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# Scottsburo : influence of the international labor defense

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Scottsburo: Influence of  
The International  
Labor Defense

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History Honors  
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## I. INTRODUCTION

The Scottsboro Case - a series of litigations which shook the thirties began on March 21, 1931 in an alleged rape of two white girls by nine Negro boys on a train near Point Rock, Alabama. From a simple beginning near this sleepy mountain town in Alabama, this case had ramifications throughout the United States and the world. It will be my purpose in this paper to examine the case from the standpoint of Communism as seen through the efforts of the International Labor Defense, a Communist front organization. I will trace the history of the I.L.D. and its campaign for Negro support before, during, and after the Scottsboro case. Through this paper I hope to illuminate the effect the I.L.D. had on the Negro as a result of the Scottsboro case.

## II. SOURCE AND MATERIALS

Work in this avenue of research has led me through a labyrinth of material. I have made frequent use of the New York Times in the years 1931 through 1935. The New York Times has provided me with a great deal of objective material especially in the Associated Press release from Scottsboro,

Decatur, and Birmingham, Alabama.

I have made use of many periodicals from this period in order to ascertain the mood of the American public toward the trial. My main periodical sources include The Nation and The New Republic.

The Labor Defender, a publication of the International Labor Defense, has served as my main reference to the Communist attitude, goals, and achievements both during and after the trial.

III      Time?

January 1, 1930 inaugurated a new decade. In the United States neither was the day bright nor the decade promising, for the depression which had begun the previous October was beginning to take its sinister grip upon the nation. This dark decade saw the United States fall deeper into poverty than many had thought possible. The poverty and bread lines were not limited to a small section of our society, but rather extended from the Atlantic to the Pacific and from the Gulf to the Great lakes. Though all fabrics of our society fell prey to the depression, the South, the most underdeveloped, succumbed first and foremost.

The South, which had only some seventy years before been vanquished and laid waste by Federal armies, was on the rise only to be crushed again by the depression. The large plantations had long since vanished and had been replaced by small land holdings. The majority of the white population was impoverished. They eked out survival by the running of small farms and exploitation of the Negro. Of the many unsolved problems still facing the South in this era, none were so deeply woven into the very fabric of the region as was the Negro.

What was the Negro's place in Southern society? Had not the Emancipation Proclamation freed him? Had not Reconstruction armies introduced him to Southern politics? In the South in 1930 the Negro was not a second class citizen; he was not a citizen at all. Employed most often as a tenant farmer, he was little <sup>more</sup> than a slave. He was a member of the toiling masses - "the man with the hoe" of whom Edward Markham spoke so forcefully

"Bowed by the weight of centuries  
 he leans upon his hoe and gazes  
 on the ground.  
 The emptiness of ages in his force,  
 and on his back the burden of the world."<sup>1</sup>

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<sup>1</sup>Edwin Markham, The Men With the Hoe, p. 15

During these troubled times the Negro's plight deepened. Thousands of Negroes throughout the South lost their meager jobs. Relief was often readily available to whites, but the Negro in many cases was left to eke out his existence without aid. In Dallas and Houston no relief payments were given to Negroes or Mexicans.<sup>2</sup> Many Negroes roamed the country aimlessly in search of jobs and food.

The courts had betrayed him in the 1893 case of Plessey vs. Ferguson,<sup>3</sup> which had shut his door on equal opportunity. He saw his brothers lynched for talking back to white men.<sup>4</sup> He was burned at the stake for refusing to work for unjust wages. Had the Negro no place to turn? One of the avenues open to the American Negro was that of Communism. The Communist saw in the Negro the exploited proletariat that could be used as a catalyst to light the spark

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<sup>2</sup> Files Crenshaw, The Firebrand of Communism, p. 15.

<sup>3</sup>Plessey vs. Ferguson a supreme court decision in 1893 which upheld a Louisiana law requiring segregated railroad facilities. The court ruled that as long as equality in accommodation existed, segregation did not constitute discrimination.

<sup>4</sup>From 1865 to 1928 an estimated 4,000 Negroes were lynched by mobs in the South. *Source*.

of revolution in America. The Negro, however, was to prove most difficult to win to the Communist cause.

#### IV The I.L.D.

The International Labor Defense was the American branch of a Comintern front organization known as International Red Aid. The main goals were stated by Helen Stassova in the November 1928 issue of the Labor Defender. She states that the purpose of the I.R.A. was to ferment revolt among the working classes of the world, and thereby bring about the world revolution of the proletariat.<sup>5</sup> After 1922 the International Red Aid established organizations throughout the world for forwarding the Revolution. By 1928 the I.R.A. had forty-four organizations with an enrollment of 8,900,000.<sup>6</sup>

Little is known of the early organization of the International Labor Defense before 1926. But the organization must have been active previous to that year, for in the first publication of the Labor Defender in June of 1926, one-hundred and twenty

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<sup>5</sup>Helen Stassova, "MOPR (International Red Aid)," The Labor Defender, (Nov. 1928), p. 228.

<sup>6</sup>Helen Stassova, MOPR's Banners Abroad, p. 3.

locals are acknowledged.<sup>7</sup> The Labor Defender, the official publication of the I.L.D. gives us scant information about the organization. However, the first issue of the Labor Defender does illuminate the periodical's purpose. It is to provide "a common meeting ground" for all class war prisoners.<sup>8</sup>

Early publications of the Labor Defender give little treatment to the Negro, but they serve as valuable studies in the technique which is later used in arousing Negro unrest in lynchings and the Scottsburo trial.

