

Longshoremen's + Warehouse men's Union; Int'l
(1953)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE
COMMITTEE.

Press releases relating to court trials
and conviction of ILWU officials
Harry Bridges, J.R. Robertson, and
Henry Schmidt on charges of "perjury"
and "conspiracy to commit perjury"...

18 scattered issues, 1950-1953.

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From: BRIDGES-ROBERTSON-SCHMIDT
DEFENSE COMMITTEE
150 Golden Gate Ave.
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FOR IMMEDIATE RELEASE

1950
SAN FRANCISCO, JUNE 4 -- Vincent Hallinan, who was sentenced to two concurrent six months jail terms for pursuing a vigorous defense against the frameup and conviction of Harry Bridges, J.R. Robertson and Henry Schmidt, today made the following comment on the refusal of the Supreme Court of the United States to grant him a writ of certiorari:

"Some people supposed the Supreme Court would be the last bastion against oppression. I was not so hopeful because when the government grows corrupt the courts become affected.

"If the corrupt elements in our government today believe they are going to crush the independence of the American bar by these means; if they think they are going to crush the aspirations of labor, they are crazy. As far as I am concerned I shall come out of jail a thousand times more determined, and to the best of my ability I shall defend for free any oppression case brought to me.

"In one way I find comfort in the stupidity that engenders this act, for I have faith in the American people. I have read the history that shows the people are capable of rising up against this sort of thing, and I am mindful that one of the greatest presidents of the United States, namely Thomas Jefferson, became president precisely because of similar stupidity."

Mr. Hallinan announced he would file for a rehearing of his appeal.

(END)

Longshoremen's + Warehousemen's Union, 1471

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

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SAN FRANCISCO, July 17 -- Charging violation of elemental constitutional safeguards of American freedom, attorneys for President Harry Bridges, First Vice President J. R. Robertson and Henry Schmidt of the ILWU late yesterday filed a legal brief with the United States Ninth Circuit Court of Appeals.

The brief charges that, ever since Bridges became active as a trade union leader in 1934, there has been a "concentrated and relentless crusade" against him by agencies of government, culminating in last year's trial and conviction of him and his associates on alleged perjury charges.

"That crusade is unique in the annals of American legal history and is one which, irrespective of the ultimate fate of Harry Renton Bridges, the people and the Courts of the United States might well ponder," the brief declares.

"It is alarming, not so much because of what it can or may ultimately do to the three individuals directly involved here, but because it represents a distortion of governmental process for the purpose of achieving a preconceived end and, if permitted to succeed, will make a mockery of the proud boast that ours is a government of laws and not of men."

In addition to charging 20 separate errors to the trial judge, George B. Harris, including wilful bias against the defendants and misconduct on the bench, the appeals brief affirms that two basic tenets of American law have been violated in this case:

1--The three-year statute of limitations (the case was not begun until four years after the alleged offense, in which Bridges swore he was not a member of the Communist Party in achieving U.S. citizenship).

2--Res adjudicata--being placed in quadruple jeopardy for the same alleged

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offense, despite provisions of the 5th Amendment to the Constitution against being tried more than once for the same offense.

On the statute of limitations, the brief relates that the alleged crimes were committed on or about June 23, 1945, and continued until October 1, 1945--but the indictment was not returned until May 25, 1949.

The government claim that wartime legislation removed the statute of limitations on cases of fraud involving the government, the defense brief answers that the clear intent of Congress and equally clear language of the law apply only to war contractors--who were deprived of the statute of limitations protection only on the theory that, during the hurry of war production, government representatives could not always properly investigate to prevent fraud in fulfilling war contracts.

In the Bridges case, the brief declares, no fraud whatever was committed against the government.

On the issue of double jeopardy, the brief points out:

"Appellant Bridges has twice been subjected to deportation proceedings involving the same charges and raising the same issues as are involved in and raised by the indictment in this case. Since there is an identity of the scope and issues of the deportation proceedings and the present criminal proceeding, there is here applicable that principle of law 'which seeks to bring litigation to an end and to promote certainty in legal relations.'"

This, the brief declares, is clearly phrased in the Fifth Amendment to the Constitution: "Nor shall any person be subjected for the same offense to be twice put in jeopardy of life and limb." Judicial decisions that proceedings under deportation laws are highly penal, are quoted in the brief.

The late Justice Brandeis is quoted as stating that deportation "may result also in the loss of both property and life or of all that makes life worth living."

In the Bridges deportation case that was reversed by the U.S. Supreme Court, paving the way for the ILWU leader to obtain citizenship, Justice Murphy is quoted

(MORE)

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as ruling:

"It is no answer that a deportation proceeding is technically non-criminal in nature and that a deportable alien is not adjudged guilty of a 'crime.' Those are over-subtle niceties that shed their significance when we are concerned with safeguarding the ideals of the Bill of Rights." And again:

"There is thus no justifiable reason for discarding the democratic and humane tenets of our legal system and descending to the practices of despotism in dealing with deportation."

Pending final disposition of the present case, the Justice Department has pending a civil action to attempt to deprive Bridges of his citizenship, and subsequently to deport him.

