

All Out May 1st--For A Solid South of Working Class Solidarity!

SOUTHERN WORKER

The Paper of the Southern Toilers

Vol. IV. No. 4

Birmingham, Ala., May, 1935

Price 2 Cents

In the South Elsewhere 5c

Mitch Attacks Reds, Fails Prepare Strike at U.M.W.A. Meet

Birmingham, Ala.—Facing three hundred delegates to the District convention of the United Mine Workers, Wm. Mitch, appointed District president announced that wage increases were "expected" from the operators when the new contracts were drawn up before June 16, but made no strike preparations to enforce the granting of any demands.

Union-Splitting Attack

A vicious, union-splitting attack was made upon the Communists, while Mitch denounced strike actions on the part of the locals when operators break agreements or try to drag down the miners' conditions.



Wm. Mitch

All UMWA locals in the state were directed to affiliate with the State Federation of Labor, in preparation for the state convention, May 13, in Gadsden, when Mitch hopes to ride his slate of candidates in on the wave of resentment of the rank and file against Moore, present president, Hare, etc., who are expected to be ousted because of their reactionary policies in the past.

Urge Legislation

Geo. Googe, southern A. F. of L. representative, also made an attack upon the Communists, while both he and Mitch urged the miners to depend upon legislation, such as the Guiley Bill and Black 30-hour bill, to solve their problems. Googe was the representative of Wm. Green to the last national convention of the United Textile Workers, where he urged the workers to rely on the NRA, and not to strike.

Mitch advocated the outlawing of any mass meetings or conventions called by rank and file miners.

The convention passed a resolution sharply condemning the Street Sedition bill.

LAUNDRY STRIKERS FIGHT COPS, SCAB HERDERS, TRAITORS

BIRMINGHAM, Ala.—Fighting for a 16c an hour increase on a wage scale which is one of the lowest of any industry in the country, and against concerted efforts of the bosses to break their union as first step in a union-smashing drive throughout the Birmingham industrial area, laundry workers are entering the fourth week of their strike as the Southern Worker goes to press.

A march of more than 300 coal miners from the Lewisburg mine to the aid of the laundry strikers, marked a high point in the solidarity of the workers with their

Strike May First In Cotton Fields

Texas Onion Pickers Win Pay Raise

MONTGOMERY, Ala.—Called by the Share Croppers' Union to lay down their hoes and strike on May 1, historic day of struggle for the toilers, Alabama cotton choppers are demanding of the landlords not less than \$1 for a 10 hour day, immediate relief for all strikers and no evictions, equal pay to women and youth with no discrimination against Negroes, exemption from the Bankhead Act and gin tax of all poor farmers growing less than ten bales, and the right to organize, strike and picket.

Victory in Texas

Spurred by the victory of more than 3,000 Texas onion pickers near Laredo, whose strike won \$1.25 a day, instead of the half on third of that the landowners had been paying before, the union strike committee in Alabama has set concentration points in the choppers' strike.

The large plantations of Pearson in Talapocca county, Howard Graves in Lee county and Haines in Dallas county, have been chosen, while key points in Montgomery and Lowndes County will also be struck according to plans and preparations.

In Texas the strikers established mass picket lines and parades with signs, despite terror of the Texas

New Efforts to Free Scottsboro Boys Made by I. L. D.

FLASH: Atlanta, Ga.—We still have the right to succeed from the Union Tony Linder, Georgia Commissioner of Agriculture, threatened in the Market Bulletin sent to farmers throughout the state as a resentment against the Scottsboro ruling of the U. S. Supreme Court.

DECATUR, Ala.—Steps to obtain hearings in juvenile court for Roy Wright and Eugene Williams, the youngest Scottsboro boys, are being taken by Osmund Fraenkel, prominent attorney retained by the I. L. D., and Judge B. L. Malone of the Decatur juvenile court has agreed to set a date for a hearing.

Ada Wright. Both boys were 13 years old at the time of their arrest in 1931, and their cases were separated from those of the other Scottsboro boys when Fraenkel made application for a writ of habeas corpus in June, 1933.

Rangers, called in to break the strike. Organized in the Agricultural Workers Union, they decided to re-strike against any employer who breaks the agreement.



United Front, All-Southern Conference For Union And Civil Rights Set for May 26 in Chattanooga, Tenn.

Fight Anti-Labor Bills For Right to Vote

CHATTANOOGA, Tenn.—Faced with sedition and other anti-labor bills in the legislatures of almost every state in the South, as well as in the U. S. Congress, workers, professional people and members of varied organizations are speeding their preparations for the A. I. L. Southern Conference for Trade Union and Civil Rights, to be held at the O. G. d. Fellows Temple, in Chattanooga, Sunday, May 26.

Following the Leader and Commissioning of thousands Sponsor and of calls, addressed to trade unions, economic, social, relief, religious, political, educational and fraternal organizations, and to all white and Negro workers, farmers and professionals, credentials coming in to the Executive Committee at P. O. Box 321, Chattanooga, indicate that the conference will be the largest and most representative ever held in the South.



Walt Pickard Burlington U.T.W.

Broad United Front

Emphasizing the broad, united front character of the meeting, the call specifies "full and free discussion" of the platform to be adopted. As a basis for the discussion, a five point draft platform is presented, including the "immediate repeal of all existing and proposed sedition and anti-labor laws. For the constitutional rights of free speech, press and assembly.

For the recognition of bona fide labor unions and their rights to organize, strike and picket," is the second proposed point. Others are, "Against lynching, for the freedom of the Burlington textile workers, the Arkansas share-croppers, the Scottsboro boys, Angelo Herndon, Tom Mooney and all other victims of capitalist persecution, and for the right of all citizens, white and Negro, to vote without payment of poll tax or other discrimination.

Delegates

Organizations may elect delegates, as well as mass meetings or other specially called meeting, and in cases where it is impossible to elect an official delegate of an organization, a fraternal delegate may be elected by a group of members.

Enforcements have already come from trade unions, schools, prominent editors, writers, ministers and

United Front Mass Meetings Mark May 1 As Southern Toilers Join World Labor

The greatest May Day the South has ever seen will be observed May 1, according to reports from workers and farm toilers in every state in Dixie on preparations for mass meetings and demonstrations marking the 45th year that this date has been observed as an international workers' holiday and day of struggle.

FAKE 'SECURITY' BILL PASSED AS CONGRESS DEFEATS H.R. 2827

WASHINGTON, D.C.—Recording only 23 votes in opposition, the House of Representatives of the U. S. Congress, has passed the Wagner-Lewis-Doughton 100% "social security" bill, which provides for a tax upon the workers' payrolls and, as one Congressman put it, is a sixty pages that grant not one penny of unemployment insurance.

H. R. 2827, endorsed by millions of organized workers, received 52 votes on one vote, and 39 on a later count, and was defeated despite the fact that the House Labor Committee had reported it as the only bill in Congress really providing adequate unemployment insurance and old age pensions. The "Social Security" bill does neither, but simply provides for a bit of aid to states, when and if they should establish unemployment insurance.

