

properly set aside by the courts below some 12 years after it was granted.

"We agree with our brethren of the minority that our relations with Russia, as well as our views regarding its government and the merits of Communism, are immaterial to a decision of this case.

"Our concern is with what Congress meant by certain statutes and whether the government has proved its case under them.

"While it is our high duty to carry out the will of Congress, in the performance of this duty we should have a jealous regard for the rights of petitioner. We should let our judgment be guided, so far as the law permits, by the spirit of freedom and tolerance in which our nation was founded, and by a desire to secure the blessings of liberty in thought and action to all those upon whom the right of citizenship has been conferred by statute, as well as to the native born."

Beliefs Are Personal

Murphy said that "under our traditions, beliefs are personal and not a matter of mere association" and that "men in adhering to a political party or other organization notoriously do not subscribe unqualifiedly to all of its platforms or asserted principles.

"The constitutional fathers, fresh from a revolution, did not forge a political strait jacket for the generations to come," Murphy said. "Instead they wrote Article V., and the First Amendment, guaranteeing freedom of thought, soon followed."

Schneiderman came to this country in 1908 at the age of 3, became an American citizen in 1927, and his citizenship was ordered canceled in 1940 by the Federal District Court at San Francisco on the ground that he had concealed his Communist connection.

Fahy said the Naturalization Act required that an alien who obtained citizenship be "attached to the principles of the Constitution" and be "well disposed to the good order and happiness of the United States."

Fahy Cited Party's Aims

Fahy added that the evidence established that in 1927 the Communist Party and Schneiderman "believed in, advocated and taught the overthrow of this government by force and violence."

Willkie argued Schneiderman had given "unimpeached testimony" that he had never believed in or advocated the use of force or violence or disbelieved in organized government. He added that government attorneys admitted that the constitution of the Communist Party of America, adopted in 1938, did not advocate force or violence.

The Federal District Court at San Francisco held that Schneiderman had obtained citizenship illegally because he failed to reveal that during a five-year probationary period he belonged to an organization advocating violent overthrow of the United States government.

In upholding the cancellation, the Federal Circuit Court said:

"The trial court believed that appellant's (Schneiderman) testimony as to his support of our Constitution and allegiance to this country was incredible in view of his admission that he fully believed in and supported the principles of the Communist Party, and in view of the principles of such party. He cannot say that the trial court's conclusions are clearly erroneous in view of the substantial evidence in the record before us."

Victory for U. S. Principles, Schneiderman Declares

SAN FRANCISCO, June 21.—(AP)—William Schneiderman, Russian-born secretary of the Communist Party in California, rejoiced today that the United States Supreme Court had upheld his right to American citizenship.

"It is a victory for the principles of American democracy," Schneiderman said, "which I and my party unreservedly support."

"I'm grateful that the rights of American citizenship have been upheld. . . . The decision will strengthen wartime national unity so essential to victory."

Early in 1941 Federal Judge Michael J. Roche canceled Schneiderman's United States citizenship on the grounds that in 1927, when he was 21 years old and obtained his final citizenship papers, he had gained naturalization by concealing his membership in the Communist Party.

As soon as the Supreme Court mandate comes down, Hirabayashi, who has been in the East, will be brought here to serve the sentence United States District Judge Lloyd L. Black imposed on him in October, Gerald D. Hile, chief assistant United States attorney, said.

Hirabayashi has been at liberty on bond.

Hile termed the Supreme Court decision "a constitutional landmark in the history of our country."

Hirabayashi Was Leader Of Anti-Draft Group

Gordon K. Hirabayashi, Japanese-American who was the appellant in a case in which the United States Supreme Court today upheld the

constitutionality of wartime measures excluding Japanese from certain areas and, before that, establishing a curfew hour for them, is a former University of Washington student.

Hirabayashi was chairman of the Conscientious Objectors' Group, an off-campus organization including in its membership several other University students.

Hirabayashi, in United States District Court here, received a three-month sentence to a road camp for violating the curfew law and evacuation orders. His appeal was financed by sympathizers.

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