





LOYALTY
OATH

IF WE REMAIN SILENT...



"If we remain silent too long, we will
have forfeited our right to speak."



O. JOHN ROGGE,
Former Assistant U. S.
Attorney General,
"Our Vanishing Civil Liberties,"
1949.

IF WE REMAIN SILENT...

This pamphlet is issued in the public interest by the United Defense Committee Against "Loyalty" Checks in the earnest hope that in spotlighting the attacks against all our liberties it will arouse your active resistance.

The United Defense Committee was formed in May, 1948, by city, county and federal workers in Los Angeles. Formation of the committee was sponsored by the American Federation of State, County & Municipal Employees, Local 558 (AFL), and the United Public Workers, Local 246 (CIO).

'HEAR YE, HEAR YE'

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

—Federal Constitution,
First Amendment, 1791

"Nor shall any person . . . be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law . . ."

—Federal Constitution,
Fifth Amendment, 1791

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

—Federal Constitution,
Fourteenth Amendment, 1868

SOME time during the week of October 17, nine men cloaked in black gowns will file into a high-domed room in Washington, D. C.

There they will seat themselves on high-backed chairs lined up behind one master desk.

A solemn clerk will intone the ritual:

"Hear ye, hear ye, the Supreme Court of the United States is now in session."

Newspaper reporters will leap for their pencils, their notes recording each fateful word.

And thus will open one of the most remarkable cases in the annals of this country.

THE CASE OF THE PEOPLE . . .

"Civil tyranny is usually small in its beginning, like the drop of a bucket, till at length, like a mighty current, or the raging waves of the sea, it bears down all before it and deluges whole countries and empires."

—THE REV. JONATHAN MAYHEW,
Boston, 1750

If it were not for the newspaper reports to be printed on this case, you might not believe it. "It's a sham," you would say. "It couldn't happen here. This is America!"

Believe it or not, think it sham or not—it's true that in the week of October 17 a case will come before the U. S. Supreme Court so basic in its test of our traditional liberties that it could be entitled . . .

The People vs. Thought Control.

It IS happening in America. It's happening to YOU. You will be in that court room. You and the liberties you've come to prize as unshakeably yours.

The case will be introduced undramatically.

It will be presented officially as the case of Helen Parker, et al. Vs. County of Los Angeles, et al.

It will be the first "loyalty oath" case to hit the Supreme Court.

It will test whether the government rules the people, or, as we have come to believe in this country, the people rule the government.

It will revolve around an attempt by the County of Los Angeles to pry into the minds, thoughts, words, and associations of its 20,000 employees through means of "loyalty check" affidavits, and an attempt arbitrarily to establish these affidavits as a condition of employment.

On the decision will swing the question of whether any group of men have the power to arrogate to themselves the authority to deny employment to anyone because of political faith; to be prosecutor, judge and jury in upholding their own ideas of what shall be orthodox and what *verboden* in thought and speech.

ON TRIAL — IDEAS!

"Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard.

"It seems trite but necessary to say that the First Amendment to our Constitution was designed to avoid these ends by avoiding these beginnings.

"We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce that consent. Authority here is to be controlled by public opinion, not public opinion by authority."

—U. S. SUPREME COURT,
June 14, 1943

There is here no intent to shock you, shocking though it may be.

Are you a mailman, a post office employee?

Justin W. Mackey, Jr., Negro mail carrier in Los Angeles, suspended. Charge: One night he had dinner with a white family. Basis: He admitted he was friendly with the family.

Bernard Corlin, Los Angeles postal clerk for 34 years, suspended. Charge: Nine years ago he drove home from a civil rights meeting someone who was "suspected" of being a Communist or a Communist "sympathizer." Basis: He admitted he couldn't remember.

Frank Barnes, mailman, suspended. Charge: He participated in "subversive" picket lines intended to break down job discrimination at a Sears Roebuck store. Basis: The Santa Monica branch of the National Association for the Advancement of Colored People, of which he was chairman, supported the picket line.

Are you one of 2,000,000 government employees in a branch of service other than the post office?

Sid Feldman, government employee in Washington, D. C., suspended. Charge: He once distributed leaflets protesting cuts in WPA appropriations.

Do you think mother-in-law jokes funny?

A government employee was charged with disloyalty because an associate had **heard** that his mother-in-law was "pro-Russian."

