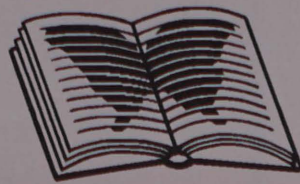


# Idaho Center for the Book



# newsletter

"...because people read t-shirts."

Vol. 10/No. 2 • October 2003

## Upcoming Biblio Events

Booker's Dozen, the ICB's biennial traveling artists' book exhibit, begins its 2004 statewide tour in January.

### Next Issue

- Beaks & Talons – A Special Idaho Library....
- Idaho Authors – the "New" Card Game!
- Booker's Dozen 2004 – Preview & Itinerary

### In this issue

#### IDAHO'S LOYALTY OATH

A flash from the past or a glimpse of the future?  
by Kathleen Rubinow Hodges

#### THE ICB NATIONAL LITERACY ALERT ADVISORY SYSTEM

This month's literary t-shirt is by Jason Steading; see Steading's design, adapted, on the National Literacy Alert Advisory color bar graphic.

## THE LIFE & DEATH OF IDAHO'S LOYALTY OATH

by Kathleen Rubinow Hodges

In early 1963, Idaho's newspapers painted a picture of a dangerous world. News about Castro's Cuba, insurgents in Laos, and civil rights demonstrations in the American South dominated front pages. Headlines made it clear that most of these troubles were due to the "reds," or communists. At the same time, Idaho's budget was in shambles, and school funding was a persistent problem. It was in this climate that Idaho's loyalty oath bill, SB7, was introduced on January 15 by the Senate Judiciary and Rules Committee (headed by Sen. James McClure) and passed on January 25. According to Perry Swisher, who was then in the state senate, the loyalty oath and other conservative legislation of the era represented both procrastination on some very real fiscal problems, and a fear of events outside Idaho. As Swisher tells it, the legislation would have passed with one dissenting vote – his – but the Republican leadership purposely waited until he had to leave the room for a conference on another piece of legislation. When he returned, SB7 had been read and passed unanimously.<sup>1</sup>

Loyalty oaths were then a common feature of state codes throughout the country, the bulk of them having been enacted in the mid-1950s. Idaho's law was written during a period of time when many states still had such laws on their books. The laws tended to stay in place because it was political suicide for legislators to vote them out, though there was never much indication that they actually helped to identify communists or eliminate them from the public payrolls. Some states required public officials to sign oaths; others only required educators to sign them. The oaths, in addition to being a simple pledge of loyalty to the national or local government, contained a provision disavowing membership in subversive organizations. Idaho's oath law was enacted a bit later than most, but was still squarely in the mainstream.<sup>2</sup>

Many state loyalty oath laws were supported by veterans' groups, and this was apparently the case in Idaho, though the record is not entirely clear. When the bill was being debated in the House, Rep. Alvin Benson (D Owyhee) demanded to know where it had originated. Republican Larry Mills of Ada county answered that the bill had originally been proposed by the American Legion. According to the newspaper column "It Seems to Me" by Idaho State College librarian Eli Oboler, the Idaho American Legion convention had passed a resolution the previous July, proposing that membership in the Communist Party be declared a felony punishable by a fine and a prison sentence. In October, the national American Legion convention had approved a resolution calling for a loyalty oath

for all public employees. The Pocatello chapter of the Legion, however, claimed that the Legion had neither sponsored nor worked for passage of the controversial legislation.<sup>3</sup>

Idaho's oath was a three paragraph affair. The oath taking state employee promised to support the constitutions of the nation and the state, promised (again) to support and defend the aforementioned constitutions, and swore (or affirmed) that he or she was not a member of any organization that advocated the violent overthrow of the state or national government, had not been a member of any such organization within the past five years, and would not join such an organization while remaining on the job. The last paragraph, which opponents referred to as the "disclaimer," deeply offended members of the academic communities at both the University of Idaho and Idaho State College (later Idaho State University). After the bill passed the Idaho Senate, both the Moscow and Pocatello chapters of the American Association of University Professors (AAUP) tried to "knife it silently" through a letter writing campaign to legislators. By the time the House took up the issue, it had become controversial.<sup>4</sup>

