

**ERNST  
VICTORY  
ISSUE**

JUNE, 1937  
Price 10c

*Congressmen*

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BURDICK  
COFFEE  
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**Deputy**

**Abelle Blume**

**Upton Sinclair**

**John L. Spivack**



**CAROL  
KING**



**George  
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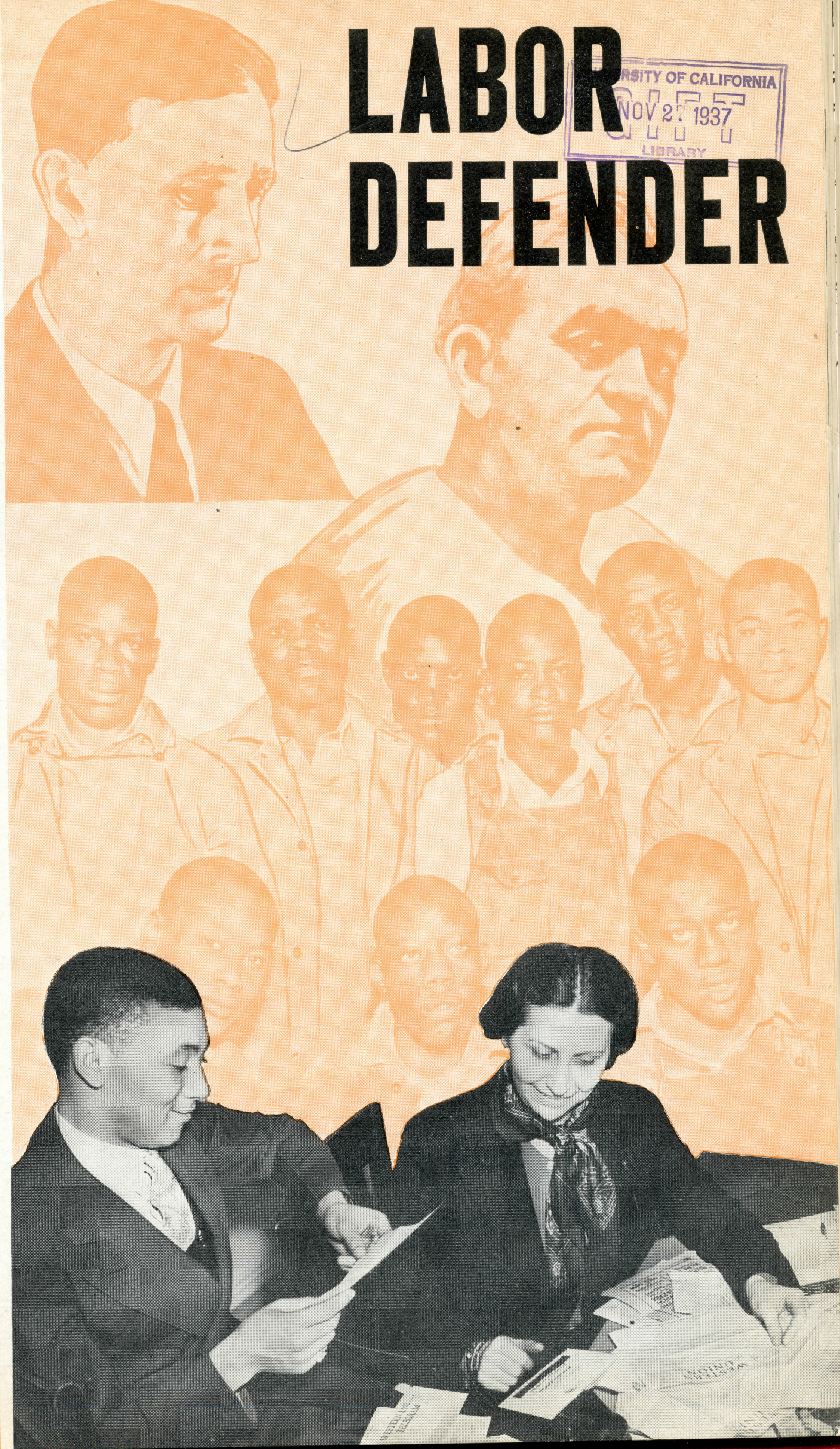
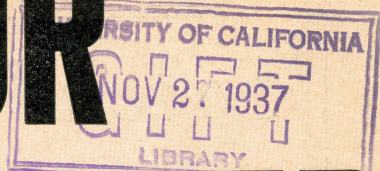
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**JUNE**

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**1937**

To all those who sent **MAY DAY**  
greetings to Labor's Prisoners

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we were unable to make room for all names not  
printed in the May issue.

They will **POSITIVELY APPEAR** in the **JULY** issue.

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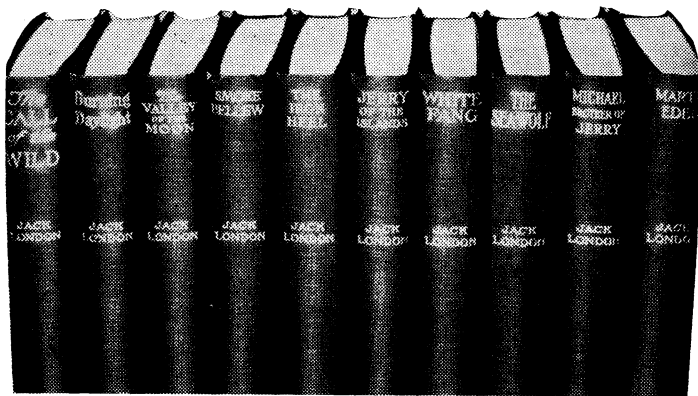
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# LABOR DEFENDER

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IN this issue we celebrate one of the greatest victories ever won against reaction by the united action of the progressive forces in America. Angelo Herndon is free. Our pages bring you statements from a small number of prominent Americans who participated in the five-year campaign that saved his life and won his freedom. We wish that we could print all the hundreds of telegrams of congratulations and greetings and rejoicing that came in on the day the Supreme Court handed down its decision.

We wish that we could list every one of the 2,000,000 people who signed their names for Herndon's freedom, who joined their forces in one united effort that brought victory.

We are proud of the part which the I.L.D. played in mobilizing and initiating the Herndon campaign. Elsewhere we discuss our plans for what comes next. Here we wish only to congratulate all those whose aid and support and participation made possible the gigantic campaign which ended in triumph. It was a great fight.

HOW legislatures can misrepresent the people is horribly illustrated in the vote in the California legislature on the various measures for a pardon for Tom Mooney. In the state assembly, a measure providing a legislative pardon for Mooney was passed by a vote of 45 to 28. Analysis of this vote shows that the 45 "yes" votes represented 1,135,441 voters; the 28 "no" votes, only 712,772, giving freedom for Mooney a clear popular majority of 422,669. A measure merely asking Governor Merriam to free Mooney was passed in the assembly and defeated in the Senate (as the first measure before it had been defeated) by a vote of 8 "yes," representing 1,273,930 voters, to 30 "no's," representing only 716,039 voters.

How House Joint Resolution 297 and Senate Joint Resolution 127, in the national Congress, asking Merriam to free Mooney, will fare, remains to be seen. There is an attempt to prevent a vote on this measure in either Senate or House. Your instructions to your Congressman and Senator will help bring a show-down.

ON JUNE 9, five young men and women will appear in the Third District Court of Appeals at Sacramento, California, to argue personally an appeal against conviction and long prison sentences on charges of criminal

syndicalism. They will be Martin Wilson and Pat Chambers, from San Quentin prison, Nora Conklin, Caroline Decker, and Albert Hougardy, out on parole. Leo Gallagher, International Labor Defense attorney, will appear on behalf of Jack Crane and Lorine Norman.

This personal appearance of defendants in a court of appeals, will be historic in the annals of political defense in American courts. The argument won't be just legal.

These defendants need your support in this fight. California needs your support, to defeat the anti-labor criminal syndicalism law of the state. Tell that court what you think of this law, and of its application in this case, now.

THE Brazilian government through its ambassador in Washington has been forced to yield to the pressure of public opinion. A delegation of outstanding Americans will be permitted to visit Brazil, see Luis Carlos Prestes and the other men condemned to long sentences by an illegal tribunal, and investigate the abrogation of civil liberties in that land.

Further united efforts to concentrate pressure on the Brazilian authorities must be exerted to secure the complete unconditional freedom of the Knight of Hope of the Brazilian people, and all the anti-fascist political prisoners condemned with him to a living death in Brazilian jungle prisons.

GOVERNMENT forces murdered nineteen Puerto Rican patriots on Palm Sunday last, firing without provocation into a group of Nationalist paraders at Ponce. Now the Island administration of General Blanton Winship, governor, and Ernest Gruening of the Department of Insular Affairs, has had the colossal effrontery to indict ten Puerto Rican nationalists including Lorenzo Pinero, secretary of the Party, on a charge of murder—murder committed by these men themselves.

The whole Puerto Rican administration, needs to be looked into carefully and now. It needs an airing. Such an airing is proposed by Representative John T. Bernard of Minnesota, in a resolution (H. Res. 184), providing for a Congressional investigation of the massacre at Ponce and its background. Get behind him in demanding passage of this resolution. LABOR DEFENDER readers know how to do it. Let's get busy.

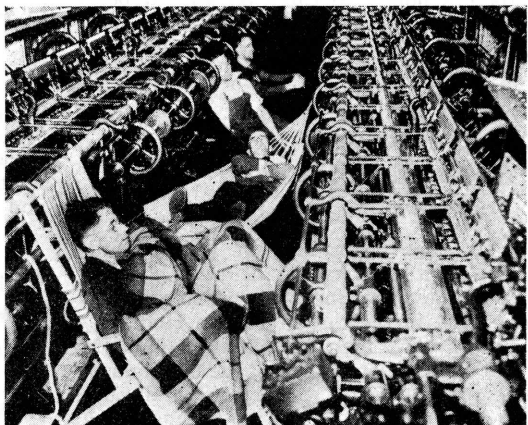


American labor is on the march led by the CIO. Above the dime-store sit-down strikers celebrate their victory over Woolworth, etc.

Auto strikers adopt the slogan of Spain's defenders of democracy. They're fighting for democracy too.



Hosiery workers sit-down along the line of march. Any doubt about who makes the wheels of industry go around?



## ON THE COVER

The photo on the cover showing Angelo Herndon and Anna Damon reading telegrams of congratulations was taken one hour after the decision was announced—by Photographer Peter Apyevski.



# Congratulations On The Herndon VICTORY



Above: Chained and shackled, beaten and driven. Herndon was saved from this fate—but chain-gangs have yet to be wiped out.

## Congressman John T. Bernard

Minnesota—Farmer Labor

Angelo Herndon is free. A heavy load has been lifted from millions of hearts. In every country of the world there are men and women who knew that the chain gang for Herndon meant stronger links in their own chains.

I salute the Victory Issue of the Labor Defender and the fine work of the International Labor Defense for the freedom of Angelo Herndon. During the long years when Herndon's case dragged through the courts the International Labor Defense led the campaign for justice and against the slave statute of Georgia. This campaign proved that the mass protests of all progressive people make the best advocate for freedom, in court as out of it.

Herndon's victory in the Supreme Court is but an echo of other victories at the polls and in the factories. But it is a victory won by too narrow a margin. The minority decision of the four reactionaries on the bench leaves no doubt in our minds that the fight is only just begun. As a representative in Congress I urge all those who worked for Herndon's liberty to carry on and support the President's proposal for a reformed court as the only assurance that the people may expect other court victories in the future.

## Congressman John M. Coffee

Washington—Democrat

I take this opportunity of joining with other Americans in hailing the decision of the United States Supreme Court which set aside the verdict in the case of Angelo Herndon. Those who love the true American tradition have fought valiantly against the determined forces of oppression, persecution and race hatred to achieve at last this monumental victory. The forces of public opinion have been slowly but surely mustered in mighty protest against the legal and official actions which invoked an un-American state law to arrest and sentence Angelo Herndon to many years in prison for the mere exercise of his civil and constitutional rights. This protest has played a part in finally winning freedom

for Herndon. I congratulate Angelo Herndon on his unremitting and finally successful fight for liberty. I congratulate all the defense groups and persons who were identified with this great campaign to obtain justice.

In the Herndon case one battle has been won. There are other battles left to fight in defense of similar victims of undemocratic and fascist-like forces in American life. I pledge anew my support for the continuing struggle we must maintain in order to make certain the finer aspects of American democracy will be safely preserved against all those who seek to destroy them.

## Congressman Usher L. Burdick

North Dakota—Republican

The Herndon decision by the Supreme Court was another mile stone in the progress of human freedom. Without free speech and a free press there can be no government maintained that will respond to the wishes of the people. Public opinion is the greatest weapon possessed by the people in maintaining popular government. Public opinion is more powerful than armies and navies.

