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IN THE

Supreme Court of the United States

OCTOBER TERM, 1965

NO. 168

MISC

IN THE MATTER OF THE APPLICATION FOR WRIT OF CERTIORARI, by BARBARA ELFBRANDT, *Petitioner,*

vs.

IMOGENE R. RUSSELL, L. E. BOOL and MARTHA L. ELLIOTT, members of the Board of Trustees of Amphitheater Elementary School District No. 10, Pima County, State of Arizona; PAUL J. FANNIN, Governor of the State of Arizona; ROBERT W. PICKERELL, Attorney General of the State of Arizona; JEWEL W. JORDAN, State Auditor; LYNN M. LANEY, O. D. MILLER, SAMUEL H. MORRIS, JOHN G. BABBITT, ELWOOD W. BRADFORD, VIVIAN LAYTI BOYSEN, GEORGE W. CHAMBERS, and LEON LEVY, members of the Board of Regents; W. W. DICK, State Superintendent of Public Instruction, and PAUL J. FANNIN, Governor, ex-officio members of the Board of Regents; FLORENCE REECE, Pima County Superintendent of Schools; ROBERT D. MORROW, Superintendent of Tucson School District No. 1; JACOB C. FRUCHTHENDLER, DELBERT L. SECRIST, NAN LYONS, NORVAL W. JASPER and WILLIAM J. PISTOR, School Board, Tucson District No. 1; RICHARD A. HARVILL, President of The University of Arizona, *Respondents.*

DARRELL F. SMITH
The Attorney General

PHILIP M. HAGGERTY
Assistant Attorney General
State of Arizona
159 Capitol Building
Phoenix, Arizona
Counsel for Respondents

RESPONSE TO APPLICATION FOR WRIT OF CERTIORARI

COMES NOW the respondents herein, appellees below, in Cause No. 7406, Supreme Court, State of Arizona, and make their response to the application for writ of certiorari filed herein on the 10th day of May, 1965.

REFERENCE TO OFFICIAL REPORTS OF OPINIONS IN THE LOWER COURTS

Petitioner herein cites only the latter case in the Arizona Supreme Court. The prior decision is Elfbrandt, et al, v. Russell, et al, 94 Ariz. 1, 381 P.2d 554, on remand 397 P.2d 944.

THE STATUTORY PROVISIONS

Since the petitioner has not set out the provisions of the statute involved verbatim, Rules of the Supreme Court, Rule 40(1)(c), the respondents do so:

CHAPTER 108
House Bill No. 115
AN ACT

RELATING TO CRIMES; TO THE PROTECTION OF THE SAFETY OF THE STATE OF ARIZONA AND THE FUNDAMENTAL LIBERTIES OF ITS CITIZENS FROM THE INTERNATIONAL COMMUNIST CONSPIRACY; PROSCRIPTIONS OF THE COMMUNIST PARTY IN ARIZONA; DEFINING THE CRIME OF SEDITION; REQUIRING LOYALTY OATHS BY PUBLIC OFFICERS AND EMPLOYEES; PRESCRIBING PENALTIES; AMENDING TITLE 16, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 16-205 AND 16-206; AMENDING TITLE 13, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 40.1, SECTIONS 13-707 AND 13-707.01, AND AMENDING SECTIONS 38-231 AND 38-233, ARIZONA REVISED STATUTES.

Be it enacted by the Legislature of the State of Arizona:

Section 1. This act may be cited as the Arizona Communist Control Act of 1961.

Section 2. Title 16, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 16-205, to read:

16-205. FINDINGS OF FACT AND STATEMENT OF PUBLIC POLICY BY THE LEGISLATURE OF THE STATE OF ARIZONA CONCERNING STEPS WHICH MUST BE TAKEN TO PROTECT THE FUNDAMENTAL RIGHTS OF THE CITIZENS OF THIS STATE AND THE SAFETY OF THIS STATE FROM INTERNATIONAL COMMUNISTIC CONSPIRACY

A. Upon evidence and proof which has been presented before this Legislature, other State Legislatures, the Congress of the United States and in the courts of the United States and in the courts of the several states; and although recognizing that the federal constitution vests the conduct of foreign relations in the federal government and the federal constitution guarantees to the several states a republican form of government and protection against foreign invasion and domestic violence, this state has the duty of self-preservation and the taking of necessary measures to cooperate with the federal government in the preservation of the peace and safety of the State of Arizona and in order to carry out article 2, section 21 of the Arizona Constitution relating to free and equal elections and article 7, section 12 of the Arizona Constitution relating to the enactment of laws to secure the purity of elections; and in order to guard against the abuse of the elective franchise by the Communist Party of the United States which from time to time has qualified as a purported legitimate political party in the State of Arizona; and in order to secure to the citizens of this State their unalienable personal rights and liberty of conscience secured by the provisions of the Constitution of Arizona and in order to protect the peace and safety of the State of Arizona from the overthrow of its constitutional government by force or violence, and of its political subdivisions,

the Legislature of the State of Arizona finds and declares that, unlike other political parties which have evolved their policy and programs through public means, by the reconciliation of a wide variety of individual views, and submit those policies and programs to the electorate at large for approval or disapproval, the policies and programs of the Communist Party are prescribed for it by the foreign leaders of the world Communist movement.

B. The Communist Party members have no part in determining its goals, and are not permitted to voice dissent to party objectives. Unlike members of political parties, members of the Communist Party are recruited for indoctrination with respect to its objectives and methods, and are organized, instructed, and disciplined to carry into action slavishly the assignments given them by their hierarchial chieftains. Unlike legitimate political parties, the Communist Party acknowledges no constitutional or statutory limitations upon its conduct or upon that of its members. The Communist Party is relatively small numerically, and gives scant indication of capacity over to attain its ends by lawful political means. The peril inherent in its operation arises not from its numbers, but from its failure to acknowledge any limitation as to the nature of its activities, and its dedication to the proposition that the present constitutional government of the United States, the governments of the several states, and the government of the State of Arizona and its political subdivision ultimately must be brought to ruin by any available means, including resort to force and violence.

C. The establishment of a totalitarian dictatorship in any country results in the supression of all opposition to the party in power, the subordination of the rights of individuals to the state, the denial of fundamental rights and liberties which are characteristic of a representative form of government, such as freedom of speech, of the press, of assembly, and of religious worship, and said totalitarian dictatorship ruthlessly suppresses academic freedom and inequity into any human knowledge except the official doctrines of the dictatorship. This results in the maintenance of control over the people through fear, terrorism, and brutality.

