

# Defense Forces Rally Against Anti-Labor Repression

## Appeal Denied Cal. Class War Victims

Norman Mini, Prisoner 57608 in San Quentin, and his fellow-workers who were sentenced with him to 14 years for union activities, is being denied the right to appeal his case, according to a statement just issued by Herbert Solow, Secretary of the National Sacramento Appeal Committee.

Mini, who was charged with criminal syndicalism but was guilty only of union activity and opposition to the existing social order, was the victim of an anti-union drive organized by the California State Chamber of Commerce and the Associated Farmers, Inc. These organizations, which, as the N.S.A.C. has proven, have a secret fund to finance the prosecution of union organizers throughout California, are using their influence on the courts to prevent Mini and the other Sacramento prisoners from upsetting the illegal verdict dictated against them by reactionary forces which controlled the Sacramento jury.

**No Transcript Provided**

The entire Sacramento appeal is now being held up, no copy of the transcript being provided by the state. As a result the attorneys in the case can not prepare their briefs and no date has been set to hear the appeal.

The Sacramento trial ended April 1, with the conviction of eight defendants. Immediately after the conviction, Juror Howard S. McIntire gave to the Non-Partisan Labor Defense an affidavit affirming that the verdict was the result of an illegal horse-trade.

Judge Dal M. Lemmon refused a motion to a new trial and sent the prisoners to San Quentin and Tehachapi. The court reporter failed to prepare the transcript within the time set by law, and the judge gave him several extensions. The appeal attorneys could not begin work on the transcript before the transcript was turned over by the court clerk to the county clerk in October.

The law of California provides that the County Clerk should give one copy of the transcript to the Attorney General, another to the prosecutor, and a third to the defendant or his attorney. The clerk immediately sent out the two copies marked for the state officials, but made no move to send a copy to the defense.

**I.L.D. Splits Defense**

Due to the flat refusal of the International Labor Defense to make a joint appeal fight along with the Non-Partisan Labor Defense, the appeal is split into two parts. Norman Mini is represented by Attorney Raymond W. Henderson of Bakersfield. California's leading legal fighter against criminal syndicalism, Henderson is retained by the National Sacramento Appeal Committee, which includes not only the N.P.L.D., but also the League for Industrial Democracy, the General Defense Committee and ten other national organizations.

Several of the other prisoners are represented by Leo Gallagher, who has been retained for their appeal by the I.L.D. The situation is additionally complicated by the fact that a number of the prisoners belonging to the Communist Party and advised on defense tactics by the I.L.D., represent themselves rather than have an attorney.

The Sacramento County Clerk refuses to deliver the one available copy of the transcript either to Gallagher or to Henderson, on the grounds that he would then be responsible for not having delivered it to whichever one he omitted. Moreover, he will not deliver it even to Gallagher and Henderson jointly because, he contends, he might then be held responsible by those I.L.D. defendants who are not technically represented by Gallagher.

**Court Nullifies Writ**

The court clerk refuses to provide any extra copies of the transcript, and the county clerk, hiding behind the fact that the law says the copy shall be delivered to the defendant (singular) will do nothing to make the court clerk provide extra copies.

With the approval of Attorney Gallagher, Attorney Henderson is now going to the Supreme Court of California in an effort to break open the jam in which the Sacramento Appeal Committee now finds itself.

Henderson recently obtained from the District Court of Appeals in Sacramento a mandamus ordering the county clerk to turn over the transcript to him. The clerk then came to the district court and had the mandamus declared null and void. He argued that he could not determine who is "the defendant" and therefore could not legally turn the transcript over to anybody. The court, conceding to him, and he is sitting tight again.

Unless Henderson wins his fight in the Supreme Court, the whole case is tied up and innocent men must sit in prison because they are being denied the right of appeal.

Such a situation, somewhat similar in a general way to the situation Angelo Herndon found himself in when the U. S. Supreme Court refused on flimsy technical grounds to hear an appeal, would be very much to the satisfaction of the California employers' organizations who plotted this frame-up in the first place and who are now doing all they can to make the illegal, railroaded convictions stick.

Henderson would then go into court and seek to free Mini on the grounds that he is "guaranteed" the right to appeal by the laws of California, but that he is being denied it in effect by the failure of the State to provide Mini or his attorney with a copy of the transcript of trial proceedings.

