

SUMMER
2017

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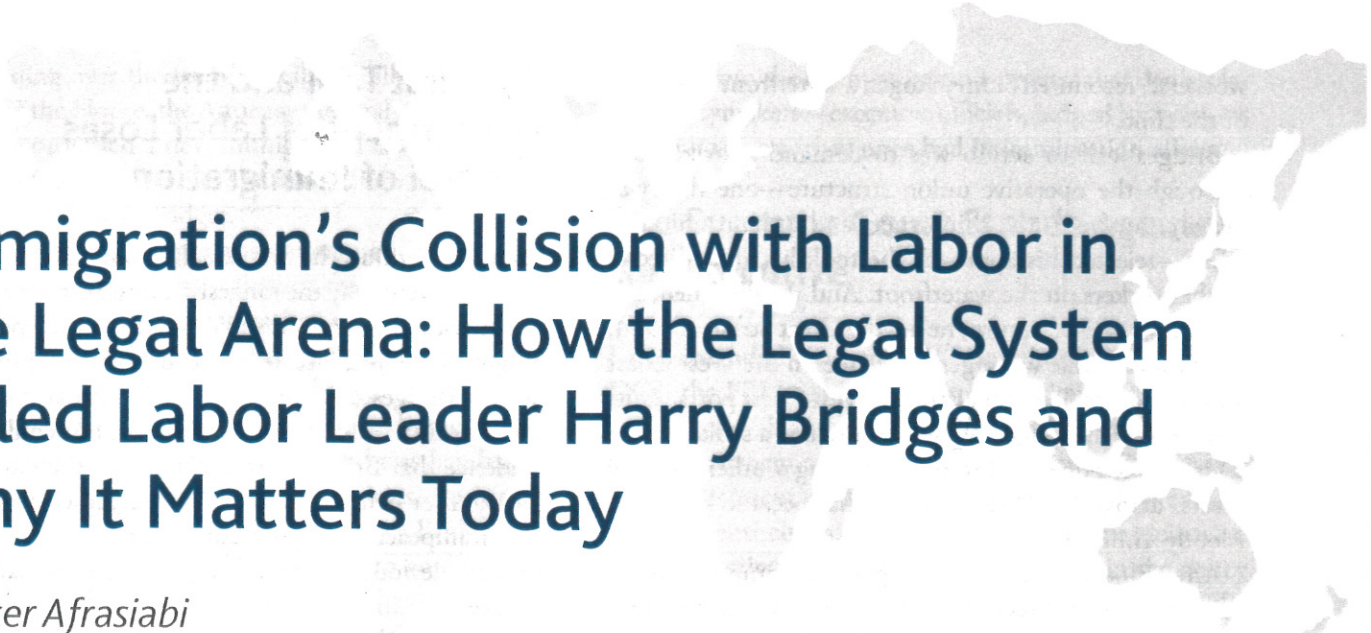
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By Peter Afrasiabi

Bloody Thursday and the Rise of Harry Bridges

"He was an inexplicable man who just appeared from this mist," remarked in 1934 Secretary of Labor Frances Perkins about Australian immigrant, longshoreman and labor activist Harry Bridges.¹ In that Summer of 1934, labor tensions simmered to the boiling point on the Embarcadero as longshoremen began rallying around Harry Bridges, and his call for a real union willing to wield the power of a strike. Bridges' era of course was the Great Depression, the era of the notorious twin practices known as the Shape Up and Speed Up, practices aimed at pushing longshoremen to the literal breaking point. The Shape Up was a practice involving the herding of men together to plead for the chance to work from the foreman, who generally gave work to those paid kickbacks. The practice was deemed sufficiently abhorrent that it had been outlawed in England in the 1800s. The Speed Up involved men working 18, 24 or even 36 hour shifts to rapidly offload cargo; if they complained, they were often blacklisted.²

As tensions simmered between the shipowners and employers' associations, on the one hand, and the broken union structure, on the other, Harry Bridges came to the forefront as a voice of action. Bridges was a longshoreman, not a political operative or a member of any union organization. But he began speaking loudly on the waterfront for the need for a democratic union, for fair hours and pay, and to abandon the twin practices of the Shape Up and Speed Up. "When he came to this country from Australia, he already had an Aussie point of view about the difference between the master class and the slave class, the owning class and the working class. When he got here he had kind of an instinct for leadership among

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workers," recounted Sidney Roger, a waterfront journalist of the time.³