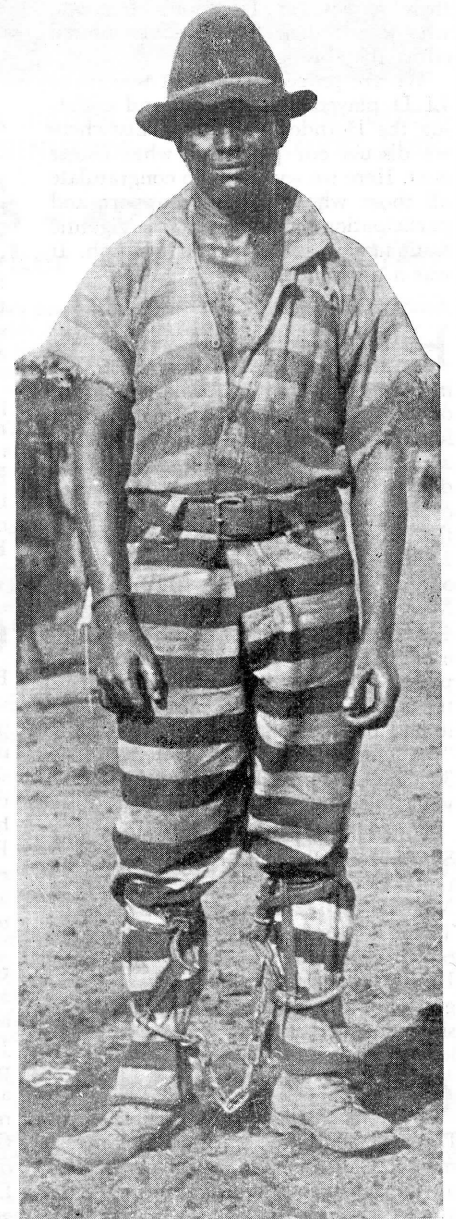
A great debt of gratitude will ever be owed by the American people to those members and supporters of the Herndon Committee who fought for five years, without pay, to save the life and liberty of this one man. In doing this noble work these citizens have made secure to all in this country, their right of free speech. The Supreme Court of the United States responded nobly to the wishes and prayers of a free people.

## Congressman Matthew A. Dunn

Pennsylvania—Democrat

I am mighty glad that the Supreme Court of the United States rendered a favorable decision in the interest of Mr. Angelo Herndon, the colored gentleman who was sentenced to a hellish prison in the State of Georgia because he had the courage to champion the rights of his fellowmen.

Men of all colors, creeds and nationalities have subjected themselves to unbearable torture and have sacrificed their lives for the



Congressman Dunn has a bill to abolish such savagery against human beings. Get your congressman to support it.



welfare of Humanity. Religious, national and race hatred are responsible for a great deal of the ignorance and superstition prevailing throughout the world and is causing the human race unnecessary suffering. Let us hope that the time is not far distant when these social evils will be banished from the earth!

### **Congressman Emanuel Celler**

*New York—Democrat*

I wish to state that I am pleased to have been of help in the Angelo Herndon case.

While I disagree most emphatically with his political opinions, nevertheless, I deem it very important to have him vindicated in order that he may be permitted to express himself. I repeat with Voltaire that "I may disagree utterly with what you say, but I shall fight to the death for your right to say it."

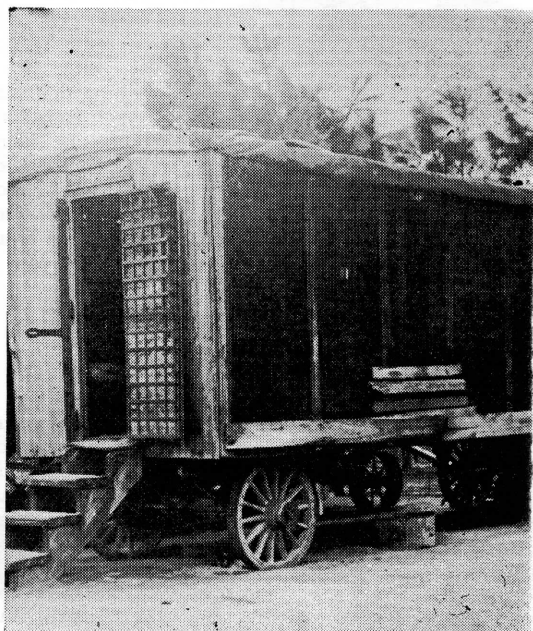
al Labor Defense, displayed a fine militancy in this struggle and deserves the fullest support from all progressive people.

The success in freeing Herndon should encourage the masses to re-double their efforts to free Tom Mooney, the Scottsboro boys, Thaelmann, J. B. McNamara, the Kentucky miners, and the many other political prisoners now languishing in jails. It should give renewed strength to the movement to wipe off the statute books the criminal syndicalism laws that disgrace the country.

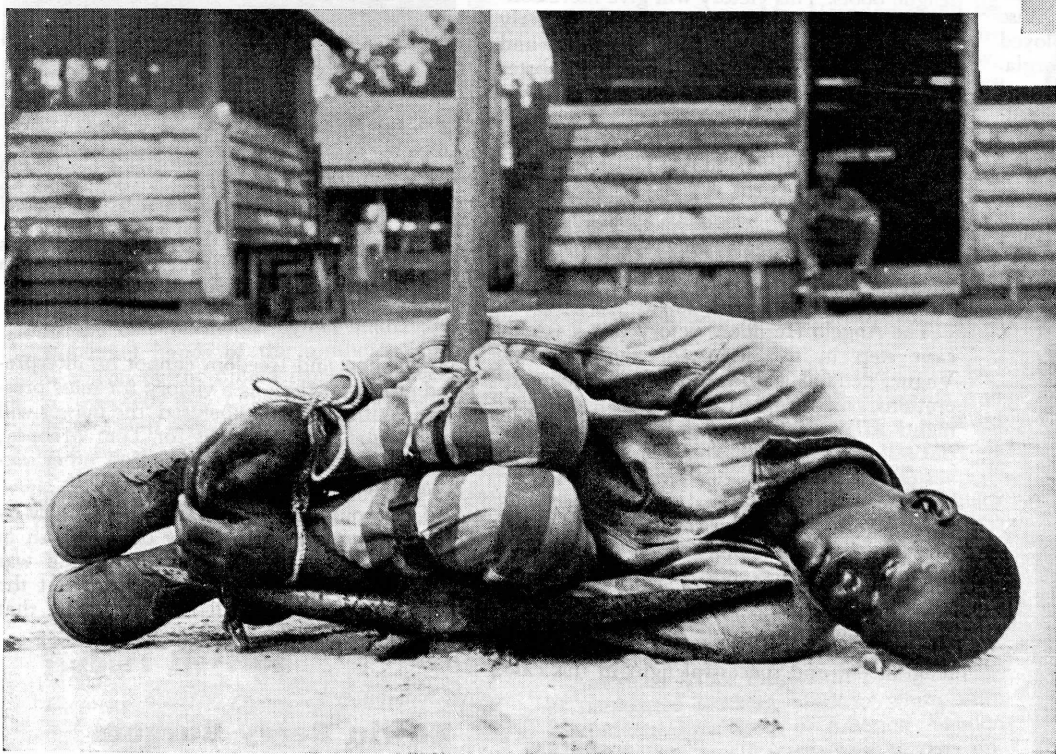
### **John P. Davis**

*Secretary, National Negro Congress*

The International Labor Defense deserves the gratitude of the Negro people and of all progressive people in America for its brilliant victory in the case of Angelo Herndon. This victory confirms the wisdom of the use of mass pressure and indicates the grave need for



Above: Georgia authorities' idea of ideal living conditions for prisoners. They had the worst chain-gang in Georgia—in the turpentine swamps—all picked out for Angelo Herndon. These cages house 12 men. The bunks are of steel and in three tiers. Sanitation and hygiene don't exist. Prison officials say: "We keep our men in the open air."



Left: John L. Spivaack got this picture on a Georgia chain-gang. The boy is being punished for "talking back."! Such punishments are common and were intended for Angelo Herndon for 18 to 20 years! Public opinion in Georgia, as well as throughout the country, forced chain-gang officials to abolish the use of stocks as punishment. They have not yet abolished the use of guns, whips, blows with rifle-butts, cages, miserable food—and chain-gangs themselves!

### **William Z. Foster**

*Chairman, Communist Party*

The action of the United States Supreme Court in declaring unconstitutional the Georgia Insurrection Law and freeing Angelo Herndon, constitutes an important victory, not only for the cause of civil rights generally, but especially for the masses of oppressed Negro people in this country. The only way the reactionary Supreme Court could be brought around to make such a decision was under the force of mass pressure. It just goes to show what the united forces of democracy can do when they only set out in a determined manner to do it, and build themselves a solid united front for the purpose.

The International Labor Defense is especially to be congratulated on the outcome of this case. It has been the leader and the real backbone of the whole united front struggle for the release of Herndon ever since his arrest. As in many other cases, the International

reforming the Supreme Court so that the fate of such fighters of the working class as Angelo Herndon will never again be permitted to hang in the balance, depending on the judgement of one man. The Herndon case should mark the beginning of a nation-wide struggle of Negro people for the basic citizenship rights guaranteed them by the Constitution and its Amendments. In the struggle ahead we shall look for the International Labor Defense to continue to play a significant role.

### **John L. Spivaack**

*Ace journalist, chain-gang "authority"*

Angelo Herndon's release is a historic victory for mass tactics, policies, for labor as well as for the victims of labor activities. Without the I.L.D. leading the fight and the countless thousands throughout the United States who let their opinions be known in demanding that Herndon be saved from the

living death on a Georgia Chain-gang, Herndon today would probably be a dead man.

But, great and important as this victory is, its real importance lies in showing us that it can be done. There are plenty of other political prisoners for whom the same tactics and keen legal counsel are needed. So with the knowledge of what has been done, more power to the I.L.D. leadership to continue doing the same for the other class war prisoners.

### **Upton Sinclair**

It is of the utmost importance that the effort to strangle working class agitation throughout the country should be balked, and this applies especially to the South, where the labor problem is complicated because of racial prejudices. On this account I join in your rejoicing about the Herndon case. I never had the pleasure of meeting him, but from what I have read about him, he has conducted himself effectively and with dignity.



## William L. Patterson

By cable

Warmest congratulations to all participants in the struggle for freedom of Herndon. Fight for democratic rights can be won. Mooney, Billings, the Scottsboro Boys, McNamara and all other victims of anti-democratic forces next. Forward to greater victories. Deplore illness which keeps me from personally carrying on the fight with you.

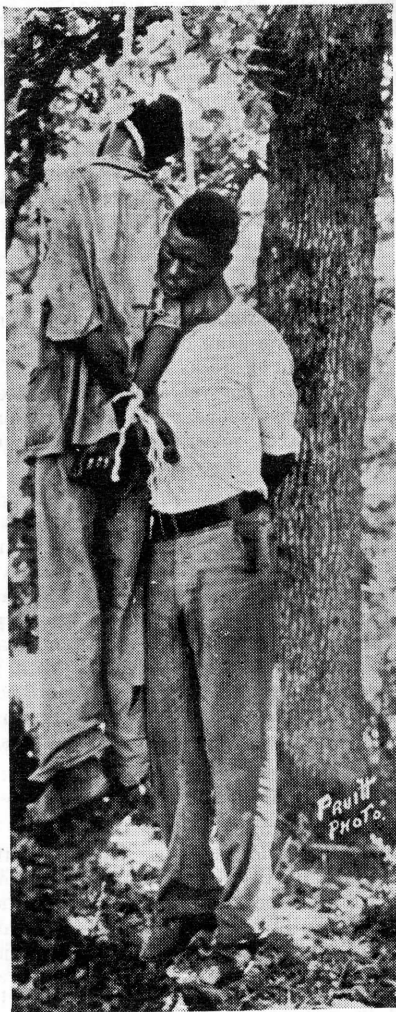
## Ann Burlak

Textile organizer, one of the Atlanta Six

Angelo Herndon is free! The infamous insurrection law which was used to imprison over a score of Negro and white workers in Georgia has been declared unconstitutional by the U. S. Supreme Court. All southern labor can rejoice in Angelo Herndon's freedom!

This victory means more than the freedom of one Negro boy, who dared to raise his voice in the interests of the unemployed and exploited workers in Atlanta, Georgia. Herndon's freedom means a big step forward in the struggle for Negro liberation nationally. It is a staggering body blow at the whole putrid jim crow and lynch system of the south. Herndon's freedom is a victory for all of southern labor—Negro and white.

We must not forget that the same insur-



Lynch law still reigns in the State of Georgia. Support the federal anti-lynching legislation now blocked in a Senate Committee.

rection law which was used to sentence Angelo Herndon to the chain gang, was also used against 6 Negro and white organizers in 1930 (the Atlanta Six); then again in 1933 against 18 members of the International Workers Order, and again in 1934 against a southern white girl who dared to lead a picket line in the general textile strike. This insurrection law was held as an ax over the head of any worker, Negro or white, who dared to organize and demand decent living conditions in Georgia.