Fake Provisions

Taxes collected from workers for this purpose may be used for war preparation or any other system.

Turn to Page 2

A large open air meeting, expected to attract white and Negro workers from the entire Birmingham industrial area, is scheduled for Tarrant City Park, where a United Front May Day Committee has arranged to have speakers.



Dave Smith

Mayor Roy Ingram, Wm. Brown of the Int. Union of Mine, Mill and Smelter Workers, Dave Smith, leader of the Relief Workers' League, Arnie Barber, Socialist, candidate for Governor in the last elections, and Bill Chester, Communist. Jesse Green, local Communist leader will act as chairman.

Tennessee and Black Belt

Another open air demonstration, in the heart of the Tennessee Coal fields, is being called at Tracy City, while an indoor mass meeting will be held in Chattanooga.

Meetings in every section of the Alabama Black Belt will be used to mobilize for the launching of

Turn to Page 2

F.D.R. SMASHES WAGE STANDARDS IN PLAN FOR WORK RELIEF

WASHINGTON, D.C.—Slash the wage scale to less than \$1.00 a week in some cases, the proposed wage for Roosevelt's new work program, for which he received close to five billion dollars from Congress, will be even lower than the miserable wages paid by the FEBA, while millions will be left to starve with nothing, as all relief is cut off.

The figures of the proposed pay scales, kept secret until now, have been revealed by the Daily Worker, which obtained them from a reliable but confidential source. The scales establish a vicious differential against the southern toilers, starting at \$19.50 a month for unskilled workers in rural sections of the southern states (\$23.85 for Arkansas, Kentucky, Texas and Virginia), with a provision that the scale may vary 10% either way. Needless to say, the 10% will be a cut wherever the officials think they can get away with it.

Less Than Present Relief

Requiring 140 hours of work a month to get even this minimum, the program will provide for a million and a half less heads of families than are now on relief rolls, at wages less than the relief they have been getting. With the scale for skilled workers slightly higher, it still slashes union standards to about one-third.

attorneys, as well as from the International Labor Defense, Jesse O. Thomas, of the National Urban League, a number of farm organizations, Miss Nell Hall Jackson of the Negro Women's Voters' League in Atlanta, and two national organizations with many members in the south—the American League Against War & Fascism and the American Civil Liberties Union.



Groups in every state of the south are now arranging preliminary meetings to raise funds to send their delegates.

Anti Labor Bills

Meanwhile the Street sedition bill will be met by a flood of protests when it comes up before the Alabama Senate for passage this month, and the workers of Texas are mobilizing against a measure providing half a million dollars to create a state police force, as well as another bill introduced by Sen. John Hornsby, requiring all teachers to sign a reactionary "gas" oath. Hornsby got his 100% Americanism from aiding draft-evading merchants during the last War, it was accused.

Texas Jobless Unite To Fight For Relief

AUSTIN, Tex.—Demanding the introduction and passage of a state unemployment insurance and old age pension bill, immediate relief of not less than \$50 a month, with a minimum of 50c an hour on work relief projects, union wages for skilled workers, no discrimination against Negro or Mexican workers and the recognition of the organizations of the jobless for collective bargaining, a delegation representing a united front of 28 organizations of unemployed appeared before the Texas House of Representatives.

Unity Federation Formed

United in the State Federation of Workers' and Unemployed organizations, the various organizations have joined together for a struggle to force relief before this session of the legislature adjourns.

The bill presented is based on H. R. 2827, in the U. S. Congress, the Workers' Unemployment Insurance Bill.

Delegations from Austin, San Antonio, Houston and Dallas packed the galleries, backing their worker representatives while the demands were presented.

MORE ABOUT MAY DAY

Starts on Page 1 — the strike of cotton choppers, being called by the Share Croppers' Union.

Socialists and Communists together with union and unemployed groups are uniting for a joint meeting, marking May Day in New Orleans, while other meetings are scheduled for Jacksonville, and Tampa, Fla., where the recent victory of the cigar strikers will be celebrated. In Houston, Texas, Charlotte, N. C., Norfolk, Va., Louisville, Ky., and Little Rock, Ark.

At Laredo, Texas, a large demonstration, with delegations from other towns and farm areas, will celebrate the winning of the onion pickers' strike.

An official letter of invitation was addressed to all A. F. of L. locals, the Socialist Party, and other labor groups, by the United May Day Committee in Birmingham, and similar action has been taken in other sections.

while the Central Committee of the Earl Browder Communist Party of the U. S. A. addressed such a letter nationally, signed



by Wm. Z. Foster, and Earl Browder.

"May first should be used to unite labor in every city and town into a mighty united front demonstration for higher wages, social insurance, for the unionization of every industry and town, for the fight for civil rights, and against war and fascism," the letter said, stressing at the same time the need for united action toward the launching of "a Labor Party, based on the trade unions, that will make its program the fighting demands of the trade unionists."

Where large meetings are not possible, scores of smaller neighborhood meetings will be held in churches and workers' homes, with thousands of white and Negro workers participating.

Arrangements have been made for such meetings in every section of Birmingham, while more than 15,000 stickers have covered Birmingham and other southern cities, in preparation for this annual day of the toilers, as well as tens of thousands of leaflets.

Red flags are scheduled to be hoisted on large flagpoles in several cities.

Texas Sheriff Jails Hundreds of Jobless

By a Worker Correspondent

SAN ANTONIO, Texas.—Several hundred unemployed workers were arrested here several days by Sheriff Albert West who swooped down on the transient bureau and moved it, together with all the unemployed, to the county jail.

It is presumed that the unemployed workers are charged with vagrancy.

The local paper said 600 were arrested. Your correspondent visited the jail and found some 600 people inside the jail, outside the jail, inside the jail fence and wall, and they were herded in there like so many pigs.

Armed deputy sheriffs patrolled the wall forcing thousands who had gathered outside to move on.

If the workers stand for this denial of their liberty and freedom, no doubt Sheriff West will later arrest all the unemployed workers on vagrancy charges.

CHAIN GANG VICTIM



WOODROW SHROPSHIRE who, with Robert Barnes, both 19 year old Negro youths from Charlotte, N. C., was held in a torture cell on a chain gang until their feet had to be amputated.

The former superintendent, three guards and the prison doctor have been indicted for torturing, assaulting and maiming, following an investigation forced by demands of the I.L.D. into torture and killing methods of the chain gangs.

Fight For Herndon Freedom Goes To Supreme Court

WASHINGTON, D. C.—Before the U. S. Supreme Court, another historic labor case was presented, when Intl. Labor Defense attorneys argued against the decision of the Georgia courts to send Angelo Herndon, young Negro Communist leader, to the chain gang for 18 to 20 years.

Herndon was arrested in 1932 after leading a demonstration of white and Negro jobless to the courthouse in Atlanta for relief, which was quelled, and charged with "inciting to insurrection."