On March 12, the Idaho House of Representatives spent its morning session hotly debating SB7. A vote to indefinitely postpone action, which might have killed the bill, narrowly failed on a 30-30 vote. Darrell Manning, Democrat Representative from Bannock county, pointed out that "In its present form there is no one

**LOYALTY OATH**

OF \_\_\_\_\_ (name)

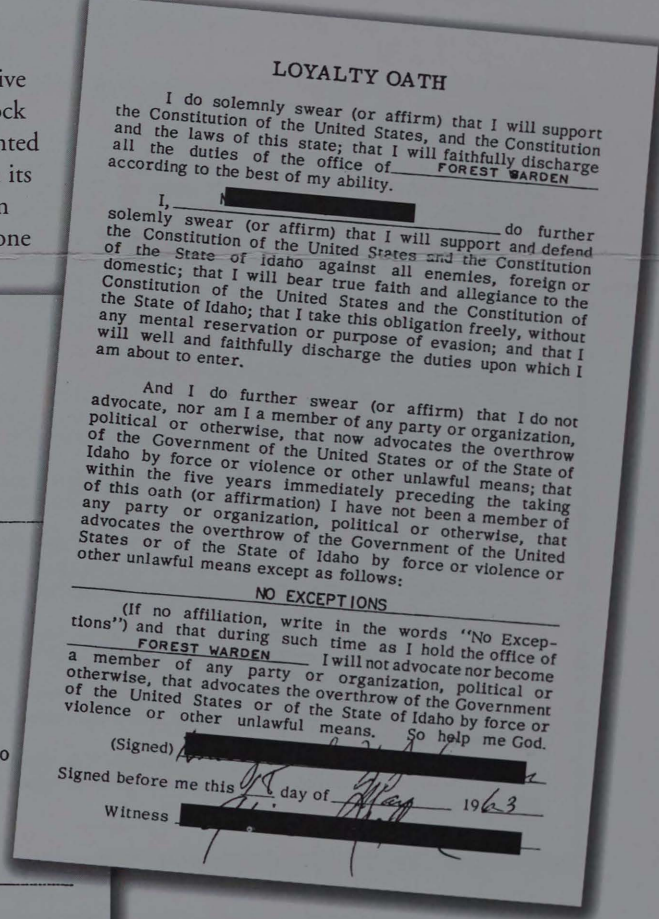
**UNIVERSITY OF IDAHO**  
(Department)

Employee of the University of Idaho  
(position)

Dated MAY 28 '63

Filed JUL 5 1963 19\_\_\_\_

**ARNOLD WILLIAMS**  
Secretary of State



here who is listed as being responsible for determining what organizations are subversive, what organizations are not subversive, what organizations are borderline." He proposed an amendment to require a list of specific subversive organizations, but the amendment was defeated. The other representative from Bannock county, Herman

McDevitt, also opposed the bill, saying "Idaho has had a sad history of requiring extra tests of certain groups within our population."<sup>5</sup> Opponents of the bill also argued that truly disloyal persons wouldn't hesitate to sign the oath. Proponents of the measure countered by saying that perjury charges against false oath signers had been an effective weapon against communism. The bill finally passed on a vote of 49-11, and was sent on to Governor Smylie, who signed it on March 26. The law would take effect on July 1.<sup>6</sup>

In the ensuing public debate, opposition to the loyalty oath came from the University of Idaho and Idaho State College. Walter A. Bunge, an instructor in journalism at Moscow, said "I would not be willing to sign the oath as it now stands.... I believe that the Idaho oath, a very complicated and long oath, infringes on certain civil rights and is morally wrong." Dr. Postweiler, president of the Moscow chapter of the AAUP, said that "most will sign it, but that doesn't mean they are for it.... In general, university faculties are opposed to these loyalty oaths because they harass freedom of speech." ISC librarian Oboler pointed out in a newspaper column that the U.S. Supreme Court had overturned a similar Oklahoma statute in 1952. "It is not the oath of allegiance which any American is proud to take but the appended disclaimer certificate to which those who believe in freedom... object." The court had held that it