Bridges' call to action was to demand a strike, and although the operative union structure—one that was heavily captive to the shipowners and a sham union in effect—rejected his approach, he took his aims directly to the workers on the waterfront. And they listened, demanding a strike. In turn, he led the Great Strike of 1934, which for a while was a general strike on the West Coast and shut down San Francisco and West Coast ports. At its time, it was the longest West Coast strike, a strike during which police opened fire on protesting workers, killing several across the West Coast in what became known as Bloody Thursday.⁴

After Bloody Thursday, Bridges led a funeral procession up Market Street to bury the fallen workers, and it is reported that there were up to 50,000 protesters who joined the procession. As the Governor put steel-helmeted National Guard on the streets of San Francisco, a forced peace descended and federal mediators set to work to resolve the situation. After a federal mediation board met, a solution emerged that gave workers real rights and a real union. Out of this fog of street warfare and strikes, Harry Bridges now emerged as the leader of this new union.⁵

Bridges' success in creating a real union however unleashed powerful forces that worked to reverse his gains and quell his voice. Because Bridges was an immigrant, the focal point within the legal system to attack Bridges became the immigration court system, then still ensconced within the INS which was managed by the Department of Labor. Under immigration law of the time, if Bridges could be proven a member of the Communist Party then he could be deported, his voice forever silenced.⁶

And so it began in the mid-1930s that the INS within the Department of Labor initiated deportation proceedings against Harry Bridges, lighting a match on a legal battle that would last 20 years, span four serial deportation trials, culminating in the longest and most bitter deportation battle in American history. The result is that this story of an immigrant, who rose to prominence on the waterfront and forever changed unionism on the West Coast, is not just a story of labor's struggles. Rather, within the legal system the Bridges saga is in fact a story that sits at the intersection of labor and immigration policy, where politicized aims in the realm of immigration forever altered the relationship between labor and immigration, and a story that sent ripples through time, ripples that have now in 2017 landed on our shores as we enter a new era of intense immigration activity within the Executive Branch.

The First Trial and the Department of Labor Loses Control of Immigration

Secretary Perkins, the first female cabinet member in history and eventually the longest serving Secretary of Labor in American history, was subjected to scathing private and congressional pressure to initiate deportation proceedings against Bridges starting in 1934. Her Department of Labor and INS conducted investigations but could find no evidence that Bridges was a member of the Communist Party. After being hauled before the Judiciary Committee on impeachment proceedings for allegedly failing her duty to zealously deport Bridges, she eventually began proceedings in 1938.⁷

Handed to lawyers in the INS within the Department of Labor, the trial was a shambolic mess from the get-go. Tried before the Dean of the Harvard Law School, the government used witnesses who were caught perjuring themselves and tried to present fake evidence of an alleged secret Communist Party membership card. The government even rested the righteousness of its cause on a lawyer-witness who it turned out had been disbarred in the New York courts for jury tampering and then indicted with Al Capone. Peak tension erupted when convicted murderers—who were later pardoned as they too had been subjected to grossly improper fake trials—broke down on the witness stand and testified that government agents had promised them clemency for framing Bridges, but more murder convictions for refusals to help. The trial record for any lawyer is staggering to read, and filled with dramatic moments of cross-examination, lying witnesses, even witnesses attending court with guns. At the end of the trial, Dean Landis concluded the government's case was a shambles and the product of fake evidence, a veritable abuse of process. He discharged the deportation warrant and sent Bridges back to his union.⁸

This led to a congressional uproar, and to legal changes that would then have fateful consequences for decades. Congress demanded that Bridges be immediately deported as a threat to America. The debate was fiery. Emblamatic of the comments of congressmen, Representative William Colmer from Mississippi argued, "He has not comported himself in the manner that has met with the approval of American citizens generally. He has been a disturbing factor and ought to be deported from this country."⁹ The House of Representatives even voted 330-42 to deport him without further hearings and to remove any right of habeas corpus for him, passing overwhelmingly an unconstitutional bill of attainder. As a compromise to

avoid battling over the seemingly illegal bill of attainder that passed the House, the Attorney General working with the Senate proposed a new immigration law that would avoid double jeopardy issues and allow a new deportation trial to begin against Bridges.¹⁰

But re-deporting Bridges was not enough, as Congress wanted to remove Secretary Perkins from the equation. So in a government reorganization plan in 1940, the INS was moved from the Department of Labor to the Department of Justice. This agency change was profound, for immigration was now forever removed from those administering national labor policies and was handed to those administering criminal justice policies. And it all happened because of the desire to get Harry Bridges. As Senator Reynolds argued, "We are going to vote for this reorganization plan because the president has not the patriotism nor the courage to remove the secretary of labor."¹¹