Constitutional Right

Whitney North Seymour, former U. S. assistant solicitor general presented the appeal for the I.L.D. on the basis of the constitutional right to free, speech, assembly and petition for redress of grievance, and the violation of these rights by the Georgia law, a pre-Civil War slave law.

Walter Lee Crow, assistant attorney general of Georgia, shouted and ranted against the Communist Party, demanding that it be outlawed completely, and against the program of equal rights for Negroes, and self-determination in the Black Belt.

More About LAUNDRY

Starts on Page 1 — strikers, although Mitch, district president of the miners' union, denied that the U.M.W.A. supported the strike in any way, and attempted to split this unity, while a hundred police and deputies stopped the march.

A Scab Laundry owners have enlisted the aid of Robert Gullidge, pimping head of the White Legion, as a scab-herder, paying him \$2 a head for scabs, while Sergt. H. A. Stapp, known as one of the dirtiest of the police force, has been paid \$1 an hour for transporting scabs to and from the laundries.

Police riot squads have been mobilized to prevent picketing and vicious jail sentences are being passed against any strikers found near the laundry plants, with the exception of two "watchers," a rule established in an attempt to prevent mass picketing. Defiance of this anti-union ruling has caused many arrests, with sentences as high as 4 months in jail and \$125 fine.

Huey King, strike leader and head of one of the laundry workers' locals was also arrested for allegedly "threatening" Gullidge, when he went to his office and told him to quit hiring scabs.

A. F. of L. Faker

Ike Robinton, "volunteer" (racketeer) organizer of the A. F. of L., whose previous activities have caused a number of locals to pass resolutions against his activities, has been busy trying to stop mass picketing, and told the Negro strikers to stay away from the laundries and let the whites handle it. The strike will be won, only if "handled" by united, mass pickets lines of white and Negro, the Communist Party has pointed out.

Cigar Workers Win Strike In Tampa

TAMPA, Fla.—Winning most of their demands and 1900 organized, the cigar makers at the Schwab-Davis cigar factory, have returned to work after two weeks militant strike, in which the support of other unions constantly grew, despite attempts of union leaders to stop it.

The workers returned to the factory in mass formation, to demonstrate their unity and determination to enforce the gains achieved.

Rank and File Negotiate

The victory followed negotiations conducted by the workers' rank and file, elected by the rank and file, following rejection of proposals brought to them by officials of the Cigar Makers Intl. Union of the A. F. of L. The officials who opposed the strike in the first place had met with a "Citizens' Committee" and brought back dismal proposals that the boss could easily get around.

More than \$900 was contributed to the strike war chest by workers in other Tampa factories.

RANK AND FILE A. F. of L. PROGRAM

The Southern Worker here prints the program drawn up by the A. F. of L. Rank and File Committee for the union workers in Alabama. This program will form the basis for the struggles of the militant rank and file of the A. F. of L. in the coming State convention at Gadsden, May 12, and after that, and can well serve as a guide to A. F. of L. workers throughout the South.

The Southern Worker heartily supports this program, as one which will advance the real interests of the workers, and pledge its columns for discussions on these demands, and how to further them.

1. A 25% INCREASE IN ALL WAGES TO MEET THE RISING COST OF LIVING, AGAINST THE NRA WAGE DIFFERENTIAL.
2. FOR THE 30-HOUR WEEK WITH NO REDUCTION IN WEEKLY EARNINGS.
3. FOR RECOGNITION OF THE LABOR UNIONS, AGAINST COMPANY UNIONS AND ITS SUPPORT BY THE NRA LABOR BOARDS.
4. FOR THE RIGHT TO ORGANIZE, STRIKE AND PICKET AGAINST THE PROPOSED STREET SEDITION BILL AND THE PRESENT ANTI-PICKET LAW.
5. FOR ADEQUATE CASH RELIEF FOR ALL UNEMPLOYED, FOR TRADE UNION WAGES ON RELIEF WORK AND FOR THE PASSAGE BY CONGRESS OF THE WORKERS INSURANCE BILL, H. R. 2827.
6. NO DISCRIMINATION AGAINST NEGROES, EQUAL PAY FOR EQUAL WORK FOR WOMEN, YOUTH AND NEGROES.
7. FOR THE ESTABLISHMENT OF AN UNEMPLOYED AUXILIARY AND A WOMAN'S AUXILIARY BY EACH LOCAL UNION.
8. FOR LOWER DUES AND INITIATIONS, EXEMPTION OF UNEMPLOYED FROM DUES PAYMENTS.
9. AVERAGE WAGES FOR ALL PAID OFFICIALS.
10. FOR FULL DEMOCRACY IN THE UNIONS AND FOR RANK AND FILE CONTROL AND LEADERSHIP OF THE UNIONS.
11. MAKE ALABAMA A 100 PER CENT UNION STATE.
12. FOR THE ABOLITION OF THE POLL TAX AND THE RIGHT OF ALL UNION MEN TO VOTE WITHOUT DISCRIMINATION AGAINST NEGROES, FOR THE BUILDING OF A MASS LABOR PARTY BASED ON THE CLASS STRUGGLE.

ONLY YOUR PENNIES

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PROGRAM DRAWN FOR FIGHT ON LONG

NEW ORLEANS, La.—Declaring war on Huey Long's union busting, fascist dictatorship which is laying taxes on the workers while he talks of "sharing the wealth," the Louisiana District of the Communist Party, has called for the building of a mass labor party, based on a united front of all A. F. of L. and other labor unions, the Socialist Party and all white and Negro labor and fraternal organizations, in a letter addressed to these groups.

Demands Set Forth

The following demands have been proposed as a platform:

1. THE MAINTENANCE OF ALL CIVIL RIGHTS (FREE SPEECH, FREE PRESS, RIGHT OF ASSEMBLY, RIGHT TO ORGANIZE, STRIKE, AND PICKET).
2. UNION WAGES, IN NO CASE LESS THAN 50 CENTS PER HOUR, AND THE 30 HOUR WEEK ON ALL STATE JOBS (BRIDGES, ROADS, PUBLIC BUILDINGS, ETC.)
3. RECOGNITION OF BONA FIDE WORKERS' TRADE UNIONS ON ALL STATE PROJECTS WITH PROVISIONS TO THAT EFFECT IN ALL CONTRACTS LET BY THE STATE, RELIEF AND JOBLESS INSURANCE.
4. IMMEDIATE STATE RELIEF APPROPRIATIONS SUFFICIENT TO PROVIDE ADEQUATE RELIEF FOR ALL UNEMPLOYED WORKERS AND THE NOW DESTITUTE SHARE-CROPPERS AND AGRICULTURAL LABORERS.
5. IMMEDIATE ADOPTION IN LOUISIANA OF THE WORKERS SOCIAL UNEMPLOYMENT AND OLD AGE INSURANCE BILL, H. R. 2827.
6. MORATORIUM ON ALL DEBTS OWED BY TENANTS AND SHARE-CROPPERS.
- RIGHT TO VOTE
7. EVERY PERSON OVER 21 YEARS OF AGE, WITHOUT RESTRICTION BECAUSE OF RACE OR COLOR, SHALL BE GRANTED THE RIGHT TO VOTE WITH NO REQUIREMENT OTHER THAN RESIDENTIAL REQUIREMENTS OF THE STATE.
8. REPEAL OF ALL "LUXURY" TAXES ON CIGARETTES, TOBACCO, THEATRE TICKETS, GASOLINE, ETC., AND INSTEAD DIRECT TAXES ON THE WEALTH AND INCOME OF THE RICH.