D. It is the public policy of this state to protect the safety of the constitutional government of the State of Arizona by constitutional means and at the same time protect the rights of the members of our free society to speak, to assemble and to inquire, including the principle of academic freedom which by fostering healthy self-criticism is especially vital in the progress of man's moral values and in man's exploration of the secrets of the atom on this planet and in outer space. To protect the safety of this state and the right of free citizens in a free society to inquire and to understand totalitarianism, it is essential that the schools, colleges and universities teach objectively and critically the governmental and social forms of past and present totalitarian slave states, including the foreign languages spoken therein.

The rights set forth in this subsection do not include the right to embrace Communism or to attempt to persuade others to embrace Communism.

E. The direction and control of the world Communist movement is vested in and exercised by the Communist dictatorship of a foreign country.

F. The Communist dictatorship of such foreign country, in exercising such direction and control and in furthering the purposes of the world Communist movement, establishes or causes the establishment of, and utilizes, in various countries, action organizations which are not free and independent organizations, but are sections of a world-wide Communist organization and are controlled, directed, and subject to the discipline of the Communist dictatorship of such foreign country.

G. The Communist action organizations so established and utilized in various countries, acting under such control, direction, and discipline, endeavor to carry out the objectives of the world Communist movement by bringing about the overthrow of existing governments by any available means, including force or violence if necessary, and setting up Communist totalitarian dictatorships which will be subservient to the most powerful

existing Communist totalitarian dictatorship. Although such organizations usually designate themselves as political parties, they are in fact constituent elements of the world-wide Communist movement and promote the objectives of such movement by conspiratorial and coercive tactics, instead of through the democratic processes of a free elective system or through the freedom-preserving means employed by a legitimate political party which operates as an agency by which people govern themselves.

H. In the United States and in this state those individuals who knowingly and wilfully participate in the world Communist movement, when they so participate, in effect repudiate their allegiance to the United States and this state, and in effect transfer their allegiance to the foreign country in which is vested the direction and control of the world Communist movement.

I. The Communist movement in the several states is an organization numbering thousands of adherents, rigidly and ruthlessly disciplined. Awaiting and seeking to advance at a moment when the several states may be so far extended by foreign engagements, so far divided in counsel, or so far in industrial or financial straits, that overthrow of the Government of the United States and of the several states by force or violence may seem possible of achievement, it seeks converts far and wide by an extensive system of schooling and indoctrination. Such preparations by Communist organizations in other countries, including the recent events in the neighboring country of Cuba, have aided in supplanting existing governments. The Communist organization in the United States and in the several states, pursuing its stated objectives, the recent successes of Communist methods in other countries, and the nature and control of the world Communist movement itself, present a clear and present danger to the security of the government of the United States, the governments of the several states, and the government of the State of Arizona, including its political subdivisions, that make it necessary that the State of Arizona enact appropriate legislation, recognizing the existence of such world-wide Communist conspiracy, and designed

to prevent it from accomplishing its purposes in this State and its political subdivisions. Therefore, the Communist Party should not be permitted to avail itself of the privileges, rights and immunities conferred by law upon legitimate political parties.

Sec. 3. Title 16, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 16-206, to read:

16-206. PROSCRIPTION OF COMMUNIST PARTY OF UNITED STATES, ITS SUCCESSORS, AND SUBSIDIARY ORGANIZATIONS.

The Communist Party of the United States, or any successors of such party regardless of the assumed name, the object of which is to overthrow by force or violence the government of the United States, or the government of the State of Arizona, or its political subdivisions shall not be entitled to be recognized or certified as a political party under the laws of the State of Arizona and shall not be entitled to any of the privileges, rights or immunities attendant upon legal political bodies recognized under the laws of the State of Arizona, or any political subdivision thereof; whatever rights, privileges or immunities shall have heretofore been granted to said Communist Party of the United States as defined in this section, or to any of its subsidiary organizations, by reason of the laws of the State of Arizona, or of any political subdivision thereof, are hereby terminated and shall be void.

Sec. 4. Title 13, chapter 2, Arizona Revised Statutes, is amended by adding article 40.1, sections 13-707 and 13-707.01, to read:

ARTICLE 40.1 SEDITION

13-707. DEFINITION OF SEDITION; PARTIES; PUNISHMENT

A. A person who knowingly or wilfully commits, or aids in the commission of any act to overthrow by force or violence the government of this state, or of any of its political subdivisions, is guilty of sedition against the State of Arizona.

B. A person who knowingly or wilfully advocates the overthrow by force or violence the government of this state, or of any of its political subdivisions, is guilty of sedition against the State of Arizona.

C. A person who knowingly or wilfully becomes or remains a member of the Communist Party of the United States, or its successors, or any of its subordinate organizations, or any other organization having for one of its purposes the overthrow by force or violence of the government of the State of Arizona, or any of its political subdivisions, and said person had knowledge of said unlawful purpose of said Communist Party of the United States or of said subordinate or other organization, is guilty of sedition against the state.

D. Any person who violates any provisions of this article is guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than twenty thousand dollars, or imprisonment in the state prison for not more than twenty years, or both.

13-707.01. DISQUALIFICATION TO HOLD OFFICE

Any person who is convicted of violating any provision of this article shall automatically be disqualified and barred from holding any office, elective or appointive, or any position of trust, profit or employment with this state, or any political subdivision of this state, or any county, city, town, municipal corporation, school district, public educational institution, or any board, commission or agency of any of the foregoing.

Sec. 5. Sec. 38-231, Arizona Revised Statutes, is amended to read:

38-231. OFFICERS AND EMPLOYEES REQUIRED TO TAKE LOYALTY OATH; FORM; PENALTY

A. In order to insure the statewide application of this section on a uniform basis, each board, commission, agency, and independent office of the state, and of any of its political sub-

divisions, and of any county, city, town, municipal corporation, school district, and public educational institution, shall immediately upon the effective date of this act completely reproduce section 38-231 as set forth herein, to the end that the form of written oath or affirmation required herein shall contain all of the provisions of said section for use by all officers and employees of all boards, commissions, agencies and independent offices.

B. For the purposes of this section, the term officer or employee means any person elected, appointed, or employed, either on a part-time or full-time basis, by the state, or any of its political subdivisions or any county, city, town, municipal corporation, school district, public educational institution, or any board, commission or agency of any of the foregoing.

C. Any officer or employee elected, appointed, or employed prior to the effective date of this act shall not later than ninety days after the effective date of this act take and subscribe the form of oath or affirmation set forth in this section.

D. Any officer or employee within the meaning of this section who fails to take and subscribe the oath or affirmation provided by this section within the time limits prescribed by this section shall not be entitled to any compensation unless and until such officer or employee does so take and subscribe to the form of oath or affirmation set forth in this section.

