regents: they voted overwhelmingly in favor of the principle of excluding communists from the university, even as they voted just as overwhelmingly against firing faculty who refused to sign the oath. Later the faculty accepted an olive branch that they thought the Regents had offered to them: non-signers got a hearing before duly constituted faculty tenure committees to determine their loyalty. Neither compromise worked, however. The Regents enforced the oath over faculty objections, and they summarily fired non-signers with no regard for the findings of faculty committees. Such strong-arm tactics forced the vast majority of UC professors to sign the oath, but they were deeply embittered by the unpleasant experience of being “brow-beaten into submission,” as one of them said (p. 171). Governor Earl Warren, a UC alumnus, opposed the oath; he pointed out that unquestionably loyal faculty members would lose their jobs “not because they are communists, or suspected of being communists, but because they are recalcitrant” (p. 182). Luckily for Governor Warren, and for the non-signing faculty, enough seats on the Board of Regents came open during the protracted controversy that Warren was able to appoint several new regents who shared his point of view. The votes of these replacement regents tipped the balance, just barely, toward rescission of the oath.

At the same time, however, Governor Warren knew that he faced a potentially difficult reelection campaign in 1950, and he could not afford to appear “soft on Communism” over this issue. So even as he orchestrated the repeal of the Regents’ loyalty oath, Warren convinced the Legislature to approve an even tougher oath for all state employees. In this way, Warren was able to prove his anti-communist credentials and secure his reelection, while at the same time reassuring UC faculty that at least they were no longer being singled out. In 1952, professors who had been fired for refusing to sign the Regents’ oath were reinstated by a ruling of the state Supreme Court, *Tolman v. Underhill* (39 Cal.2d 708).

Oral arguments drew record crowds to the Court's chambers in San Francisco, but much to the disappointment of both sides, the ruling was on narrowly technical grounds: the Legislature's mandated oath for all state employees superceded the Regents' special oath for UC employees. The Court did not question the propriety of a political oath for teachers and scholars, nor did it uphold academic freedom or the sanctity of tenure, even though these issues were raised by the plaintiffs. The fired professors got their jobs back, and they even received back pay, but it was a somewhat pyrrhic payoff because the faculty as a whole lost some precious prerogatives in the process.

These insights into the loyalty oath controversy are gleaned from Bob Blauner's fascinating new history, entitled, *Resisting McCarthyism: To Sign or Not to Sign California's Loyalty Oath* (2009). An emeritus professor of sociology, Blauner was a graduate student at UC Berkeley in the 1950s before he began teaching there in 1963. Over the years, Blauner must have heard so many versions of this story from senior colleagues that he apparently felt compelled to seek out the facts for himself. The result is a meticulously detailed account based on formidable research. Previously, the definitive work on this subject was David Gardner's *The California Oath Controversy* (1967), which benefited from Gardner's exclusive access to confidential records of the Board of Regents. Blauner seems not to have been granted similar access, but Gardner deposited his own voluminous research materials at the Bancroft Library in 2004, including copies of many Regents' records that Blauner was able to use. In addition, the most important new sources that Blauner brings to bear are oral histories dictated by dozens of UC professors and administrators. Most of these personal reminiscences were collected, edited, and preserved by UC's Regional Oral History Office in the years since Gardner's book was published. Blauner also tracked down some of the last few surviving oath resisters, their spouses, and their descendants in order to conduct interviews of his own, which incidentally gained him access to unpublished sources in family custody as well. Best of all, Blauner has read deeply in campus newspapers and the local press from this period, opening a rich trove of source material that Gardner omitted from his rather dry, bureaucratic, internal account of UC's administrative

machinations. Gardner was already a UC administrator when he wrote his book, and eventually he rose to become UC president, serving from 1983 to 1992; Blauner, by contrast, writes from a professor's point of view.