FOR DAY TO DAY

News of the class struggle everywhere can be no substitute for THE DAILY WORKER 50 E. 12th St., New York, N. Y. Special trial 2 weeks subscription, 25c.

What The U. S. Supreme Court Said -- The Scottsboro Decision

RIGHT OF NEGROES TO SERVE ON JURY CLEARLY DECLARED

The Southern Worker here prints practically in full the text of the Supreme Court decision in the appeal of Clarence Norris. The decision upholds the central issue of the right of Negroes to sit on juries, raised by the International Labor Defense. The decision in the appeal of Haywood Patterson differs in that a technical question of the time of filing was raised by the State of Alabama. The fundamental question of Negro rights covered in the decision below, as made by the Supreme Court to apply to both cases.

Every Southern worker should study and know this decision--then plan organized action to gain the rights clearly shown here.

SUPREME COURT OF THE UNITED STATES

November-October Term, 1934
Clarence Norris, petitioner, and the State of Alabama, on writ of certiorari to the Supreme Court of the State of Alabama.

MR. CHIEF JUSTICE HUGHES delivered the opinion of the court.
Petitioner, Clarence Norris, is one of nine Negro boys who were indicted in March, 1931, in Jackson County, Alabama, for the crime of rape. On being brought to trial in that county, eight were convicted.

The Supreme Court of Alabama reversed the conviction of five of those and affirmed that of seven, including Norris. The court reversed the judgments of conviction upon the ground that the indictments had been denied due process of law in that the trial court had failed in the light of the circumstances disclosed, and of the inability of the defendants at that time to obtain counsel, to make an effective appointment of counsel and to bring in proper and relevant testimony.

After the reversal a motion for change of venue was granted and the cases were transferred to Morgan County.

Norris was brought to trial in November, 1933. At the outset a motion was made on his behalf to quash the indictment upon the ground of the exclusion of Negroes from juries in Jackson County, where the indictment was found.

Motion Denied at Trial
A motion was also made to quash the trial venire in Morgan County upon the ground of the exclusion of Negroes from juries in that county. In relation to each county the charge was of long continued systematic and arbitrary exclusion of qualified Negro citizens from service on juries, solely because of their race and color, in violation of the Constitution of the United States.

The State joined issue on this charge, and after hearing the evidence, which we shall presently review, the trial judge denied both motions, and exception was taken. The trial then proceeded and resulted in the conviction of Norris, who was sentenced to death.

On appeal, the Supreme Court of the State considered and decided the Federal question which Norris had raised and affirmed the judgment. We granted a writ of certiorari.

(1) There is no controversy as to the constitutional principle involved.

The principle, long since declared, was not challenged, but was expressly recognized by the Supreme Court of the State. Summing up precisely the effect of earlier decisions, this court thus stated the principle in relation to exclusion from service on grand juries:

"Whenever by any action of a State, whether through its Legislature, through its courts, or through its executive or administrative officers, all persons of the African race are excluded, solely because of their race or color, from serving as grand jurors in the criminal prosecution of a person of the African race, the equal protection of the laws is denied to him, contrary to the Fourteenth Amendment of the Constitution of the United States."

Applies to All Juries
The principle is equally applicable to a similar exclusion of Negroes from service in petit juries.

And although the State statute defining the qualifications of jurors may be fair on its face, the constitutional provision affords protection against action of the State through its administrative officers in effecting the prohibited discrimination.

(2) The evidence on the motion to quash the indictment.

In 1930 the total population of Jackson County, where the indictment was found, was 36,881, of whom 2,688 were Negroes. The male population over 21 years of age numbered 8,801, and of these 76 were Negroes.

Qualification of Jurors
The qualifications of jurors were prescribed by the State statute.

The jury commission shall place on the jury roll and in the jury box the names of all male citizens of the county who are generally reputed to be honest and intelligent men and are esteemed in the community for their integrity, good character and sound judgment, but no person must be selected who is under 21 or over 65 years of age, or who is an habitual drunkard, or who is afflicted with a permanent disease or physical weakness which is such as to discharge the duties of a juror, or who cannot read English, or who has ever been convicted of any offense involving moral turpitude. If a person cannot read English and has all the other qualifications prescribed herein, and is a freeholder or householder, his name may be placed on the jury roll and in the jury box.

No Negroes Called
Defendant adduced evidence to support the charge of unconstitutional discrimination in the actual administration of the statute in Jackson County. The testimony as the State court said, tended to show that "in a long number of

years no Negro had been called for jury service in that county." It appeared that no Negro had served on any grand or petit jury in that county within the memory of witnesses who had lived there all their lives. Testimony to that effect was given by men whose ages ran from 50 to 70 years. Their testimony was uncontradicted. It was supported by the testimony of officials.

The clerk of the jury commission and the clerk of the Circuit Court had never known of a Negro serving on a grand jury in Jackson County. The court reporter, who had not missed a session in that county in twenty-four years, and two jury commissioners, testified to the same effect. One of the latter, who was a member of the commission which made up the jury roll for the grand jury which found the indictment, testified that he had never known of a single instance where any Negro sat on any grand or petit jury in the entire history of that county.

Many Negroes Qualified
That testimony in itself made out a prima facie case of the denial of the equal protection which the Constitution guarantees. The case thus made was supplemented by direct testimony that specified Negroes, thirty or more in number, were qualified for jury service. Among these were Negroes who were members of school boards, or trustees of colored schools and property owners and householders. It also appeared that Negroes from that county had been called for jury service in the Federal Court.

Several of those who were thus described as qualified were witnesses. While there was testimony which cast doubt upon the qualifications of some of the Negroes who had been named, and there was also general testimony by the editor of a local newspaper who gave his opinion as to the lack of "sound

judgment" of the "good Negroes" in Jackson County, we think that the definite testimony as to the actual qualifications of individual Negroes, which was not met by any testimony equally direct, showed that there were Negroes in Jackson County qualified for jury service.

Negro Names Written In

The question arose whether names of Negroes were in fact on the jury roll. The books containing the jury roll for Jackson County for the year 1930-31 were produced. They were produced from the custody of a member of the jury commission which, in 1931, had succeeded the commission which had made up the jury roll from which the grand jury in question had been drawn. On the pages of this roll appeared the names of six Negroes. They were entered, respectively, at the end of the precinct lists which were alphabetically arranged.

The genuineness of these entries was disputed. It appeared that after the jury roll in question had been made up, and after the new jury commission had taken office, one of the new commissioners directed the new clerk to draw lines after the names which had been placed on the roll by the preceding commission.