Today I, as one of the Atlanta Six, can say that we rejoice together with Angelo Herndon. Angelo Herndon has been greatly responsible for this victory because of the courageous stand he took at the trial and during the five years it took to win this case. Angelo Herndon, you are a worthy son of the American working class, and we are proud of you.

This victory means that now the organization of the tens of thousands of textile workers into the CIO can go ahead with seven league boots. This victory will give more confidence, more determination to the bitterly exploited textile workers to join the CIO and establish for themselves higher wages, shorter hours, and decent working conditions. FORWARD TO MORE VICTORIES FOR SOUTHERN LABOR. FORWARD TO 100% UNIONIZED SOUTH.

## Arthur Garfield Hays

Counsel, American Civil Liberties Union

The Angelo Herndon victory was a significant step in the fight for civil liberties. Vague, general statutes have been, for generations, the simplest method for governments to "get" a man whom they want to put out of the way. In the well-known "Harvester" and other cases, criminal laws have been held unconstitutional under which men might "guess" themselves into jail. It is about time that a "sedition" statute was thrown out on the same ground. The International Labor Defense and Whitney Seymour deserve the gratitude of every man who believes in liberty and democracy for their magnificent and successful fight in this case.

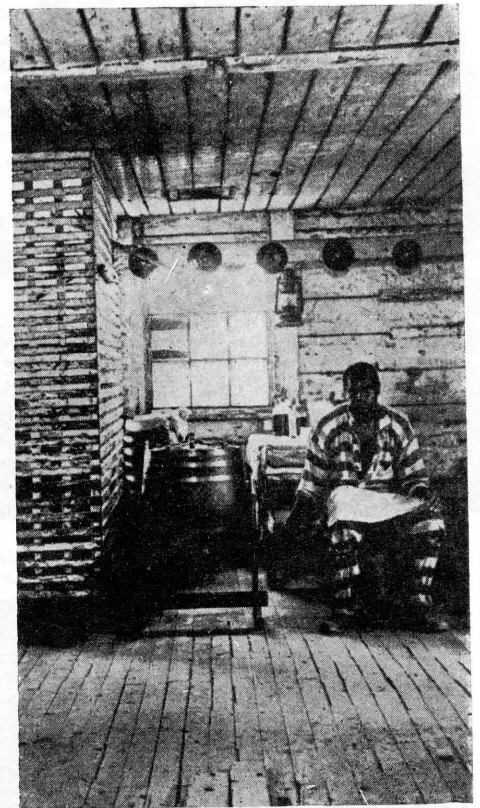
## Ted Poston

Negro journalist, New York Post

My own part in the fight for Angelo Herndon has been so small that I am reluctant to accept an honor which thousands of others so richly deserve. Surely others are more qualified to comment on the significance of the campaign and its glorious outcome.

If my numerous stories and interviews with Herndon contributed anything to the success of the fight, the credit is his and not mine. For, of the hundreds of persons I have interviewed in my capacity as a newspaper reporter, none has had a firmer grasp or a better understanding of the factors affecting his particular case than Herndon. To talk to Herndon was to allow him to write his own story.

One fact does impress me however about the long struggle. It is important that the masses were able to keep faith with Herndon. Surely no political prisoner ever had more faith in the ultimate victory of the masses than this courageous youth. And his final



A chain-gang barracks in Georgia. This is an "improvement" over cages. The Herndon campaign helped expose these evils.

vindication and freedom cannot be interpreted otherwise than as a victory for mass pressure. With Herndon liberated, the masses will have more heart to fight for Tom Mooney, the Scottsboro Boys and countless other victims of class persecution.

One would not detract from the victory by recognizing that it was only one skirmish in a continuous warfare. Herndon himself was one of the first to accept this fact. But the struggle for others will be easier now that Herndon may take his place in the ranks.

## Edwin Berry Burgum

Professor N.Y.U., Officer American Federation of Teachers

The series of trials to which Angelo Herndon was subjected reveal glaringly the archaisms of our legal system. A statute of doubtful validity at any time, passed to meet one set of circumstances, remains on the books, and is revived almost a century later to be applied to a quite different set of circumstances. Under such procedure the "law" becomes the tool of unscrupulous politicians and petti-fogging lawyers; an immense obstacle in the way of justice for the common man.

But the case shows that even the most gross iniquity can be undone by the pressure of an aroused public opinion. It proves that public opinion can become the law, which is what, in an educated enlightened society, it ought to be. Meanwhile all praise to the intended victim, who never flinched, and gave us a fine example of manhood, the first, I believe, in which a Negro emerged as accepted hero among whites and blacks alike.



## A. Philip Randolph

*International President, Brotherhood of Sleeping Car Porters*

Just a word to express my regret that my engagement here in writing a wage agreement for Pullman porters with the Pullman Company and the National Mediation Board prevented my writing a statement concerning the great victory achieved by mass pressure of the workers and the lovers of liberty in America in the liberation of Angelo Herndon through the United States Supreme Court Decision.

I am glad to say that the Brotherhood of Sleeping Car Porters did its part, not only in helping to create mass sentiment against the Slave Insurrection Law, under which Angelo Herndon was persecuted and threatened to be sent to the chain-gang, but it also gave its mite in money to help meet the expenses of the great fight. This victory should encourage the workers and the militant forces that are fighting for the preservation of democracy to fight on with renewed determination, since only through mass action will it be possible to preserve the democratic institutions from the blight and menace of Fascism.

## From the U. S. S. R.

*By cable*

Warm proletarian greetings to you, Angelo Herndon, personally. The outstanding victory in the case of heroic fighter snatched from the cruel hands of the southern capitalists was won by the united front of workers and progressives stop mighty demonstration here May 1 stop rejoice in the victory of socialism and the Stalinist Constitution guarantee defeat world fascism stop forward in the fight for freedom Thaelmann, Mooney and all class war prisoners and victims of fascism stop.

THAELMANN FOREIGN WORKERS CLUB—*Anglo-American Section*

## Hubert Herring

*Executive Director, Comm. on Cultural Relations with Latin America*

I wish to add my word of congratulation upon the significant victory in the case of Angelo Herndon. This is one of the most heartening steps in the long fight for fair dealing with the Negro.

## George S. Schuyler

*Negro journalist, Pittsburgh Courier*

The successful culmination of the long and skillful campaign waged for the release of Angelo Herndon is gratifying to all who admire high courage and are working for a better world. This is an event of great significance in the history of American Labor because it strengthens and encourages those seeking to change society.

This campaign served as an example of that persistence, legal knowledge and propaganda accompaniment so essential to successful labor defense, to the procuring of the pecuniary sinews of legal warfare, and to

the breaking down of prejudices against advanced working class action.

This campaign served to definitely prepare the way for a wider assault on the prevailing Georgia reactionism whose outward expression is lynching, jim-crowism, police terror, starvation, degradation and death.

This campaign served to bring to the fore a young laborite of sterling courage whose message has inspired and will continue to inspire other young workers to follow in his footsteps. Angelo Herndon's eager readiness to risk martyrdom for his beliefs and for the working class is in the best revolutionary tradition.

## Rev. William Lloyd Imes

*Negro Minister, N. Y.*

The news of the victory for Angelo Herndon is received with real joy by all good citizens of America, regardless of race, creed or politics.

As long as young Mr. Herndon could be treated with the vilest of contempt by an unfair and evil use of an utterly "dead" law, so long could every other person's liberties be in jeopardy.

Now we have at least the faint glimmering of a new era of human justice. All good wishes to him for his splendid fight!

## Frank X. Martel

*President Detroit and Wayne County Federation of Labor*

The valiant fight made by the Labor Defenders and other agencies for the life and liberty of Angelo Herndon was a splendid example of persistent loyalty in the interests of a very worthy cause.

Frustration of the efforts of reactionary forces to use antiquated law, such as was done in the Herndon case, for the purpose of silencing the rising voice of Labor, will serve notice on all and sundry that despite all forms of oppression the citizens of this country will fight for the right to live in decency.

American Labor must come to the defense of persecuted workers, black or white, until the industrial overlords of America abandon the malicious practice of attempting to imprison or kill those who would raise their voices against oppression.

## Tom Mooney

Congratulations to you I.L.D. and to Angelo Herndon on your wonderful victory in the United States Supreme Court. Would like to have a copy of that opinion when you get hold of it. Give Angelo my warmest comradely greetings.

## J. B. McNamara

The news of the Herndon decision was certainly the most welcome and the most treasured received here. I know the decision gladdened the hearts of all the lovers of the speed of progress, but I hope it did not relax their vigilance on the lofty aims, ideals and purposes of life which they cherish. I am deeply



Angelo Herndon organized a demonstration in Atlanta to win relief and bread for him and his white brothers. The Supreme Court was finally "convinced" that this was not unconstitutional!

thankful to the National office of the International Labor Defense for its efforts to march abreast with the speed of progress because the I.L.D. represents all the lovers of the speed of progress for the common good of all human kind. In plain words I shared in the joyous news of a marvelous victory with all class conscious workers. I don't think you will disagree with me if I say here and now: the victory did not happen, it was brought about. My paper hand, and nothing withheld to comrade Herndon and all the members of his yet oppressed race.





Angelo Herndon organized a demonstration in Atlanta to win relief and bread for him and his white brothers. The Supreme Court was finally "convinced" that this was not unconstitutional!



# Dictators of the Country's Fate

A keen analysis of the Supreme Court decision in the Herndon case by one of the outstanding attorneys who did great work on the legal side of the defense.

By CAROL KING



Above: Their Honors in full dress. The men to the right and left of Chief Justice Hughes have gone. Holmes is dead and replaced by Cardozo. Van Devanter has just resigned.  
Below: The strong arms of the law which they usually upho'd!

On April 26, 1937, the wires brought the news to a waiting world. Angelo Herndon was free. Free to carry on his chosen work. A five-year struggle, which had started in July, 1932, when Herndon led a Negro and white demonstration demanding—and getting—relief in Atlanta, Georgia, was ended.

The son of an Ohio miner, Herndon found himself a world figure, with the workers of America, black and white, massed behind him in the fight to save him from the chain-gang. The difficulties and technicalities put in the way of his defense by the courts were met by an array of legal talent which a major corporation might envy. Together these forces won the battle against the slave-drivers behind Georgia's insurrection law by a scant margin of one vote from a majority of the nine old men who presume to set themselves up as dictators of the country's fate. Mr. Justice Roberts, upon whose changing views

depends what the American people can or cannot "constitutionally" do, wrote the winning opinion in the Supreme Court lottery. The dissent of the reactionary minority of four was written by Mr. Justice Van Devanter.

The close division of the court, the lines of reasoning on which the judges split, and the obvious relation between the social and economic views of some of the justices and the sides on which they voted, serve as another indication of how little importance legalistic authorities have as compared with living factors and prejudices. One of the factors in the Herndon case was the President's proposal for reform of the court, announced to the world three days before the argument in the case, helping to bludgeon it into a more decent point of view at the time of the decision.

It is to be remembered that in 1935 the

same nine old men, by a vote of six to three, threw out Herndon's appeal on the extremely technical ground of "lack of jurisdiction." Justice Cardozo wrote a scorching dissent for the minority of three, in which he showed that Herndon had fulfilled every necessary legal technicality, and had a right to a forthright opinion. The majority held that Herndon had not raised the question of constitutionality quite so soon in the case as he should. The minority said this was ridiculous. This raises the question: If three Justices of the United States Supreme Court think a technical legal procedure is proper, how can an ordinary lawyer know it's wrong? Or is it wrong because six justices say it is? To those who have faith in the self-declared divinity of the Supreme Court, it's very confusing.

If it had not been for a special Georgia procedure authorizing the raising of the constitutional question by a writ of habeas corpus—certainly not written into the state court practice for the benefit of Angelo Herndon or any other Negro, or any other worker—Herndon would be unconstitutionally serving 18 to 20 years on the Georgia chain-gang. And the Supreme Court with supreme indifference would serenely ignore the fact, and say (in a majority opinion which would, of course, never be written), so what?

The opinion of Mr. Justice Roberts in the second appeal established some important propositions of law, which are valuable to remember and to fight for. It reestablished the test that the right of free speech and assembly can constitutionally be limited only where this right constitutes a "clear and present danger" to the state, unless (there's always a "but" to such fine decisions) the state passes a law declaring certain specified conduct to be illegal. In other words, if the state declares specifically and in so many words that publishing provocative literature is a crime, then the publishing of such literature, after the court has decided the literature is provocative, (the courts hold) constitutes a "clear and present danger" to the safety of the state. Justice Roberts as much as suggested, in the present decision, that if Georgia had passed a criminal syndicalism law with the death penalty attached, then the state would have been perfectly justified, so far as Justice Roberts was concerned, in murdering Angelo Herndon.