E. Any officer or employee as defined in this section having taken the form of oath or affirmation prescribed by this section, and knowingly or wilfully at the time of subscribing the oath or affirmation, or at any time thereafter during his term of office or employment, does commit or aid in the commission of any act to overthrow by force or violence the government of this state or of any of its political subdivisions, or advocates the overthrow by force or violence of the government of this state or of any of its political subdivisions, or during such term of office or employment knowingly and wilfully becomes or remains a member of the communist party of the United States or its successors or any

of its subordinate organizations or any other organization having for one of its purposes the overthrow by force or violence of the government of the state of Arizona or any of its political subdivisions, and said officer or employee as defined in this section prior to becoming or remaining a member of such organization or organizations had knowledge of said unlawful purpose of said organization or organizations, shall be guilty of a felony and upon conviction thereof shall be subject to all the penalties for perjury; in addition, upon conviction under this section, the officer or employee shall be deemed discharged from said office or employment and shall not be entitled to any additional compensation or any other emoluments or benefits which may have been incident or appurtenent to said office or employment.

F. Any of the persons referred to in Article XVIII, Section 10 of the Arizona Constitution as amended, related to the employment of aliens, shall be exempted from any compliance with the provisions of this section.

G. In addition to any other form of oath or affirmation specifically provided by law for an officer or employee, before any officer or employee enters upon the duties of his office or employment, he shall take and subscribe the following oath or affirmation:

State of Arizona, County of.....

I, ...do solemnly swear (or
(type or print name)

affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona; that I will bear true faith and allegiance to the same, and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of.....
(name of office).....according to the best of my ability, so help me God (or so I do affirm).

.....
(Signature of officer or employee)

Sec. 6. Sec. 38-233, Arizona Revised Statutes, is amended to read:

38-233. FILING OATHS OF RECORD

A. The official oaths of state elective officers shall be filed of record in the office of the secretary of state. The official oaths of all other state officers and employees shall be filed of record in the office of the employing state board, commission or agency.

B. The official oaths of notaries public and of elective county and elective precinct officers shall be filed of record in the office of the county recorder, except the oath of the recorder, which shall be filed with the clerk of the board of supervisors. The official oaths of all other county and precinct officers and employees shall be filed of record in the office of the employing county or precinct board, commission or agency.

C. The official oaths of all city, town or municipal corporation officers or employees shall be filed of record in the respective office of the employing board, commission or agency of the cities, towns and municipal corporations.

D. The official oaths of all officers and employees of all school districts shall be filed of record in the office of the superintendent of public instruction.

E. The official oaths of all officers and employees of each public educational institution except school districts shall be filed of record in the respective offices of said public educational institutions.

F. The official oath or affirmation required to be filed of record shall be maintained as a permanent official record.

Sec. 7. SAVING CLAUSE

This act does not apply to any offense committed prior to the effective date of this act, and any such offense is punishable as provided by the statute in force at the time the offense was committed.

Sec. 8. SEVERABILITY

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 9. EMERGENCY

To preserve the public peace, health and safety it is necessary that this act become immediately operative. It is therefore declared to be an emergency measure, to take effect as provided by law.

Approved by the Governor—March 30, 1961.

Filed in the Office of the Secretary of State—March 30, 1961.

THE QUESTIONS PRESENTED DO NOT WARRANT REVIEW

The respondents herein, appellees below, do not believe that the petitioner states a case of a nature serious or novel enough to warrant review by this Court. If the issues, facts or arguments raised by petitioner were before this Honorable Court for the first time, respondents admittedly would hesitate urging a denial of the petition. But it is felt that this is not true. The same arguments and issues and virtually the same facts have been presented over and over again to this Court during the past fifteen years and the answers have been the same. The clear and consistent import has been contrary to all the allegations of the petitioner.

STATEMENT OF THE CASE

The statement of the case submitted by petitioner is accurate. However, the petition itself contains several statements of factual matters or possible evidence that were never presented or argued to either the trial court or the Supreme Court. For example, there are factual occurrences outlined on page 23, relative, to the presence of pickets at the Arizona State Capitol. This

was not presented to the trial court and consequently no opportunity was offered to rebut this statement or any implications from any facts alleged if true.*

Of even graver import is the attempt on pages 26, 27 and 28 to introduce purportedly factual evidence of the effect of allegedly similar legislation. None of the cited authorities were presented to the trial court or introduced into evidence. The defendants-appllees had no opportunity to establish whether or not the authors are in fact experts or authorities. Nor was there any opportunity to cross-examine the authors or to present evidence from local sources or elsewhere to rebut whatever conclusions these books might contain.

The Court's attention is also invited to the remarks on page 14, in which reference is made to a former Senator from the State of Arizona and past candidate for the presidency of the United States and in fact to the entire judiciary and bar of the State of Arizona. The provisions of Rule 40(5) of the Rules of the Supreme Court with reference to scandalous matter seem most appropriate.

ARGUMENT

THE PETITIONER MAY NOT CLAIM OF LACK OF ADMINISTRATIVE DUE PROCESS

The petitioner talks at length and at large about "administrative due process." In considering this claim we must first of all put to one side that branch of administrative law which deals with private persons or corporations receiving licenses, permits or the like from regulatory agencies. We are dealing only with employees. But all employees are not in the same status. Some hold positions in which there is a type of civil service job protection granted by statute, while, of course, many others do not have such statutory protection. The right to hold a job only exists if

*In any event it seems hardly consistent for the petitioner to criticize this "right of the people peacefully to assemble, and to petition the Government for a redress of grievances."

there is a statutory (or contractual) grant of such a right. Once a statute exists, however, it becomes part of the contract of employment and may not be disregarded. And once granted there must concurrently exist a remedy in the event that particular right is breached, and a means of enforcement of that particular right. And it also follows that the remedy or means of enforcement must be adequate to do the job necessary and be fair to all concerned.

The next question becomes, who must provide the remedy and where must it be available? The most consistent legislative and congressional answer has been this. If the area of dispute can be handled and adjudicated before the employing agency, board or commission, it is far better for reasons economic, traditional and practical to provide the agency with the machinery to do so. Courts are crowded and often slow. The agencies involved usually prefer to handle personnel matters themselves. In many states restrictive or confusing judicial jurisdictional statutes would defeat a direct remedy in court. But if there exists a judicial remedy as complete as an administrative remedy could be to protect the statutory right, then there is no constitutional, due process need for an administrative remedy. As long as the administrative route or the failure to follow it does not result in any prejudice to the party affected,* a court is at least as competent as an agency to insure due process and to render justice.