Until 1940, national immigration policy had been viewed through a labor prism and seen as at root a labor issue, which is why the INS was within the Department of Labor. Now handed to the Department of Justice and FBI, immigration policy suddenly became a crime and justice issue. When immigration is viewed by policymakers through a labor prism, it necessarily follows that labor policies related to immigration stand at the forefront; but when immigration is seen as a criminal justice issue, labor policy drops out of the equation as the prism reorients. Consequently, in the following years the migrant agricultural labor program that had existed for seasonal workers was constricted leaving non-permitted workers, now known as illegal immigrants who in turn were then picked up and funneled through a national immigration policy rooted in criminal law.¹²

The Labor Department's loss of immigration all took place because of the passionate, political desire to get one man. And after 9/11, the precedent set by the Harry Bridges saga was again used to move the immigration agency to a different federal agency, now becoming ensconced within the Department of Homeland Security, which necessarily uses an even harsher lens as immigration is deemed a concern of national security. Regardless of the propriety of the shift of immigration policy between these departments, what is undeniable is that the labor department is now further removed from immigration than ever before. That immigration has deep labor-based roots is the subject of much academic writing, and some common sense too, and the loss of a labor prism over immigration is the first lesson to consider from the Harry Bridges saga. The politicized move of immigration from the realm of labor to criminal justice, all because of a desire to remove Frances Perkins from the immigration equation and Harry

Bridges from the country, began a process that denied labor policymakers—executive officials, judges, lawyers—as potent a voice as they once had in immigration affairs.

The Supreme Court Stands Against the Executive

Laws amended, and the INS now housed within the DOJ, the FBI began further investigations into Bridges' background. Handed to the FBI and its investigators and Department of Justice lawyers, Secretary Perkins and the Department of Labor were officially sidelined and removed entirely from the equation, from participating in the investigation, and from participating in the policy implications of removing a national labor leader. The FBI in turn began its investigation into Bridges and prepared a report on its findings.¹³

Before the Attorney General could read and assess the FBI's report, J. Edgar Hoover announced publicly, "beyond a doubt Bridges is a red."¹⁴ The Attorney General thus appointed an old friend of his as the new trial judge and so began a new trial. While evidence showed illegal wiretapping of Bridges, the judge refused to address the FBI's conduct and ignored the evidence. In turn, the second trial witnessed comparable drama to the first trial, that of hand-picked witnesses and professional anti-communist witnesses. Then, the DOJ-appointed judge accepted testimony from a witness that even the judge had concluded had perjured himself, and primarily on that basis deported Harry Bridges. When the appellate administrative board reversed the decision 5-0 as unsustainable under the law, the Attorney General simply stepped in and reversed the appellate board and reinstated the trial judge's decision.¹⁵

Harry Bridges took his case to the federal courts, where the district and circuit courts affirmed the Attorney General's decision, relying on doctrines that demand deference to the executive in its handling of immigration. Remarkably, even while the majority of Ninth Circuit judges entered that conclusion, they indicated that they were not sure the truth of Harry Bridges' Communist Party ties had in fact come out at trial, concluding they "lacked the pleasurable satisfaction that ... the truth has been revealed."¹⁶

The case made its way to the United States Supreme Court in 1945, which heard a lengthy oral argument spanning two days and left the justices in hot disagreement behind closed doors as to Harry Bridges' fate.¹⁷ By one vote, however, Harry Bridges won and the Court found in no uncertain terms that the executive immigration action had been unconstitutional. The lasting powerful words from Justice Murphy of the Supreme Court demonstrated the

head of the judicial branch rebuffing in no uncertain terms illegal conduct by the executive branch: "The record in this case will stand forever as a monument to man's intolerance of man. Seldom if ever in the history of this nation has there been such a concentrated and relentless crusade to deport an individual because he dared to exercise the freedom that belongs to him as a human being and that is guaranteed to him by the Constitution."¹⁸

This leads to the second powerful lesson from the Harry Bridges saga: the critical role of a strong judiciary, a judiciary not willing to bend to the winds of the time or the Executive's demand for unfettered control over immigration policy. Where the lower federal courts had accepted the Attorney General's findings because of institutionalized doctrines that grant deference to the executive in its handling of immigration, the Supreme Court refused to allow such doctrines to impede basic American justice.

Conclusion

Today's immigration policy debate is as heated as any time since Harry Bridges' era. Passions are high on all sides, and the executive is demanding more control over immigration to the exclusion of the judiciary. Easily lost in the shuffle is the historical context that everyone stands in today as immigration policy is debated: (1) The labor prism that was so vital to national immigration policy in Secretary

Perkins' time has been vanquished as ever harsher lenses are taken to immigration policy, thereby further removing labor policy from the national immigration equation; and this very event occurred because of political reactivity to perceived fears centered around the threat of that time's ism, communism. (2) The role of robust federal courts to stand firm against executive overreaching is critical; the lower courts stood willing to deport Bridges, and it took a strong Supreme Court to stand up to the executive on an issue of communism against an unpopular labor leader during a time of great national fear. Reinjecting labor policy into the immigration debate and demanding a strong independent judiciary remain two critical lessons from the Harry Bridges trial saga.