Two previous deportation cases against Bridges failed, one in 1939 when Dean James M. Landis ruled in the ILWU leader's favor, and one in 1941, which finally went to the Supreme Court and resulted in a decision in favor of Bridges.

The Bridges-Robertson-Schmidt Defense Committee announced it will redouble its efforts to bring the facts on the frameup of these three trade union leaders to the greatest possible number of Americans, and called for resolutions and letters and telegrams to be sent to Attorney General McGrath and President Truman, asking that this illegal persecution of Bridges be ended and that the government case against the three men be dropped.

(END)

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SAN FRANCISCO, JAN. 11 -- "We will prosecute this appeal to the limit," said Vincent Hallinan, counsel for Harry Bridges, president of the International Longshoremen's & Warehousemen's Union, "and we expect to win it."

This statement by defense counsel for Bridges and his two colleagues, J.R. Robertson and Henry Schmidt, was made on January 9, on the occasion of filing the final brief in the Court of Appeals in behalf of the ILWU officials, who are appealing their conviction on charges of "perjury" and "conspiracy to commit perjury" before the Ninth Circuit Court of Appeals here.

Mr. Hallinan briefly outlined the major points in appellant's reply brief, on which he bases his conviction that the case will be reversed.

"The major points we raise here, and which we believe any court not actually biased against the appellants must see and act upon, are the following:

"One - That the prosecution of Bridges, Robertson and Schmidt should never have been instituted in the first place, because it is barred by the statute of limitations;

"Two - That proper legal weight was not given by the court to the many previous proceedings against Bridges, which have three times absolved him of the same accusations;

"Three - That a major error was committed by the trial judge, George B. Harris, in his obstinate refusal to admit into evidence the 1945 Supreme Court decision which unequivocally cleared the ILWU president of all charges and

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opened his way to the citizenship he had sought for years."

Prejudicial error, according to the reply brief, was committed by the court in its scandalous handling of the witness Father Paul Meinecke, a Catholic priest who testified in Bridges' behalf and whom the Judge himself examined. Judge Harris clearly implied to the jury that Father Meinecke was mentally deranged and, as the brief puts it:

"On this record and dealing with this incident alone it is clear that the trial judge was the champion of the prosecution."

Further on, the brief says: "It was necessary to the Government that this testimony (of Father Meinecke) be destroyed. The prosecutor tried mightily to do so but did not succeed. The trial court, by throwing itself into the breach on behalf of the Government, clearly committed reversible error and deprived appellants of a fair trial. It made it clear to the jury... 'that the court was insisting upon a conviction'."

The reply brief states that the Court made similar errors in limiting the cross-examination of Government witness Kessler and also in its instructions to the jury, on which point the brief uses this language:

"The effect of these instructions then was not only to have the jury view with deep suspicion the testimony of the appellants, but it was to minimize the falsehoods which were wrung from the lips of the Government's witnesses.

"These instructions are another example of the way in which the trial court kept tipping the balance against appellants and in favor of the Government."

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The Ninth Circuit Court of Appeals will shortly announce a date for oral argument on the Bridges-Robertson-Schmidt appeal. Its ultimate decision is expected in the next four months.

(END)

Longshoremen's & Warehousemen's Union, #471

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SAN FRANCISCO, JULY 20 ¹⁹⁵⁰ -- The Bridges-Robertson-Schmidt Defense Committee today hit what was termed a deliberate and organized plot to spread an impression that officers of the International Longshoremen's & Warehousemen's Union, particularly President Harry Bridges, had proposed that the union not load ships for American troops in Korea.

"The statements appearing and the impression given are completely untrue," said a statement of the committee.

"The loading of ships is a matter of contractual obligation between the ILWU and the Pacific Maritime Association.

"That contract, which runs until June, 1951, requires that all ships be loaded regardless of destination, including Korea. No officer or local union has proposed any change.

"Bridges has upon several recent occasions been directly and deliberately misquoted and the facts have been obscured or ignored.

"Here are the facts surrounding recent developments:

"On the Korean situation: -- Bridges warned against any splitting of the union or lessening of contract conditions because of hysteria incident to the situation. He urged the membership of the union not to abandon their official position of a long period, taken during the invasion of Israel and the Dutch invasion of Indonesia, namely that settlement be made peaceably through the United

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Nations so as to avoid the possibility of a World War III.

"On Bridges asserted presidency of the Maritime Federation of the World:

-- That organization was reorganized several weeks ago and Bridges was named honorary president. ILWU connection with the organization was voted by the last national convention of the union. As to Bridges' honorary presidency or any other matter concerning the MFW, this is subject to the wishes of the membership of the ILWU and will be on the agenda of the coming longshore caucus to be held at North Bend, Ore., August 15.

"On the move to revoke Bridges' bail: -- The Department of Justice and the Immigration Service have made this move in desperation because they learned that a motion for new trial was to be filed based upon newly discovered evidence which exposes the frameup and shows the immigration service as a corrupt, union-busting agency and makes it vulnerable to congressional investigation. In an attempt to stop this exposure the department seeks to jail Bridges immediately using war hysteria as a smokescreen to cover itself.

"It is a sad commentary upon free speech that one cannot advocate World peace by means other than war without facing the risk of jail."

