

a member of the Communist Party.⁷²⁰ For the Court, Justice Clark perceived no problem with the inquiry into Communist Party membership but cautioned that no issue had been raised whether an employee who was or had been a member could be discharged merely for that reason.⁷²¹ With regard to the oath, the Court did not discuss First Amendment considerations but stressed that it believed the appropriate authorities would not construe the oath adversely against persons who were innocent of an organization's purpose during their affiliation, or persons who had severed their associations upon knowledge of an organization's purposes, or persons who had been members of an organization at a time when it was not unlawfully engaged.⁷²² Otherwise, the oath requirement was valid as "a reasonable regulation to protect the municipal service by establishing an employment qualification of loyalty" and as being "reasonably designed to protect the integrity and competency of the service."⁷²³

In the following Term, the Court sustained a state statute disqualifying for government employment persons who advocated the overthrow of government by force or violence or persons who were members of organizations that so advocated; the statute had been supplemented by a provision applicable to teachers calling for the drawing up of a list of organizations that advocated violent overthrow and making membership in any listed organization *prima facie* evidence of disqualification.⁷²⁴ Justice Minton observed that everyone had a right to assemble, speak, think, and believe as he pleased, but had no right to work for the state in its public school system except upon compliance with the state's reasonable terms. "If they do not choose to work on such terms, they are at liberty to retain their beliefs and associations and go elsewhere. Has the State thus deprived them of any right to free speech or assembly? We think not."⁷²⁵ A state could deny employment based on a person's advocacy of overthrow of the government by force or violence or based

⁷²⁰ *Garner v. Board of Pub. Works*, 341 U.S. 716 (1951)). Justice Frankfurter dissented in part on First Amendment grounds, *id.* at 724, Justice Burton dissented in part, *id.* at 729, and Justices Black and Douglas dissented completely, on bill of attainder grounds, *id.* at 731.

⁷²¹ 341 U.S. at 720. Justices Frankfurter and Burton agreed with this ruling. *Id.* at 725–26, 729–30.

⁷²² 341 U.S. at 723–24.

⁷²³ 341 U.S. at 720–21. Justice Frankfurter objected that the oath placed upon the takers the burden of assuring themselves that every organization to which they belonged or had been affiliated with for a substantial period of time had not engaged in forbidden advocacy.

⁷²⁴ *Adler v. Board of Educ.*, 342 U.S. 485 (1952). Justice Frankfurter dissented because he thought no party had standing. *Id.* at 497. Justices Black and Douglas dissented on First Amendment grounds. *Id.* at 508.

⁷²⁵ 342 U.S. at 492.