**RED (Severe)**  
Children not read to\*

**ORANGE (High)**  
Homes without reading materials

**YELLOW (Elevated)**  
One "word" worlds\*\*

**BLUE (Guarded)**  
Reading models none or poor\*\*\*

**GREEN (Low)**  
The Tao of Now!\*\*\*\*

## National Alert Advisory System Threats to Literacy

\* The causes of illiteracy are many and complex. Poverty, for example, may well be a root cause for many or all of the causes (or "threats" to literacy) listed below. For example, parents may be unable to spend time reading to children because they are too busy "breadwinning"; they may be financially strapped, unable to subscribe to *The New Yorker*; over-worked, low-paid or unemployed, stressed, they may find it difficult to always "dialogue" and "negotiate" with their offspring in more than fatigued monosyllables – "Yeah?" Yet, listing poverty as the major cause of illiteracy does little to provide parents and/or caregivers with helpful advice: as if the poor did not know they were or were not striving to improve their lot.

This color coded listing, therefore, is not intended to categorize, assign blame, raise fears, or suggest panaceas, abstractions, or duct tape as solutions. It is intended, rather, to be a reminder of positive and do-able ways we may encourage literacy in our children.

Those interested in promoting literacy, in addition to considering our suggestions, should also consult local and regional institutions

and organizations (libraries, schools, government offices) about literacy experts, reading materials, and literacy programs.

\*\* Parents or caregivers who don't provide a rich language experience for their children via conversation and explanation of daily activities but instead resort to one word replies, grunts, or stress-inducing commands.

\*\*\* Peers and/or adults who do not read.

\*\*\*\* Children taught to buy and consume on impulse (urged by visual advertising and electronic media), not to read the label, fine print, or product reviews and evaluations.

*The basic concept for this system was conceived by Boise State University student Jason Steading and was refined with the assistance of Dr. Roy Fox (University of Missouri, Columbia), Virginia Mathews (Literacy and Library Development Consultant Services, Madison, CT), and Peggy McClendon (Idaho State Library, Boise).*

was a violation of due process for a state to exclude certain persons from employment solely on the basis of organizational membership, since "membership may be innocent. A state servant may have joined a proscribed organization unaware of its activities and purposes," or an organization might change over time, becoming more or less subversive. Oboler added, "This law has already seriously affected the morale of the faculties of the state supported Idaho institutions of higher education." Oboler's next column took up the topic of red baiting: "I have heard and so, probably, have you that there are a number of card carrying Communists teaching in Idaho public educational institutions.... How can academic freedom flourish when supposedly responsible citizens call "Communist" those teachers with whose opinions they differ?"



Eli Oboler, courtesy Eli M. Oboler Library, Idaho State University

Other Idahoans favored an oath and were critical of what they perceived as the leftist leanings of Idaho's teachers. Long letters to the *Idaho Statesman*, printed in a wordy Sunday editorial section, upheld the legislators. On March 31, a letter proclaimed, "All persons who are employed as teachers in our schools, and who object to such an oath as a condition to their continued employment, should be summarily discharged. They are not the type of people who should be permitted to teach the youth of America." The following week another writer referred to the American Association of University Professors itself as a "front organization." On April 16, Letcher Neil of the National Constitution Party in Portland, Oregon claimed that "the big foundations, whose purpose it is to undermine loyalty in the nation, have been working on the educators in an effective way...." Lines were being drawn. On April 14, a letter writer from Payette declared that "It would seem rather common sense, that a person is either for the American and Idaho governments and all they represent or he is against them. In this day and age there is not and can't be any middle loyalty." Many veterans groups were outspoken. The Boise chapter of the Veterans of World War I passed the following resolution: "Whereas, the most recent session of our State Legislature in an effort to prevent teachers with Communistic leanings to be employed as school teachers ... and further to prevent the employment of people who advocate the over-

throw of this government from becoming public employees, enacted into law a bill... [and] whereas, certain teachers or professors ... namely at Pocatello and at Moscow are opposing the signing of this Loyalty oath, therefore, Be It Resolved, that our organization deprecates the action of these professors and teachers...."<sup>8</sup>