**Whole Defense Affected**

Should Henderson win this legal battle at any stage, it would be a great victory for the entire defense. The I.L.D. and its defendants would benefit along with Mini.

Should the State of California, pressed by the organized employers, refuse to make an appeal possible, the issue will have to go to the U. S. Supreme Court. In any event, the California bosses are compelling a long delay in the appeal, forcing innocent workers to sit in prison even without due process of law. The judge, of course, has refused bail despite the outrageous delay in the appeal proceedings caused by the attitude of the State itself.

It goes without saying that the employers' gratification at this situation could have been prevented if the I.L.D. had agreed to a unified defense. In that case, all the defendants would have been represented either by one attorney or by joint attorneys, and cooperation would have been simple.

As it is, the fact that Gallagher has agreed to cooperate with Henderson in sharing the one copy of the transcript if they can ever get it out of the county clerk's hands, does not help, because even a joint application by Henderson and Gallagher would be futile, since several of the I.L.D. defendants are technically not represented by Gallagher.

**I.L.D. Passive**

The obstructive attitude of the I.L.D. is further illustrated by the fact that they play down the news of this hold-up by the State. What little news they print about it is distorted in order to conceal the fact that the N.S.A.C. and Henderson have already gotten busy breaking the log-jam, while the I.L.D. forces remain passive, except for publishing a pamphlet devoted in part to lying attacks on the N.P.L.D., Mini, and his trial attorney, Albert Goldman.

The I.L.D.'s "united front" defense conference does nothing to support Attorney Henderson's fight. In addition to pushing the legal fight on the question of the transcript, the N.S.A.C. continues its work rallying mass support for the Sacramento prisoners. An appeal is being sent to unions throughout the country asking them to adopt resolutions to be sent to the California officials demanding the freedom of the eight Sacramento union organizers.

The Los Angeles branch of the National Sacramento Appeal Committee has just held a mass meeting on the case in Walker Auditorium. A large crowd of workers attended to hear Dr. Harry W. Laidler, chairman of the N.S.A.C.

Due to the added legal steps necessitated by the tie-up of the appeal, the N.S.A.C. needs additional funds. Funds and resolutions calling for the release of the prisoners should be sent at once to the National Sacramento Appeal Committee, Room 707, 41 Union Square, New York City.

## Stop Limping! Start Walking!

THE class struggle goes on, and the executive arm of the employing class, the State and all its institutions, cracks down on the workers of America.

Sacramento, Minneapolis, Atlanta, Harlan, Fargo, Brooklyn, from coast to coast, police, judges, vigilantes combine to persecute, not only revolutionists, but union organizers, strikers, unemployed asking for relief, and even "Modern Democrats," who dare to buck a Tammanyized city administration in Tampa. Illegal arrests, frame-up trials, denial of appeals on technical grounds, abduction, beating, murder . . . all in the name of justice, democracy, law and order.

The news reports on this page indicate, not only the need for a powerful unified defense movement, but the fact that for the first time in many years some measure of unity is being achieved on defense issues. Joint committees are functioning in the Sacramento, Tampa, Herndon, Harlan and other cases. Each committee includes several working class currents. Some already have signal victories to their credit.

We greet this development as a heartening sign of progress in the defense field. Credit belongs to the N.P.L.D., which we endorse and support, for the important part it has played in promoting this movement. Unified defense activities were initiated locally in New York by the N.P.L.D. in the victorious Robins-Gras campaign, and on a national scale in the National Sacramento Appeal campaign.

Today there exist a whole series of united defense committees on separate cases. But almost all of them limp a bit organizationally. The I.L.D. is absent from the National Sacramento Appeal Committee because it refuses to unify the defense. The I.L.D. is not on the Tampa Committee because the Socialist Initiators of the Committee have refused so far to invite them. The I.L.D. is absent from the Kentucky Miners' Committee because the Harlan prisoners have not yet forgiven the Communist Party its wrecking tactics in Harlan County a few years ago. Both the I.L.D. and the Socialist defense forces are missing from the Ferrero-Sallitto Committee.