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BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

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1957
SAN FRANCISCO, December 10 - Three hundred delegates to the tri-state conference of the Progressive Party, held here this weekend just past, went on record to the President of the United States and Attorney General J. Howard McGrath, demanding an end to the persecution of Harry Bridges, President of the International Longshoremen's and Warehousemen's Union, and his two associates, First Vice-President J. R. Robertson and International Executive Board member Henry Schmidt.

In a stinging resolution, the delegates, who represented over 30 trade unions from the states of California, Oregon and Washington, together with representatives of farm and pension groups in these areas, stated:

"The persecution of the ILWU, its president Harry Bridges and his associates J. R. Robertson and Henry Schmidt, must end. Bridges is, to our mind, the outstanding labor leader in the United States. The organization he represents is being hounded by the Administration for its militancy and its democratic practises, and for no other reason. We call upon the President and his Attorney General forthwith to end the 18 year persecution of this outstanding American labor leader and the organization he heads."

In a subsequent resolution the delegates took note of the contempt of court sentences imposed upon Bridges' attorneys, Vincent Hallinan and James Martin MacInnis, and stated:

"These two courageous attorneys had no trouble with the law until they applied their talents to the defense of Bridges, Robertson and Schmidt. As a result of their vigorous advocacy of these defendants, before a judge

(more)

From Bridges,--Robertson-Schmidt Defense Committee 12/10/51

who was manifestly hostile to the defense, both men are in jeopardy of jail. We therefore call upon the Attorney General of the United States to uphold the traditional American freedom of advocacy and end the persecution of attorneys such as Hallinan and MacInnis who have the courage to defend persons and organizations the Attorney General does not personally like."

The tri-state conference of the Progressive Party, representing the states of Washington, Oregon and California, was held at 150 Golden Gate Avenue, beginning on Friday night December 7 and ending Sunday night December 9.

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NEWS RELEASE

FOR IMMEDIATE RELEASE

SAN FRANCISCO, March 11 ¹⁹⁵² -- After 18 years of persecution, the fourth trial of the Harry Bridges case will come up for appeal, March 18, before the Ninth Circuit Court of Appeals in San Francisco.

Harry Bridges, president of the International Longshoremen's & Warehousemen's Union and two co-defendants, ILWU Vice President J.R. Robertson and Executive Board member Henry Schmidt were charged with perjury and conspiracy. The government contended Bridges swore falsely in 1945 when he said he was not a member of the Communist Party. This occurred at his naturalization hearing soon after the U.S. Supreme Court gave him a clean bill of health. Robertson and Schmidt were his character witnesses.

The appeal seeks to set aside the lower court conviction by stressing the following points: Bridges has been in jeopardy four separate times on the same basic charge. On three previous occasions he was cleared of the charge, in 1936 by the Immigration Service, in 1939 after a hearing before Harvard Law School Dean James M. Landis, and in 1945 by the U.S. Supreme Court.

The appeal stresses the fact that the indictment was brought after the expiration of the three-year statute of limitations. A similar case (U.S. vs Obermeier) was dismissed because of the statute of limitations. The appeal also points up more than a score of prejudicial errors in Judge George B. Harris' conduct of the trial.

The appeal comes at a time when the ILWU is celebrating winning one of the finest industrial pension plans in America. Oldtimers on the waterfront, in an industry in which there was no security whatsoever before the union was born,

from: BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE - 3/11/52

will now receive employer-paid pensions of \$100 a month, in addition to their regular social security.

This contrasts sharply with conditions of East Coast longshoremen (under lifetime president "King" Joe Ryan) where the shape-up still continues, where the average wage is \$1700 a year (ILWU average \$5200) and where there is the meagerest health, welfare and pension plans.

East Coast longshoremen wonder when the government will start prosecuting the gangsters that take tribute from every check, and control the union.

The appeal emphasizes the fact that the late Supreme Court Justice Frank Murphy, who called this case "...a monument to man's intolerance of man", also clearly indicated in his historic opinion that the prosecution of Bridges was motivated by major business interests trying to jail or deport a man for his leadership of labor.

The fourth time Bridges was in jeopardy found the government parading the same type of stoolpigeons that have become common in these days of the professional witness who will finger men on orders -- for a fee. Some government witnesses admitted to being paid large sums for their testimony, others were on government payrolls, others admitted on the witness stand that they lied; some had criminal records, and were under direct pressure by the government. They gave testimony against Bridges in exchange for immunity against prosecution.

(END)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

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San Francisco, September 6, 1952. President Harry Bridges of the International Longshoremen's and Warehousemen's Union today made the following comment on the opinion handed down by the United States Court of Appeals for the Ninth Circuit:

"When this case began it was an attack upon the union and its strength and unity, which have brought about some of the best wages and working conditions in the country for its members.

"In 1948 I was told by representatives of National CIO and Philip Murray that I must support and do my best to have the union support Harry S. Truman for re-election, or else. I was told point-blank that refusal meant that deportation proceedings would be instituted against me for the fourth time by the Department of Justice, notwithstanding the decision of the Supreme Court of the United States in my favor and against deportation in 1945.

"It was also made very clear to me that the Department of Justice would follow a policy of protecting friends and supporters of the Truman administration and punishing its critics and opponents.