Students defended their professors in print. Brent Bennett, a Boise Junior College (now Boise State University) student, wrote to the *Statesman*: "Be assured that the instructors of ISC are not secretly plotting to overthrow the American government.... The faculty of Idaho State College objects to the type of repressive measures that were used to justify the persecutions of Christians, the existence of the Inquisition, the Salem witch trials, and, in more recent times, the Stalin purges and the McCarthy hearings." An editorial in the University of Idaho student paper asserted that "[Professor] Bunge and numerous other instructors have criticized the oath because it insultingly questions their loyalty, because it's clogged with ambiguities and vagueness, because it won't expose any actual Communists since none would be foolish enough to hesitate to sign it, and because most foreign instructors here couldn't or wouldn't sign it." A letter to the editor spoofed anti-communism: "These greeting card companies are actually communist front organizations. Sinister sentiments are forced upon our children gradually, beginning with 'Happy Birthday' and working through 'Merry Christmas' to such openly communist dogma as 'Peace on Earth' and 'Good will to all men.'"<sup>9</sup>

Professors at Pocatello and Moscow geared up for a battle. The AAUP chapter at the University of Idaho organized a panel discussion which was attended by an audience of over 100. Professors at Idaho State College retained an attorney and considered legal action. According to Swisher, "the ACLU didn't amount to much at that time, so the AAUP was the place you looked to for due process issues, that kind of fight." The oath was on the agenda at the State Board of Education meeting on April 19. U of I professors asked the board to declare the faculty exempt from provisions of the loyalty oath, but board chairman Ezra Hawkes said the law was clear, and the board had to abide by the law. U of I President Dr. D. R. Theophilus testified that there would probably be at least two faculty resignations because of the oath. Theophilus requested a policy statement from the board, so that he could send the statement to faculty members, asking them to indicate whether they intended to sign or resign. Theophilus and Dr. Donald Walker, Idaho State College President, both pointed out that the wording of the oath created a problem for visiting professors from other countries.<sup>10</sup>

Three days later, James R. Crockett, radio television instructor, and Jay G. Butler, assistant professor of sociology, both from the University of Idaho, announced their resignations. Journalism instructor Bunge said he might follow their lead. In a letter to the *Idaho Argonaut* Butler wrote, "An inadequate salary is one indignity I find irritating but when the indignity of the loyalty oath is added, the two indignities make me sick of my stomach. I have reached the point where I think I would rather be a tramp than an American college professor." In response to a reporter's question, Crockett said, "I think it is unfair for a government to legislate beliefs. I think people should reserve the right to refuse any oath." Bunge said, "I will not sign the Idaho disclaimer oath.... At present it means that I cannot work at the University of Idaho next year; I have not officially resigned."<sup>11</sup>

Meanwhile, in Pocatello, a meeting of the ISC chapter of the American Association of University Professors (AAUP) voted unanimously on April 29 to fight the new loyalty oath law. The 50 professors present at the meeting decided to seek an injunction in federal court, and pledged \$3000 to start a "war chest." Dr. George Heckler, chairman of the ISC chemistry department and president of the AAUP chapter, called the oath "thought control." The AAUP attorney, Louis F. Racine Jr., saw two major weak points in the law: There was no mechanism for hearings for employees dismissed for refusing to sign; and there was no method for deciding which organizations were subversive. A day later, the University of Idaho AAUP voted to join the ISC chapter, and 50 more professors agreed to become plaintiffs. Students at ISC organized a group to back the faculty, distributed posters, and raised money.<sup>12</sup>

That the Board declines to  
That the Board of Education declines to  
Not join in any petition or  
application for an injunction or  
order to sign  
That the institutions under

June 1, 1963  
Pocatello, Idaho

It was moved by Mr. Marcus, seconded by Mr. Eaton, and carried, that the institutions under the jurisdiction of the Idaho State Board of Education are authorized to accept a loyalty oath from any instructor, and/or employee, who is a citizen of a foreign country, with the first two paragraphs amended to avoid conflict with the responsibilities of citizenship to his country.