The General Defense Committee (I.W.W.) and the N.P.L.D. alone are in all these joint bodies. This is an intolerable situation. The amputated character of most of these committees detracts from their strength and efficiency. The fact that in a number of the committees—Herndon and Kentucky—the control of the policy is vested in only one organization, with the others acting as auxiliaries, has rendered difficult the coordination of the legal work with all the militant mass campaigns.

Despite these and other weaknesses in organization and policy, the new development of joint defense work is a step in the right direction. But it is time these various committees stopped limping along with one leg shorter than the other, and began to march together toward one unified defense organization.

Once all the joint committees include the four defense organizations—the N.P.L.D., the I. and S. D., the I.L.D. and the G.D.C.—everybody with a sense of the practical would begin to think about centralizing the work of these various bodies. If the combined forces of these groups could first be thrown together into the struggle on behalf of these outstanding cases, on the basis of a twin policy of sound legal action and organized mass support along militant lines, the American working class would come a long way forward from the state of internal disunity in the defense field which accompanied "the third period" of Stalinism.

The eventual creation of a militant mass defense organization, embracing all the organized groupings in the labor movement, has been advocated by the N.P.L.D. for almost two years. We have supported their efforts to build such an organization from the very first.

Who, then, is blocking the road? First of all, the Communist Party. Without going into the past, let us look at the present. Last week the Daily Worker carried an editorial hailing the triumph of the united defense movement in the Herndon case and urged the extension of this defense unity to the Tampa, Terre Haute and Scottsboro cases, cases in which the victims are members of the Socialist or Communist parties.

But the Stalinists failed to mention the skeleton in their closet, the Sacramento case, in which Norman Mini, a member of the Workers Party, is involved. Can anyone take seriously the Stalinist call for defense unity so long as they continue to slander and split the defense movement in the Sacramento case?

The Socialist Party must also bear part of the responsibility for the present chaotic state of affairs. In the first place they refuse to admit the Stalinist defense forces into several joint committees. In the second, they violated, without explanation, the agreement they had signed with the N.P.L.D. and other labor groups, for the creation of a non-partisan labor defense, and proceeded to form a partisan "Labor and Socialist Defense Committee."

The drive for industrial unionism, if it is seriously pushed, will bring with it in the not far distant future a new outbreak of labor struggles. Workers will be hounded. Defense will be needed. If the working class is to be in the best possible position to handle these problems, the existing cooperation among the various defense bodies must be extended and the policy tightened up in the direction of militant action.

In the Theatre Union's drama, "Mother," the Russian workers sing:  
 "Good! We have the crust,  
 But where's the loaf?"  
 We believe we speak for every class war prisoner when we say just this about the state of the defense movement today.

## United Front Proposed on 'Scottsboro'

Moves are under way toward setting up a new joint committee to handle the Scottsboro case in its next stage.

The boys have been reindicted and will be tried in a short time. It seems clear that all or almost all of them have repudiated the I.L.D. as far as legal work is concerned, and have put their faith in Samuel S. Leibowitz, called into the case two years ago by the I.L.D., which was later kicked out by him.

Leibowitz has had the formal backing of the "American Scottsboro Committee," created by him, a group of Negro clergymen, and Publisher Davis of the scab Amsterdam News. The State of Alabama, through its "unofficial spokesman," correspondent John Temple Graves of the New York Times, has offered Leibowitz a deal: the boys will not be killed if all radicals, liberals and northerners get out of the case, and if it is defended as a straight rape case which it never was.

Roger Baldwin of the American Civil Liberties Union has addressed to the Non-Partisan Labor Defense a letter which asks whether the N.P.L.D. will consider an invitation to enter a united front on the Scottsboro case along with the I.L.D., the National Assn. for the Advancement of Colored People, the National Urban League, the I.L.D. and the A.C.L.U.

The N.P.L.D. National Executive Board had not yet acted on the invitation at the time of going to press, but when interviewed by a NEW MILITANT reporter, George Novack of the N.P.L.D. Board, made the following statement:

"We will certainly go on aiding the Scottsboro boys in any way we can, and that means considering any invitation to sit in a joint committee. We are anxious to see the exact basis of the proposed committee. On our Board are half a dozen people who were active in the Scottsboro case almost from the start.