But the court did recognize, in an opinion that is confused and difficult to understand—therefore subject to re-interpretation to suit the next whim of the nine old men—that state action was not unlimited. He said:

*"The judgment of the legislature is not unfettered. The limitation upon individual liberty must have appropriate relation to the safety of the state. Legislation which goes beyond this need violates the principle of the Constitution."*

The decision is full of contradictions, and it would need a real test in the same court to determine the legality of Herndon's conduct. Apparently, it would depend upon whether the state actually declared in so many words that what Herndon did and said constituted under existing circumstances a danger to the safety of the state. It's all very confusing—perhaps intentionally so—to the lawyer, how much more to the lay citizen who has to use this decision of more than 7,000 words as a test of whether he can do this, or do that, or not.

In this long, confused opinion, Justice



Roberts set forth two grounds for Herndon's release. The first was that Herndon, an organizer for the Communist Party who had solicited members for the Party, had not been proved to have incited to any unlawful action. The second was that the statute as applied to Herndon and construed in his case did not "furnish sufficiently ascertainable standard of guilt."

All in all, it becomes apparent that it was the people of the United States, assisted by able counsel, organized by the International Labor Defense, who saved Herndon, and decidedly not the nine old men.

One point should be added illustrative of the way the prejudices of men follow them and direct their actions on the United States Supreme Court bench as well as anywhere else: The four dissenting Justices, Van Devanter, Sutherland, McReynolds and Butler, agreed that in spite of everything, even the President's proposal, Herndon should by all means be tortured on the Georgia chain-gang for the greater glory of the Constitution. They regularly believe in the strict construction of the Constitution, and accordingly voted that the minimum wage laws and the National Labor Relations Act are illegal because they deprive big corporations of the benefits of the Fourteenth Amendment and the interstate commerce clause. In the Herndon case, on the other hand, they did not regard a Negro and a Communist as entitled to the constitutional guarantee of free speech and assembly. The Georgia Court had declared that it was enough to sustain Herndon's conviction if in expressing his views he had intended that an insurrection "should happen at any time within which he might reasonably expect his influence to continue to be directly operative in causing such action by those whom he sought to induce." Justice Roberts pointed out that under this construction a jury would have to speculate as to whether the defendant could reasonably have expected the views he expressed to result in unlawful conduct at some distant future time. On the result of the jury's guess the life or death of persons prosecuted under the Georgia Sedition Law would depend, for the statute carries a death penalty and it was only because the jury recommended "mercy" that Herndon received an 18 to 20 year sentence. Justice Roberts concluded that:

*"The statute as construed and applied, amounts merely to a dragnet which may enmesh anyone who agitates for a change of government if a jury can be persuaded that he ought to have foreseen his words would have some effect in the future conduct of others. No reasonably ascertainable standard of guilt is prescribed. So vague and indeterminate are the boundaries thus set to the freedom of speech and assembly that the law necessarily violates the guarantee of liberty embodied in the Fourteenth Amendment."*

Justice Van Devanter, in his dissenting opinion, twice mentioned the fact that Herndon was a Negro and an organizer for the Communist Party among other Negroes to whom, in view of their "past and present circumstances," the aims and tenets of the Party may well be expected to be attractive. Justice Van Devanter stated that advocacy of the aims of the Communist Party constituted advocacy of force "for all know that such measures could not be effected otherwise." The minority declared further that the

statute as construed prescribed a sufficiently definite standard of guilt.

The cases against 18 other defendants prosecuted under the Georgia Sedition Law cision, Communist Party organizers should be dropped as a result of the outcome of the Herndon case.

As a practical result of the Herndon decision Communist Party organizers should be able to carry on their work unimpeded in Georgia, and not only should this be true of party organizers but of persons active in behalf of left wing and trade union groups.



## We salute the Lawyers

The International Labor Defense wishes to take this opportunity for thanking the forces of the legal profession who were drawn into historic cooperation on the Herndon case.

They performed a truly vital task in making possible the victory of Herndon's freedom. Here we can name only a few of the most outstanding representatives of the profession who participated: Ben Davis, Jr. and John Geer, the two Atlanta Negro lawyers who braved the Southern lynchers to defend Angelo Herndon in the trial court; Whitney North Seymour, who argued the case in the Fulton County Superior Court, the Supreme Court of Georgia, and twice in the United States Supreme Court; Carol King, Herbert Wechsler, and Walter Gellhorn, who did brilliant work in preparing the case for argument; W. A. Sutherland of Atlanta, Georgia, counsel in the writ hearings and appeals; Charles Houston and Bethuel M. Webster who prepared a brief *amicus curiae* in the rehearing proceedings before the United States Supreme Court together with Arthur Garfield Hays and Morris Ernst; and the International Juridical Association, which as an organization must be given credit for bringing together and coordinating the legal talent that was drawn upon from all sides to make this case a success.

## AN APPEAL TO SOUTHERN YOUNG WORKERS



The cover of the leaflet issued by the Young Communist League, on which the Southern rulers place their charge of "insurrection" because it shows a Negro and a white boy shaking hands

This leaflet was the evidence against the Atlanta Six persecuted under the "Herndon" insurrection law.



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# FROM AN I.L.D.'er IN THE LINCOLN BATTALLION

You can answer this letter from Spain. We know you'll want to after you read it.

Dear Sasha:

The first person I met when I reached Spain was a representative of El Socorro Rojo Internacional, the I.L.D. of Spain. He was acting as a cook at an outpost far from any city. Some one told him I was from the New York I.L.D., and he greeted me warmly. "The people of America have been wonderful," he said, "but why do they not do something about their government's aid to our enemies the fascists?" He knew of course, that the American anti-fascists were demanding repeal of the Neutrality Act, but he wondered why the representatives of the people in Congress were permitted to pass unpopular bills against the wishes of the people. "You have a democratic form of government?" he asked. "Well, if the people have nothing to say—"

About the I.L.D. "All over the world the I.L.D. has helped us in Spain," he said. "Money, medical supplies, clothing, food—all from the workers of America, France, England, Mexico and the Soviet Union. Everywhere the I.L.D. has organized aid to our people who suffer because of the fascist invasion. Tell your people in New York that we greet them, and feel deeply their expressions of solidarity. Tell them never to stop, never to let up in their collection of funds and materials for aid to democracy in Spain."

The SRI is active everywhere in Spain. There is no town, however, small, without an SRI committee. No city without branches. The work done is extensive. There are the children, thousands of them, whose fathers are at the front or killed in defense of Spain's democracy. The SRI cares for these fatherless, homeless little ones, feeds them, gives them clothing. Watching these little ones here reminds one of the "Road to Life." As I write sitting in the doorway of a house in a little Spanish town, a dozen children mill around me asking questions—offering criticisms of my handwriting (they go to school and Spanish handwriting is flowery!) and applying a small thin blotter to the paper—trying to be helpful, but more often smearing the ink as can be seen above. (The lines at this point are quite blurred—Ed.) I try to convince them that time for school is near,

but they are in no hurry. They know how much time they have, and will be in school on time.

Ah! Time to go to school. One of the boys rallies the others. They depart— each one raising a little fist and crying "Salud" to me in farewell. All of them are consciously anti-fascist—like their fathers and mothers and all the workers of Spain.

SRI cares for the wounded at the front, in the hospitals. The International Red Cross has done little for Spain's heroic defenders. It has no representatives here, but I understand it has two small units somewhere—just to try to save its face. The SRI is the real Red Cross of Spain, aided by anti-fascist doctors and nurses from all over the world.

We know the value of the SRI here. We have smoked tobacco and eaten candy given us by the SRI. We have comrades-in-arms alive today, men who would have perished but for the medical care of the SRI. And every day the heroes of the International Brigade contribute at least 10% of their pay to the SRI. Many of us have received our membership books here.

When we receive news of work being done for Spain by anti-fascists in America we are encouraged—inspired to carry on against any obstacles. We want to keep faith with those who are fighting for us in the rear-guard in the United States. When a new arrival comes we crowd around, "What's doing in America?" We are eager to be assured that the campaign there is increasing. The *Daily Worker* arrives—and we scan its pages for news of work being done for Spain. We would like to see the *Labor Defender* but no copy has arrived yet. All of us long for news from home, for literature. We have a few books and pamphlets. But always we need more—more literature in English—more good books.

Do what you can about it will you? I will distribute any literature you send me. I am the leader of my group here and we have taken the name of John Reed. We have organized an American library—which you can help us fill.

Greetings to all—

L.

## CRUELTY

By ISABELLE BLUME, Deputy of Brussels

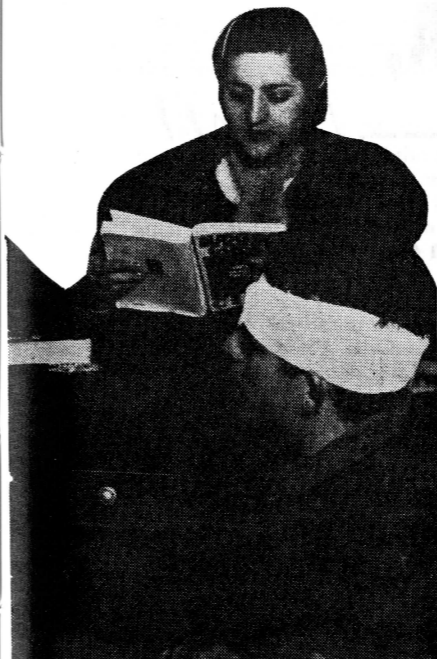
Why we must do more and more for the heroic people of Spain—and what they need.

It is not my intention to go over again the terrible story of the exodus of a whole population from Malaga. Others have related before me, or with me, the weary journey of those who were determined not to suffer the yoke of Franco. This determination alone accounts for that incredible procession of human beings, winding along for at least 50 miles, amidst harsh and dreary scenery reminiscent of some Dantean vision.

Everybody has heard by now the story of the tanks coming up behind the fugitives and directing a pitiless machine-gun fire upon them; of the aeroplanes which, indulging in the pleasure of a dangerless joy-ride, came down low in order to fire upon this ribbon of humanity; of the warships, increased in number from 3 to 12, which levelled their guns at these unhappy beings who could find no natural shelter from them. But there is



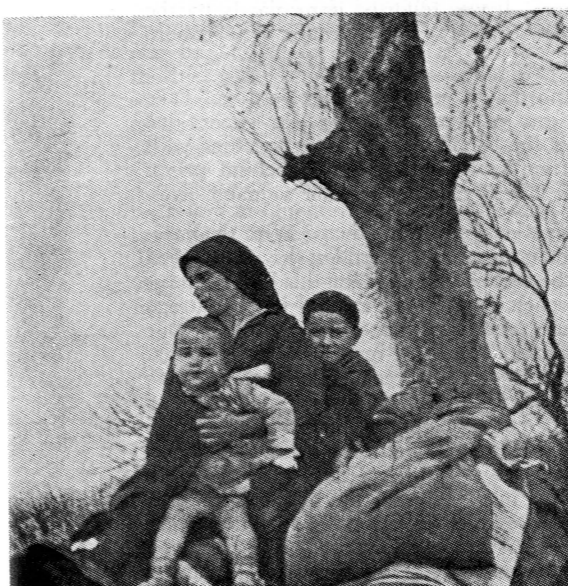
Eyes for the blind defenders of democracy.



She's reading them a story by Maxim Gorky.



All alone in the world. This Spanish child needs your support.



Madonna—1937—a peasant woman and her sons flee from fascist bullets.



Refugees from Franco fascists. All they have left is on the mule's back.



Refugees resting on their weary way to safety in Valencia.

still one detail which must not be forgotten—the shelling of Almeria, four days after the capture of Malaga—for this shows better than anything else the pleasure taken by the rebels in killing innocent, women and children.

The little town was swarming with people; every hour, every minute, more fugitives arrived. The streets were thronged, cars having to proceed at a snail's pace. The harbour and the squares were full of women and children waiting to be billeted out, for a boat to take them to Alicante, for some probably non-existent means of conveyance which would rest their tired limbs.

At about 7 o'clock in the evening, three Italian aeroplanes flew over the town and spent half an hour bombing the population. Where else could the bombs fall but on the women and children for whom there was no room in the houses? The scene of slaughter may be imagined.

Those who went on further were no better off, for the enemy pursued them to Alicante, Carthagena, Gandia, Valencia,—everywhere.

This savage slaughter of civilians, and bombing of open towns, faces the League of Nations, faces everyone, with the problem of a war callously waged against civilians. Even the Great War, except for the mad rage of the first days, did not witness any such systematic action against civilians. It is now a fact, established beyond all doubt, that civilians just as much as soldiers—perhaps even more—will henceforth be involved in war, and that in such a war no rules will be observed. This after all is only logic, for he who desires to kill and destroy should employ every means which will bring him nearer to his goal. But even if that is so, we cannot remain indifferent to this spectacle; the pointless cruelty of the rebels fills us with shame, remorse and revolt, and faces us with a whole number of problems to be solved.