Applying this to the present case, we have the following determinations. Does the Arizona Tenure Law, Article 3, Chapter 2, A.R.S. Title 15 apply where the contract is renewed and the teacher not dismissed, but no compensation is paid? If it does apply, and petitioner argues with some reason that loss of salary is just about equivalent to loss of employment, the petitioner by failing to ask for a hearing under the appropriate statute, has not exhausted her administrative remedies.[1] If, however, those pro-

*i.e. The common statutory situation in which the agency determines the facts and the court reviews only for gross abuse of discretion.

[1]Note Justice Jennings' concurring opinion found in 381 P.2d at 566.

visions do not apply we must further consider, (a) is there a judicial remedy adequate to the situation and (b) assuming such a remedy, has there been any prejudice to the petitioner in forcing this route rather than an administrative one? To determine the sufficiency of the remedy it is obviously essential to find out what specific right or rights are at issue. The normal issue in an employee dismissal hearing is whether or not the employee has satisfactorily performed the assigned duties. The normal rights are the rights of the employee to hear the evidence against him and to cross-examine the witnesses as to bad conduct, nonfeasance, negligence, etc. Then there is the further right to present evidence on his own behalf showing good conduct and reputation and generally to rebut the evidence against him. The agency, school board or commission then finds factually whether or not the acts occurred or the facts exist and decides quasi-judicially whether or not punitive measures should be taken.

But no such issue exists here and no such factual determination could have been made in the instant case. Past membership or past advocacy is specifically not an issue to be considered in applying the statute. See Section 7, Chapter 108, *supra.* Even present membership is not a controlling factor. The statute can only be violated by a combination of actual knowledge of the unlawful purpose and actual advocacy of that purpose. In short, an essential fact is the employee's own knowledge of what he himself knows and does. And even if a hearing could show such facts, they would be antecedent to and not violative of the subscription of the oath or affirmation. The agency could find no facts that would have any legal meaning at all. Their area of inquiry is foreclosed to anything prior to the subscription and their power after the subscription is nil. For if a person takes the oath (after such a hearing, if one is held) and thereafter violates it, the sanction is not in the agency involved, but in the criminal courts. What happened at any hearing would be immaterial.

Petitioner suggests that she has a constitutional right to explain and defend a refusal to subscribe to the oath or affirmation. It should be kept in mind at this juncture that the law did not be-

come effective as to offices or employees until ninety days after its effective date. Section 5(c), Chap. 108, *supra.*

Respondents are at a loss to understand how due process requires a person to have an opportunity to explain or defend a refusal to obey a law when the law is clearly mandatory and contains no provisions for excuse. How could the administrative agency afford relief? Or is it urged that due process requires that an employing agency becomes a public or private forum or sounding board? If the law itself is otherwise reasonable and constitutional a party's private resistance, even if based on religious grounds, is utterly immaterial. Assuming the somewhat ridiculous premise that any religion prohibits the making of a simple statement or affirmation of the intention not to attempt to subvert or destroy one's state or employer (and the history of Quakers in this country will show that affirmation as an alternative to oaths exist almost solely because Quakers are willing to make affirmations), the refusal still must result in loss of compensation. For even if a person's religion advocates the practice of polygamy or ritual assassination as the route to salvation, this does not either excuse an individual from choosing between obedience or punishment, or invalidate the law prohibiting such acts. On a less dramatic and more recent plane, we have the Sunday Closing Laws cases.*

Even assuming, however, that a forum for the airing of opinions on the value or applicability of a statute is a constitutional necessity, why should this forum be administrative and not judicial? If the petitioner wishes the opportunity to assault the entire statute, surely the administrative agency was not the place for such a purely legal argument. No agency, commission or school board would be equipped to deal with such a claim or empowered to declare a statute invalid. But a court is so equipped and so authorized. And, in fact, petitioner has done exactly that. She has chosen the best possible place to explain and defend. Neither the state nor

*McGowan v. Maryland, 366 U.S. 420 (1961); Gallagher v. Crown Kosher Super Market, 366 U.S. 617 (1961); Two Guys from Harrison v. McGinley, 366 U.S. 582 (1961); Braunfeld v. Brown, 366 U.S. 599 (1961).

the county nor the school board respondent herein have attempted to deny or to argue against her choice of forum. We have said that the petitioner is incorrect, but we have admitted that the forum, the court, was in the first instance, the place to raise the issues which have been raised. Certainly these claims belong in court and not before a body unequipped by nature and powerless by law to do anything about them.

We should not let off-hand statements concerning "administrative due process' becloud common sense. Administrative *due* process is only important where administrative *process* itself has any value or could result in any real prejudice to the parties involved.

It would thus seem that the conclusion of the Arizona Supreme Court is correct, and that the question of whether or not the Arizona Teacher Tenure Law is applicable to a question of whether loss of compensation constitutes dismissal is not material. If, however, this Court holds that that question of applicability is an issue, that particular issue was not ruled on by the Arizona Supreme Court. If on remand the Arizona Court finds that loss of compensation is equivalent to dismissal, then the petitioner has failed to exhaust her administrative remedy. If the Court on remand finds that the Tenure Law is not applicable to situations involving only loss of compensation, then there never was an administrative remedy in the first place. This would make either (a) the Tenure Law unconstitutional or (b) a judicial remedy available. This remedy could under varying factual situations be in the form of a suit for reformation of contract, an action in quantum meruit, mandamus directing payment of salary, or the route actually chosen by the petitioner and most suited for her particular claim, declaratory judgment as to the validity of the statute. This latter conclsuion is certainly amply sufficient to insure due process as far as the employee is concerned, and the other conclusion does not call into question the statute of which petitioner complains to this Court.

THE LEGAL NEED FOR THE LEGISLATION IS NOT A JUSTICABLE ISSUE, AND HAS BEEN DECIDED BY PRIOR CASES BEYOND DOUBT

The petitioner has contended that the Arizona State Legislature never held hearings or made a report of subversion within the state. The attention of the Court is invited to pages 445, 446 of the Journal of the Senate, First Regular Session of the Twenty-Fifth Legislature of the State of Arizona for the report of the Judiciary Committee. Further findings appear in the preamble, Chapter 108 supra. The report of the Judiciary Committee is attached as appendix 1 hereto. In addition, we certainly have had not only investigations by the Congress of the United States, but trials and convictions of persons accused of subversion, sabotage, etc. It is the opinion of the respondents herein that the State of Arizona is still part of the United States and that activities directed against the constitutional democratic republic in which we live are also directed with equal malice and vigor against the constitutional democratic state in which we live. The courts of Arizona were clearly justified in taking judicial notice of the fact that many industries active in the state are a part and parcel of our national defense system. It is also clear beyond doubt that municipal and state governments bear a heavy primary responsibility for defensive procedures in the event of enemy attack. State and local agencies are directly responsible for the enforcement of criminal laws and have a vital interest in the stability of state governmental institutions and in the proper functioning of state, county and municipal machinery. All that the law in question asks of the people who voluntarily choose to work for the state is that they not attempt to subvert their employers and actively seek to overthrow the institutions of the state in which they live. It seems a bare minimum.