Are you a professional man?

Dr. Samuel Rosenthal, Los Angeles medical man. Dismissed in the city's "loyalty" check, though he signed the required affidavit that he was not a Communist. Reason: he added a note of his own to the affidavit. "What is this," he asked, "Nazi Germany?"

Dr. David M. Goldstein, Los Angeles medical man. Dismissed in the city's "loyalty" check, though he signed the required affidavit that he was not a Communist. Reason: he added a note of his own to the affidavit. "Also not a member of the Ku-Klux-Klan," he wrote.

Do you yet ask, "What's thought control to me? I'm pure."

Listen to some of the questions they're asking—this year. Next year, if they are not stopped now, there may be other questioners who in guttural voices will ask other questions.

- Q. What kind of books did you buy?
- Q. I am asking what you thought.
- Q. I am interested in your ideas.
- Q. Did you ever discuss current events?
- Q. What do you think democracy is?
- Q. Why did you want 9835 (Truman's Executive Order) repealed?
- Q. Have any of your neighbors made complaints about having Negroes in your home?

That's lifted verbatim from transcripts of Federal "loyalty" hearings held under Executive Order 9835.

Here are a few questions from the Los Angeles County version.

- Q. Do you, or did you, belong to or support, directly or indirectly, the Hold the Price Line Committee?
- Q. Do you belong to the League of Women Shoppers?
- Q. Do you belong to the Humanist Society of Friends?

● Q. Do you belong, or did you ever belong, to the Tom Mooney Defense Committee?

● Q. Did you ever support or follow the Citizens Committee for Defense of Mexican-American Youth?

● Q. Did you belong to, support or follow the National Citizens Political Action Committee?

Much of this is cut in the pattern of the Taft-Hartley Act designed to smash labor unions. Turn back to some Federal "loyalty" hearings.

● Q. What I am interested in is the kind of activities the union indulged in.

● Q. I don't believe we could get any phase of the accused's activities that would give us a better insight as to his philosophy other than his union activities.

● Q. You have been aware of the fact, haven't you, that (the accused) is an active union member?

● Q. Why did you switch to the CIO?

As the FBI has admitted, there is a move afoot in this country to turn brother against brother, neighbor against neighbor—all to be active informers on one another.

Listen to the Federal "loyalty" checkers.

● Q. Do you recall a meeting at the home of the accused employee to discuss the Loyalty program and its effect upon the employees?

● Q. Have you had any conversations that would lead you to believe (the accused) is rather advanced in his thinking on racial matters?

● Q. Do you think she might have been an extremist about civil liberties—race discrimination—questions of that nature?

And, mind you, on answers to questions like these hangs the fate of workers' jobs!

Are you a member of a minority group? Take warning. According to a federal survey, more than 90 per cent of those "loyalty checked" out of their jobs are Jews and Negroes. This is no mere accident.

Yes, you, Ordinary Citizen No. 146,000,000, will be in that court room. You and your rights.

The chief question in the Los Angeles case, with all the legal talk boiled out of it, is this:

Will you retain the right, as specifically provided for in the Constitution of the United States, to free thought, free speech, free assembly . . . to combine these in carrying out your responsibilities as a citizen on election day and every other day in the calendar in the "pursuit of life, liberty and happiness" . . . not to be compelled to be a witness against yourself?

The Los Angeles case will signal either a green light or a red light to a series of thought control measures already adopted and to another series strung out across the country like a gigantic line of traffic waiting for the sign to go ahead—or to halt.

- On trial in this case will be people's thoughts.
- On trial will be the Constitutional rights to think freely, to speak freely, to assemble freely.
- On trial will be the freedoms basic to our form of government, in the exercise of which a free people engage in self-government.
- On trial will be the Bill of Rights.
- On this case will hang one of the main issues of our times—the *right to entertain ideas* which may be at variance with ideas held by those in power.

'I'M PROSECUTOR, JUDGE, JURY!'

"If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us."

—U. S. SUPREME COURT,
June 14, 1943

What's the Genesis of this case? How did this come to "the land of the free and the home of the brave"?

That's a fair question. It deserves a fair answer.

President Truman fluffed it off at a press conference recently. He said witch hunts always follow in the wake of wars in American history. He implied he didn't like them. Witch hunts, that is.

Well, that's one answer.

We've got another one.