These lines on the pages under consideration were underlines, and the clerk of the old commission testified that they were not put in by him. The entries made by the new clerk for the new jury roll were below these lines.

The names of the six Negroes were in each instance written immediately above the red line. An expert of long experience testified that these names were superimposed upon the red lines, that is, that they were written after the lines were drawn. The expert was not cross-examined, and no testimony

was introduced to contradict him.

Opinion Not Justified
In denying the motion to quash, the trial judge expressed the view that he would not "be authorized to presume that somebody had committed a crime" or to presume that the jury board "had been unfaithful to their duties and allowed the books to be tampered with." His conclusion was that names of Negroes were on the jury roll.

We think that the evidence did not justify that opinion. The Supreme Court of the State did not sustain it. That court observed that the charge that the names of Negroes were fraudulently placed on the roll did not involve any member of the jury board, and that the charge "was, by implication at least, laid at the door of the clerk of the board."

The court, reaching its decision irrespective of that question, treated that phase of the matter as "wholly immaterial" and hence passed it by "without any expression of opinion thereon." The State court rested its decision upon the ground that even if it were assumed that there was no name of a Negro on the jury roll, it was not established that race or color caused the omission.

Qualifications of Jurors

The court pointed out that the statute fixed a high standard of qualifications for jurors, and that the jury commission was vested with a wide discretion. The court adverted to the fact that more white citizens possessing age qualifications had been omitted from the jury roll than the entire Negro population of the county, and regarded the testimony as being to the effect that "the matter of race color, politics, religion or fraternal affiliations" had not been discussed by the commission and had not entered into their consideration, and that no one had been excluded because of race or color.

The testimony showed the practice of the Jury Commission. One of the commissioners who made up the jury roll in question and the clerk of that commission testified as to the manner of its preparation. The other two commissioners of that period did not testify. It was shown that the clerk, under the direction of the commissioners, made up a preliminary list which was based on the registration list of voters, the polling list and the tax list, and apparently also upon the telephone directory.

Clerk Testifies

The clerk testified that he made up a list of all male citizens between the ages of 21 and 65 years without regard to their status or qualifications. The commissioner testified that the designation "Col." was placed after the names of those who were colored.

In preparing the final jury roll, the preliminary list was checked off as to qualified jurors with the aid of men whom the commissioners called in for that purpose from the different precincts. And the commissioner testified that in the selections for the jury roll no one was "automatically or systematically" excluded, or excluded on account of race or color; that he "did not inquire as to color," that was not discussed.

But, in appraising the action of the commissioners, these statements cannot be divorced from other testimony, as we have seen, there was testimony, not overborne or discredited, that there were in fact Negroes in the county qual-

NOTES OF SOVIET WORKERS' ADVANCE

MOSCOW, U. S. S. R.—Prices, particularly of food products with a mass consumption, are being rapidly lowered throughout the Soviet Union, following the abolition of the bread cards, which allowed each family to buy only as much as was needed, while industry and collective farms were being built up.

The market prices of bread and vegetables dropped 20 to 25% in the first two months of the year, and milk prices have fallen 22%.

While retail trade in the U. S. S. R. was 28.6% more during the first three months of 1935, than in 1934, the biggest growth was in the food and department stores—151 and 169% respectively.

KHARKOV, U. S. S. R.—Workers at the Kharkov Tractor Plant celebrated the production of the one hundred thousandth tractor, this month. An old worker who had fought in the revolution and is now one of the best workers in the plant, drove the tractor off the conveyor and out of the plant. During the day, meetings were held in all shops.

LENINGRAD, U. S. S. R.—A world record for woman parachute jumpers has been set by Vera Fodorova, 24-year-old student and mother of a six-year-old daughter. She leaped from a plane almost four miles up, with no oxygen apparatus, and was in the air 22 minutes before landing.

MOSCOW, U. S. S. R.—The death rate of the population of the Soviet Union has been cut 40% below what it was before the revolution, the report of the Commissar of Health has shown, while the child death rate has been reduced by one-half. Diseases in the mining industry have dropped by 40%, in the metal industry by 35%.

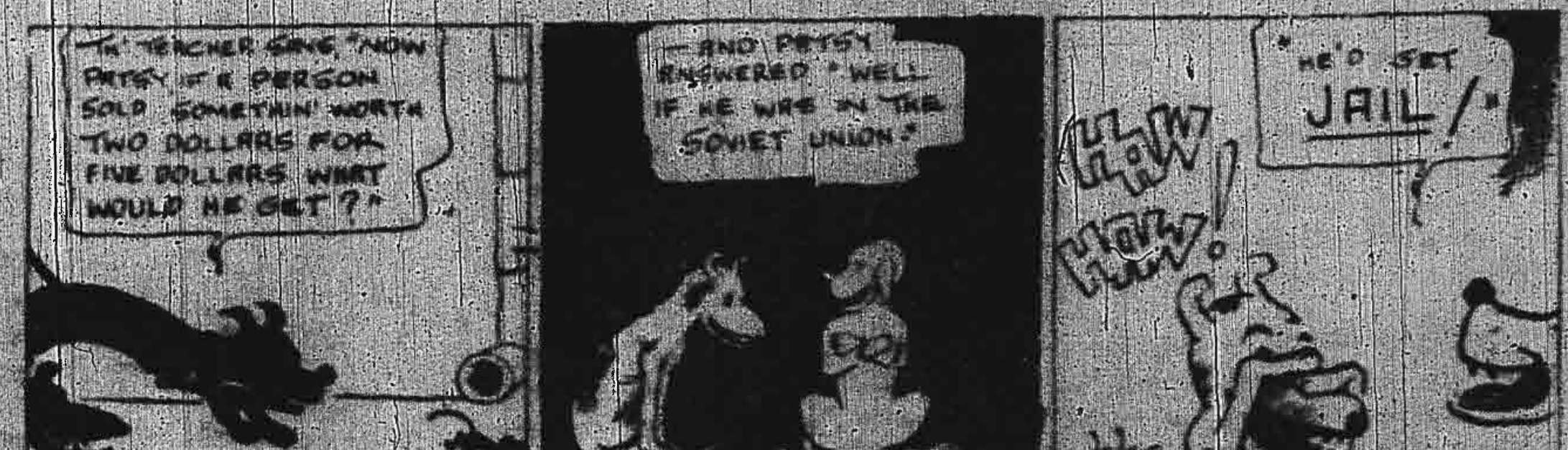
Billions of rubles are assigned each year for health protection, while sports activities, thousands of scientists, free medical care, vacations with pay and rest resorts for workers are provided.

MOSCOW, U. S. S. R.—Fulfilling its plan 103.7%, the Soviet food industry produced merchandise to the value of one billion, seventy-six million rubles during the first quarter of 1935, a 16.1% growth over the same period in 1934.

Along with general growth in production, the high quality of food products has been increased and their assortment expanded.

MOSCOW, U. S. S. R.—Soviet steel output during the first quarter of the year was 32.5% over the first quarter of last year. Iron output rose 28.3%, and output of rolled steel by 29.1%.

