

MISS PERKINS FIRM AGAINST DIES PLEA TO DEPORT BRIDGES

Aug 31/34
Tells Committee Head in Tart
Letter She Can't Ignore
Court Ruling

Special to THE NEW YORK TIMES.

WASHINGTON, Aug. 30.—Secretary Frances Perkins rejected tonight a demand for the deportation of Harry Bridges, Pacific Coast labor leader, made by Chairman Dies of the House committee investigating un-American activities. She wrote Mr. Dies that he, as a member of Congress, was attempting to "usurp" the functions of the executive branch of the government.

Mr. Dies based his demand on the ground that the labor leader had advocated the use of force in opposing the government, and cited statements attributed to Mr. Bridges as well as recalling a number of court decisions which, he held, warranted the demand.

Miss Perkins, in her sharp reply, questioned Mr. Dies's interpretation of these decisions. She declared that the chairman, in effect, urged her to overrule her legal advisers and recalled what she said were conflicting decisions in the lower courts.

"Membership in the Communist party is not ground for deportation," she quoted from a ruling by the Fifth Circuit Court of Appeals where a case against Mr. Bridges was based on the statement that he was a member of the Communist party.

The Department of Labor Miss Perkins wrote, has recommended

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Mr. Perkins
New York, N. Y. August 31, 1935

REFUSES DIES PLEA TO DEPORT BRIDGES

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that the case be appealed to the Supreme Court.

Miss Perkins's Letter

Secretary Perkins's letter to Representative Dies, dated today, read as follows:

Dear Congressman Dies:

I noticed that the press today published excerpts from a letter which it was stated you had addressed to me with respect to the file on the immigration and deportation case of Harry Bridges, which was submitted to your committee at their request. Subsequently, the original of this letter was delivered in my office and I beg to acknowledge receipt of the same.

In this letter you advised me that you could find no justification for the action of the department in postponing deportation proceedings against Harry Bridges. You are so good as to favor me with a rather long dissertation on various cases decided by the courts under the Immigration as well as long quotations from the Immigration Law itself.

Fortunately I am already fairly familiar with these cases and the law as it has been studied very carefully both in this and in other cases involving deportation of aliens charged with being members of an organization which advocates the overthrow of government by force and violence (Act of 1918, as amended by the Act of 1920).

It was pointed out to you that the hearings on charges filed against Harry Bridges in this respect were postponed after the decision of the Circuit Court in the case of Strecker v. Kessler. You urge and recommend me to proceed with deportation hearings at once in spite of this important decision.

As a member of Congress, of course, I have the greatest respect for you and for your views on any subject coming within your jurisdiction. I am sure that you appreciate that the matter of method and of how and when to proceed is one that concerns the administrative branch of the government and that it is not usual for the legislative branch which has so many duties to attempt to usurp the functions and duties of the administrative branch.

Refuses to Accept His View

I cannot accept your analysis and evaluation of the evidence in the case and the bearing of the court decisions upon it, as it appears to me to have been made without sufficient knowledge of the law and the very varied line of decisions which the courts

have handed down in this class of cases.

You are incorrect in saying that the facts in the two cases are dissimilar. As a matter of fact they are identical except for the fact that Strecker admitted that he was a Communist and that he distributed Communist literature, whereas Bridges has not so admitted. In other words, the case in regard to Strecker was much stronger.

You are also incorrect in your understanding of the Vajtauer case (Vajtauer v. Commissioner of Immigration, 273 U. S. 103) which, on your interpretation, "requires" the deportation of Harry Bridges. Since receiving your letter I have reread the decision in the Supreme Court case cited by you (Vajtauer v. Commissioner of Immigration (supra) to ascertain the basis for your assertion that this case "requires" the deportation of Harry Bridges."

