

# Case on Bridges Scored by Landis

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WASHINGTON, Dec. 30.—From a million and a half words of testimony given by thirty-two witnesses during eleven weeks in a little court room at the immigration station in San Francisco Bay last Summer, James M. Landis, dean of Harvard Law School, presented to Secretary Perkins his finding that Harry R. Bridges, Pacific Coast leader of the Congress of Industrial Organizations, was neither a member of the Communist Party nor affiliated with that party. At the hearings, the first deportation proceedings to be open to the public, Dean Landis presided as special trial examiner, appointed by the Secretary.

The case goes back to March 2, 1938, when a warrant was issued for the arrest of Mr. Bridges which granted him a hearing enabling him to show cause why he should not be deported to his native Australia, from which he came to the United States in 1920. The charges against Bridges were four in number: that he was a member of a party that advocates the overthrow of the government by force and violence; that he was affiliated with such an organization; that he was a member of an organization that causes to be written and distributed printed matter advocating and teaching the overthrow of the government by violence; and that he was affiliated with such an organization.

Disposing of "membership" and "affiliation" and not considering it necessary to find whether the Communist party advocates the overthrow of the government by force and violence, Dean Landis characterizes Bridges' aims as "energetically radical," although "proof fails to establish that the methods he seeks to realize them are other than those that the framework of democratic and constitutional government permits."

## Witness Called "a Liar"

"Bridges' own statement of his political beliefs and disbeliefs is important," Dean Landis asserts. "It was given not only without reserve but vigorously as dogma and faiths of which the man was proud and which represented in his mind the aims of his existence. It was a fighting apologia that refused to temper itself to the winds of caution. It was an avowal of sympathy with many of the objectives that the Communist party at times has embraced, an expression of disbelief that the methods they wished to employ were as revolutionary as they generally seem, but it was unequivocal in its distrust of tactics other than those that are generally included within the concept of democratic methods."

In considering the credibility of the long procession of witnesses who passed through the Angel Island court room the trial examiner comments upon a variegated lot. Of Major Laurence A. Milner's testimony he says, "Milner can best be dismissed as a self-confessed liar, a man who has admittedly tried twice—once successfully—to make falsehood parade as truth."

Major Milner was an undercover agent for the State or Oregon investigating subversive activities. John L. Leech, who signed a government affidavit declaring Bridges to be a Communist, is described as a man "afflicted with verbal haemophilia," and his testimony is discredited. Leech was an important witness in the case and pages of the record were consumed in what Dean Landis calls "evasions" that were "truly labyrinthine."

"Indeed, one would be tempted," Dean Landis says, "to regard Leech's evasive tactics as pathological in character, were it not that behind this screen of verbiage was a motive—Leech's desire first to conceal and then to refrain from admitting that he had fraudulently been accepting relief with the knowledge and aid of Mrs. Leech."

Then came Harper Knowles who spent a long Summer afternoon in saying mostly that he did not recall. "He was neither a candid nor a forthright witness," Dean Landis states. Knowles, a member of the American Legion, has long been an investigator of radical activities.

"Captain John Keegan of the Portland (Ore.) Police Department brings from the examiner the statement that 'the conclusion is inevitable that his testimony is far from reliable.'" Keegan is characterized as "one of the prime movers in the effort to bring about the deportation of Bridges."

Stanley M. Doyle, another investigator, is called a "contumacious witness" whose "protestations as to his patriotism accorded ill with the avowed duty of a citizen to testify fully and truthfully in a proceeding authorized by law, especially one which so involves the public interest."

## Other Testimony Criticized

There are others whose testimony Dean Landis criticizes and among them James W. Engstrom, a union official, of whom the examiner says: "With the exception of only Miles G. Humphreys, whose tendency toward prevarication was almost pathological, Engstrom left

a convincing impression that he was not telling the truth."

Important in the minds of those attending the Bridges trial, even among those who doubted that Bridges's membership in the Communist party had been proved, was the question of "affiliation" with that party. To this Dean Landis devotes himself at length.

"General definitions of the nature of affiliation have been attempted only occasionally," he states. "Throughout these attempts it is to be found the thought that to constitute affiliation more than mere sympathy is necessary. Something approaching cooperation with the proscribed organization seems essential."

As the fullest judicial expression in this connection he quotes Circuit Judge Chase, who said: "In deciding this case, we shall not attempt to give a comprehensive definition of the word 'affiliation' as used in the statute. . . . It is enough for present purposes to hold that it is not proved unless the alien has so conducted himself that he has brought about a status of mutual recognition that he may be relied on to cooperate with the Communist party on a fairly permanent basis. He must be more than merely in sympathy with its aims or even willing to aid it in a casual intermittent way. Affiliation includes an element of dependability upon which the organization can rely which, though not equivalent to membership duty, does rest upon a course of conduct that could not be abruptly ended without giving at least reasonable cause for the charge of a breach of good faith."

## Relations With Reds Recalled

Summing up with regard to an "affiliation" of Bridges with the Communist party, Dean Landis says that the alien's relationships to the party are, in general, "his well-defined opposition toward 'red-baiting'; his acceptance of aid and assistance in his industrial struggles from the Communist party—indeed, his solicitation of that aid; his expressed disinclination to disavow that help; his association with persons admittedly Communists, an association that derives primarily from his requests for and acceptance of such aid. There are, specifically, his support of the Western Worker during the 1934 maritime strike; his requests for aid in connection with such issues as the King-Ramsay-Conner and Modesto cases and the United Labor party ticket; his not infrequent conferences with the Communist officials on the Pacific Coast in regard to these and other matters; his admiration of the sincerity of persons in the trade-union movement, some of whom were avowedly Communists, and his willingness to work with them in the realization of his trade-union ideas."