Railway plants produced 601 locomotives in this three months, and 82,027 freight cars. This far outdistances railroad production in the United States.



U.M.W.A. Misleader Answered by Women's Auxiliary on Red Scare

By A Member of The U. M. W. A. Women's Auxiliary
 BIRMINGHAM, Ala.—Mr. Smith was given a \$5 pair of shoes by our chapter to go to the convention of the miners. We was expecting to learn something about how to better our condition but not a word was said about recognition of the union, present working conditions, washer dockage, part time work. If we do real union work, it is it. To build a union we must understand unionism. We know for the past 4 months we have not had one discussion on what are the tasks and aims of union members.

Slandering Southern Worker

Smith said, "There is something going around here to tear up our union. I just want to show you." He showed the Southern Worker. "Look at this rotten, good for nothing paper," he said. "I am backed up by the government, county, city officials and the U. M. W. A." Well, when he says that means Mitch, Rainey and Lewis means no class conscious worker will back him up, as big a rat as he is.

Some of our women clap their hands, but they have not yet woken up to the fact that the boss stands on one side, the workers on another, and that you can't be on both sides at once.

Then Smith said, "You signed your name as a United Mine Workers' wife, yet you are just slandering the miners' wives. All Communists are lower than a doodle. Now all the workers know you are either an open tool of the bosses or a damn fool."

The Communist Party is a political organization, fighting to lead the honest workers and fight the rats, like you have shown. The Communists are not interested in you and your bunch no more than to say that the working class will not stop until we get shut of all parasites and have a workers' rule. The working class is bound to rule.

Want Action

An appeal to all working women, an open rat like Smith is easy to fight but we must study and decide what we want—good talk or better living conditions? In every union there is too much empty talk. We want action against wage cuts, back debts, dead work, such as washer dockage, washer dockage, high prices on white meat and other food products.

To gain this we must look to the leadership of the Communist party and their methods of mass struggle and rank and file control. Let us join the struggle with full force against starvation. You are in the very place to do it where so many working women are trying very hard to better their conditions.

Conditions In Pullman Plant Get Worse

By a Pullman Worker

BIRMINGHAM, Ala.—The Pullman Standard Car Company in 1930 worked ten hours and ran 20 cars with six drivers to the position and in 1934 they ran 20 cars in 8 hours with five drivers and in 1935 they are running twenty cars in eight hours and four drivers.

The big boss of the shop says we have three thousand cars to make. But when we make these 600 cars we will let the Negroes lay off until they get hungry before we put them to work so we don't have any labor trouble.

In 1930 we got \$4.50 a day for twenty cars in ten hours; in 1934 we got \$3.40 for eight hours for twenty cars; and in 1935 we get



Pipe Shop Worker Calls for Unity Against Bosses

By a Union Shop Worker

BESSEMER, Ala.—In the U. S. Pipe Shop the bosses are using the Negro workers against the white brothers and the white against the Negro by paying the white workers more for their labor power than the Negroes. In the shop in order to be able to put over their Jim Crow schemes, the bosses pay the white skilled workers from 52c to 60c an hour and up, whereas he pays the Negro workers from 45c to 43c down for the same kind of work which means the white workers are paid 7c to 17c per hour more than Negro workers.

The bosses use the old slave-driving schemes of segregation and Jim Crowism of the Negro masses to build up prejudice and race hatred, and so build up real hatred to keep the Negro worker and white worker separated, in order to exploit both.

Join Forces

Fellow workers, both Negro and white, just join forces in a united front fight with our coal and ore brothers for a six hour day, five day week, a certain minimum of \$4 for non-skilled and \$5 for skilled, with 25% increase to meet the high cost of living, against the company union and for equal rights for Negroes to any jobs and equal pay for equal work, as well as against the anti-sedition bill and the fight for our union to force the passage of the Workers' Bill H. R. 2827.

Danville Textile Mill Has Stretch-Out

By a Textile Worker

DANVILLE, Va.—About two weeks ago the Danville Silk Mill put on a stretchout system that caused several workers to be thrown out of work. Under the old system the weavers were operating four looms, and when the stretch-out was put in the weavers were forced to operate six looms.

The stretchout was a direct violation of the agreement under which the General Textile Strike was called off.

According to official reports the Danville and Schoofield Cotton Mills will cut working time and wages 25 per cent within the next two weeks, which will add to the misery of the destitute cotton mill workers.

\$3.60 for eight hours and four drivers to the cars,—while prices have gone so high you can't buy two dollars worth of food or clothes with 3.40 any more.

Fascists In Florida Shown Up By Toiler

Wants America 100% For Toilers

By a Worker Correspondent

JACKSONVILLE, Fla.—One of the K.K.K. leaders here is George Helmer who ran for sheriff and got only 194 votes out of 35 thousand voters and on the last election he ran for judge and received only a few votes.

This grafter is going from place to place making lectures against the Soviet Union at the same time that he collects money with the promise that he will write a monthly magazine fighting the Soviet Government and the Communist party. He collects \$3 subscriptions for this magazine and in this way he has collected thousands and thousands of dollars in the past few years without publishing any magazine.

Then we have another faker, the organizer of the K.K.K., who came here last year to organize the National party and at the same time he put out a paper fighting Communism. This racketeer came here from Atlanta with a seven thousand dollar car and well dressed, while he was giving lectures he told us not to associate or work with any Negro. He had a Negro Chauffeur.

The workers in Jacksonville got wise and sent him back where he came from. The above mentioned are working hand in hand with the state and government officials to confuse and mislead the hungry people. These 100% Americans want America 100% for the bosses. We can prove that George Helmer has received through the U. S. mail numbers of large checks from the big industrialists, for the service he was giving to them.

Our job is to organize to gain an America 100% for the toilers, and kick these poison rats into the ocean.

STEEL WORKERS

Tight bars more than half the elected delegates to the convention of the Amalgamated Association of Iron, Steel and Tin Workers, as the Steel Trust launches an attack to break the union in the steel mills.

The reactionary president of the steel workers' union, backed by Wm. Green and the other A. F. of L. big shots, has expelled the majority of the lodges in the union because they insisted on a drive to organize the steel industry, against the company unions and for strike preparations.

Although too late for this issue, the next issue of the Southern Worker will have special reports of the conven-

Trades Council Leaders Exposed As Member Calls For Honest Leadership

By a Member of the Birmingham Trades Council

"Communists Sow Revolutionary Seeds With 'Red' Propaganda in Birmingham." This is the headline in the Atlanta Sunday American, April 14.

The article is written by Carter Brooke Jones, staff correspondent for Hearst, labor hating millionaire who owns the paper and a whole string of others. It is obvious that as the strike of this season develops, that the "Red Scare" must again be dragged out to intimidate and demoralize the strikers, and to cover up the strikebreakers.

Gulledge Scab Herder

In the Hearst paper Bob Gulledge is put up as a friend of organized labor, but it doesn't say anything about how he recently advertised in the papers for white women, and when they came for employment they were told to take the place of colored laundry women on strike.

