

BELL IS GIVEN STAY OF CONTEMPT ORDER

Attorney General Wins Legal Delay
Pending Appeal of a Ruling in
Case Involving Informers

By ARNOLD H. LUBASH

Attorney General Griffin B. Bell won a stay yesterday of an order holding him in contempt of court for refusing to release informer files in a \$40 million suit by the Socialist Workers Party.

After a two-hour hearing in Manhattan, the stay was issued by Judge Murray L. Gurfein of the United States Court of Appeals for the Second Circuit. Judge Gurfein stayed the one-day contempt order pending the Government's appeal of the dispute, which he termed "an historic confrontation."

Robert B. Fiske Jr., the United States Attorney who argued for Mr. Bell, said that the stay "means that, as of now, the Attorney General is not in contempt," and added that it would be "damaging for the Attorney General and for the country if he continued to be in contempt."

Legal experts said that the stay temporarily lifted the contempt for practical purposes because no sanctions can be imposed while it is in effect, but that the Attorney General might technically remain in contempt until the contempt order was reversed.

High Court Ruling Likely

The appeal to the appellate court could take several weeks, with the case heading eventually for the United States Supreme Court.

Margaret Winter, an attorney for the Socialist Workers, said she was "disappointed" by the stay because it would prolong the case, but added that "the important thing is that we ultimately get these files" as evidence that the Government illegally used informers to disrupt the political activities of the Socialist Workers.

On Thursday, Federal District Judge Thomas P. Griesa held the Attorney General in contempt for his refusal to give the Government's files on 18 unidentified informers to attorneys for the Socialist Workers. The files represent a sample of 1,300 informers who spied on the small Trotskyist party.

Judge Griesa said he was prepared to consider "more drastic sanctions" against the Attorney General, including possible imprisonment, to compel disclosure of the informer files.

Confidentiality Held Crucial

In arguing for a stay of the contempt order, Mr. Fiske told Judge Gurfein yesterday that disclosure of the files would violate the crucial confidentiality of informers and cause "incalculable harm to the nation's ability to protect itself."

Mr. Fiske contended that "there was a precipitous rush to contempt in this case"

because Judge Griesa had not explored alternative sanctions, which could forfeit part of the suit in favor of the Socialist Workers, instead of resorting to contempt.

"I suppose," Judge Gurfein interjected, "the ultimate sanction in this case would be awarding \$40 million to the Socialist Workers Party."

The Government's contention that the contempt order was "unprecedented" was disputed by Miss Winter in her argument against the stay. She cited a 1951 case in which the Acting Attorney General and the Secretary of Commerce were held in contempt for refusing to return some stock at the end of a civil case.

"As far as we know," Miss Winter added, "no other Cabinet official has ever been held in contempt."

Evidence Called Indispensable

She argued that the Government's informers had used burglaries and other "criminal tactics" against the Socialist Workers, adding that the informer files contained indispensable evidence because "we don't know what kind of harm the Government was inflicting on us."

Judge Gurfein told her that "you may prevail ultimately, but I don't see why anyone loses if there is a stay pending appeal."

Noting that the appellate court had rejected an earlier appeal of the order to release the files, Judge Gurfein said, "All that the court decided was that, at that stage of the proceedings, with the only thing outstanding being an order to produce documents, it was an interlocutory order, which is not appealable."

"The general rule in the Federal courts is that there is no appeal until a final judgement in a civil case," the judge continued, noting that the rule was designed to prevent delays that would upset the proceedings.

"But this general rule of finality is sometimes abrogated," he said, adding that, in "certain exceptional cases," an appeal after a final judgement might be too late to do any good. He noted that a contempt order in a civil case was not normally appealable.