"More than two years ago they raised their voices on behalf of the idea of broadening the Scottsboro defense to include Socialist,

## Mass Meet to Fight Danger To Herndon

The State of Georgia having filed an appeal against Judge Hugh M. Dorsey's decision upsetting the chain-gang sentence in the Angelo Herndon case, the Negro victim of the Georgia reactionaries, is again in danger.

The fight on Herndon's behalf launched by the Joint Committee to Aid the Herndon Defense, of which the N.P.L.D. is an active constituent, is being continued. A mass meeting has been called for Friday night, Dec. 20, in St. Nicholas Arena, Sixth Ave. and 66th St., at 8 P.M. Herndon will be one of the speakers. Julius Hochman, chairman of the Joint Board of Dressmakers, will preside.

The action of the State of Georgia in appealing against Dorsey's decision that, because of "vagueness," the 1896 insurrection law used against Herndon is unconstitutional, reflects the intensity of political differences within the ruling class of Georgia itself.

Dorsey's action took place against a background of mass agitation which became effective after the I.L.D. decided to abandon its monopoly on the Herndon case and call in aid. The Joint Committee brought new elements into action for the first time, and the Herndon issue began to be popular.

Neither the Roosevelt nor the Tamadge faction of the Georgia Democratic Party wants to take the responsibility of Herndon being on the chain gang when the fight for the 1936 Presidential nomination, which each one covets in the name of "liberty," begins seriously. Consequently, Dorsey, while maintaining that there should be a law on the statute books which, because it is the opposite of vague, will put all radicals and labor organizers on the chain gang, let Herndon go.

The State solicitor, representing a rival faction, appeals the case. Each faction is trying to put on the other the onus of keeping Herndon on the chain gang. The liberty of an innocent man is thus potholing but a political football for Georgia demagogues.

His freedom can come only through the pressure of the masses.

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## Mpls. Labor Protests Jailing of Al Russel

### Resentment Nationwide in Tampa Case

TAMPA, Fla.—With labor protests throughout the country pouring in on him, the mayor of Tampa has suspended six policemen and one fireman involved in the murder of Joseph Shoemaker, and the sadistic beating of S. D. Rogers and E. F. Poulnot, Socialists and members of the Workers Alliance, unemployed organization.

Organized by the Committee for the Defense of Civil Rights in Tampa, the labor protests included a warning by President William Green of the A. F. of L. that the next union convention, scheduled for Tampa, would be moved elsewhere if the outrage is whitewashed. To put teeth into this warning, the committee is contacting all internationals and local unions for passage of resolutions directed at the Tampa authorities.

Taking no stock in promises of an investigation by local authorities, the Committee for the Defense of Civil Rights in Tampa has sent its own investigators to the spot.

The Non-Partisan Labor Defense, the League for Industrial Democracy, the General Defense Committee, the Dressmakers Joint Board and other organizations are the constituents of the Committee.

### Reverse Fargo Convictions

FARGO, N. Dakota.—The State Supreme Court has reversed the convictions of three Fargo teamsters' union leaders, but upheld the convictions of fifteen union members, in a long-delayed decision handed down last week.

The eighteen trade unionists had been convicted on the charge of rioting, arising out of a bitterly-fought strike last winter and spring. On the pretext of seeking pickets who had violated the local ordinance, police and vigilantes attacked the union hall with tear gas and guns and arrested over ninety strikers. The North Dakota House of Representatives subsequently adopted a resolution denouncing the raid and those judges who had granted injunctions in violation of the state anti-injunction law.

The Non-Partisan Labor Defense provided attorneys and funds to successfully fight the injunctions. Francis Heisler, noted Chicago attorney, was provided by the N.P.L.D. as chief counsel representing the strikers in numerous cases, and carried to the Supreme Court an appeal against the conviction of the eighteen union members.

President William Cruden, Secretary Austin Swalde, and Hugh Hughes of Local 173 were those whose sentences were reversed. A new trial has been ordered.

This is the first time in four years in any state, that there have been any reversals in a labor rioting conviction.

FARGO, N. D., Dec. 15.—At a meeting of the Fargo Branch of the N.P.L.D. today it was decided to give full support to the fight of the convicted Fargo strikers for freedom.

