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# Principles of Decisions in Individual Cases of Alleged Membership in the Communist Party of America [circa March 1920]

by Louis F. Post

Undated document in DoJ/BoI Investigative Files, NARA M-1085, reel 929.

1. The Communist Party is within the membership clauses of the Act of October 16, 1918 (Secretary's memorandum in the Preis Case).

2. Personal signing of the application for membership required by the Communist Party as quoted in the Secretary's memorandum in the Preis case, when such signing is supplemented by circumstances indicating membership subsequent to the creation of the Communist Party, constitutes membership within the purview of the Act of October 16, 1918.

3. Signing by another with the original authority of the alleged member has the same effect as personal signing, provided authority to sign and understanding of the purpose thereof are satisfactorily proved.

4. Applications for membership not confirmed by acceptance do not constitute membership within the Act of October 16, 1918, unless it may be inferred from further facts indicative thereof.

5. Name on a membership list is not in itself proof of membership.

6. "Automatic Membership" does not constitute membership within the Act of October 16, 1918, unless supported by satisfactory proof of individual activities or declarations tending to show knowledge of the character of the organization.

7. Signed applications antedating the formation of the Communist Party (on or about September 5, 1919) which, in their own terms or their legitimate implications, are not lawful, do not in themselves constitute proof of membership nor of application for membership in the proscribed Communist Party.

8. When membership has been withdrawn under circumstances satisfactorily establishing good faith, the accused alien does not come within the proscriptions of the Act of October 16, 1918 as to membership.

9. When the accused alien appears to be a person of good general character, fit for American citizenship, except for the accusation in hand, and there is reasonable doubt of his membership, the warrant will be cancelled.

10. Statements of the accused alien, whether oral or in writing, made while he is in custody and without opportunity fairly afforded him from the beginning to be represented by counsel, and without clear warning that anything he says may be used against him will be disregarded pursuant to the principle of in *Re Jackson* (US District Court for Montana, Bourquin, J.) and of *Silverthorne v. United States* (US Supreme Court, January 26, 1920) as having been unlawfully obtained.

11. Exhibits seized upon the promises of the person of the accused alien, without lawful

process will be disregarded pursuant both to the principle and the decision of in *Re Jackson* and of *Silverthorne v. United States*.

12. In cases in which the alien is the father of children born in the United States, and therefore constitutional American citizens and who are dependent upon and receive from him parental support, every fair doubt regarding membership within the purview of the statute will be accorded.

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