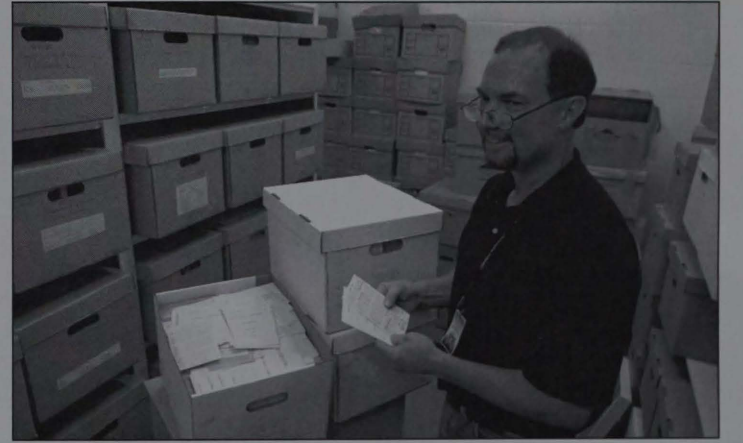
The Board believes this complies with the intent of the Legislature.

Draft and final version of Idaho State Board of Education Loyalty Oath policy.

professors and their allies had been vindicated. By that time Idaho politicians had turned their attention from red hunting towards more practical problems, and were addressing issues such as the sales tax and reapportionment.<sup>13</sup>

1. Conversation with Perry Swisher, August 26, 2003; *ISC Bengal* May 10, 1963.
2. M. J. Heale, *McCarthy's Americans: Red Scare Politics in State and Nation, 1935-1965* (Athens: University of Georgia Press, 1998).
3. *Idaho State Journal*, March 13, 1963 and April 28, 1963.
4. 1963 Idaho Session Laws; *Idaho Argonaut* April 19, 1963.
5. Idaho has had other brushes with loyalty issues. During the 1860s, southern sympathizers in the Idaho legislature refused to sign oaths (Merle W. Wells, "S. R. Howlett's War with the Idaho legislature, 1866-1867," *Idaho Yesterdays* 1976 20(1): 20-27), and in the 1880s, an Anti-Mormon test oath disenfranchised LDS voters (Merle W. Wells, "The Idaho Anti-Mormon Test Oath," *Pacific Historical Review* 1955 24(3): 235-252). A third controversy erupted as the United States entered World War I and resentment flared against Idahoans of German descent. A "war census," taken in Owyhee county, tabulated patriotism by tracking individuals' liberty bond purchases, Red Cross contributions, and "special patriotic service rendered." (See Hugh Lovin, "World War Vigilantes in Idaho, 1917-1918," *Idaho Yesterdays* 18(3): 2-11. An excerpt from the same article appears in *Mountain Light* 42(3): 21-24, with an illustration of the war census card.)
6. *Idaho State Journal*, March 13, 1963; *Idaho Argonaut* March 29, 1963.
7. *Idaho Argonaut*, March 29, 1963; *Idaho State Journal*, March 31 and April 7, 1963.
8. *Idaho Daily Statesman*, March 31, April 7, April 14, 1963; *Idaho Argonaut* April 16, 1963.
9. *Idaho Daily Statesman* April 7, 1963; *Idaho Argonaut*, April 16, April 19, 1963.
10. *Idaho State Journal* April 3, 1973; *Idaho Argonaut*, April 16, April 19, 1963; *Idaho Daily Statesman*, April 20, 1963. Conversation with Perry Swisher.
11. *Idaho State Journal*, April 23 1963.
12. *Idaho State Journal* April 30, 1963; *ISC Bengal*, May 10, 1963; *Idaho Argonaut*, May 7, 1963.
13. *Idaho Daily Statesman*, June 1, 1963; *Daily Idahoonian* June 13, 1963; *Idaho Daily Statesman*, June 20, 1963; eastern division civil docket, U.S. District Court, Boise; conversation with Perry Swisher.