First. The want of vehicles and of organization is forcing hundreds of women and children to remain in Madrid, under bombardment; the lack of lorries had obliged the women and children of Malaga to walk twenty to twenty-five miles a day in order to escape the enemy. Belgium suggested that she and the French Government should take up the question of the evacuation of Madrid. The reply is still awaited.

Failing action on the part of governments, international associations must buy lorries and send them with drivers, petrol and directing staff to the Spanish government, for use in evacuation.

Secondly. All this population must be housed in the towns and villages. Towns such as Valencia have had their population doubled at least; the population of Barcelona has risen by 25%. All along the Levantine coast there is not a single house or room unoccupied; all are full to overflowing. It is problematic whether there will be enough water and sufficient hygienic facilities to avert the ravages of typhoid once spring is here. What we have to deal with is an emigration en masse from one part of the country to the other. I could not help thinking, in seeing this, of the exodus of the Greeks after the capture of Smyrna and of the disasters which came of it.

The remedy seems fairly simple to me. We can help the Spanish municipalities by sending army huts all ready for putting up. As somebody said, there are enough valleys in

the Pyrenees to provide healthy sites for the refugees. America and other countries are specialists in this kind of building, surely something could be done to send a good number without delay.

It would also be desirable for fully equipped ambulances to patrol the overpopulated villages, supervise hygiene and be on the spot in case of need of first-aid treatment for the evacuated.

Thirdly. The problem of provisions. I want to say straight away that the Government and the municipalities are doing everything in their power to alleviate as far as possible the sufferings of the evacuated. But we must not forget the difficulties the Government has to face in obtaining the least little thing: ships turned out of their course or sunk, goods which fail to arrive, dishonest dealers, piracy—all the thousand obstacles which it has to face for being denied the benefit of international law.

The gifts sent by different organizations are naturally more than welcome, but I hope that no-one will bear me a grudge if I say that they are inadequate.

Fourthly. The question of organizing relief for emigres. When I was at Valencia and was able to obtain a near view of the work done by the ministers, the visits they receive, the delegations which follow on one another's heels, the declarations of sympathy which stream in—I was filled with admiration for them and at the same time with irritation for the muddling good-will of a whole swarm of organizations.

All help for refugees and for the evacuated should be concentrated in the hands of a single organization composed of delegates from different countries. How much time would be saved and efforts spared for more useful work if only everybody would not come to Spain with his own particular hobby-horse to ride! Efforts must no longer be dispersed. A committee composed of democrats—real ones, from all democratic countries and from every possible outlook—that is what we need. Men who will be willing to help and serve the Spanish Government, who will think not of their own particular method but only of a suffering people.

May that exodus from Malaga open our eyes. The people of Spain have no use for Franco; they are fleeing along the roads, into the crowded villages, their food and shelter is not assured.

Why should not we help them,—now?

## From an American Nurse in Spain

"We are now settled in a new school house, with no sanitary facilities (we all wonder how the Spaniards manage), a very feeble electric line, no telephone, no water, and a pretty awful road. We went immediately to the alcalde (mayor), head of the Popular Front, asking him for the full cooperation of the village in the installation and operation of the hospital. They did absolutely everything for us. We had dozens and dozens of men carrying out school desks and tables, the electricians were wiring the building for lights, the telephone service were installing two telephones, all the masons in the village were working the entire night knocking

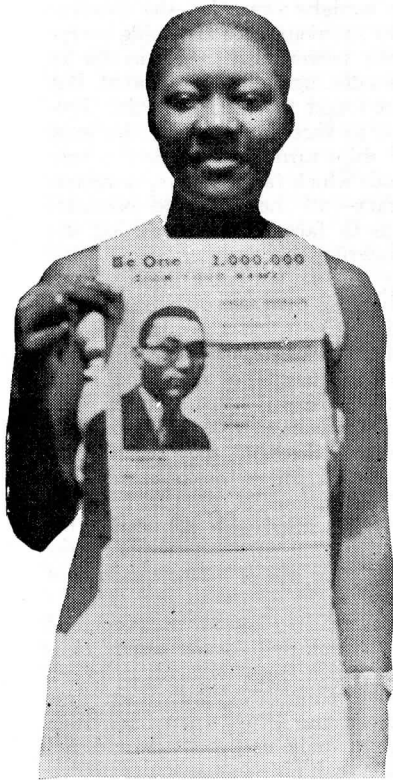
(Continued on Page 14)



# MOONEY, McNAMARA, SCOTTSBORO—*Next!*

The words were on the lips of millions. This tells you how it can be done and what you can do to help win the next victories.

By ANNA DAMON



During the few weeks that have passed since the happy news arrived that Angelo Herndon is a free man once more and that the insurrection law under which he was condemned was finally declared unconstitutional by the Supreme Court of the United States, we have had some time to look back over the campaign which brought victory.

It was a campaign that lasted five years. It was a campaign which involved millions. It was a campaign which for the first time in the history of the defense movement united organizations that had never worked together before.

The Herndon victory was definitely a victory for democratic rights in the United States, and a complete proof of the might and power of united mass action.

The five justices of the Supreme Court who voted in favor of freeing Herndon did not suddenly see the light. The Herndon case was before them once before and two of these same five voted against him—in a very learned opinion. The unfavorable decision at that time, in 1935, was completely reactionary and very firm. But these two justices like the man on the flying trapeze swung over—impelled by the force of public opinion. And that force was made up of every single signature on the 2,000,000 pardon petition, every single post-card, letter and telegram of protest, every single leaflet and Herndon stamp that was distributed during the five years of the Herndon campaign.

Public opinion is not born of spontaneous combustion. It is unwieldy. It requires the tireless, ceaseless, energetic work of one organization to mobilize the forces of public opinion into one mighty effort.

That work was the contribution of the International Labor Defense to the Herndon victory in which the people of the United States won over the determined opposition

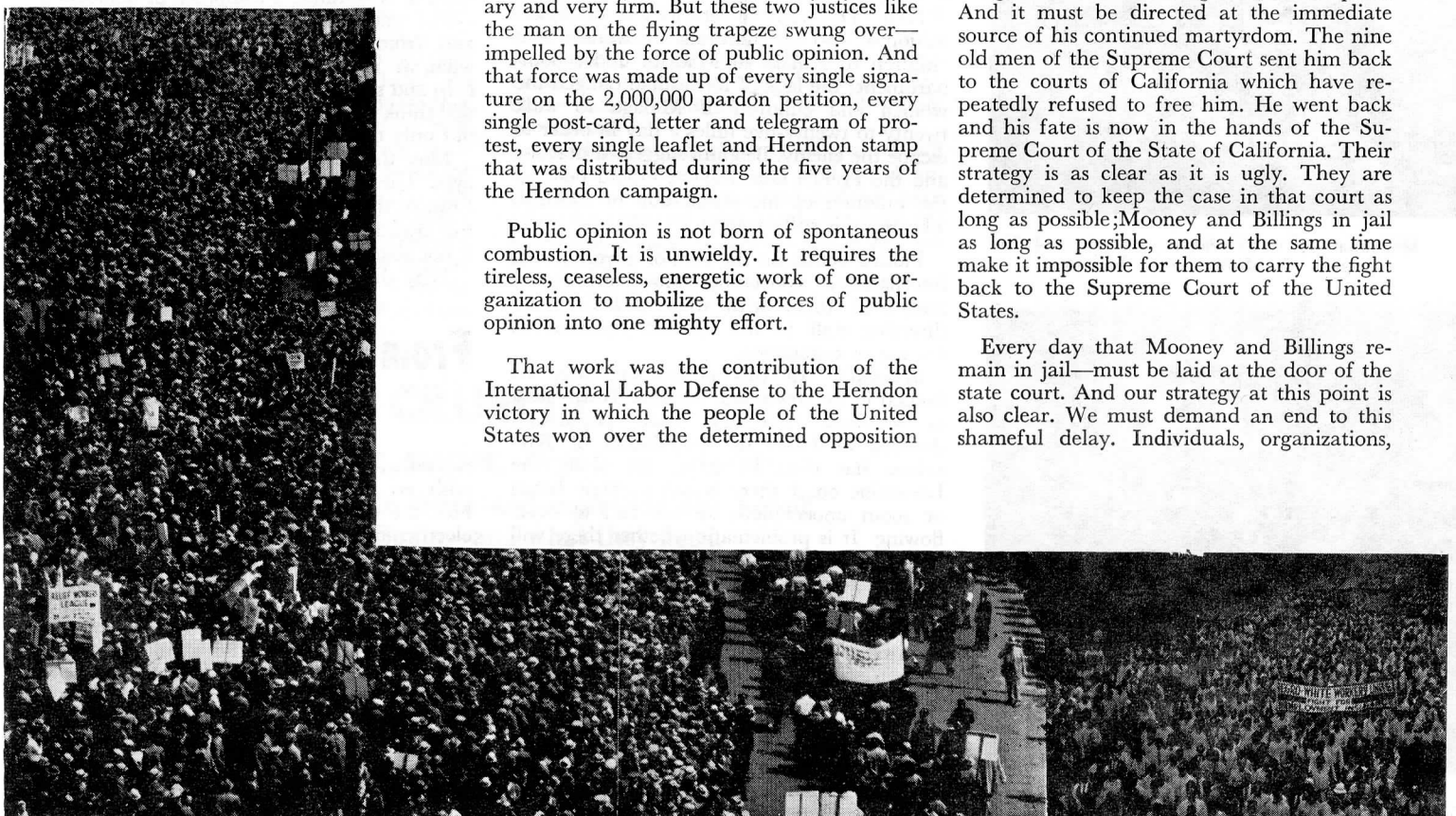
of the court and the lynch law forces of the Southern ruling class. This welding together of millions—from United States congressmen, mayors, church organizations, political parties, trade union bodies—to single voices in isolated communities—Negro and white together was more than just one successful campaign. It paves the way for greater unity in the defense field.

Herndon is free. As soon as this news reached our friends and co-workers and supporters—it was followed immediately by the words—Mooney, McNamara, Scottsboro next.

And that is just what must be done. Take the case of Tom Mooney—for twenty-one years this champion of labor together with Warren K. Billings has been behind prison bars. The best years of their valuable lives.

What can we do for them? With the energy generated in the Herndon drive electrified by the enthusiasm of saving his life, we must approach the Mooney case as if the outrage against labor had just been committed. Our indignation must be re-ignited, so to speak. And it must be directed at the immediate source of his continued martyrdom. The nine old men of the Supreme Court sent him back to the courts of California which have repeatedly refused to free him. He went back and his fate is now in the hands of the Supreme Court of the State of California. Their strategy is as clear as it is ugly. They are determined to keep the case in that court as long as possible; Mooney and Billings in jail as long as possible, and at the same time make it impossible for them to carry the fight back to the Supreme Court of the United States.

Every day that Mooney and Billings remain in jail—must be laid at the door of the state court. And our strategy at this point is also clear. We must demand an end to this shameful delay. Individuals, organizations,





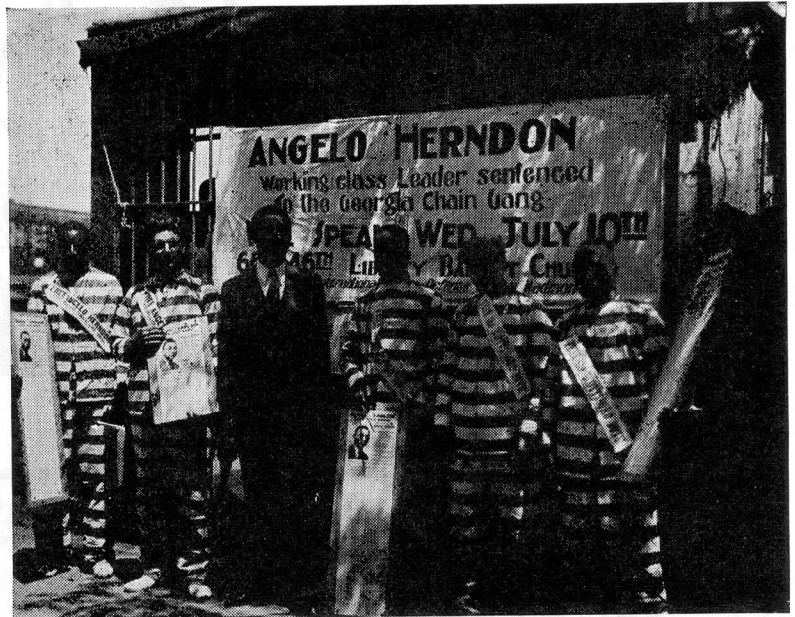
clubs, parties—all of us must demand action—and favorable action—and immediate action from the Supreme Court of California—now, today.