It was President Truman himself who touched off the cannonade against our liberties.

His Executive Order 9835 leads the "loyalty check" parade.

The order was issued March 23, 1947. It was supposed to provide for the elimination of disloyal persons from government employment.

The order enables a government agency making a charge of disloyalty to hold a "hearing" and to conduct a "review." Thus the accuser, judge and jury are usually one and the same.

The accused employee receives no statement of specific charges, is not permitted to confront his anonymous accusers, is refused the right to cross examine witnesses.

The order provides for the creation of a huge "investigating" police staff to probe the private lives, thoughts, associations and even the school days of every government employee, thus creating an atmosphere where

every bit of gossip, tattle and personal malice becomes substance for a "disloyalty" charge.

The order provides for a "Master Index" of all employees against whom any accusations were ever made, even though such accusations were later proved unfounded. This type of blacklist was once outlawed in private industry.

The order enables one man, the attorney general, to set up a list of organizations "affiliation, membership or sympathetic association with which" makes a person "subversive."

But as of August 15, 1949, after 29 months of "loyalty" checking of more than 2,000,000 government employees by the FBI, the loyalty review board of the U. S. Civil Service Commission reported that only 62 Federal employes had been dismissed on grounds of "doubtful" loyalty. That makes the percentage—less than .000027 of 1 per cent.

This is baffling. Why all the steam on "loyalty" if even on such flimsy charges as are made in these hearings only a handful of government employees are found guilty of "disloyalty"? There's still another baffler.

Our government is adequately protected against disloyal (no quotes, this time) persons by the application of standards long established in laws.

These prohibit: Acts or conduct of disloyalty to the government, or membership in an organization so advocating; violation of the oath of office which is prescribed by statute and calls for undivided loyalty to the United States government; violation of laws against treason, sedition, sabotage, espionage, or unlawful disclosure of confidential information.

The real security needs of our government are taken care of by existing laws. They were adequate in wartime. Why then the Truman Loyalty Order in peacetime?

● We charge that there is a conspiracy in this country of ours to wipe out the elemental liberties that we as a people have prized since 1789 when our forefathers insisted that the Bill of Rights be an integral part of the Federal Constitution.

● We charge that the "cold war" has frozen in its icy grasp the peacetime developments we might have expected in this country: an expanding economy and a widening range of civil rights.

● We charge the "cold war" and the "loyalty order" were designed to create an atmosphere in which an air force general could say calmly—"targets for A-bombs already have been selected."

● We charge that one intent of the Loyalty Order was to make it possible for President Truman to shout "Me, too" in the recent campaign at Republicans babbling about their "anti-subversive" records.

● We charge that the effect of the Loyalty Order was to create an atmosphere in which midnight pumpkin hunts would be taken seriously, in which a scare psychology could be implanted in every well-meaning citizen's heart, in which scientists could be hounded for daring to think, in which a blacklist could be effected against Hollywood artists who would not sink to bended knee before a farcical Congressional committee.

The plain fact is . . . the financial oligarchy that rules the rulers of America is attempting today to establish this country as the world capital of thought control, is attempting to overthrow our democratic institutions.

The plain fact is . . . there is a conspiracy to swing this nation away from the philosophy expressed by the Supreme Court in 1937:

"The maintenance of the opportunity for free political discussion to the end that government may be responsive to the will of the people and that changes may be obtained by lawful means, an opportunity essential to the security of the Republic, is a fundamental principle of our constitutional system.

"A statute which upon its face, and as authoritatively construed, is so vague and indefinite as to permit the punishment of the fair use of this opportunity, is repugnant to the guaranty of liberty contained in the Fourteenth Amendment."

CHARTER OUT — 'LOYALTY' IN

"No person in the classified service . . . shall be appointed, or reduced or removed or in any way favored or discriminated against because of his political or religious opinions or affiliations."

**—Los Angeles County
Charter, Section 41**

Treading manfully in the path marked out by the President's Loyalty Order, the five members of Los Angeles County's governing Board of Supervisors on April 1, 1947, played a grim April Fool's jest on the rights guaranteed 20,000 County employees in the Federal Constitution and in the County Charter.

Unanimously, the five supervisors directed Chief Administrator Wayne Allen and County Counsel Harold Kennedy to draft legislation designed to investigate the political beliefs and affiliations of the 20,000 employees.