"There was never any conspiracy or crime committed. There was opposition by the union to accepting economic and political dictation from politicians and labor leaders in Washington.

"This latest step ^{the} in/continuing anti-union prosecution will not cause the union to nuckle under or to change its program of following independent economic and political policies as determined by vote of its membership."

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¹⁹⁵²
SAN FRANCISCO, SEPTEMBER 29 — A dinner to honor Harry Bridges, J.R. Robertson and Henry Schmidt, officers of the International Longshoremen's & Warehousemen's Union, will be held at 150 Golden Gate Avenue, San Francisco, on Sunday night October 12 at 6:30 p.m., it was announced today.

The dinner is co-sponsored by the Northern California District Council of ILWU and the Bridges-Robertson-Schmidt Defense Committee, and will be open to the public.

Conviction of the three union leaders for alleged "conspiracy" was sustained by the Ninth Circuit Court of Appeals on September 6. They are asking rehearing and preparing appeal to the Supreme Court.

Chairman of the dinner, which will initiate a nation-wide campaign to achieve reversal of the convictions, will be Carey McWilliams, prominent California attorney, authority on civil liberties, author, and managing editor of the magazine, The Nation.

The Bridges case, if taken by the Supreme Court, will represent the second time in seven years the ILWU president has been an appellant in the same case. In 1945 the Supreme Court cleared Bridges of identical charges and freed him to become a naturalized citizen.

In his concurring opinion, the late Mr. Justice Frank Murphy wrote: "Seldom if ever in the history of this nation has there been such a concentrated and relentless campaign to deport an individual because he dared to exercise the freedom that belongs to him as a human being and that is guaranteed him by the Constitution."

The three ILWU leaders will speak at the October 12 dinner. Reservations may be obtained by calling the Bridges-Robertson-Schmidt Defense Committee,

PRospect 5-0533 or PRospect 6-4815.

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FOR IMMEDIATE RELEASE

SAN FRANCISCO, October 3¹⁹⁵² -- A petition for a rehearing before the Ninth Circuit Court of Appeals was filed at 4 p.m. today by attorneys for Harry Bridges, J.R. Robertson and Henry Schmidt, leaders of the International Longshoremen's & Warehousemen's Union.

The petition asks the full seven-member bench of the appellate court to review the September⁶/decision of Judges Albert Lee Stephens, Homer T. Bone and Walter L. Pope, which affirmed the convictions of the three ILWU leaders for "conspiracy to defraud the government."

Pointing out that "it would be unrealistic" to expect these three judges to reconsider their own decision, the brief, which was filed by Richard Gladstein, George Andersen and Norman Leonard, attorneys for ILWU, says:

"Only a fresh consideration of the basic problems which this case presents, and a fixed and inexorable determination on the part of the Court to resist any 'subversive erosion of the judicial process' in this case could bring about a modification of the order of the panel which heard this case."

A point-by-point consideration of the decision of the three judges leads the ILWU attorneys to contend that "the opinions of the judges of this particular panel not only disregarded the decisions of other Courts of Appeal, but ignored applicable rules of law, precedents, judicial reasoning, and legislative history. . ."

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From: BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE - 10/3/52

Major points made in the new brief involve the question of the statute of limitations, which other appellate courts have held (in comparable cases) had run, thus obviating prosecution, but which Judges Stephens, Bone and Pope insisted (arbitrarily) had not run. Particular reference is made to the Carl Marzani and Michael Obermeier cases, which also involved the allegation of "false swearing" on the part of the two union leaders, and in which appeals courts in New York and the District of Columbia both held that prosecution on these counts could not be had because the statute of limitations had run out. The judges of the Ninth Circuit Court took a diametrically opposite position, offering no argument to explain their point, except that they did not "agree" with the Obermeier and Marzani decisions. This point alone should be enough to guarantee reconsideration and reversal, for here we have one circuit court in conflict with two others in a matter of interpreting the law.

-it is also contended that the three prior processes, both administrative and judicial, to which Bridges has been subjected since 1939, are recognized under law as trials and should have precluded a fourth trial, under the doctrine of res judicata;

-a separate point involves the capricious use to which the Ninth Circuit judges put the 1945 Supreme Court decision which cleared Bridges of identical charges; one judge upholding the trial court's refusal to permit the jury to read this decision on the grounds that it was irrelevant; while another judge insisted that Robertson's and Schmidt's

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From: BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE - 10/3/52

"knowledge" of this decision was "proof" that they had entered into a conspiracy with the ILWU president;

-refusal of the appellate judges to reverse on what defense attorneys insist were several "reversible errors" committed by trial judge, George B. Harris, is made the basis for further argument for reversal of the decision.

"By granting a rehearing in this case and overturning the judgment of the panel," says the new brief, "the Court will demonstrate that Harry Bridges and his associates will receive the same treatment as all other persons at the hands of the American judiciary."

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¹⁹⁵²
SAN FRANCISCO, November 26 --- Attorneys for Harry Bridges, J.R. Robertson and Henry Schmidt yesterday asked the Ninth Circuit Court of Appeals again to grant a rehearing before the full bench of that tribunal to the three ILWU leaders, appealing their convictions for "conspiracy."