Then there is J. B. McNamara—for twenty-six years a prisoner of the state of California—*twenty-six years*. Words are feeble things in which to express the meaning of such cruel punishment for a man of J. B.'s calibre. His only life is the American labor movement. He was ready to risk it in labor's behalf. And now he is barred from its ranks. There is no further action in the courts that can be taken for J. B. Only the governor of California can pardon him—and the progressive forces of America can force him to do so. Plans are now under way for the development of a nation-wide drive to win his freedom but in the meantime there is one small thing that we can all do for this veteran of the world's political prisoners.

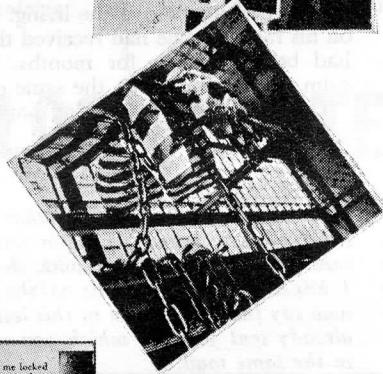
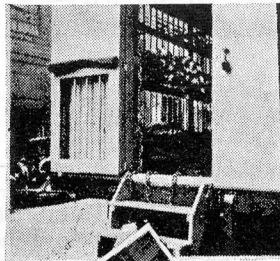
Two years ago he was removed from San Quentin which had become his only home and transferred to Folsom Prison. It was an act of cruelty and petty tyranny. He had made too many friends. He had helped and aided and protected too many young victims of our social system. He had become Uncle Jim to the most hardened criminals in the institution. When every other piece of meanness had failed to break his spirit—the authorities picked him off and sent him to Folsom—considered the disciplinary institution of the state for incorrigible cases and second offenders.

McNamara, until he is freed, must be sent back to San Quentin. The governor must be prevailed upon to arrange this transfer. There is not one single good reason for this unjust punishment—and he can be made to listen.

And finally there are the Scottsboro Boys—six years the hostages of the lynch law forces of the state of Alabama. Their innocence is an incontrovertible fact. Not a single shred of evidence exists against them. Twice the

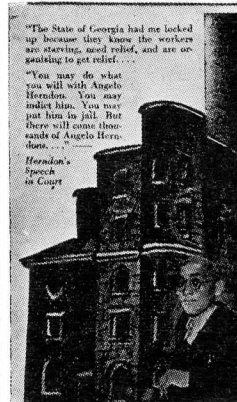


This chain-gang cage replica toured by the I.L.D. was seen and studied by tens of thousands. It was constructed under the supervision of John L. Spivack and made, as much as possible, like the real thing. It was equipped with models of torture instruments used in Georgia—and large photo-stats of documents, photos and other proof of "Hell" in Georgia.



Supreme Court of the United States was forced to rule in their favor. But they are still in jail—and facing new trials. The governor of Alabama can and must be made to feel the renewed wrath of the people of the whole world. He should be deluged with demands for their immediate release. He is the second governor in the Scottsboro case. He must be the last. The same millions who signed up for the fight to free Herndon can be won for the job to demand unconditional freedom for the Scottsboro Boys from the governor of Alabama—Bibb Graves at Montgomery.

So much to be done—you will say—and I am only one individual. What can I do in the face of such a gigantic task? You alone can do very little. That is true. But if every friend of liberty and justice will once more raise his voice in protest, it will swell into a chorus of millions. And don't just act yourself. Get your union to once more take a stand—yes, over and over again, as many times as it is necessary to make them hear. You come in contact with dozens of people—in your shop, your school, the store where you do your shopping, your neighbors. Talk to them about these cases. Get them to do what you did. Show them what the might of united public opinion has accomplished and can accomplish. The old and homely proverbs have lost none of their truths. And "in unity there is strength," can no longer be contradicted or gainsaid. It can be done—and if all of us will decide with enthusiasm and determination to forge the unity of defense—it will be done. Mooney, McNamara, Scottsboro next—can become more than a beautiful hope. And in the not too distant future, we will once more be celebrating victories, victories not only for the splendid men behind the bars, but for us all!



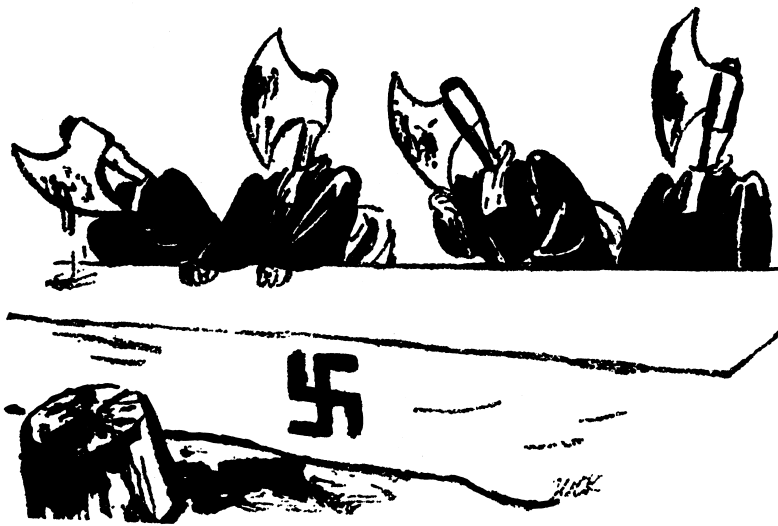
Above: (From the top down) Angelo Herndon and the replica of the chain gang cage which toured from coast to coast during the campaign. Close-up views of the cage. One of the hundreds of thousands of Herndon protest post cards.

Portrait of a campaign—united mass action in pictures: (On the previous page) Haywood Patterson's sister Louise helped collect Herndon signatures. Parades, meetings, demonstrations. (Left) I.L.D. office staff counting and tabulating the 2,000,000 signatures.





# "I have no fear of Death....."



Johannes Eggert's last letter to his wife—written just before he was beheaded.

On February 14 of this year Johannes Eggert sat in his cell in the Plotzensee prison writing a letter to his wife. He did not know that in a room on that same floor, officials had just placed two sheets of paper in a folder bearing his name. One was a short letter from Der Fuehrer himself confirming the death sentence against him, the other an order from the Public Prosecutor stating that the execution must take place on February 15.

He was eight years old when his father died, leaving his mother a widow with seven children to support. Little Hans, his mother's pet name for him, went to work—herding the landlord's geese and running errands. No more play for Hans. When he was 14, he was apprenticed to a baker and worked 15, 16, sometimes 17 hours a day.

Then came the war. In 1915, Johannes Eggert, just turned 17, was sent into the trenches. He was what the imperial officers considered a very good soldier. He was wounded three times, decorated with the Iron Cross and advanced to the rank of non-commissioned officer.

Then he began to talk to certain soldiers in the trenches who explained to him what the war was all about. Johannes understood and became one of the best fighters against the world slaughter.

When "peace" came he went to work in a chemical factory, and then for a rich merchant. Wherever he was, he courageously defended his convictions. He joined the Communist Party. He did all that he could to further the cause of progress and democracy.

And then Hitler came to power. Johannes Eggert stayed at his post in the struggle against fascism. Twice arrested, his determination to struggle against reaction did not weaken.

In January, 1935, he was arrested in Leipzig. For twenty months he was held prisoner — tortured, "examined" — before charges were placed against him and he was brought to trial. Then the mental torture

began—sitting in that solitary cell, never knowing whether or not he would live to see the next day.

The sound of footsteps halted before his door. A grating voice, harsher than the clang of the iron and steel, tells him that this is his last evening among the living. Not a sign on his face, that he had received the news he had been awaiting for months. The same calm, the same dignity, the same composure.

He asked for more writing paper and began a second letter to his wife:

"14.2.37.

"My dear little Luzie,

"I have just been informed that my execution will take place within a few hours. I received the information with the calmness I hoped I would be able to show them. I now say farewell to you in this letter. I have already sent you one which you will receive in the same mail.

"I assure you, my darling, that I feel no fear of death. You have no need to worry—my last hours are not hard for me. I walk over this path with the same fearlessness with which I did my job during the war. At any rate you may be sure that I know how to die bravely. I hope, my dear one, that you will take this news with courage. I expect that from my wife. Through all the years of our life together you were my good and beloved comrade. For this especially, I thank you now.

"I know that for the first moments this will be a shock for you. Have one good cry. Then let our marriage become a loving memory to you.

"Many people have to go through unpleasant things in life, which they must overcome. Do not let your sorrow over me, crush you. Gather up your courage and carve out your life without my help. I am sure that your people will help you during the first weeks. Remember, that we must all die. Some sooner, some later. The only thing that matters in the end, is whether one has fulfilled his place in human society during his life.

"To speak frankly, out of many possible deaths, the one planned for me suits me best.

*I am convinced that during my life I have always tried to do my duty, to do what I considered right. Try always to do your duty during your life. I have arranged with my brother that he should keep my things and turn over to you anything you may wish to keep for its associations. He has also promised to help you by word and deed as far as he is able.*

*"But I do not think you will need much help. In my thoughts I embrace you and kiss you for the last time.*

*Yours,*

*HANS."*

Thus Johannes Eggert trod the path already taken before him by August Luttgens, Fiete Schultze, Herman Fisher, Rudolf Klaus, Edgar Andree—76 German fighters for freedom. The same calm, the same courage, the same determination—and the same hatred and scorn for the tormenters of the German people.

Throughout their lives these 77 martyrs to the cause of peace and freedom performed their duty. Until their dying breath was drawn they remained true to their convictions and beliefs. Let us remember our debt to these dead. Let us remember our duty to the living—to Ernst Thaelmann and the thousands of anti-fascists imprisoned with him—let us unite our forces to put an end to the hideous murders in Germany.

## From a Nurse in Spain

*(Continued from Page 11)*

through a wall to connect the upper and lower floors. Another crew were unloading trucks, still another opening crates, and an army of women were sweeping and washing floors. There was no place to eat, and no kitchen in the building.

"We had orders to open the hospital for work in forty-eight hours, and we were giving everything we had, every one of us—to have the hospital ready.

"The roads for six kilometers on either side of us were so bad that it would have killed a patient to take him over them in ambulances. We spoke to the alcalde, and the next day all the peasants were forbidden to go to the fields, and literally thousands of men—all those not fighting at the front—were working on the road, carrying baskets of stones and filling in the holes, then baskets of earth to put around the stones. I can't tell you the feeling it gave me when we took the first bus over the road and all along the way, *Salud Salud!* from every one of them.

"Practically all the soldiers we got were badly wounded, and all had to have operations. Many of them were shot through the skull, others through the chest, and numbers of them had nasty abdominal perforations. Every operation that Dr. Edward Barsky performed was really a work of art. And every member of the staff has helped whenever possible and in every way with all kinds of work. One night at 2 o'clock, in the middle of an operation, the battery went dead. All of us ran for our flashlights, and with the feeble glimmer of eight flashlights, Dr. Barsky finished removing a shattered kidney.

"Last week we had about sixty coming in in a few hours, the doctors and nurses were working forty hours without stopping.

"We have to have more surgeons, nurses, ambulances, and supplies, and we have confidence in you that you will send them."



# 'Betty Boop' and 'Popeye' strikers tell their story



120 of the 140 artists engaged by Fleischer studies to make the "Betty Boop" and "Pop-Eye" cartoons are now on strike. They joined the Commercial Artists and Designers Union, Local 20329 and when Boss Fleischer refused to recognize their union as collective bargaining

agency for the shop they went on strike. They are still out—in spite of cops, intimidation, and 14 arrests. One of the strikers drew this especially for the LABOR DEFENDER. They ask for wires of support to Fleischer and Paramount Studios, New York City.

## Aid to LUIS CARLOS PRESTES By SASHA SMALL

His Excellency Oswaldo Aranha is every inch the diplomat. He is smooth, bland, polite and—very clever. He received a delegation on May 14 at his embassy, whose mission was freedom for Luis Carlos Prestes and all anti-fascist victims in Brazil. Our delegation, representing the National Committee for Defense of Political Prisoners, American League Against War and Fascism, International Labor Defense, American Artists Congress, anti-Nazi groups and several progressive publications included three people who had been to Brazil within the last year.

The Ambassador chose to ignore that fact and proceeded to describe his country as a paradise of peace and democracy. We asked him to help secure the immediate unconditional release of Luis Carlos Prestes, Arthur Ewart, the ex-mayor of Rio de Janeiro and all other political prisoners sentenced to long terms by the illegal Special Tribunal. He proceeded to tell us that Brazil does not kill its political prisoners. We demanded open trials in the civil courts for the remaining prisoners. He told us how his country separated military from civil offenses. He even tried to tell us that in his country a jury meant simply the presence of more than one judge on the bench.