By August 15, a recommended "loyalty check" was submitted to the supervisors (at least one of whom felt a twinge of his once-liberal conscience as he proceeded to revamp the County Charter without the legality of a referendum vote by the people) and by August 26 the "loyalty check" in the form of affidavits to be sworn to by the 20,000 employees was ordered, first local "loyalty check" in the nation.

Instantly it was challenged in the courts by the employees. It was this challenge, winding its long way through the various court channels, which now comes before the Supreme Court.

The affidavits contained four parts. Three were oaths dealing with support of the State and Federal Constitutions, a disavowal of advocacy to overthrow any division of the government by force and violence and a disavowal of membership since December 7, 1941, in any organization that so advocated, and disclosing any other names under which the employee had ever been known.

The fourth part was a checklist of 142 organizations in which the employee was required to indicate membership or "direct or indirect support," past or present.

This list was borrowed from an identical one issued by the discredited State Senator Jack B. Tenney. It was obtained in a Tenney un-American committee report, an earlier edition of which was acclaimed by fascist Gerald L. K. Smith as his "bible" in a speech heaping praise on Tenney.

(Tenney recently resigned as head of his committee following public disclosure of suspicious payment of state funds by his committee and after a series of "loyalty checks" sponsored by him to cover nearly everyone in the state had been defeated by public pressure on the state legislature as steps leading to creation of a police state.)

The list contained the names of four labor unions, five political organizations, two publications, two schools, five organizations dealing with various aspects of foreign affairs, six with problems of civil rights and discrimination and six with civic affairs.

Among them were:

Hold the Price Line Committee, League of Women Shoppers, American Communications Ass'n. (CIO), American Communist Party, Mooney Defense Committee, Bridges Defense Committee, International Workers Order, National Citizens Political Action Committee, United Federal Workers (CIO), Civil Rights Congress, Bay Area Council Against Discrimination, Citizens Committee for Better Education, California Labor School.

The lawyers' brief put it thoroughly:

"The full affront of (the Board of Supervisors') scheme and plan against the liberties of speech, thought and association cannot be appreciated without noting the shocking breadth of the area of thought and speech covered by the organizations and publications listed in the affidavit as suspect, connection with which is alone enough to shift to the employee, at the minimum, the burden of proving his innocence of *verboden* advocacy."

What was the point to the list?

The Association of Unitarian and Universalist Ministers of Southern California put the finger on it. A resolution adopted unanimously by the Association said:

“To submit loyal Americans who believe in freedom of conscience to an examination by the County Government of their personal thinking and the organizations to which they belong is to do them an incalculable harm, and to deprive them of their constitutional immunity from governmental interference with their rightful actions and thoughts.

“Such a person is no longer a creative and good citizen, he becomes afraid to join any organization or attend any meetings of any sort lest he be termed subversive or un-American, and be deprived of his livelihood.”

The public outcry stayed the hand of the executioners while the litigation ground on.

Meanwhile, attorneys for the County employees took a deposition from County Chief Administrator Wayne Allen on January 19, 1948.

● Q. “In the event that any employee shall fail or refuse to execute this oath or affidavit will he be discharged for that reason?”

● A. (By Allen) “No, sir.”

● Q. “At this time does any officer or agent of the County have authority to reduce, remove or in any way discriminate against any County employee because of failure or refusal to execute the oath or affidavit?”

● A. “Not to my knowledge. I don’t see how any officer could under the law.”

But then came a ruling in a Los Angeles Superior Court which held that if the Benevolent and Protective Order of Elks was not in violation of the Federal Constitution in exacting a loyalty oath from its members, then the County also was not in violation of its oath.

On May 5, 1948, the affidavits were presented to all County employees. There was a week’s grace to sign.

And it was announced that failure to sign within the week would be grounds for dismissal, despite the County Charter to the contrary, despite Wayne Allen's deposition to the contrary.

Seventeen County employees, several submitting their own versions of loyalty oaths without benefit of Tenney *verboten* lists, refused to sign, saying that their belief in the American Constitution prevented them from signing such an unconstitutional document.

They were dismissed forthwith—for insubordination.

Seventy-three others signed the "loyalty" affidavits, declined to sign the Tenney list. They were retained pending the final disposition of the legal case.

But that was just the beginning . . .