Bridges, Robertson and Schmidt were first convicted of "conspiracy to defraud the government" in 1950. On September 6 the Ninth Circuit Court upheld their convictions. On November 18, it refused to grant a rehearing.

The new application for leave to file a new petition offers three reasons why the Circuit Court should grant a new hearing:

1. The 3-man panel of the Appellate Court had substantially modified its September 6 opinion in its refusal on November 18 to grant a rehearing to the case;
2. The ILWU defendants had asked for a rehearing before the full 7-man bench of the Ninth Circuit Court of Appeals, but the request had been totally ignored in the November 18 order refusing a rehearing;
3. On the day before the denial of a petition for rehearing, a panel of the Ninth Circuit Court of Appeals had decided another case in a substantially different way, applying a rule of law which it had refused to apply in re Bridges et al, and reversing a conviction on the ground that technical errors had been made in the trial and evidence refused in behalf of the defendant which prejudiced his case.

On this last point, reference is made to the case of Louis E. Wolcher, "pin-ball king," who had been convicted of evading \$30,000 in income taxes.

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from: BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE - 11/26/52

Says the new application, filed yesterday: "In the Wolcher case the errors were highly technical...We do not say (his) conviction should not have been reversed. We do say that if Wolcher's conviction had to be reversed, then this conviction (of Bridges, Robertson and Schmidt) must a thousand times more so be reversed. For the errors here were not purely technical. They were serious errors and reflected upon the fairness of the trial accorded the appellants...

"The evidence offered on behalf of Wolcher, the exclusion of which resulted in the reversal, consisted of a magazine called 'Billboard.' The evidence offered on behalf of Robertson and Schmidt, the exclusion of which did not result in reversal, consisted of a decision of the Supreme Court of the United States. The incongruity is manifest...

"If Wolcher is entitled to a new trial because a document was admitted against him without a 'proper foundation,' why is not Bridges entitled to a new trial because the trial judge told the jury, in effect, that there should be an 'ultimate conviction' because of 'uncontradicted evidence' establishing his guilt 'to a certainty,' and that they were to convict unless there was a 'good reason' for not doing so?...

"If a labor leader and his associates are to receive an equality of treatment with a 'pinball king,' then the least these appellants are entitled to is a new trial."

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1952
SAN FRANCISCO, DEC. 30 — A decision filed in the U. S. District Court for the Northern District of California on December 5 provides an ironic contrast to the refusal today by the Ninth Circuit Court of Appeals to grant a rehearing to ILWU President Harry Bridges and his co-defendants First Vice-President J. R. Robertson and National Board Member, Henry Schmidt.

Bridges, Robertson and Schmidt were first convicted of "conspiracy to defraud the government" in 1950, because the ILWU President swore at his naturalization proceedings in 1945 that he had never been a communist.

The Ninth Circuit Court affirmed the convictions of all three men on September 16, and on November 18 refused to reconsider its decision. A final appeal to the appellate bench was made on November 25, which was turned down today.

In their various appeals from the convictions of the three ILWU leaders, attorneys for the defense have based their arguments, in part, on previous decisions of other appellate courts, and decisions by the Supreme Court itself.

These decisions were ignored by the Ninth Circuit Court, or brushed aside by it. In the case decided by Federal Judge Dal M. Lemmon, of the same circuit, on December 5 (referred to above) the Sacramento jurist makes specific mention of the Bridges decision and says he "must reluctantly, disregard the holding in Bridges, and be

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from: BRIDGE -ROBERTSON-SCHMIDT DEFENSE COMMITTEE - 12/30/52

guided by the Supreme Court's" decisions in the Marzani and other cases, which had been cited by attorneys for Bridges, Robertson and Schmidt as reasons for reversal of their convictions.

The legal point urged has to do with the statute of limitations and Wartime Suspension of Limitations Act. The Supreme Court and appellate courts in New York and Washington D. C. have ruled that the 3-year statute of limitations should apply in cases such as this. The Ninth Circuit Court disagrees.

Judge Lemmon in U. S. A. vs. Grainger, Clavere, Kennedy and Shapiro has added another judicial voice to the arguments advanced in favor of reversing the convictions of Bridges, Robertson and Schmidt.

(END)

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¹⁹⁵³
SAN FRANCISCO, JAN. 5 — A prominent Federal Judge in a decision handed down on December 5, which received no publicity in the press, challenged the Ninth Circuit Court of Appeals decision in the Bridges-Robertson-Schmidt case.

Judge Dal M. Lemmon, who sits in both San Francisco and Sacramento, in his decision dismissing indictments against four defendants charged with defrauding the government (Grainger, et al) wrote:

"This Court is likewise cognizant of the fact that, in an ammended opinion in Bridges v. United States...the Court of Appeals for the Ninth Circuit held that, In order for the Suspension Act to apply, it was not necessary that 'fraud' should 'be spelled out literally in the statute' under which the charge is laid... It should be observed, however, that in its Bridges opinion, our appellate court did not evaluate the force of the word 'denominated' in the Scharton case: that, in criticizing the 'conclusions' of the Court of Appeals for the District of Columbia in the Marzani case... the Ninth Court of Appeals did not consider the fact that Marzani had been twice affirmed...and finally our Court of Appeals apperantly overlooked the Beacon Brass case, supra.