The petitioner also attempts to present to the Court so-called facts as to the effect of the legislation upon the state employees. Joined with this is the standard argument that the law would endanger the freedom of research available to teachers and "preju-

dice a university professor studying the organizational charter of a so-called 'communist subordinate organization.'" (Brief of petitioner, p. 15). One of the handiest ways to attack a statute is to try to make it say what it does not say. The Court's attention is invited to Paragraph D, Section 2, Chapter 108, supra, in which our educational institutions are specifically encouraged and directed to study such documents. The responsends attach as appendix 2 herein, the facts and figures concerning state employment, including employment at educational institutions which was presented as an appendix to the brief in the Arizona Supreme Court. The appendix shows quite clearly that the rate of turnover on state, educational and municipal levels did not change during the first two years of the life of the law, a period in which the greatest degree of change would be expected.

Finally, the question of state legislation and federal legislation in the same area has been presented to this Court time and time again, and never in any instance has this Court listened to an argument that such programs are invalid because there is no reasonable need for them. The clearest holding of this Court in this area is found in Adler v. Board of Education, 342 U.S. 485 (1952).

THE STATUTE IS NOT UNCONSTITUTIONALLY VAGUE

Subsequent to the original decision in this case, this Court ordered the Supreme Court of the State of Arizona to reconsider the legislation in the light of Baggett v. Bullitt, 377, U.S. 360. The Supreme Court of Arizona did so and found in effect in its decision at 397 P.2d 944 that the differences between the statutes involved was so vast and the scope of the Arizona law so clearly within the prior legitimate frames of reference set down by this Court, that Baggett v. Bullitt, supra, was not authority for reversing its earlier opinion in the instant case.

In considering the two cases it would seem to be necessary to discover 1) what exactly in the Washington law was held to be

vague? 2) Is the Arizona law the same or so close as to be indistinguishable for practical purposes? and 3) If there is dissimilarity, are the arguments and reasons of this Court still to be interpolated to fit the Arizona law in such a manner as to render it unconstitutional?

The first infirmity condemned in Baggett v. Bullitt by this Court is found at 277, U.S. 367. "A teacher must swear that. . . . he is not one who commits an act or who *advises, teaches, abets* or advocates by any means. . . ." Later on that same page and continuing to page 368 the following language is found. "Persons required to swear they understand this oath may quite reasonably conclude that any person who *aids* the Communist Party or *teaches* or *advises* known members of the Party is a subversive person because such teaching or advising may now or at some future date aid the activities of the Party."

The Washington law, therefore, proscribes teaching and advising, and those words — teaching and advice — are the words found to be vague. The Arizona law contains no such words. Teaching and advising are not prohibited. Specically A.R.S. § 13-707(A) prohibits the commission or the aiding in the commission of an act to overthrow by force or violence and A.S.R. § 13-707(B) prohibits the advocacy of the overthrow of the government by force or violence.

The Washington law, therefore, is much broader and not only includes abetting, advising or teaching, but assisting in the commission of any such act. R.C.W. 9.81.020(2). The law of the State of Arizona provides that the only aiding or assisting which can be condemned is the aiding or assisting in the commission of an act to overthrow by force or violence. A.R.S. § 13-707(A). To make the contrast even more clear, the act of aiding in the *advocacy* of the overthrow by force or violence is not banned. Only direct advocacy itself is a crime. The Arizona Supreme Court reached this precise conclusion in the second case. See the language of headnote 6 beginning at 397 P.2d 947 through headnotes 8 and 9 on page 948. The act was interpreted in the light of the

normal criminal provisions relating to accessories after the fact.

> "The overt act or the aiding therein must be with actual intent to accomplish the result forbidden, State v. Mandel, 78 Ariz. 226, 278 P.2d 413, and a specific intent to overthrow must exist. It must be an intent in fact which cannot be implied or presumed and must be proved by evidence or facts other than those establishing the overt act. c.f. People v. Snyder, 15 Cal.2d 706, 104 P.2d 639."

and later:

> "In this State there is no distincition between accessories before the fact and the principals. A.R.S. § 13-138. All persons concerned in the commission of a crime, whether they directly committed the act constituting the offense or aid or abet in its commission or, not being present, have advised and encouraged in its commission, are principals. A.R.S. § 13-139. We have construed the aiding required by this statute as a positive act of physical or moral force joining with that of the perpetrator of the crime and producing the result. State v. Martin, 74 Ariz. 145, 245 P.2d 411. The aiding, made punishable by subs. E is the same as that which would make an accessory before the fact a principal under Section 13-139; that is, if the aider is present he must have assisted in the commission of the overt act or, if not being present, have advised *and* encouraged its commission. In a crime where a specific intent is an element there can be no innocent aiding. Acker v. State, 26 Ariz. 372, 266 Pac. 199."
>
> (Emphasis of the Court).

And later:

> "Since both the act and the aiding referred to in the statute must be an attempt with the specific intent to overthrow the government, the Arizona Statute § 38-231 subs. E is not afflicted with the many uncertainties in advising, teaching or associations found potentially punishable in Baggett v. Bullitt, supra. Nor does it reach endorsements or support for Communists candi-

> dates for office, nor a lawyer who represents the Communist Party or its members, nor journalists who defend the Communist Party, its rights, or its members. Such conduct is neither an act nor in aid of an act attempting to overthrow the government by force and violence."

This Court in Baggett v. Bullitt went on to consider what it termed an additional difficulty on page 369 of 377 U.S.

> "A person is subversive not only if he himself commits the specified acts but if he abets or advises another in aiding a third person to commit an act which will assist yet a fourth person in the overthrow or alteration of constitutional government."

It is felt that an analysis of this "additional difficulty" will show it is merely an extension of the first ground and arose by virtue of the same words, to-wit: aid and teach. To be quite accurate the Washington law does not use the word "aid" in any other way than as part of the phrase "aid in the commission of". But the law does specifically condemn one who abets another and the meaning of abet is so close to the meaning of aid that the substitution of one one word for another in the opinion is not unreasonable, although it is occasionally confusing.

