

Reds Are Ruled Eligible For Minnesota Ballot

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The Justice Department said yesterday that the 1954 Communist Control Act does not bar Communist Party candidates from the presidential ballot in Minnesota.

In a memorandum to the Federal District Court in St. Paul, the Department said the law should be deemed "irrelevant" to the dispute between the Party and State election officials who are refusing to give ballot space to candidate Charlene Mitchell of Los Angeles and her running mate, Michael Zagarell of New York.

United States Attorney Patrick J. Foley warned that if the three-judge Court finds the Act applicable, it will face head-on a series of "difficult constitutional questions"—a phrase that usually means that the law would be struck down.

The Act was swiftly passed in 1954 at the instigation of then-Senator Hubert H. Humphrey and other liberals. Humphrey said on the Senate floor that he was "tired of reading headlines about being 'soft' on Communism," a reference to charges against Democrats particularly by the late Sen. Joseph R. McCarthy (R-Wis.)

The law declared that the Communist Party was part of a conspiracy to overthrow the United States and "should be outlawed." It said the Party was not entitled to any of the "rights, privileges and immunities attendant upon legal bodies" under Federal or state law.

Foley said the Court could avoid the Federal law entirely since it applies to "the Communist Party only, not its members" and thus does not deal with individual candidates.

As for Communist Party label on the ballot, Foley said, the candidate is merely complying with disclosure requirements of the State's election law, which calls for designation of the candidate's "party or political principle."

The "Communist" designation alongside the candidate's name could be considered his "political principle," said Foley. He added, "without undue quibbling, it is difficult to see that it makes a difference if 'Communist' is spelled with an initial capital or if the word 'Party' is added."

Lynn Caster, executive director of the Minnesota Civil Liberties Union, said the Justice Department's brief would not change his position that the Act must be struck down as an impairment of free speech and association and as a bill of attainder.