The fact that the Supreme Court has reversed the sentences against the three leaders of Local 173 does not satisfy the workers of Fargo or the N.P.L.D. which organized the defense fight. An appeal will be made for a rehearing of the case. Attorney Francis Heisler will have charge of the legal work. It is believed that the prosecution, angered by the resistance of the workers, will try to re-convict the three union leaders freed by the Supreme Court. The union leaders and rank and file, however, are solid in this fight for the liberation of all the strikers.

### NEXT ISSUE

An Answer to Loveston's Bombast

MINNEAPOLIS, Nov. 10.—Al Russel, arrested on the picket line at the Strutwear plant during the attempt to reopen it with federal protection (under guise of a fake replevin suit), came up for trial before Federal Judge Molyneux on Monday, December 9. He had been confined in jail for ten days under heavy bail. He was first held without charges until a writ of habeas corpus sued out by the Non-Partisan Labor Defense resulted in his technical release and immediate rearrest on the charge of criminal contempt. At the request of the United States district attorney, who apparently had no evidence on which to sustain the charge, the trial was postponed until December 13.

Bail was reduced from \$2,500 to \$500. Then later in the day, after this bail had been procured, it was automatically raised again back to the original exorbitant figure of \$2,500. It is evident that powerful influences are at work to keep Alfred Russel in jail and thereby to intimidate other pickets in the carefully prepared and well advertised conspiracy to reopen the Strutwear plant and break the strike of the hosiery workers.

Francis Heisler, the noted labor attorney of Chicago, and Gilbert Carlson appeared in court to defend Russel. This formidable legal battery had been retained by the Non-Partisan Labor Defense which is in charge of the case.

The persecution of Alfred Russel has become a public scandal and the case is attracting wide attention. This was attested to by the presence in court of a large number of union members and labor leaders, including Alexander McKeown, first vice president of the American Federation of Hosiery Workers. A large crowd of Strutwear strikers, proudly wearing their union buttons, were in the courtroom in a demonstration of solidarity with Russel.

**Demand Strutwear Show Books**

Attorneys Heisler and Carlson are turning the defense of Russel into a legal offensive against the maneuver of the Strutwear outfit to break the strike with the aid of the federal courts. They are going into court with a motion for a subpoena duces tecum, requiring the Strutwear company to produce their books for examination by a certified public accountant. The object of this action is to get at the bottom of the ill-smelling "replevin" action under which United States marshals were brought into the situation, and to ascertain whether the writ of replevin was misused or not.

## Order Ferrero-Sallitto Deported

The Department of Labor has made its Christmas present to Vincent Ferrero and Domenico Sallitto. The Bureau of Immigration handed down decisions last week that these men, held since April, 1934, have been given until Dec. 25 and Dec. 27, respectively, to take voluntary departure from this country. No charges stand against these men save that they rented part of their premises to a publication the Administration does not like. The case involves the right of freedom of speech and freedom of the workers' press. The Italian government has refused to give Ferrero his passport; his return to Italy would mean almost certain imprisonment or death.

As time to save these two men grows short, the campaign carried on by the Ferrero-Sallitto Defense Conference has become more intense. Last week a mass meeting at the Rand School, attended by several hundred workers, heard speeches by spokesmen of organizations participating in the case, including a representative of the Non-Partisan Labor Defense. A resolution protesting the deportation was sent to the Department of Labor and plans laid for an intensive drive to flood the desk of Frances Perkins, head of the Department, with protests from trade unions and other labor organizations, liberal groups and individuals.

Efforts to save these men will aim also at smashing the growing use of the government of the weapon of deportation, a vicious weapon aimed against the thirteen million aliens and foreign-born in this country, and particularly against the militants in the labor movement.

**Read!**

"Union Smashing in Sacramento: The Truth About the Criminal Syndicalism Trial"

By HERBERT SOLOW

32 pages. 5 cents per copy. Reduced rates for bundles.

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**HERNDON VICTORY MEETING**

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HERBERT SOLOW - ANNA DAMON and others

at FRIDAY EVENING, DEC. 21, 1935

ST. NICHOLAS PALACE, 69 W. 66th St., N. Y. C.

Admission 25c

Auspices: Joint Committee to Aid the Herndon Defense