As for Harry Bridges, the federal courts would be called on again to mediate the issues around Harry Bridges, as the FBI and DOJ, despite losing before the Supreme Court, still prosecuted two more federal court deportation actions against Bridges for another full decade. Those cases were the most dramatic of all, with larger than life defense lawyers being imprisoned for zealously defending Bridges, witnesses caught in the cunning cross-examination traps of famed defense lawyers Vince Hallinan and Nuremberg Prosecutor Telford Taylor, improper jury pressure to convict, heavy judicial thumbs on the scales of justice, and again lower federal courts at times falling into the heady political winds of that time's moment.

ENDNOTES

¹ *Reminiscences of Frances Perkins, "An Oral History,"* (Columbia University 1955), Vol.6, Pt.2 at p.341.

² *United States v. Harry Bridges et al.*, Harry Bridges Testimony, Reporter's Transcript at pp.5175-95 (Feb 7, 1950); Charles P. Larowe, *Harry Bridges: The Rise & Fall of Radical Labor in the U.S.* (Lawrence Hill & Co. Publishers 1972), at 8.

³ *Harry Bridges: A Man and His Union*, Produced by Berry Minott and John Knoop (1992; MW Productions) (quoting interview of Sidney Roger).

⁴ Peter Afrasiabi, *Burning Bridges: America's 20-Year Crusade to Deport Labor Leader Harry Bridges* (Thirlmere Books Ltd. 2017), at 15-28.

⁵ Bridges Testimony at 5295 (Feb. 8, 1950); "Frisco in the Grip of Strike," Pathe News, 1934 Newsreel (Mayor Rossi speaking); Larowe at 80-91.

⁶ 8 U.S.C. § 137(a)-(e) (repealed 1952).

⁷ Wilbur Carr/Department of State Letter to Perkins/Department of Labor, October 6, 1934, referencing July 17, 1934, letter with informa-

tion about Bridges, from National Archives, San Bruno, CA (copy on file with author); INS Witness Interviews of Charles Peed, July 3, 1934, RG 85, Bridges INS Inv. File 12020/25037, Box 4, NARA, San Bruno, CA (copy on file with author); Robert W. Cherny, "Harry Bridges, Labor Radicalism and the State," paper presented at "Harry Bridges and the Tradition of Dissent Among Waterfront Workers," University of Washington, Jan. 28, 1994, at 7 (hereafter "Cherny").

⁸ Dean James Landis Decision, *In the Matter of Harry Bridges* (Dec. 28, 1939).

⁹ 86 Cong. Rec. 8181-82 (June 13, 1940).

¹⁰ H.R. 9766 (June 13, 1940) (bill of attainder); Smith Act, § 23, codified at 8 U.S.C. § 137(g) (June 28, 1940).

¹¹ 86 Cong. Rec. 6608-09 (May 22, 1940), at 7290 ((May 31, 1940, quoting May 27, 1940).

¹² See, e.g., Mae Ngai, *The Strange Career of the Illegal Alien: Immigration Restriction and Deportation Policy in the United States, 1921-1965*, 21

Law & Hist. Rev. 69 (Univ. of Illinois 2003).

¹³ Afrasiabi at 113-15.

¹⁴ Francis Biddle, In Brief Authority at 297 (1962); New York Times, Dec. 17, 1940, p.1, Col.2; Ann Fagan-Ginger, Carol Weiss King: Human Rights Lawyer, 1895-1952, (Univ. Press of Colorado 1993), at 328.

¹⁵ *In the Matter of Harry Renton Bridges*, Memorandum of Decision by Judge Sears, Sep. 26, 1941; *In re Harry Bridges, Board of Immigration Appeals Decision*, Case No. 55973/217 (January 3, 1942).

¹⁶ *Ex Parte Bridges*, 49 F. Supp. 292, 307 (N.D. Cal. 1943); *Bridges v. Wixon*, 144 F.2d 927, 932-38 (9th Cir. 1944); *ibid.* at 937-38 (Stephens, J. concurring, joined by Wilbur and Mathews for the majority).

¹⁷ Justice Murphy Papers, *Bridges v. Wixon*, No. 788, Roll 131, at 131, Bentley Historical Library, University of Michigan (copies on file with author).

¹⁸ *Bridges v. Wixon*, 326 U.S. 135, 157 (1945).