But despite his agile evasiveness, the weight of American public opinion represented by the delegation, and the floods of protests, wires, letters that came before, Mr. Aranha was forced to agree to one thing. He personally guaranteed the admission of a delegation of outstanding Americans to Brazil, with

freedom to investigate the plight of civil liberties in that country and permission to see Prestes and the other political prisoners who have been held incommunicado since November 1935.

This delegation is now being organized by the Committee for the Defense of the Brazilian People. Even diplomacy must bow to the will of united public opinion. And we must say that he bowed very graciously.



The delegation which called on Brazil's Ambassador: (left to right!) Gifford Cochran, secretary of the National Committee for Defense of Political Prisoners, Sasha Small, editor LABOR DEFENDER, Mrs. Isabel Walker Soule, editor WOMAN TODAY (she went to Brazil), David Levinson, attorney who went to Brazil to try to defend Prestes, James Waterman Wise of the PEOPLE'S PRESS and the American League Against War and Fascism. Rockwell Kent, world famous artist, chairman N.C.D.P.P.





The delegation which called on Brazil's Ambassador: (left to right) Gifford Cochran, secretary of the National Committee for Defense of Political Prisoners, Sasha Small, editor LABOR DEFENDER, Mrs. Isabel Walker Soule, editor WOMAN TODAY (she went to Brazil), David Levinson, attorney who went to Brazil to try to defend Prestes, James Waterman Wise of the PEOPLE'S PRESS and the American League Against War and Fascism. Rockwell Kent, world famous artist, chairman N.C.D.P.P.



# THEY HAVE SO LITTLE FUN

Poverty - bravery - need and courage - all contained in the story of a little girl.

By ROSE BARON

I wish you all knew my little friend Sally. She is probably one of the bravest youngsters in the country. Her father has been in prison for five years now and according to what the judge said when he sentenced him he will be there for another 94. Her father was a good union man and was very active in a strike. For that he got 99 years. Of course, the state framed another story against him—that he was responsible for the death of one of the thugs hired by the company to shoot the strikers. They never really tried to find out who had killed that thug. They just wanted to get Sally's father and a few other union men out of the way and make an example of them. That's how Sally explains it to her little friends. And she is perfectly right.

The house that Sally and her brothers and sisters live in is a wreck. It hasn't seen a coat of paint in more years than Sally can remember. The roof leaks. The boards on the little porch are so worn and rotten, the kids stumble on it and bruise their knees several times a week.

Inside is almost as bad. It's very neat and clean. But it is so drab and the furniture is so old—what little there is of it—and not all the bright calendars in the world could really hide those musty old walls.

Sally's mother has been sick for the last three years. At first she just felt badly and could hardly drag around. Then she had to stay in bed most of the time—and Sally had to get the others off to school when it wasn't too cold or rainy—because their shoes are so bad they can't go out when it's wet. Sally had to make their breakfast. That was easy because it was only cocoa and a piece of bread for each.

And then Sally's mother had to be taken to the hospital.

The first we heard about it was when I got a letter from Sally written in her round childish hand, saying what would she do for money for the funeral if her mother should die.

She is only 11 years old. And her greatest fear was that her mother would die and she wouldn't be able to have a funeral for her.

Of course, we wrote to Sally at once telling her not to worry and that her mother would get well and to find out what the hospital bill would be.

And she did. She attended to everything and sent the right information and paid the bill in installments as she received the money from us. And now she writes that her mother is home again and she is going to get well.

That's Sally's story. It could be repeated with very little variation about 250 boys and girls all over the country. They don't all have quite the hard time that Sally has—but none of them have an easy time. Even if their mothers are well and strong, they can't always find work, and the relief gives them very little and even with the money they get every month from the I.L.D., they just about manage to get along.

Every time I see an ad for a beautiful children's camp up in cool mountains or at

the seashore I think of Sally and the rest of those children whose fathers are in jail for labor. They have so little fun, so little pleasure. The only difference in their lives during the hot summer is that they don't go to school. Otherwise everything is the same. The



Mother and the kids rely on us to help keep them alive till dad is free to come home to them. He's in prison for labor. Help us give them milk.

same poor, miserable homes, the same washed-out, made-over clothes. Oh yes, shoes are not such a problem because most of them run around bare-foot during the summer months.

These little sufferers are our children.

Their fathers are in prison because they wanted life to be better and brighter for their own little ones and for the children of all the working people in this country.

For the third time we are launching a Summer Milk Drive in their behalf—to raise funds with which to supply them with one of the essentials of childhood.

Our quota this year is \$3,000—the same as it was last year. Our quota in 1935 was only \$1500 and when we made it, we decided to double our goal and our efforts for 1936.

We would double it again this year except for the fact that there are other little sufferers in another part of the world that need our help and your help very badly this year. The children in Spain need milk, too—and clothing and shelter. Side by side with our drive for the children of labor's prisoners in America, the International Labor Defense is conducting an active campaign—which will not stop until the need is ended—for medical aid to the defenders of democracy in Spain.

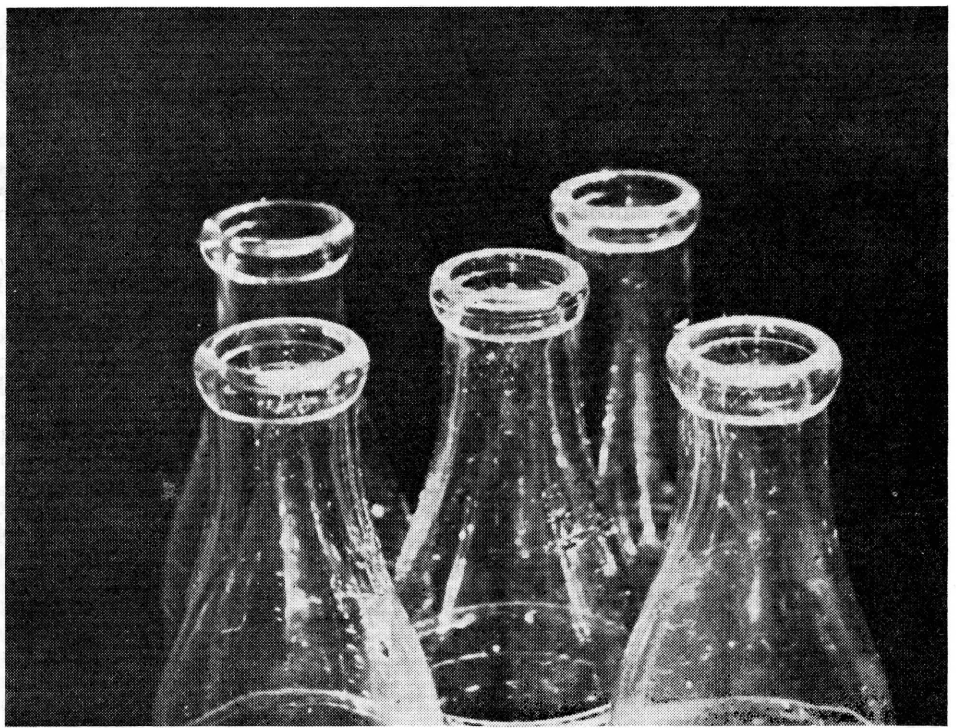
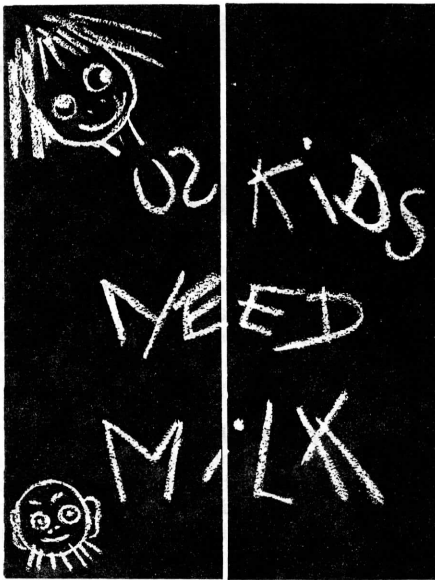
We feel that by keeping our quota down to what it was last year, we will be able to make ends meet for the boys and girls here who need our aid very badly, at the same time we will in no way hinder or hamper the work for the children and the grown-ups in Spain.

Our drive lasts from June 1 to Sept. 1. I.L.D. State and branch offices in every part of the country are already making plans for various activities, parties, picnics, tag days to raise funds for the Milk Drive. Won't you help them from wherever you are to make these activities a success. And if you happen to live where there is no functioning I.L.D. branch won't you remember these children and do what you can to help them? We have very attractive campaign material which we will be glad to send you for use in your neighborhood, shop, club. Perhaps you will take some of it along on your vacation to use among the guests at any summer resort you may visit.

You, all of you men and women who are friends of progress and democracy, are the only real friends these children have. You are the ones who made it possible for us to give them milk during the last two summers. We know you will want to do it again and we ask you to get on the job right now. You can send whatever contributions you gather here to New York, 80 East 11th Street, N. Y. C. or to any state office of the I.L.D.







MEET SOME OF THE KIDS

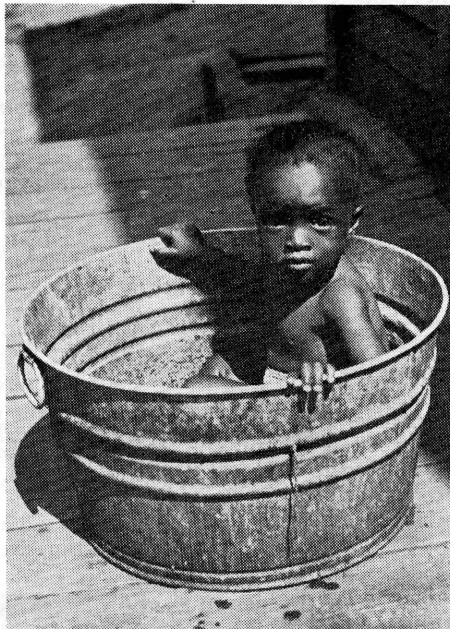
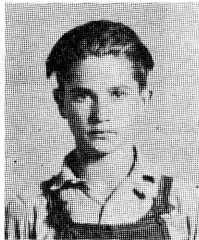


Bobby—Kentucky (above)

(Photo by BERENICE)

## SUPPORT THE 1937 SUMMER MILK DRIVE

(Above) Willie, Alabama and below him Nancy, Alabama. Her father was killed by a sheriff's mob. At their right, Junior, West Virginia. His father got 25 years.



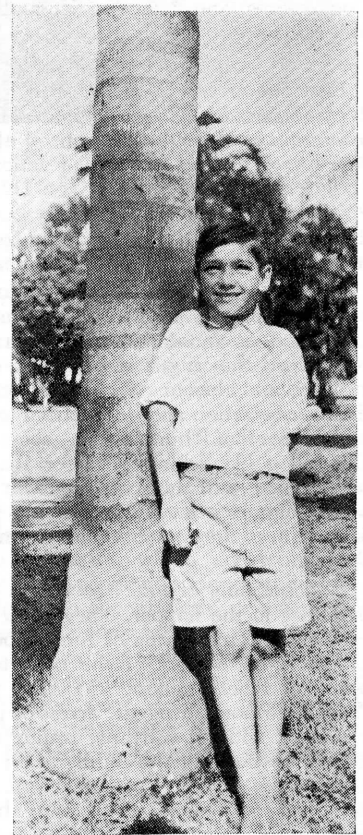
At your right: the young man in his bath lives in Pennsylvania.



(Below) Jimmy, Ohio, and beside him John, California



The young ladies on the right live in Kentucky and New Mexico respectively and Frankie (extreme right) in Florida.





# Legislative Notes

By Louis Colman

When you went to school, you learned something about the process by which a measure introduced in Congress is defeated or becomes law. It is supposed to be debated in the House or Senate, and voted on. If passed, it goes to the other body, where it is debated and voted on. If passed, it goes to the president for signature. If he vetoes it, sometimes there is a vote to over-ride his veto.

That's the way it works, in theory. Actually, this picture of the scheme fails to take into account the "committees" of the Congress, where all the work behind the scenes, the horse-trading, the bill-smothering, etc., goes on. Some of these committees consider various types of measures. Others—the steering committees—decide when and how bills will be brought before the house, if at all.

Take the case of a progressive bill, favoring some burning issue of civil and democratic rights. The standard procedure in both House and Senate is to forget such a bill in committee, never even bother to report on it. Then, if there is enough strength in the progressive group—that is, strength lent by organized and articulate mass support—an effort can be made to force the committee to stop considering the bill and bring it out on the floor. When that method is successful, the reactionaries are put on the spot. They have to openly support or oppose the bill. That's what they hate worst of all.