That viewpoint gives Blauner a distinct advantage in telling this story. As a longtime faculty member familiar with universities in general and with the UC system in particular, Blauner is able to explore dimensions of the controversy overlooked by less seasoned observers. Standard accounts such as David Cauter's *The Great Fear: The Anti-Communist Purge under Truman and Eisenhower* (1978), Ellen Schrecker's *No Ivory Tower: McCarthyism and the Universities* (1986), Richard Fried's *Nightmare in Red: The McCarthy Era in Perspective* (1990), and Kurt Schuparra's *Triumph of the Right: The Rise of the California Conservative Movement, 1945–1966* (1998) place California's loyalty oath controversy in the context of the larger "Red Scare" that swept the nation in the late 1940s and early 1950s. It is tempting to compare UC's Regents, ever-vigilant in their quest to root out communists from the faculty, with national red-baiting politicians such as Joseph McCarthy of Wisconsin, or California's own Richard Nixon and Jack Tenney. The usual assumption is that similarly base political motives were at work in California as in Washington, D.C. Blauner's approach, however, is different: he does entwine his narrative with Cold War events in order to remind readers of the prevailing anti-communist mood, but he does not try to portray the oath controversy strictly as a battle by brave civil libertarians against political repression. He senses that there was more to the story.

Blauner perceives that beneath the surface, the loyalty oath controversy was "a power struggle over the governance of the university" (p. 100). The trouble started not because of any genuine concern over faculty loyalty; rather, the real issues were UC's prestige and autonomy. After embarrassing stories about left-wing speakers at UC campuses appeared in the press, state legislators threatened to investigate communist infiltration of the UC faculty. This threat of outside interference is what goaded the Regents into hastily adopting a loyalty oath in order to protect UC's image and to preserve their own independence from state control. The controversy then escalated when significant numbers of UC faculty members, much to the Regents' surprise, refused to sign the oath.

Blauner shows again and again that as the confrontation unfolded, the only faculty “loyalty” that the Regents seriously expected or cared about was loyalty to their own authority, and the only proof of such loyalty that they would accept was a professor’s willingness to obey their orders. A professor’s refusal to sign the oath may well have signaled disloyalty, but not disloyalty to the nation; it signaled disloyalty to the Regents, at least by their own self-important reckoning, and such a blatant act of defiance they could never accept.

Gardner’s account, written early in his career as a UC administrator, also alluded to the academic power struggle behind the loyalty oath controversy. But it takes a battle-scarred veteran of campus politics such as Blauner, who spent over forty years at UC Berkeley, to convey all the nuances, absurdities, and ironies of professors and administrators locked in bureaucratic combat. Both sides seemed to agree that Communism was not the issue; rather, the issue became who would have the power to decide what UC faculty members must do and who would have the power to dismiss them for not doing it. The Regents, like most administrators, absolutely refused to cede authority over personnel decisions; UC faculty, like most professors, clung fiercely to tenure protection and to their right to choose their own colleagues according to academic merit as determined by the faculty themselves. One side might claim that they were trying to root out dangerous subversives, and the other side might claim that they were defending academic freedom, but both sides understood that they were really fighting over university governance. As one Regent declared at a board meeting that plotted strategy for dealing with faculty resisters: “It is now a matter of demanding obedience to the law of the Regents” (p. 181).

Blauner’s familiarity with faculty-administration relations enriches his narrative throughout. He speculates that UC faculty must have resented taking orders from the Regents because the rich and powerful political appointees who ran the university were “not scholars, scientists, or intellectuals” (p. 8). Blauner retells an anecdote popular with faculty at the time: when the Regents learned that Phi Beta Kappa, the national honor society, had condemned the loyalty oath, one Regent replied that he was glad such a “fraternity” had never “rushed” him in his college days. The other Regents applauded; Phi Beta Kappa apparently did not

“rush” any of them, either (p. 267). Nor were the faculty any more inclined to take orders from UC President Robert Sproul, who had “no formal education beyond his undergraduate years, when he had studied business,” as Blauner explains. “Thus many professors viewed him as too business-oriented, too much of a ‘Rotarian,’ to understand the academic mind” (p. 22). Blauner’s intuitive feel for academic life alerts him even to subtleties of timing: he points out that some of the Regents’ most objectionable initiatives were launched at the beginning of summer or winter vacations, when professors would be dispersed and hence less capable of organizing a concerted response. It is safe to assume that the Regents knew this, but Blauner is not fooled any more than the faculty were.