But as the Arizona Supreme Court has clearly pointed out the Arizona law does not go nearly as far, and is in fact confined to those acts which would, even without the statutory phraseology, give rise to a charge only where the person involved is an accessory before the fact. There are no hidden traps in the Arizona law. No "guiltless knowing behavior" can be envisioned as punishable.

This Court further critized the Washington law for some specific language which bears absolutely no relation to any language in the Arizona law. Specifically there was criticism of the phrase "alteration of . . . . by revolution, force or violence: . . . .". We agree with the language of the Supreme Court on this subject that the Washington statute is quite vague. We further agree with the language of this Court concerning the Washington "1931 Oath". But once again there is absolutely no parallel in the Ari-

zona law, nor any language even remotely resembling the Washington Code. As the Supreme Court of Arizona pointed out:

> "The Arizona Oath, with insignificant changes, has been used in the territory and the State of Arizona for over 100 years. An oath of allegiance in part couched in nearly identical language is required by Congress of those seeking citizenship by naturalization. Plainly, the Arizona Oath is no more than a re-statement of the duties of citizenship, an express engagement to which all who are afforded the protective cloak of the Constitution and the laws of this Country and State are irrevocably bound." 397 P.2d 945, 946.

The Court then went on to discuss some specific language of the Oath and held as follows:

> "We recognize that the words 'true faith and allegiance', 'defend', and 'faithfully and impartially' in the context in which they are used range high in the level of abstractions. But Arizona's general perjury statute A.R.S. § 13-561 has no application for the act contains an enumeration of the offenses punishable criminally as perjury, A.R.S. § 38-231, subs. E. A statute which enumerates the subjects or things upon which it is to operate will be construed as excluding from its effect all those not especially mentioned. Lewis v. Industrial Commission, 93 Ariz. 324, 380 P.2d 782. No criminal act is committed under the specific language of the oath if the taker is unfaithful, partial, divides his allegiance or fails to defend the Constitution and laws against all enemies. The test is wholly subjective, binding only to the extent of the individual's conscience."

Once again the language of our Supreme Court, which has become a part of the law as this Court has heretofore recognized in numerous instances, is clear and persuasive on the subject and ends any doubt as to the issue.

Finally petitioner again maintains that certain words such as "knowingly", "wilfully" and "advocacy" or "membership" could be held to be vague. In the prior opinion of the Arizona

Supreme Court, it was held that the language of this Court in cases such as Scales v. United States, 376 U. S. 203 (1961); Yates v. United States, 354 U.S. 298 (1957); Dennis v. United States, 341 U.S. 494 (1951) would be binding as an interpretation of the law in the State of Arizona. The Judiciary Committee of the Senate in its report noted that it had considered the decisions of this Court in drafting the legislation. And since the Arizona Supreme Court in its decision specifically incorporated the provisions of these three cases into Arizona law, the argument of the petitioner in this area is judicially untenable.

THE LEGISLATION IS NOT A BILL OF ATTAINER

The language of the Supreme Court of Arizona is most appropriate:

> "The attacks directed against this oath question nearly every conceivable constitutional aspect. Not all merit serious consideration.'

Communist Party v. Subversive Activities Control Board, 367 U.S. 1 (1961) and *Scales v. United States, supra,* are clear answers to petitioner's contention.

THE EQUAL PROTECTION CLAUSE IS NOT VIOLATED

This question has been answered beyond any doubt by *Adler v. Board of Education, supra.*

THERE IS NO VIOLATION OF THE FIFTH AMENDMENT

As pointed out above there is no attempt to penalize or punish past activities, nor is anyone required to divulge past activities or associations.

FREEDOM OF SPEECH OR ASSOCIATION IS NOT A VALID ISSUE

This Court has in the past in a series of well-known cases considered the question of loyalty oaths and legislation directed against advocacy of the overthrow of government by force or violence. The universal import of such cases is that such legislation is reasonable. American Communications Association v. Douds, 339 U.S. 382 (1950); Dennis v. United States, supra; Adler v. Board of Education, supra; Communist Party v. Subversive Activities Control Board, supra, Yates v. United States, supra; Garner v. Board of Public Works of Los Angeles, 341 U.S. 716 (1951); Gerende v. Board of Supervisors of Elections, 341 U.S. 56 (1951). There have been three cases which have struck down such legislation. One is Wieman v. Updegraff, 344 U.S. 183 (1952). In that case the legislation was interpreted by the Supreme Court of Oklahoma as not requiring any knowledge of the unlawful purpose or activities of a prior association. The legislation in issue has been more than careful in avoiding such a pitfall. The next case was the Florida case of Cramp v. Board of Public Instruction, 368 U.S. 78. The Oath involved therein had, among its provisions the phrase that "I have not and will not lend my aid, support, advice, counsel or influence to the Communist Party." It was this precise phrase that drew this Court's condemnation and it was this section alone that was considered. Even ignoring that portion which relates to past activities it can be readily seen that the language of the law is vague on its face. There is not one word or phrase which this Court condemned in the Florida case which can be found directly or by any stretch of the imagination in our Arizona law.

The third case involving a State law is Baggett v. Bullitt, supra, in which the Supreme Court makes it clear that the differences are so great that there can be no valid comparison.*

---

*We omit Dombrowski v. Pfister, No. 52, October Term 1964, decided April 26, 1965, as only certain sections of the Louisiana law, none of which bear any resemblance to Arizona law, were considered.

CONCLUSION

It is submitted that the legislation in question is a dedicated and intelligent effort to balance both the rights of individuals and the needs of the society in which we live in these somewhat troubled times. It is further submitted that no legislation on record has gone so far and has been directed so consistently towards the protection of individual rights and liberties as the legislation which is presently before the Court. It is further submitted that every decision of the Court in the area is so clear and consistent that there is no reason why review should be granted in the instant case.

Respectfully submitted,
DARRELL F. SMITH
The Attorney General

PHILIP M. HAGGERTY
Assistant Attorney General
State of Arizona
159 Capitol Building
Phoenix, Arizona
Counsel for Respondents.

APPENDIX 1

Wednesday, March 15, 1961
Sixty-sixth Day

JOURNAL OF THE SENATE

The Senate accepted for inspection in the Journal, at the time of third reading of House Bill No. 115, the intent of the Senate in support of the bill, as follows:

REPORT OF THE JUDICIARY COMMITTEE IN SUPPORT OF THE COMMITTEE AMENDMENT TO H. B. 115

(The proposed committee amendment also covers the same material contained in H. B. 35 with certain material differences.)