"This court therefore, must though reluctantly, disregard the

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JAN 7 1953

from: BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE — 1/5/53

holding in Bridges, and be guided by the Supreme Court's recent semaphores in Scharton, Marzani, and Beacon Brass."

The holdings of the Circuit Court for the District of Columbia and the Supreme Court itself in re Marzani were basic to the defense of Bridges, Robertson and Schmidt, and relied upon by defense counsel throughout their various appeals. The fact that the Ninth Circuit Court chose to ignore this and other relevant decisions in sustaining the convictions of the three ILWU leaders, is fully as startling as Judge Lemmon's almost unprecedented action in disregarding a higher court in his own decision, quoted above.

It raises again the question of whether there is one law for Bridges, Robertson and Schmidt, and another law for other defendants charged with similar alleged crimes.

(END)

enc. Relevant portions of Judge Dal M. Lemmon's decision in USA v. Lester E. Grainger, Joseph C. Clavere, William G. Kennedy and A. L. Shapiro.

ENDORSED: FILED
DEC 5 1952
C. W. CALBREATH,
Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT
OF CALIFORNIA, NORTHERN DIVISION

- - - - -

UNITED STATES OF AMERICA)	
)	
Plaintiff)	
)	
v)	No. 10744
)	
LESTER E. GRAINGER)	
)	
Defendant)	
)	
UNITED STATES OF AMERICA)	
)	
Plaintiff)	
)	
v)	No. 10759
)	
JOSEPH C. CLAVERE and)	
WILLIAM G. KENNEDY)	
)	
Defendants)	
)	
UNITED STATES OF AMERICA)	
)	
Plaintiff)	
)	
v)	No. 10767
)	
JOSEPH C. CLAVERE, WILLIAM)	
G. KENNEDY and A. L. SHAPIRO)	
)	
Defendants)	

OPINION AND ORDER

EXCERPTS FROM OPINION AND ORDER

Page 1

The applicability of the Wartime Suspension of Limitations Act of 1942 or of its successor statute of 1948 is the crucial question presented by the motion to dismiss filed in each of these three cognate cases.

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2. The Motions to Dismiss

In each of the three cases, motions to dismiss were filed by the respective defendants. Although several grounds were urged in support of each motion, only one need be here considered; namely, that the indictments were not found within three years next after the crimes therein alleged had been committed.

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4. The Questions Presented

It is conceded that prosecution is barred by the three-year statute of limitations, 18 USC section 582 (1946 ed.), unless the running of this statute has been "tolled" by the operation of the Wartime Suspension of Limitations Act of 1942, Section 590a of Title 18 of the same edition of the Code, supra, or its successor, 18 USCA section 3287, supra.

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The crucial question, however, may be further narrowed down to the following:

Before the Wartime Suspension of Limitations Act, supra, can be invoked, must the statute under which the indictments is brought spell out in so many words - or, as the Supreme Court has expressed the same thought in this precise connection, "denominate" -- fraud against the United States?

(Judge Lemmon then discussed a number of Supreme Court cases, giving the reasons why the indictments must be dismissed).

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This Court is likewise cognizant of the fact that, in an amended opinion in Bridges v. United States, handed down on November 18, 1952, the Court of Appeals for the Ninth Circuit held that, in order for the

Suspension Act to apply, it was not necessary that "fraud" should "be spelled out literally in the statute" under which the charge is laid. Slip opinion, page 16. It should be observed, however, that in its Bridges opinion, our appellate court did not evaluate the force of the word "denominated" in the Scharton case; that, in criticizing the "conclusions" of the Court of Appeals for the District of Columbia in the Marzani case, supra, the Ninth Court of Appeals did not consider the fact that Marzani had twice been affirmed, though by a divided Supreme Court; and finally, our Court of Appeals apparently overlooked the Beacon Brass case, supra.

This Court therefore, must though reluctantly, disregard the holding in Bridges, and be guided by the Supreme Court's recent semaphores in Scharton, Marzani, and Beacon Brass.

6. Conclusion

Accordingly, the Court holds that, as to all three indictments, the three-year statute of limitations fixed by 18 USC section 582 and its successor 18 USC section 3282, applies. Because the statute that the various defendants are charged with having violated or with having conspired to violate does not "donominate" the acts proscribed therein as "frauds", or does not, in so many words, have as an "ingredient" a "defrauding or an attempt to defraud the United States", neither the Wartime Suspension of Limitations Act of 1942 nor its successor of 1948 can apply.

All three motions to dismiss are granted, and all three indictments are dismissed.

Dated: December 5, 1952

DAL M. LEMMON

United States District Judge

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

150 Golden Gate Ave., San Francisco 2, Calif.

PRospect 5-0533 • PRospect 6-4815

FOR IMMEDIATE RELEASE

¹⁹⁵³
SAN FRANCISCO, JANUARY 14 — With the filing today of a petition for a writ of certiorari in the Bridges- Robertson-Schmidt case before the Supreme Court of the United States, announcement was made of the association with defense counsel of Mr. Telford Taylor, distinguished New York attorney.