But Dean Landis's conclusion proceeds: "This evidence, however much it may disclose of lack of judgment or associations that may be regarded by others as reprehensible or unfortunate, falls short of the statutory definition of affiliation. Persons engaged in bitter industrial struggles tend to seek help and assistance from every available source."

## "Cooperation" Is Held Legal

"But," he went on, "the intermittent solicitation and acceptance of such help must be shown to have ripened into those bonds of mutual cooperation and alliance that entail continuing reciprocal duties and responsibilities before they can be deemed to come within the statutory requirement of affiliation. Judge Chase and the other judges in the cases heretofore reviewed, insist upon the application of this standard. To expand that statutory definition to embrace within its terms ad hoc cooperation on objectives whose pursuit is clearly allowable under our constitutional system, or friendly associations that have not been shown to have resulted in the employment of illegal means, is warranted neither by reason nor by law."

"The evidence therefore establishes neither that Harry R. Bridges is a member of nor affiliated with the Communist party of the United States of America."

During the trial Dean Landis more than once made the point that the fact that a man was undesirable did not necessarily make him deportable and he gave as an illustration the man who turning up in a St. Patrick's Day parade with an orange necktie was certainly undesirable but that did not mean that he could be shipped out of the country. In his report to the Secretary of Labor the trial examiner returns to the point when he says:

"Misunderstanding of the statutory basis upon which the deportation of so-called alien radicals rests seems peculiarly rife. Harper L. Knowles, who was respectively a member for some four years of the Special Americanism Committee, the Subversive Activities Committee and the Radical Research Committee, committees created by the California American Legion, as well as being chairman of two of them,

though concerned constantly and actively with the deportation of alien radicals, testified that he thought they could be deported upon the mere ground that they were 'undesirable.'"

## Bridges' Defense Discussed

Dean Landis recalls that the theory of the Bridges defense was that the charges made against the alien were the result of a conspiracy, engaged in by persons on the Pacific Coast who were bent on getting rid of Bridges because of his admittedly militant and radical labor leadership. The most prominent of these persons were alleged to be Knowles, Captain Keegan and Stanley M. Doyle. Discussing the suggestion that officials of the Department of Labor engaged in the preparation of the case had offered improper inducements to witnesses to testify, Mr. Landis said: "With one exception, to be noted later, no testimony of this nature was adduced which directly involved officials of the Department of Labor. However, much testimony was offered concerning improper inducements made to witnesses by other persons not officials of the department."

Discussing testimony relating to Stanley M. Doyle, Dean Landis remarks that visitors' slips at San Quentin Prison to which the trial was moved for one day "were obviously not too carefully kept."

That day two prisoners, Ernest Ramsay and Earl King, gave testimony regarding Doyle's visit to them and his alleged offer of inducements to testify against Bridges. In this connection Dean Landis recites the incident of the testimony of Garfield King, a Canadian attorney and brother of Earl King.

Garfield King's testimony was that in 1938 the Vancouver representative of the United States Immigration Department, Shearer, asked him to call and told King that the government wished to obtain further evidence, which would substantiate the claim that Bridges was a member of the Communist party.

"He then read a letter that he had received from Bonham (Raphael P. Bonham of the Immigration Service), who was Shearer's superior officer," the Landis report relates. "In this letter Bonham intimated that there was some doubt as to Earl King's guilt, stated that he understood that Earl King . . . might no longer be on good terms with the Communist party, and suggested that if Garfield King would advise Earl King to furnish evidence on Bridges, Bonham would use his influence to secure a pardon for Earl King. Garfield King stated that Shearer at no time suggested that Garfield King should get his brother to testify falsely in this matter, but Garfield King stated that he believed the proposal not to be an honorable one and that he was led by inference from other happenings that he detailed to the conclusion that Shearer considered it in the same light. Garfield King rejected this overture."

"Garfield King's testimony," the report continues, "was uncontradicted by the government."

"It was given in the presence of Bonham, and thus the government thereafter had ample opportunity to rebut it. No such effort was made, the government contenting itself with the argument that, inasmuch as Garfield King admitted that it was not suggested to him explicitly that he should urge Earl King to testify falsely, the action of Bonham could not be truly criticized. Obviously this inferentially admits the truth of Garfield King's testimony."

"The extraordinary nature, to say the least, of this conduct is patent. There is justification for government officials to act in behalf of a guilty individual to mitigate his sentence if that individual will partly expiate his crime by helping the government to bring other guilty parties to justice. But expiation for guilt was not in issue here. No one would question the impropriety of a government official threatening to throw an innocent man into jail on a groundless charge unless he produced certain testimony. There is little substantial distinction between such conduct and that here involved— withholding action that might release an assumedly innocent man from jail unless he produced certain testimony."

"Furthermore, the very method of approaching Earl King through his brother, who could hardly be presumed to have knowledge as to the truth of the matters upon which Earl King's testimony was being sought, is devious and unusual. The incident, besides not being very creditable to the government, affords some basis for not completely disbelieving the assertion that Doyle, whose very integrity was put in issue, could have transcended the bounds of propriety which seem not too clearly to have been envisaged by one government official."

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