A free society must be dedicated to the protection of the individual from government oppression. The American dream is that these rights inhere in any man. They are not revocable privileges bestowed by governments, either totalitarian or free. These human rights are unalienable. Among the most precious are the freedom to speak, to assemble, to organize political parties, to vote for governmental representatives, and to petition these elected officers.

These rights in the schools become the principle of academic freedom which fosters self-criticism and intellectual skepticism—qualities vital ot the pursuit of truth. This freedom to learn how to think objectively is especially important in man's exploration of the secrets of the atom on this planet and in outer space.

These liberties withstood the test of repeated attacks by German and Japanese totalitarianism. Now, these same liberties are under attack by a Russian Imperialism likewise intent on world domination by external force, internal incitement to violence, fraud, espionage and fifth column treachery. The Communist Party in this Country must be recognized as an instrument of a foreign power and as part and parcel of an international scheme

to destroy unalienable human rights by substituting a world wide communistic dictatorship subservient to foreigners.

The totalitarian enemy is skilled in the fomenting of confusion and panic with resulting insecurity and distrust. Citizens of a free society then begin to wonder whether that free society whose citizens have unalienable rights to speak critically can compete successfully with the totalitarian society consisting wholly of conforming, silent slave citizens rules by a ruthless autocracy.

National security demands effective action against any group of citizens, communists or otherwise, whose basic loyalty is to a form of foreign totalitarian domination which seeks to destroy the immemorial rights of the citizens of a free society. America must keep devising remedial measures sufficient in scope and strength to deal adequately with the evil of Communist statism. However, it would be ironically tragic if, in the process of fighting totalitarianism, we undermined the very principles of human dignity and freedom which the communist seek to destroy.

The fight against international communism must be on a national scale because the Constitution has delegated exclusive management of foreign affairs to the Federal Government. The Executive and Legislative Branches of that government must give effective leadership through the Federal Bureau of Investigation and the Central Intelligence Agency, to the several States and their citizens as to how best to preserve and protect the human rights to Life, Liberty and the Pursuit of Happiness proclaimed by the Declaration of Independence and guaranteed by the Federal Constitution.

It is a sign of hysteria and an indication of that very distrust of the United States, which the communist seeks to foment, when each State seeks to devise some special oath of allegiance which is supposed to divide the communist from the loyal citizen. The communist trained in fraud and perjury has no qualms in taking any oath; the loyal citizen, conscious of his tory's oppressions, may well wonder whether the medieval rack and torture wheel are next for the one who declines to take an involved negative oath as

evidence that he is a True Believer. Loyalty to a free society is a matter of fact; nor are there degrees of loyalty to human freedoms which are in direct proportion to ingenuity, length and loudness of the loyalty oath. In fact, a communist commits perjury in taking the simplest affirmative oath to support the Constitution of the United States and that of Arizona.

Accordingly, your committee reports and recommends for passage H.B. 115 as amended by this committee. The proposed amendment outlaws the Communist Party in Arizona, defines the crime of sedition, requires an affirmative loyalty oath from all state and local officers and employees, and provides, in effect, that any person signing such an oath who is a member of the Communist Party or any organization committed to the overthrow by force or violence of our constitutional government shall be punished as if he had committed perjury. No attempt has been made to include special provisions for forfeiture of property or for special searches and seizures. These matters are already covered by existing law or raise serious constitutional questions which might invalidate the entire act.

Section 5 paragraph F of the bill as amended by the Committee exempts from the loyalty oath those persons referred to in Article XVIII, Section 10 of the Arizona Constitution as amended. This exemption relates wholly to the working of alien prisoners on work gangs and the employment of aliens under the teacher exchange program authorized by the Congress of the United States. The federal statute is to be found in Title 22, USCA, "Foreign Relations and Intercourse", Section 1446. This Section provides in part as follows: "* * * a person admitted under this section * * * who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall upon the warrant of the Attorney General, be taken into custody and promptly deported pursuant to sections 1251-1253 of Title 8 * * *". In any event, it would be improper to request a French or German national who had been cleared to teach temporarily in the United States to take

a loyalty oath to the United States. If he did, he might lose his native citizenship just as an American visiting teacher abroad might lose his American citizenship if he took a loyalty oath to a foreign country.

An attempt has been made to objectively study the several federal and state statutes relating to the Communist Party, sedition, and loyalty oaths as well as the various federal and state court decisions (usually thinly divided opinions), interpreting the constitutional questions involved. Based upon the foregoing, the committee amendment plainly recognizes the international communist menace, devises remedial measures on a state level to meet it, and yet does not unduly restrict the very liberties of a free citizen in a free society which communist statism would destroy.

APPENDIX 2

Feb. 23 '62
(Stamp)
ATTORNEY GENERAL
STATE OF ARIZONA
February 16, 1962

Hon. Robert W. Pickrell
The Attorney General
State of Arizona
State Capitol Building
Phoenix, Arizona

Dear Mr. Pickrell:

As the Director of personnel of the City of Phoenix, I hereby certify to your office the number of employees employed by the City of Phoenix during the past two (2) fiscal years and the number of employees who have left employment during the same periods. It is to be noted that this list does not include part-time workers (mostly help in the City Parks), but does include all City employees including police and fire department personnel. For the fiscal year commencing July 1, 1959 and ending June 30, 1960, the average number of employees employed by the City of Phoenix was 2,764. During the same period 375 employees left the service of the City of Phoenix. For the fiscal year commencing July 1, 1960 and ending June 30, 1961 the average number of employees employed by the City of Phoenix was 3,295. During the same period of time 325 employees left the employ of the City of Phoenix.

Very truly yours,

(SEAL)

/s/LEROY J. BRENNEMAN
Personnel Director

ATTEST:
/s/M. B. BARTLET
Notary Public 2-21-62
My Commission Expires Sept. 27, 1962
(SEAL)

ARIZONA STATE RETIREMENT SYSTEM
PHOENIX 30, ARIZONA

Feb. 26 '62
(STAMP)
ATTORNEY GENERAL
STATE OF ARIZONA

February 19, 1962

Honorable Robert W. Pickrell
The Attorney General
State of Arizona
State Capitol Building
Phoenix, Arizona

Dear Mr. Pickrell:

This letter summarizes records of the Retirement System for the past two years, reporting how many employees are employed in those public offices covered by the State Retirement System and how man employees leave the System each fiscal year.

These records reflect the number of persons who withdraw money from the Retirement System. If they later became employed with another public body, this would not be reflected in our statistics. This record does not show the people who actually left, but merely those who withdrew their retirement funds. Some persons leave these funds in for varying lengths of time and then withdraw them. These figures show the number who withdrew funds.
These statistics exclude persons who have died during the course of the year and the funds were paid to their beneficiary, and also exclude those who have actually retired and are drawing retirement benefits. The list also does not include members of any municipal fire department or state or county judiciary retirement system.