Endowed with a professor’s sensibility, and with great human sympathy as well, Blauner is able to craft moving personal vignettes about his UC predecessors. He chronicles the countless professorial friendships, marriages, careers, psyches, collegialities, and stomach linings that were wrecked by the strain of this struggle. He connects the far-flung research interests of individual faculty members in disparate fields with their joint determination to oppose the oath, which requires impressive intellectual breadth and depth on his part. Blauner knows professorial habits and mindsets so well that he can remark in passing that “the non-signers had forged a solidarity that was unique in an academic culture based on individualism and competition” (p. 172). Blauner also draws upon his familiarity with college teaching to focus attention on non-tenure-track academic employees caught in the oath controversy, such as lecturers, instructors, visiting professors, and teaching assistants. Fives times more of these non-tenure track faculty lost their jobs for not signing the oath than did regular professors, and yet previous historians of the controversy have unjustly neglected their fate. Given that non-tenure-track faculty now do most of the teaching at large public universities, Blauner’s attention to their predicament in 1950 is more relevant than ever. Women professors were also rare in 1950, but Blauner reveals that they, too, were disproportionately victimized: women composed less than two percent of UC faculty but almost ten percent of those fired for not signing the loyalty oath. Again, given the much greater academic prominence that women have attained since 1950, Blauner’s emphasis here is appropriate and long overdue.

The villain of this piece, as Blauner presents it, is clearly John Francis Neylan. A powerful attorney for the Hearst Corporation with a long career in state government, Neylan was the most domineering Regent behind the loyalty oath. “Neylan was willing to employ any trick, no matter how duplicitous, to gain his objectives,” writes Blauner (p. 226). Here again, Blauner’s sense of academic politics enables him to explain why Neylan became such a ruthless enforcer of the oath even though he had originally opposed it and seemed to care little about it — until faculty resisted it. Only then were Neylan’s hierarchical hackles raised: “Neylan made it clear that he believed it was the Regents, and not the faculty, who ran the university” (p. 102). Imperious by nature, Neylan was a man accustomed to having his way, especially with underlings, and he was not about to tolerate faculty insubordination. Neylan comes across here as a bully, but Blauner also heaps blame on President Sproul, whose bumbling ineptitude was repeatedly demonstrated during the long crisis. It started when Sproul tricked the Regents into approving the loyalty oath by springing it upon them unannounced at the end of a routine meeting, while spouting assurances that the faculty would not object. When the faculty did object, Sproul denied responsibility for the oath and tried to blame the Regents instead. Yet when the Regents seemed ready to rescind the oath, Sproul convinced them to retain it for credibility’s sake. At the same time, Sproul tried to reassure the faculty that he was on their side, and that no non-communist professor would ever be dismissed for defying the oath — which turned out to be false. Neylan called Sproul “a vacillating weakling” (p. 119 and p. 170), but both men’s behavior, in different ways, was all too typical of university administrators. A much higher standard was set at the time by President Robert Hutchins of the University of Chicago, who successfully defied attempts by the Illinois legislature to terrorize his faculty with anti-communist witch hunts. Hutchins emphatically denounced the red-baiting of academic intellectuals as “the greatest menace to the United States since Hitler” (p. 68).