Early in the fall of 1948, Army brasshats called a special conference in the Pentagon Building in Washington. To this conference they invited only top executives of the larger cities. The brass said the nature of the conference was a top-drawer, hush-hush secret.

Off to the conference hurried Los Angeles' Mayor Fletcher Bowron.

On his return he allowed himself to be quoted to the effect that "the Reds are everywhere, something has to be done."

The Mayor did it. He caused to be introduced in the City Council an ordinance requiring an oath that the employee was not a member of the Communist Party. In the fall of 1948 the ordinance was passed. By January 7, 1949, 23 city employees were discharged for refusing to sign the oath on the grounds that it violated constitutional liberties.

One of those discharged signed the oath after wrestling with his conscience in a sleepless night. He turned it in the next day, nine hours after deadline. He was fired.

WHERE DOES IT LEAD?

"We will not, under any threat, or in the face of any danger, surrender the guarantees of liberty our forefathers framed for us in our Bill of Rights."

—FRANKLIN D. ROOSEVELT
Dec. 15, 1941

There is a deadly parallel here. It is with Hitler Germany.

Hitler, too, had "loyalty oaths." Hitler, too, handed down Executive Orders. They led to war.

One Hitler Executive Order said:

"Civil servants who have been members of the Communist Party or Communist auxiliary and substitute organizations or who have otherwise been active along Communist lines, are to be discharged from Civil Service."

A. L. Pomerantz, chief counsel at Nuremberg in the trial of Nazi industrialists, quickly saw the parallel on his return to this country. He wrote:

"I feel that these are some ominous and sickening parallels between Germany, 1933, and America today.

"The decisive tactics used by the Nazis to divide and conquer the opposition was that old, but ever effective bugaboo, the Red scare. It was unnecessary to **prove** the charge—it was enough to make it.

"Liberal people and progressive organizations, in an effort to escape contamination, added fuel to the fire by joining in the denunciation of the 'Reds.' The trade union movement went through enervating convulsions, spewing out every Red, suspected Red, or 'sympathizer.' And it was while these anti-Hitler forces were embroiled in this civil war that Hitler seized power.

"It is a tested historical phenomenon that, once the disintegrating process of eroding civil liberties sets in, whether the avowed target is the Christian or the Communist, or whoever, it tends to continue until all civil liberties are destroyed. It is a sort of social law of inertia.

“There is an hysterical campaign raging here *ostensibly* directed against the ever-popular target, the Communists. When you examine it more closely, however, it becomes apparent that the attack is really aimed at the liquidation of all resistance to the mounting tide of war and reaction. The approach (is) copied from the Nazis.

“When you’re trying to whip up a war mentality, you can’t afford the luxury of dissent. It is the same crowd that is crushing civil liberties which is clamoring for war. This is no accident or coincidence; this was no accident or coincidence in Germany either.”

These are sober and fearful words. They mean that in the cannonading of our civil rights at home, the opening shot in the next world war has been fired.

But there is yet time. We can stop the war makers by beating them in the struggle for preservation of our freedoms.

Yours is the decisive voice in this struggle.

As Rogge warned, “*If we remain silent too long, we will have forfeited our right to speak.*”

But there is more to your part in this struggle than simply talking about it, spreading the word of the evil menace threatening this country.

The Los Angeles case, as has been noted above, is the first test of whether *you* will retain *your* liberties.

The case puts *you* in the court room with us. We need you with us also in the financing of this case. We need *your* help to ensure the broad distribution of this pamphlet.

Money is needed urgently. You can help. Contribute now.

THE *People's* CHECK . . .

UNITED DEFENSE COMMITTEE
AGAINST 'LOYALTY' CHECKS
919½ W. 6th St.
Los Angeles 14, Calif.

Check these off . . .

Send me _____ copies of this pamphlet. I guarantee their distribution.

Enclosed is my contribution of \$ _____ to this fight.

Name _____

Organization _____

Address _____ Phone _____

City _____ State _____ Zone _____

THE People's CHECK

UNITED DEFENSE COMMITTEE
AGAINST LOYALTY CHECKS

415 W. 5th St.
Los Angeles 12, Calif.

Check these off:

- Enclosed is my contribution of \$_____ to this fight.
- Send me _____ copies of this pamphlet. I authorize their distribution.

Name _____

Organization _____

Address _____

City _____ State _____