Mr. Taylor came into international prominence during World War II when he was one of the principal U. S. prosecutors at the Nuremberg trial of the Nazi war criminals. Mr. Taylor held the rank of Brigadier-General AUS.

He is associated in the BRS defense with the firm of Gladstein, Andersen and Leonard and Vincent Hallinan of this city and, in the event the Supreme Court grants a writ of certiorari, will be one of counsel arguing before the high Court.

Chief points in the latest BRS appeal include:

1. Due Process of law. The defense contends that the 19-year persecution of the president of the ILWU has violated his rights under the due process amendment (5th) to the U. S. Constitution;

2. Res judicata. It is a defense contention that the 1945 Supreme Court decision which cleared Bridges of all previous charges closed the case, inasmuch as all points of fact and law had been litigated and disposed of;

(MORE)

INSTITUTE OF
INDUSTRIAL RELATIONS

JAN 15 1953

from: Bridges-Robertson-Schmidt Defense Committee -- 1/14/53

3. Statute of Limitations. Defense counsel argue that the statute of limitations for the offense allegedly committed by Bridges, Robertson and Schmidt had run out when their indictments were handed down;

4. Reversible errors. It is contended by counsel for the defense that Trial Judge George B. Harris committed several reversible errors in the course of the trial of the ILWU defendants; these include:

- a. exclusion of evidence vital to the defense;
- b. limitation of cross-examination of important government witnesses;
- c. unfair and hostile examination of a defense witness by the trial judge himself;
- d. manifest hostility of the trial judge to defendants and defense counsel;

5. Conflicting interpretations of the law by the Ninth Circuit Court of Appeals, which has sustained the convictions of the three ILWU leaders. The contention here involves the alleged refusal of the appellate court to be guided by previous, relevant decisions of the U. S. Supreme Court.

(END)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

150 Golden Gate Ave., San Francisco 2, Calif.

PRospect 5-0533 • PRospect 6-4815

FOR IMMEDIATE RELEASE

<1953>

SAN FRANCISCO, January 30 - A delegation of West Coast longshoremen representing the International Longshoremen's and Warehousemen's Union today called upon Mr. Raymond Whearty, assistant US Attorney-General in charge of the Criminal Division of the Department of Justice in Washington, D.C.

The four-man delegation, consisting of ILWU Northwest Regional Director William Gettings, Francis Murnane (Local 8, Portland), George Walsh (Local 10, San Francisco) and Gordon Giblin, president of Local 13, San Pedro, spent two days earlier this week at the current sessions of the N. Y. State Crime Commission which is investigating racketeering on the New York waterfront.

The delegation entered in the record of the Commission a detailed history of ILWU's successful elimination of racketeering in 1934 with the establishment of a democratic union and its rotary hiring hall.

The delegation further requested the N. Y. State Crime Commission to afford Harry Bridges, International president of ILWU, an opportunity to give a more comprehensive report on ILWU's methods and experience in the elimination of racketeering from West Coast docks.

At the office of the Attorney General, the delegation lodged an official inquiry with the Department of Justice, as to why the Bridges-Robertson-Schmidt case was receiving different treatment by that Department and the

(more)

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courts themselves than other cases of a similar nature.

The ILWU men called on the Department of Justice not to oppose the grant of a writ of certiorari to the B-R-S case, but received definite indications from Mr. Whearty himself that it was the government's intention to oppose certiorari, notwithstanding its own appeal from the recent decision by Judge Dal M. Lemmon of Sacramento in the Grainger case, wherein Judge Lemmon took specific issue with the Ninth Circuit Court's opinion on Bridges, Robertson and Schmidt, saying he must disregard it in favor of earlier Supreme Court decisions on identical legal issues.

* * * *

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(1-30-53)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

150 Golden Gate Ave., San Francisco 2, Calif.

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FOR IMMEDIATE RELEASE

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SAN FRANCISCO, May 1 — The American Civil Liberties Union, internationally famous organization devoted to the protection of American constitutional guarantees, on April 27 expressed the hope that the Supreme Court of the United States would reverse the convictions of Harry Bridges, President of the International Longshoremen's & Warehousemen's Union, and his two colleagues, ILWU First Vice President J. R. Robertson and Executive Board Member Henry Schmidt.

The B-R-S appeal will be argued before the Supreme Court on Monday, May 4, by attorneys Telford Taylor of New York and Norman Leonard of San Francisco.

The three ILWU leaders are appealing from convictions for alleged perjury in connection with Bridges' 1945 naturalization proceedings, at which he swore he was not and had never been a member of the Communist Party.

The complete text of the ACLU statement on the B-R-S case follows:

"The U. S. Supreme Court probably on May 4 will hear argument on whether or not Harry Bridges perjured himself in naturalization proceedings when he denied past membership in the Communist Party. This is the third time that the government has raised the question of such membership in legal proceedings instituted against Bridges. On two occasions, the government attempted to deport Bridges on this charge, but the charge was not sustained in either case, even though one case reached the Supreme Court.