Who is involved here in Birmingham in this cooperative group which scab-herding Hearst praises as friends of the working people? Bob Gulledge, head of the White Legion, Bob Moore, president of the State Federation of Labor, W. O. Hare, secretary of the State Federation of Labor, Persa Bell.

Young Sharecropper Tells Need To Unite For Strike Struggle

DADEVILLE, Ala.—In a few days it will come time for us to start to slaving for the landlords. Last spring we chopped cotton and cane 14 to 16 hours a day for 60 to 75 cents a day and many of us did not even get it in cash. The landlord would only give us food such as meat, syrup, etc.

Some of the landlords won't let us stop work until the sun goes down. We slave all the summer for the landlords and in the winter when it is school time we have to walk 5 to 10 miles to school and at the same time the white children have school buses to ride in. We walk our shoes out and our fathers don't have any money to buy shoes and clothes and many of us cannot go to school because of this.

Prepared to Struggle

We have found out that the only way we will better our living conditions that we must organize. Now we are discussing and preparing a cotton chopping strike for this spring. We are calling on the white farming youth to join in the struggle with us Negro youths in struggle against the landlord slave wage system.

I think the main important questions facing us now are 1. preparing the cotton chopping strike; 2. struggling for school busses for the children; 3. for relief; 4. and the freedom for the Scottsboro boys.

tion, and the program of the Rank and File group, representing the majority of the A. A. membership.

FREE BOOK IN SOUTHERN WORKER DRIVE

FREE: A copy of "Reds In Dixie Who Are the Communists and What Do They Fight For in the South," with every 50c subscription to the Southern Worker, while the big drive is on for 500 new subscriptions and 5,000 increase in bundle circulation! The circulation increase is only 500 this month — while a number of bundles, on which no payment has been made, must be cut off.

Two Southern Workers whom we want before, is our slogan.

What are you doing to accomplish this goal, and to make a twice monthly Southern Worker possible?



A. F. of L. organizer, and the officers of the Birmingham Trades Council.

With these men posing as labor leaders, I want to mention a little bit of their story.

Offered to Sell Out Labor

About a year ago a local organizer, Jack Ellison, contacted a number of merchants with a proposition to control labor in Birmingham for a cash consideration. The deal was closed, but the merchants, knowing that Jack was only a contact man for the big shots, would not turn the money over to him. They called W. O. Hare, and asked him whether he wanted the amount in cash or a check. Hare put on a bold front, and played the role of an indignant outraged leader.

The Trades Council took it up and placed the question in the hands of the Executive Committee, and the members of organized labor expected some one to be kicked out of the ranks of labor. Weeks and months dragged by, and still this Executive Committee has not reported its findings.

No Action Against Racketeer

Fellow unionists — the Trades Council had the facts on the guilty culprits in their hands, and they placed the case in the hands of the Executive Committee. W. O. Hare was called over the phone and had full knowledge of the transaction. Yet Jack Ellison is still on the job un molested, and only recently he got the endorsements of W. O. Hare and Bob Moore to represent labor in the prohibition campaign, while the Trades Council is cooperating nicely with him.

Persa Bell was secretary of the Trades Council, and had full knowledge of the affair. The Sunday American says that Bell is an accredited organizer for the A. F. of L., but just recently some of the bona fide unions brought charges against Bell, and the evidence produced against him is of such a nature that it is not deemed to put in print.

When the Street Sedition Bill was introduced in Montgomery, Bob Moore and W. O. Hare were forced to attack the bill as a direct strike at labor, but 10 days later these gentlemen had changed their views and favored the bill. Now Moore makes another somersault.

Any one who opposes this group is branded as an anarchist, communist, socialist, and enemies of society and civilization. I ask, can the propaganda of Hearst, Bob Gulledge, E. L. Hollums, G. C. Giles forever mislead the working class and keep up strife, and confusion, and retain the above mentioned labor misleaders?

Need Honest Leadership

With the Trades Council harboring such rotten crooks as mentioned in this article what can be expected but a revolt?

It would not surprise me to see every worker desert the present set-up in this District, and embrace Communism, or any other militant, sincere organization that will fight for the rights of labor, and which cannot be bribed by workers.

THE SOUTHERN WORKER

The Paper of the Toiling Masses of the South
Official Organ of the Communist Party of the United States
JIM MALLORY, EDITOR
Address: Box 572, Birmingham, Ala.

SUBSCRIPTION
25 ISSUES (Through First-Class Mail) 50 Cents
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Vol. IV MAY, 1935 Number 4

SCOTTSBORO AND THE WHITE WORKERS

By John M. Davis

Every intelligent and class conscious white worker is proud of the recent Scottsboro decision. He is proud and happy because it is a great victory for nine innocent Negroes and for the Negro people as a whole.

He is proud and happy because it is a victory for us white southern working people. When I say this to some of my white friends they are not clear. As a worker and a Communist, who is trying to understand history in its true light, let me try to explain.

The decision said that the defendants had no fair trial and implied that no Negroes in the South were getting fair trials. Of course all of us white workers know that, but it brought the thing out clear as day and reminds us that we too do not get fair trials in the courts of the southern money bags.

Union Men Framed in Same Courts

We know too many of our union men and strike leaders are in jail now on bombing charges framed on them in the courts. Right this minute I read in the paper how laundry strikers are being sentenced for strike activity. And Bob Gullidge of the White Legion was Hury King, a union leader, arrested because of being a protest against Gullidge trying to get white women to scab on Negro women strikers.

The decision says clearly that Negroes are qualified to serve on juries. This is a blow to the white supremacy we are taught all our lives. The only ones supreme in real fact are the white capitalists and not the white workers and farmers. It is a blow against the whole rape talk which many of us have known to be a fake talk for many years.

The decision proves again that the Negroes should be accorded equal rights and be allowed to vote and sit on juries. Two weeks ago, the union lawyer showed how the white union men are being kept off the jury—because this is the only way the white workers will get on the jury.

Commissioner Lewey Robinson of Birmingham said a week ago that one of the reasons he is against the Civil Service bill is that Negroes might qualify for political jobs. Well, this means that without service no Negroes can get jobs in the city hall or the court house but it means that no white workers can get these jobs unless they are political hacks and in most cases, pimps for the big bosses.

The Scottsboro decision teaches us that we white workers must put a stop to lynching and must unite more solidly with the Negroes. Look at the labor unions and see how the white and Negro members are sticking together. And I am glad to see the Negro, such a good union man and fighter. If we white workers stick with the Negro we will be stronger and the Negroes will be stronger and the workers of the South will become like a mighty army against the rich robbers. That's why Scottsboro means better conditions for us if we do the right thing.

Free the Scottsboro Boys—Now!

It is time for us to say that nine Negroes should be let free. More that means more taxpayers money being spent. I hate to see innocent people in jail for four years. I would hate to see my son or daughter in jail framed by the bosses. Karl Marx once said that "labor in the white skin cannot emancipate itself while labor in the black skin is branded." He also said "a people that oppresses another people cannot itself be free." This is true.

