

August 10, 1940.

Mr. Harry M. Moore,
Secretary of State,
Phoenix, Arizona.

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Sir:

I have before me your letter of August 9th, requesting an opinion as to whether or not you have the authority to deny the Communist movement a column on the Primary ballot, as a political party.

For the following reasons it is my opinion that you have:

A "political party" has been defined as "an association of voters believing in certain principles of government, formed to urge the adoption and execution of such principles in governmental affairs through the election of officers of like belief". 49 C.J.1075.

Political parties originated in this country with the adoption of the constitution in 1787. In a republican form of government they are a necessity. 49 C. J. 1076. In Arizona they came into being with statehood, being provided for in the constitution and statutes.

These statutes make it possible for a voluntary association of electors having distinctive opinions on some or all of the political questions in the state to join together and attempt to elect state and county officers of its own party faith in order to make its political principles the policy of the government through the methods and procedure provided by the Constitutions of the United States and the State of Arizona.

Tested by these principles it is apparent that the Communist movement cannot qualify as a political party. It is common knowledge, verified by the sworn statements of its leaders before the Dies Committee on un-American activities and before numerous courts of record that the Communist movement is an organization bred, nourished, advised and controlled by foreign powers and whose main object is the overthrow of the present form of government of the United States by force, not by the means provided by the fundamental law of the land - popular will.

Tested by another principle it is even more apparent that the Communist movement cannot become a political party in Arizona. The sole function of political parties is to provide the means of electing state and county officials of certain political faith or beliefs. In Arizona before any officer can qualify or enter upon his duties he must subscribe the following oath:

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"I _____, do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will true faith and allegiance bear to the same, and defend them against all enemies whatsoever, and that I will faithfully and impartially discharge the duties of the office of _____ according to the best of my ability, so help me God".

Plainly any person elected by the Communist movement could not qualify as an officer under the above, because his avowed purpose and object and his duty to his organization requires that he do everything possible to overthrow the Constitution of the United States by force - not support it.

In other words a member of that party could never truthfully qualify for any elective office in this state, and remain true to his own party faith.

When our forefathers drew and adopted the constitution of the United States they provided the methods for electing the officials who should look after the affairs of this great country. And they saw fit to make way for changes. But they never intended to allow any group to organize themselves into a political group for the purpose of forcefully overthrowing this government.

The last few years should have taught us that lesson. Surely the past six months has opened our eyes. The same group who clamor for their constitutional rights are the same ones who outwardly boast of their disgust for that instrument and want only to destroy it by use of force.

Yours very truly,

JOE CONWAY,
Attorney General.

W. E. POLLEY,
Assistant Attorney General.

EARL ANDERSON,
Special Assistant
Attorney General.