We enclose copies of the Annual Reports for the Retirement System, one for the fiscal year ending June 30, 1960 and the second for the fiscal year ending June 30, 1961. Note from the report on the page headed "Arizona State Retirement System

Membership" that we list all political subdivisions who had then established State System membership for their personnel. Note also such membership supplements the membership entitlement granted by the Legislature to all state employees, including the Universities and the State College and certificated school personnel. Names preceded by asterisks note that membership was established as of July 1, 1960 as noted in the report for the fiscal year ending on that date, and that an asterisk precedes a subdivision establishing membership July 1, 1961, as noted in the report issued on that date. Such membership data typically does not include the employee with less than 90 days' service and note that the number of retired members are separately stated.

For the fiscal year concluding June 30, 1960, 4,257 former employees had concluded employment with the state, a school system or a covered political subdivision and withdrew their funds from, and cancelled their membership in, the Arizona State Retirement System. For the fiscal year concluding June 30, 1961, 4,311 former employees had concluded employment with the state, a school system or a covered political subdivision and withdrew their funds from, and cancelled their membership in, the Arizona State Retirement System.

Sincerely,

/s/WAYNE R. GIBSON
Wayne R. Gibson
Director

ATTEST:
/s/CAROL L. DUFF

My Commission Expires Aug. 22, 1965
(SEAL)

Subscribed and sworn to before me this 19th day of February, 1962.

ARIZONA STATE RETIREMENT MEMBERSHIP
1959-1960

All State Employees—including the Universities and College 10,736

School Employees—all teachers in Arizona and the non-teaching employees of the following schools:.... 16,039

Cochise County
- Bisbee Schools
- Douglas Schools
- Wilcox Schools

Coconino County
- Flagstaff Schools
- Williams Schools

Gila County
- Globe Schools
- Miami Schools

Graham County
- Eastern Arizona Junior College

Greenlee County
- Clifton Schools

Maricopa County
- Arlington No. 47
- Alhambra No. 68
- Buckeye Union H. S.
- Cartwright No. 83
- Creighton No. 14
- Fowler No. 45
- Glendale No. 40
- Glendale Union H.S.
- Isaac No. 5
- Liberty No. 25
- Litchfield No. 79
- Madison No. 38
- Paradise Valley Schools
- Phoenix No. 1
- Phoenix Union H. S.
- Riverside No. 2
- Roosevelt No. 66
- Scottsdale Schools
- Tempe Union H. S.
- Washington No. 6
- Wickenburg Schools

Navajo County
- Winslow Schools

Pima County
- Amphitheater Schools
- Marana Schools
- Sahuarita Schools
- Sunnyside Schools
- Tucson Schools

Pinal County
- Casa Grande No. 4
- Stanfield Schools
- Toltec No. 22

Yavapai County
- Prescott Schools
- Verde No. 3

Yuma County
- Yuma No. 1
- Yuma Union H.S. 6,763

Political Subdivisions
- County Employees
  - Cochise
  - Coconino
  - Graham
  - Greenlee
  - Maricopa
  - Mohave
  - Pima
  - Pinal
  - Santa Cruz
  - Yavapai
- City and Town Employees
  - Avondale
  - Chandler
  - Casa Grande
  - Douglas
  - Flagstaff
  - Gilbert
  - Glendale
  - Goodyear
  - Kingman
  - Mesa
  - Prescott
  - Tempe
  - Tolleson
  - Williams
  - Yuma

Flagstaff Housing Authority
Maricopa County Water Conservation District
Pima County Sanitary District

Total Active Members	33,538
Inactive — one year	1,948
Total member accounts	35,486
Retired Members	1,097
Total	36,583

/s/WAYNE R. GIBSON
Wayne R. Gibson
Director

ATTEST:
/s/CAROL L. DUFF
(SEAL)
My Commission Expires Aug. 22, 1965

ARIZONA STATE RETIREMENT MEMBERSHIP
1960-1961

All State Employees—including the Universities and College	11,526
School Employees—all teachers in Arizona and the non-teaching employees of the following schools	18,014

Cochise County
- Benson Schools
- Bisbee Schools
- Douglas Schools
- Wilcox Schools

Coconino County
- Flagstaff Schools
- Grand Canyon Schools
- Williams Schools

Gila County
- Globe Schools
- Miami Schools

Graham County
- Eastern Arizona Junior College

Greenlee County
- Clifton Schools

Maricopa County
- Arlington No. 47
- Alhambra No. 68
- Avondale No. 44
- Buckeye Union H.S.
- Cartwright No. 83
- Creighton No. 14
- Fowler No. 45
- Glendale No. 40
- Glendale Union H.S.
- Isaac No. 5
- Liberty No. 25
- Litchfield No. 79
- Madison No. 38
- Paradise Valley Schools
- Phoenix No. 1
- Phoenix Union H.S.
- Riverside No. 2
- Roosevelt No. 66
- Scottsdale Schools
- Sierra Vista No. 97
- Tempe Union H.S.
- Washington No. 6
- Wickenburg Schools

Navajo County
- Winslow Schools

Pima County
- Amphitheater Schools
- Marana Schools
- Sahuarita Schools
- Sunnyside Schools
- Tanque Verde No. 13
- Tucson Schools

Pinal County
- Casa Grande No. 4
- Mammoth-San Manuel Schools
- Stanfield Schools
- Toltec No. 22

Yavapai County
- Bagdad Schools
- Mingus Union H.S.
- Prescott Schools
- Verde No. 3

Yuma County
- Yuma Union H.S. 7,008

Political Subdivisions

County Employees

Cochise	Navajo
Coconino	Pima
Graham	Pinal
Greenlee	Santa Cruz
Maricopa	Yavapai
Mohave	Yuma

City and Town Employees

Avondale	Mesa
Chandler	Prescott
Casa Grande	Safford
Douglas	Scottsdale
Flagstaff	Tempe
Gilbert	Tolleson
Glendale	Williams
Goodyear	Yuma
Kingman	

Flagstaff Housing Authority

Flood Control District of Maricopa County

Maricopa County Water Conservation District

Pima County Sanitary District

Total Active Members	36,548
Inactive — one year	1,166
Total Member Accounts	37,714
Retired Members	1,283
Total	38,997

/s/WAYNE R. GIBSON
Wayne R. Gibson
Director

ATTEST:
/s/CAROL L. DUFF
(SEAL)
My Commission Expires Aug. 22, 1965