Some will say: "That's a Communist talking." Yes, and, what made me a Communist was the fact that my conditions were bad and I saw that as long as the colored people were kept down I would be down also. That's why I joined the Communist Party. It is the persecution of the Negroes by the rich class that makes the Southern workers so poor.

Some may say, "Well, I'm not a Communist, that doesn't mean me." That's not so. Whether you like it or not, the persecution of the Negro people hits you too, and it's your job to fight against this oppression, for your own good. Because that is part of the whole ruling class system of oppression that is starving and oppressing the workers.

And there's just one way out. Many workers haven't seen it yet, and maybe it will take a while for a lot to see it, but our way out, as workers, is to unite against the boss class. That fight won't be finished with the winning of the Scottsboro case, either. It won't be done until we have put up a real workers' and farmers government, and have those that produce, get the benefit of it.

I call on all white workers and poor farmers in the South to do what I did if they want to help themselves from starvation and misery. Join the Communist Party which fights to bring a heaven on earth in Dixie, and help to free the Scottsboro boys so that we can show the Negroes we are their friends and together we can all march to freedom and victory.



John M. Davis

SUPREME COURT DECISION GAINED BY MASS STRUGGLE

Starts on Page 2

ned for jury service. That testimony was direct and specific. After eliminating those persons as to whom there was some evidence of lack of qualifications, a considerable number of others remained. The fact that the testimony as to these persons, fully identified, was not challenged by evidence appropriately direct, cannot be brushed aside.

Why Were Negroes Excluded?

There is no ground for an assumption that the names of these Negroes were not on the preliminary list. The inference to be drawn from the testimony is that they were on that preliminary list and were not placed on the jury roll. There was thus presented a test of the practice of the commissioners. Something more than mere general assertions was required. Why were these names excluded from the jury roll? Was it because of the lack of statutory qualifications? Were the qualifications of Negroes actually and properly considered?

The testimony of the commissioner on this crucial question puts the case in a strong light. That testimony leads to the conclusion that these or other Negroes were not excluded on account of age, or lack of esteem in the community for integrity and judgment, or because of disease or want of any other qualification. The commissioner's answer to specific inquiry upon this point was that Negroes were "never discussed."

State Court Found Wrong

We are of the opinion that the evidence required a different result from that reached in the State Court. We think that the evidence that for a generation or longer no Negro had been called for service on any jury in Jackson County, that there were Negroes qualified for jury service, that according to the practice of the Jury Commission their names would normally appear on the preliminary list of male citizens of the requisite age but that no names of Negroes were placed on the jury roll, and the testimony with respect to the lack of appropriate consideration of the qualifications of Negroes, established the discrimination which the Constitution forbids. The motion to quash the indictment upon that ground should have been granted.

(3) The evidence on the motion to quash the trial venire.

The population of Morgan County, where the trial was had, was larger than that of Jackson County, and the proportion of Negroes was much greater. The total population of Morgan County in 1930 was 46,176, and of this number 8,311 were Negroes.

Within the memory of witnesses long resident there, no Negro had ever served on a jury in that county or had been called for such service. Some of these witnesses were over fifty years of age and had always lived in Morgan County. Their testimony was not contradicted. A clerk of the circuit court who had resided in the county for thirty years and who had been in office for over four years, testified that during his official term approximately 2,500 persons had been called for jury service and that not one of them was a Negro, that he did not recall "ever seeing any single person of the colored race serve on any jury in Morgan County."

Many Negroes Available

There was abundant evidence that there were a large number of Negroes in the county who were qualified for jury service. Men of intelligence, some of them college graduates, testified to long lists (said to contain nearly 200 names) of such qualified Negroes, including many business men, owners of real property and householders.

When defendant's counsel proposed to call additional witnesses in order to adduce further proof of qualifications of Negroes for jury service, the trial judge limited the testimony, holding that the evidence was cumulative.

We find no warrant for a conclusion that the names of any of the Negroes as to whom this testimony was given, or of any other Negroes, were placed on the jury rolls. No such names were identified. The evidence that for many years no Negro had been called for jury service itself tended to show the absence of the names of Negroes from the jury rolls and the State made no effort to prove their presence.

Exclusion Illegal

The trial judge limited the defendant's proof "to the present year, the present jury roll." The Sheriff of the county, called as a witness for defendants, examined the jury roll, and after "looking over every single name on that jury roll, from A to Z," was unable to point out "any single Negro on it."

For this long-continued, unvarying and wholesale exclusion of Negroes from jury service we find

no justification consistent with the constitutional mandate. We have carefully examined the testimony of the jury commissioners from which the State court based its decision.

State Evidence Failed

The member of the jury board who testified, said that a list was made up which included the names of all male citizens of suitable age, that black residents were not excluded from this general list, that in compiling the jury roll he did not consider race or color, that no one was excluded for that reason and that he had placed on the jury roll the names of persons possessing the qualifications under the statute. The affidavits of the other members of the board, contained general statements to the same effect.

We think that this evidence failed to rebut the strong prima facie case which defendant has made. That showing as to the long-continued exclusion of Negroes from jury service and as to the many Negroes qualified for that service could not be met by mere generalities. If, in the presence of such testimony as defendant adduced, the mere general assertions by officials of their performance of duty were to be accepted as an adequate justification for the complete exclusion of Negroes from jury service, the constitutional provision—adopted with special reference to their protection—would be but a vain and illusory requirement.

Cannot Accept Statement

The general attitude of the jury commissioner is shown by the following extract from his testimony:

"I do not know of any Negro in Morgan County over twenty-one and under sixty-five who is generally reputed to be honest and intelligent and who is esteemed in the community for his integrity, good character and sound judgment, who is not an habitual drunkard, who isn't afflicted with a permanent disease or physical weakness which would render him unfit to discharge the duties of a juror and who can read English and who has never been convicted of a crime involving moral turpitude."

In the light of the testimony given by defendant's witnesses, we find it impossible to accept such a sweeping characterization of the lack of qualifications of Negroes in Morgan County. It is so sweeping, and so contrary to the evidence as to the many qualified Negroes, that it destroys the intended effect of the commissioner's testimony.

"Violent Presumption"

This court observed that it was a "violent presumption" that the uniform exclusion of Negroes from juries, during a period of many years, was solely because, in the judgment of the officers charged with the selection of grand and petit jurors, fairly exercised, "the black race" was utterly disqualified by want of intelligence, experience or moral integrity to sit on juries.

Such a presumption at the present time would be no less violent with respect to the exclusion of the Negroes of Morgan County. And, upon the proof contained in the record now before us, a conclusion that their continuous and total exclusion from juries was because there were none possessing the requisite qualifications, cannot be sustained.

We are concerned only with the Federal question which we have discussed, and in view of the denial of the Federal right suitably asserted, the judgment must be reversed and the cause remanded for further proceedings not inconsistent with this opinion.

It is so ordered.