(MORE) INSTITUTE OF
INDUSTRIAL RELATIONS

MAY 4 1954

"Now, ten years later, the government has been successful in a prosecution charging Bridges with lying in denying his past membership in the Communist Party — which membership the government had already twice failed to prove. It seems to us that this continual harassment on the same issue over a period of ten years amounts to a violation of that due process of law required by the Fifth Amendment to the U. S. Constitution. Three legal proceedings brought against a man, always involving the question of past membership in the Communist Party, reflects an attitude of persecution which is not consonant with American democratic concepts. Regardless of the nature of the proceeding, political or otherwise, if the idea of due process is to be preserved, individuals must be free of the need constantly to defend themselves against the same accusation.

"The ACLU does not, of course, take any position with respect to whether Bridges was or was not a member of the Communist Party, and it affirms its unalterable opposition to Communist totalitarianism. But it repeats once again its firm conviction that, in opposing Communist tyranny, American democracy cannot employ the methods and tactics of that tyranny.

"It hopes the Supreme Court will reverse the conviction."

(END)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

150 Golden Gate Ave., San Francisco 2, Calif.

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FOR IMMEDIATE RELEASE

SAN FRANCISCO, May 7 — Louis Goldblatt, Secretary-Treasurer of the International Longshoremen's & Warehousemen's Union today demanded that U. S. Attorney General Herbert J. Brownell repudiate a "deal" offered to the Supreme Court on May 4 by U. S. Attorney John F. Davis, and termed the sum total of Department of Justice activities in the Bridges-Robertson-Schmidt case "a travesty of justice."

U. S. Attorney Davis, in arguing before the high tribunal last Monday said he would "swap this case for Bridges." He was referring to the Grainger case, in which Federal District Judge Dal M. Lemmon of Sacramento refused to go along with the Ninth Circuit Court of Appeals ruling on the statute of limitations in the B-R-S case.

The Ninth Circuit Court said the B-R-S indictment fell within the statute of limitations. Judge Lemmon, in releasing the Grainger defendants, specifically repudiated the appellate bench's decision on Bridges, Robertson and Schmidt.

"We demand an immediate statement by you to the Supreme Court," said Goldblatt's telegram to Brownell, "withdrawing this cynical offer of a deal and disassociating your department from any such statement."

Goldblatt, in addition to being Secretary-Treasurer of ILWU, is Secretary of the B-R-S Defense Committee, which Brownell on April 29 added to his list of "subversive organizations."

The text of Goldblatt's telegram follows:

Night letter to Attorney General Herbert Brownell

May 7, 1953

"Your special assistant John F. Davis in argument before the Supreme Court Tuesday May 5 on the Graniger case told the Court "I
(MORE)

think I'll swap this case for Bridges".

We demand an immediate statement by you to the Supreme Court withdrawing this cynical offer of a deal and disassociating your department from any such statement.

The conduct of your department on the Bridges Robertson Schmidt case has been inexcusably unfair and prejudiced. You opposed Supreme Court review of the case calling it a matter of "diminishing importance". A few days before the Supreme Court hearing you labelled the Defense Committee "subversive" in a patent attempt to influence and prejudice the Court. Now your assistant offers a swap to the Supreme Court so as to "get" Bridges.

The sum total of your department's activities in this case is a travesty of justice."

Louis Goldblatt
Executive Secretary
Bridges-Robertson-Schmidt
Defense Committee

(END)

BRIDGES-ROBERTSON-SCHMIDT DEFENSE COMMITTEE

150 Golden Gate Ave., San Francisco 2, Calif.

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FOR IMMEDIATE RELEASE

SAN FRANCISCO, July 22 ¹⁹⁵³ — The Bridges-Robertson-Schmidt Defense Committee today challenged the Attorney General of the United States either to withdraw its name from his "subversive list" or grant a full hearing on the issues involved.

The B-R-S Committee, composed of the executive board members of the International Longshoremen's & Warehousemen's Union has twice been cited by the Attorney General as a "subversive" organization, without the formality of a hearing of any kind.

The first citation occurred April 29, about a week before the Supreme Court was to hear argument on the B-R-S frameup, and could only have represented a calculated attempt to influence the decision of the high court.

The second citation took place July 21, ironically enough the very day Federal District Judge Oliver J. Carter signed an order dismissing the framed case against the three ILWU leaders, whose convictions were reversed by the Supreme Court on June 15.

Correspondence during June and July between the Attorney General's office, the B-R-S Committee's executive secretary, Louis Goldblatt, and B-R-S Committee attorneys George Andersen and Norman Leonard establishes the following facts:

1. That the B-R-S Committee contested the designation;
2. That Mr. Goldblatt was the sole executive officer of the Committee; despite implications to the contrary by the Attorney General;
3. That repeated demands were made for a hearing on the allegations of "subversion", which have remained unanswered except for the July 21 "citation" announced through the newspapers.

"The latest citation," said B-R-S executive secretary Louis Goldblatt today "represents a dictatorial attempt to intimidate the membership of ILWU and the many

(more)

thousands of unaffiliated citizens who supported the successful appeal of ILWU's president, first vice-president, and executive board member, from their 1950 convictions.

"It also represents an attempt to intimidate anyone who might be tempted to come to the defense of President Bridges when, as and if the Department of Justice renews its 19-year attempt to deport the ILWU leader.

"The Committee," said Mr. Goldblatt, "demands that its name be removed from the purely arbitrary listing of the Attorney General, or a full hearing on the allegations be granted immediately."

(end)