Most material gathered by Hodges for this article is available for further research at the Idaho State Historical Society, Library & archives, 450 N. 4th St., Boise ID 83702.



Boxes of signed Idaho State Loyalty Oaths in state archives. Photo by John Kelly.

### Why All the Furor?

The basic principle behind the loyalty oath is to protect this nation and its citizens from insidious conspiracies: to keep ideas foreign to the policy of this country from infiltrating into critical areas of government.

The demand for loyalty oaths began in the late 1940's and early '50's when it was discovered that the federal government had a large number of Communists in its midst and the nation's atomic secrets were stolen. Communist activity had reached its apex.

Some college professors have declared the taking of a loyalty oath is a restriction of academic and personal freedom.

But shouldn't the teachers be required to show how they stand in certain ideas and philosophies because they are in an influential position and should let us know if they are teaching philosophies foreign to the American Way of Life?

The loyalty oath is a form of allegiance to our country and no more infringes on personal freedom than repeating the "Pledge of Allegiance to the Flag!"

All federal employees take an oath to uphold the Constitution and laws of the nation and must say whether or not they have ever been a member of the Communist party or any organization that is Fascist or totalitarian in belief.

A professor or teacher does not have the license to spread propaganda in school. Many teachers live in a world of their own, an ivory tower, seemingly unaware of the world of actuality.

A Communist is an enemy of every thing that a professor claims he must have: freedom of speech, press, truth and security of these unalienable rights.

If a little freedom is lost in signing the oath, it is minor compared to the freedom that might be lost under a godless totalitarian government.—K. U.

Wendy Wank, *Detention*  
Editorial from the April 1963 Roundup (Boise Junior College newspaper) by editor Kenneth Uranga. Courtesy, Special Collections/Archives, Boise State University Albertsons Library.

At the outset, the Philippine Consulate General is of the opinion that compliance by you of the loyalty oath will affect your Philippine citizenship. Commonwealth Act No. 63 prescribes the causes and modes by which Philippine citizenship may be lost or reacquired. According to it, any Filipino citizen may lose his citizenship by subscribing to an oath of allegiance to support the Constitution or laws of a foreign country upon attaining the age of 21 years or more. Certainly the State of Idaho is not a foreign country, but the United States of America is one no doubt. After the inauguration of the Republic, the Congress of the Philippines enacted a law, Republic Act No. 106, modifying two of the causes of losing Philippine citizenship. Under this latter law, the taking of an oath of allegiance to a foreign country by a Philippine citizen may not divest him of his citizenship in any manner while the Republic of the Philippines is at war with any country. The Philippines, of course, is not at war with any country. Therefore, the provisions of Republic Act No. 106 may not be availed of by you.

Portion of 1963 letter from Philippine Consulate General (Seattle, WA) to Boise Junior College faculty member. Courtesy, Special Collections/Archives, Boise State University Albertsons Library.



Cartoon from Idaho State College newspaper, *The Bengal*, April 19, 1963.

A motion for an injunction was filed in federal court, on May 29. The complaint carried the names of 31 employees of Idaho State College, 52 employees of the University of Idaho, 12 employees of the Pocatello Public School District, one employee of Idaho State Hospital South and three state legislators. Defendants were the Attorney General, the Secretary of State, Regents of the University of Idaho, the presidents of the University of Idaho and Idaho State College, and the superintendent of the Pocatello Schools. The case, known as Heckler v. Shepard, took two years to reach its final conclusion. On June 13, the court issued a temporary stay, preventing application of the law to the approximately 100 plaintiffs, and sending the suit on to a court panel for final judgment. On June 19, 1965, the panel of judges filed a decision, holding that the law violated the due process clause of the constitution because no provision was made for pre-discharge hearings for employees who refused to take the oath. On July 12, a judgment permanently enjoined the defendants from enforcing the law. The

The ICB Newsletter is published biannually in April and October.

Out-of-state subscriptions \$10.00 per year

Contributions, inquiries, requests for subscriptions should be sent to:

Idaho Center for the Book  
Boise State University  
Boise, Idaho 83725  
<http://www.library.org/icb>