Contradicts His Contention

I found that the case, the facts in which bear only the remotest resemblance to the Bridges charges, contained a holding directly contrary to your contention. The court, far from saying that deportation in that case was required, stated that "a want of due process is not established by showing merely that the decision [of the Secretary of Labor] is erroneous * * * or that incompetent evidence was received and considered * * *; it is sufficient that there was some evidence from which the conclusion of the administrative tribunal could be deduced and that it committed no error so flagrant as to convince a court of the essential unfairness of the trial."

As you are undoubtedly aware (although your letter does not mention it), the department long prior to your investigation had issued a warrant in the Bridges case on the basis of the affidavits submitted to the Immigration and Naturalization Service and had set down the matter for hearing.

Prior to the date of this hearing the Circuit Court of Appeals for the Fifth Circuit, in a case entitled Strecker v. Kessler, rendered a decision holding that membership in the Communist party is not a ground for deportation. This department has recommended that this decision be appealed to the Supreme Court, since it was recognized at once, not only by the Commissioner of Immigration and Naturalization and the solicitor of this department but by officials of the Department of Justice with whom they conferred, that unless this holding were reversed by the highest court the charges brought against Bridges, even if proved, had no legal significance whatsoever.

Accordingly, in keeping with the usual government legal practice of avoiding unnecessary expense and multiple litigation in the lower courts when a test case is pending in the higher courts,

action in pending cases, including the Bridges case among others, based solely on membership in the Communist party, was suspended until the Supreme Court had passed on this question. The warrants in this class of cases have not been canceled.

Summarized briefly, your advice seems to be that I should have ignored the most recent holding of the courts, overruled the legal advisers provided me by law and have ordered the service to proceed with the Bridges case in the face of my knowledge that, even if the evidence at the hearing should sustain the charges, deportation itself could not be effected until the conflict of decisions among the Circuit Courts had been ultimately resolved by the highest tribunal.

Other Decisions Cited

You have also cited a number of decisions to show that the decision in the Strecker case is not in harmony with earlier decisions rendered by some other Federal courts. The department was fully aware of this, as the file itself shows that the only ground for asking for certiorari was because of a conflict among the Circuit Courts of Appeals. You make no mention in your letter of the legal memorandum prepared in the solicitor's office which was in the file sent you for inspection at your request and which recites all the facts and law.

not only because the statute and decisions require such proceedings but because delay may, if it has not already done so, place the witness beyond the reach of the government and make it impossible to make out a case."

From the files of the Labor Department Mr. Dies quoted a witness at immigration hearings as declaring he had heard that Mr. Bridges had said: "To hell with the President of the United States" and had made statements advocating force in opposing the government.

The witness, according to Mr. Dies, had also testified that he had seen Mr. Bridges pay an assessment of \$2 to the Communist party and that, while looking at the fleet in San Francisco Bay, Mr. Bridges had said: "We will see a day when we can sink those damn things because they are the enemy of the workers."

This witness was quoted further as saying:

"And on occasion he (Mr. Bridges) stated that his workout squadrons in San Francisco take good care of all opponents in the labor movement of the Communist party by having them beat up, destroying their homes and other methods of driving fear into the weak workers of the waterfront."

Other Witnesses Quoted

Other witnesses also were quoted anonymously, but Mr. Dies based his demand primarily on the record of this individual.

The letter quoted R. P. Bonham, Immigration Commission director for the Seattle district, as having protested on April 20 against further continuance of the hearings

relating to the labor leader. Also disclosed was a letter by Immigration Commissioner James L. Houghteling rebuking Mr. Bonham for "arrogance of judgment and apparent zeal to put your superiors in the wrong."

Bridges Hearing to Go On

By The Associated Press.

LOS ANGELES, Aug. 30.—A hearing will be held on the question of whether Harry Bridges, is deportable regardless of a pending United States Supreme Court case involving similar issues, according to James Houghteling, Immigration Commissioner.

Such a hearing, Mr. Houghteling said today probably will be conducted in San Francisco "before next January."

In his letter to Miss Perkins, Mr. Dies wrote:
"Deportation proceedings against Harry Bridges should be commenced without any further delay,