Or take the case of a mean, underhanded measure which involves a betrayal of American democratic tradition of civil rights and freedom. Here's where the steering committees come in. They set a gag on debate, by methods provided for that purpose, rush the bill in, and steam-roller it through without a record vote. Here again, only an organized and conscious mass protest, expressed in demands on all the representatives from their constituents and from the country at large can block such action. The progressive group can't do this alone, because as individuals they have no power at all. Their power for good is made available only by turning on the juice of mass action.

There are literally hundreds or bills in the present Congress which come under the two categories I have mentioned above. Some of the most important ones will be listed here—listed for mass action and support in the form of resolutions, letters and telegrams to Congressmen and Senators, demanding their support or opposition to these measures.

First one or two of the most dangerous measures: the *Industrial Mobilization Plan*, the Sheppard-Hill bill—a scheme to establish a fascist sort of dictatorial control of labor in war-time, to stifle all free speech and all freedom of action. It was described by Mauritz Hallgren in last month's *LABOR DEFENDER*. In the Senate it is S. 25. In the House, H.R. 1954. It may be rushed through any day. The reactionaries are just waiting for an opportune moment to slip it through. Don't wait a moment on this measure.

The *Dies Bill*, H.R. 6391 is one of those smooth, slick pieces of reaction that sells itself to un-informed liberals and progressives because it does contain some humanitarian provisions, and these are ballyhooed the length and breadth of the land. It's a deportation measure, and aims to make the persecution of the foreign-born easier, their terrorization and deportation to fascist countries "more legal," under cover of "humanizing" some minor provisions. Support of this bill is like selling \$100 for 10c. This is a slickie that has to be scotched, and the scotching won't wait. The House Committee on Immigration has turned in a report favoring its passage. The alien-baiters are watching for a moment when they can slip it through.

And speaking of bills against the foreign-born, there's a slew of bad ones in the hopper. They cover such varied matters as fingerprinting and registering of foreign-born, depriving the foreign-born of the right to work or the right to relief; deporting of foreign-born on relief; making the laws governing the deportation of "radicals" more stringent; arrest of persons "suspected of being deportable" without warrant; issuing of warrants of deportation by almost anybody in the immigration service; *depriving the boys in the Lincoln Battalion of citizenship*. While you are writing to your Senators and Congressmen about the Dies bill, tell him you don't want any bills with any of these provisions, either, and he should watch his horse-trading.

The Gavagan *Anti-Lynch Bill* has passed the house. In the Senate, horse-trading has prevented the similar bill there S. 1709, from coming up. Tell your Senator you're fed up with such antics, and demand passage of the bill.

H.R. 5687, introduced by Congressman Emanuel Celler of New York, would re-establish the traditional *right of asylum in the United States*, save thousands of anti-fascists and progressives from being deported to their deaths. H.R. 6183, introduced by Congressman Alfred N. Phillips of Connecticut, provides that *political refugees shall not be deported*. H.R. 6245, introduced by Congressman Ronald O'Toole of New York, provides that such *refugees shall be admitted to the country*. These are among the bills the reactionary House Committee on Immigration will try to pigeon-hole. Tell the chairman of that committee, and your own Congressman, you want these bills passed.

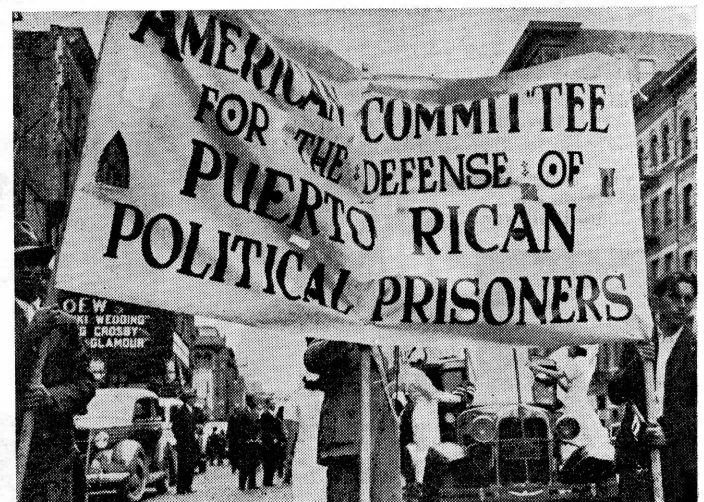
House Resolution 184 introduced by Representative John T. Bernard of Minnesota, demands a Congressional *investigation of the massacre of 19 Puerto Rican people* by government forces at Ponce, P. R., last Palm Sunday. The murderers have now indicted eight of the people they tried to kill, but missed, on charges of these murders. That has to come out of the committee on rules and be passed.

Fascist Francisco Franco has his *spies* in the United States, fixing it up for him to get American munitions to kill Spanish women and children, organizing committees to help overthrow the Spanish democratic government, spying on mercy ships bringing medical aid to Spain so Franco can sink or capture them. Congressman John T. Bernard of Minnesota has introduced H. Res. 209 and H. Res. 210, providing for a Congressional investigation of these activities. Humanity and democracy demand support to this resolution.

There's a flood of measures—they've been mentioned in the press but now the powers that be are trying to let them be forgotten for a while, and when that's accomplished, the plan is to slip them through—to *register trade-unions* and put them under government supervision, and to *declare sit-downs illegal*. H.R. 6456, introduced by Representative Clare S. Hoffman of Michigan, H. R. 5393, by the familiar old labor-baiter Martin Dies of Texas, are the most dangerous.

Claude A. Fulmer of Arkansas has introduced a *federal sedition statute*—like the state criminal syndicalism laws—(H.R. 1642); and John W. McCormack of Massachusetts, another familiar figure in the pantheon of corporation stooges, has another one, H.R. 4083. Don't let these two measures slip through. It would give Hitler, Mussolini, and Franco a lot of pleasure if these were passed.

Just so there won't be any slip-up. You can address your Congressman or Senator by name, at Washington, D. C. The post-office will find him. If you need *copies of the bills* mentioned, write to the Clerk of the House, or the Clerk of the Senate, as the case may be, and ask for them. Your State International Labor Defense office can give you the numbers of all bills referred to here.



Beginning of the Puerto Rican united front defense parade held in Harlem May 15.

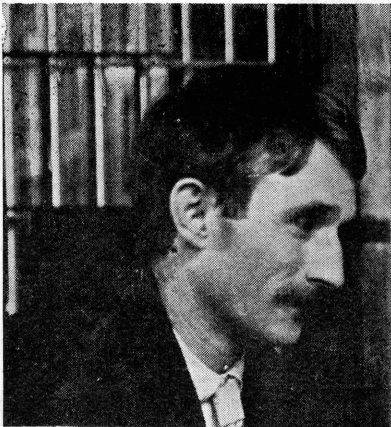
# VOICES FROM PRISON

*Devoted entirely to the Modesto Boys  
and J. B. McNamara's Birthday*

## *Frame-up admitted.*

"Without the testimony of Scudder, now entirely discredited by his own confessions, Reuel Stanfield, Victor H. Johnson, Robert J. Fitzgerald, John Sousa, John Burrows, Henry Silva and Patsy Ciambrelli would not have been convicted on any count in the indictment, and the presumption of their innocence is fortified by the evidence before the committee," was the opinion delivered April 14 by a majority of the special California Assembly committee appointed to investigate the Modesto dynamite case.

Recommending full and complete pardons for the above defendants, the committee found there was "abundant evidence of what



J. B. McNamara as he looked at the time of his arrest 26 years ago. At the right you see him as he looks today.

may be termed a tacit conspiracy to 'frame' them."

Charging that "the case should have been entitled THE PEOPLE OF THE STATE OF CALIFORNIA and THE STANDARD OIL COMPANY OF CALIFORNIA versus THE DEFENDANTS" and hitting San Francisco police involved in the case for misconduct, the committee, besides recommending pardons, recommended that laws be passed making it mandatory that the trial judge in a case arising out of a labor dispute caution the jury to view with suspicion and caution the testimony of stool-pigeons and agents provocateurs; that private corporations be prohibited from defraying the expenses of criminal prosecutions or providing special prosecutors; that all private guards be required to be deputized and that their authority extend no further than the limits of the private property of their employer.

Of the ace State witness, James Scudder, the committee said: "He is a cunning psychopathic liar with a complex for 'detecting' and 'snooping'; a megalomaniac who would sacrifice his brother or best friend to gratify

his own ego; and an intriguing parasite who would betray his greatest benefactor in hope of greater rewards."

Of the District Attorney: "Leslie A. Cleary is a man who believes that Communists are lurking behind every pillar and post and that 'Red' armies are apt to materialize out of thin air at any minute to destroy the government. He believes that every activity on the part of organized labor to better the working and living conditions of working men is 'subversive' and 'un-American'. He is burdened with the idea that every strike and every labor dispute is ordered and directed by Moscow. He thinks the present tendencies in government radical and very serious."

The committee found that besides paying the expenses of the chief witnesses during the trial, the Standard Oil paid its informers \$2,070; the special prosecutor \$14,000; the District Attorney \$208.50 for incidentals. \$120 paid to the San Francisco police was 'lost.'

The investigation came as the result of a boastful confession by Scudder.

Some union men in Los Angeles, hearing Scudder boast of his activities, informed Grover Johnson, ILD attorney, who informed the Modesto Defense Committee. Dictaphone equipment was installed in the home of one of the union men and Scudder and his wife were invited in for a card party.

In part he said at that time: "Sure, I framed them guys. . . . I used to get my pay thru the police department. . . . And what made me sore at the whole business is the fact that Marchant, another stool-pigeon, received enough dough to choke an elephant, and I only received \$500 for the job, and me one of the best stools there is, as I was the main one in the whole affair. Now I have a job that pays five dollars per day and I'm afraid to go anywhere, for fear that someone might get me. That's why I carry a gun in my pocket. . . . Sure, I committed perjury, but I was to do this. I used to be coached by District Attorney Leslie A. Cleary, of Stanislaus County and Special Prosecutor Devore. They would tell me what to say before the trials. But if I committed perjury, the rest of them did the same."

Fraternally yours,  
VIC JOHNSON

## *Glad you liked it.*

Your May Day card with greetings and also your May Day cards with all those thousands of names printed therein and tied into them with red ribbons was gladly received and I assure you that they are appreciated by me. I want you to extend to all of those that are on the Labor Defender staff that I send to them my warmest greeting and

sincere appreciation for what they are doing for all of us that are in prison.

I want you to give my warmest greetings and my many thanks to Miss Sasha Small and her mother for the great work they carried on during this big celebration that I sure appreciate their kindness a thousand fold and their kindness will not be forgotten. I will always remember my friends and I hope when the next big celebration comes off I will be there in line and extend a helping hand to others. I am sending only a few lines this time letting you and your staff know whatever they do for me is sure appreciated.

PATSY CIAMBRELLI  
Box 19889, Represa, Calif.

## *We got one, too.*

The International Labor Defense, Southern California District, yesterday received a beautiful eight-page, hand painted May Day greetings from the Modesto boys in San Quentin.

The outer covers are of an opaque satin-finished paper. The first page has a sheaf of red roses in the center with a bow of red ribbon on either side and below the inscription in gilt ". . . May Day Greetings . . ." The next page contains only "TO INTERNATIONAL LABOR DEFENSE." Turning another page we find the invincible spirit of



June 2 is J. B.'s birthday. Send him your greeting. Even if it gets there late. The address is Folsom Prison, California.

the boys expressed as follows:

"Take this rosebush with its flowers,

With its colors so perfect,

Let the rain and sun beat upon it,

But its color will never fade,

Let mother earth take its course,

While we greet you this first day of May."

Facing that page, in a shield, we find the names of the boys: "We the Modesto Defendants: R. Fitzgerald, R. Stanfield, V. Johnson, J. Souza, H. Silva."

Never before has this office received so beautiful a token of appreciation. We are overwhelmed and encouraged by this evidence of solidarity, which arrived on the same day as the momentous Herndon decision.

We pledge to the Modesto prisoners that we will work for their freedom with the same untiring, brotherly devotion which won the Herndon victory, the DeJonge victory and which will free Tom Mooney, the Criminal Syndicalism victims, King, Ramsey and Connor, the Modesto boys, and all political prisoners.

LaRUE McCORMICK,  
Southern California District,  
International Labor Defense



# MILK *for the* CHILDREN

*whose fathers are in prison for labor*



**250**  
boys  
and  
girls  
turn  
to  
you  
for  
aid.

•  
Hundreds  
of fathers  
are  
in  
jail  
for  
short  
terms—  
3 months  
to  
one year.



**25**  
fathers  
are  
serving  
LIFE  
sentences.

•  
The kids  
need  
milk  
to  
keep  
them  
well and  
strong  
till their  
dads  
come  
home.

## GIVE

to the

## SUMMER MILK DRIVE

for the children of LABOR'S PRISONERS

Send your contributions to Prisoners Relief Fund • 80 East 11th Street, New York City