Participants in the loyalty oath controversy drew a variety of lessons from the ordeal. UC students, through campus newspapers, rallies, petitions, and even cash donations, expressed support for non-signers; they also expressed disappointment that so many faculty caved in to

the oath. The *Daily Californian* considered the outcome an object lesson in “the gap between what professors say and what they do” (Blauner’s paraphrase, p. 182). The *Daily Bruin* called UC professors “timid souls, concerned first and foremost with their economic security” (Blauner’s paraphrase, p. 228). One faculty member, after signing the oath, told his students: “Today I am ashamed to stand before you and I feel apologetic that I haven’t been fired” (p. 186). The chilling effect of the loyalty oath upon teaching was much noted at the time. Some of the more cautious professors decided that it was unsafe to discuss Communism objectively in their classrooms any more, lest their loyalty fall into question. They were reduced to uttering meek echoes of the dominant anti-communist consensus, much to the detriment of UC students, who received an incomplete education about the Cold War. Ironically, however, any criticism of Communism that UC professors did offer became automatically suspect after the oath controversy, because UC students would naturally assume that the faculty were compelled to say such things in order to keep their jobs.

An important lesson of the loyalty oath controversy for Clark Kerr, then a labor economist at UC Berkeley, was the need to protect faculty from administrators. Soon he would have a chance to apply this lesson, for in 1958, Kerr was appointed to succeed Robert Sproul as the next UC president. President Kerr rehired some ex-UC professors who had resigned in protest over the oath, and he prevailed on the Regents to bolster tenure guarantees in order to facilitate recruitment and to rebuild a ravaged faculty. But Kerr’s focus on faculty left him unappreciative of student concerns and over-sensitive to red-baiting from politicians, the press, and the community. Kerr was typical of many UC faculty who emerged from the loyalty oath controversy “fearful and rule-bound,” according to Blauner, leaving them ill-prepared to handle radical student movements that would trigger Kerr’s downfall in 1967 (p. 236). Another UC faculty member during the loyalty oath controversy who later gained prominence was the psychologist Erik Erikson. “The faculty’s mistake,” Erikson decided afterwards, “was to wage battle on ideological grounds.” Instead, he believed that anti-oath professors “should have been organized into a group, such as a labor union, and have used their collective

power to fight the issue” (p. 133). Blauner agrees: “If there was one lesson the faculty learned from the years of the oath,” he writes in his conclusion, “it was the need for organization” (p. 222). Yet to this day, University of California professors, unlike their counterparts in the California State University system and in many community colleges, remain unorganized without a faculty union.

Gardner’s earlier history of the loyalty oath controversy described it as “a vain and futile episode,” but Blauner disagrees. “Resisting McCarthyism,” his chosen title, was a necessary and solemn obligation for all Americans of conscience. Blauner openly admires his faculty forebears who made a brave stand on behalf of academic freedom in the face of political intimidation. At the same time, however, Blauner recognizes that academic freedom, though important to those who resisted the loyalty oath, became a side issue in the controversy. His account places the struggle over university governance squarely at the center of the story, with the faculty and the Regents fighting for power more than principle. Hence Blauner’s title seems out of place: it makes no more sense to claim that the loyalty oath controversy was about “Resisting McCarthyism” and defending academic freedom than it does to claim that it was about rooting out communist subversives. This is not the book’s only flaw: Blauner makes a number of small mistakes. He claims that Anita Whitney, a famous legal client of Neylan’s, was convicted of a 1916 bombing, when in fact she was convicted of violating the Criminal Syndicalism Act in 1920, unrelated to any bombing; he refers to the eminent California historian Kevin Starr as “Kenneth Starr”; he improperly cites the case *Vogel v. County of Los Angeles*, 68 Cal.2d 18 (1967), as “*Vogel v. California*” (p. 23, p. 131, p. 219). Blauner also overreaches a bit in tracing Berkeley’s reputation as a “center of political resistance” back to this episode (p. 241). One suspects that the 1960s were more important than the 1950s in that regard. Still, Blauner’s close attention to the latent issues lurking beneath the manifest ones, and his empathy for the professors’ plight, make this book easily the best one ever written on California’s loyalty oath controversy. ★

Copyright of California Legal History is the property of California Supreme Court Historical Society and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.