The layout of the Labor Defender is intended first and foremost to disguise the Communist line by appealing to emotion and invoking sympathy for prisoners unjustly convicted. Each issue contains pictures of funerals, prisons, prisoners, and their families. In each publication the birthdays of the prisoners are listed. One section of the periodical is entitled "Voices from Prison". This section contains letters allegedly written by the prisoners

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<sup>7</sup> Stassova, "MOPR (International Red Aid)", p. 228.

<sup>8</sup> T.J. O'Flaherty, "Labor Defender", The Labor Defender, (Jan. 1926), p. 2

to the I.L.D. during the years when the Scottsburo Trial was at its height, hardly an issue of the Labor Defender was without a letter from one of "the boys." No letter was ever without the usual thanks from the prisoners to the I.L.D. for the five or ten dollars which it had so generously sent them.

The first indication that the I.L.D. was taking an interest in the American Negro was an article on lynching which appeared in the April 1928 edition of the Labor Defender.<sup>9</sup> In this article the author, William Pickens, confronted the Negro dilemma on the conventional marxist grounds of economics. He drew a direct correlation between the Negro's economic inferiority and his political impotency. Pickens followed the usual doctrine of the exploitation of the working class in this article.<sup>10</sup>

The Labor Defender after 1928, began an even more fervent campaign to enlist Negro support. There appears to be an attempt in many articles to

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<sup>9</sup>William Pickens, "Behind the Evil of Lynching Negroes," The Labor Defender, (April 1928), p. 82-83.

<sup>10</sup> Ibid.

identify the Negro as a member of the working class. In the February 1929 issue appears "The Industrialization of the South and the Negro." The Negro is shown that in the future he will be a slave in the Southern factory as he was on the ante-bellum plantation.<sup>11</sup> Throughout 1929 and 1930 the Labor Defender proposed the Negro's cause in "capitalistic America." Special emphasis was always given, however, to show that the Negro was not the only scapegoat in American society, but that all foreign groups as well as poor whites were on the short end in American Society. In April 1929 the Negro was told to unite with the Mexican, the poor white and all foreigners against Capitalistic suppression.<sup>12</sup> The Klu Klux Klan, an ardent enemy of the I.L.D. as is seen in the Scottsburo Trial, was fervently attacked in the Labor Defender.<sup>13</sup>

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<sup>11</sup> Listem M. Oak, "The Industrialization of the South and the Negro," The Labor Defender, (Feb. 1929), p. 30-31.

<sup>12</sup> John Owens, "Race Discrimination in California," The Labor Defender, (April, 1929), p. 18-20.

<sup>13</sup> Sol Auerbach, "Knights of Fascism," The Labor Defender, (July, 1931), p. 141.

From 1926 to 1930 the I.L.D. had taken an interest in the Negro, but only passively. While propaganda for the Negro had flowed from the presses, the I.L.D. had taken no active role in organizing the Negro or in court cases involving the Negro.

However, in 1931 the I.L.D. was to take an important step in active enlistment of the Negro. The path to be followed by the I.L.D. was explicitly contained in the July Labor Defender's letter entitled "I.R.A. Surveys the I.L.D." The International Red Aid was undoubtedly dissatisfied with the I.L.D.'s treatment of the Negro, as the Secretariat of the Executive Committee of the I.R.A. indicated in the letter. He stated that there were

"highly insufficient number of Negroes in the ranks of the organization."

The I.R.A. further demanded that

"work among the Negro toilers must be put as one of the most important tasks....The utmost attention must be given to the recruitment of Negroes...Each branch must become a fighting unit against all persecutions of the Negro."<sup>14</sup>

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<sup>14</sup> Secretariat of the Executive Committee of the I.R.A., "I.R.A. Surveys the I.L.D.," The Labor Defender, (July, 1931), p. 141.

The Scottsburo trial which had opened the previous March would serve as launching pad for the I.L.D. campaign for the Negro which had been recommended by the I.R.A.'s "open letter."

V. SCOTTSBURO

On March 25, 1931 nine Negro boys were taken off a train at Point Rock, Alabama and arrested for raping two white girls. The nine boys were jailed in Scottsburo, Alabama where they stood trial on April sixth. Eight of the nine boys were found guilty of rape and were given the death sentence. Execution was set for July 16, 1931.<sup>15</sup>

This trial in the little town of Scottsburo, Alabama was to have ramifications throughout the South, ~~The~~ United States, and the entire world. This case was no different than hundreds of others throughout the South since the Civil War. However, through the efforts of the I.L.D. and the I.R.A. it was to receive more publicity than any case in decades.<sup>16</sup>

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<sup>15</sup>Mary Heaton Vorse, "How Scottsburo Happened," New Republic, LXXIV (May 10, 1933), p. 356-359.

<sup>16</sup>The New York Times, (November 9, 1932), p. 40.

Only two weeks after the conviction the I.L.D. met with the parents of the nine boys and were given the case.<sup>17</sup> George Chamblee and Walter Pollock, two veteran I.L.D. lawyers, began at once working on the appeal.<sup>18</sup>

The I.L.D. undoubtedly took the case in order to spread Communist propaganda among Southern Negroes. At the time they took the case they could hardly have realized what an opportunity they had chanced upon. They would not benefit from a clean, early victory. However, long complex litigations full of racial tensions would furnish the publicity and propaganda which would be worth the cost of the defense. Finances were of the utmost importance. The I.L.D. had been placed in a dilemma by the I.R.A. In its survey the I.R.A. had called for most recruitments of Negroes, however, they had also reprimanded the I.L.D. for its profligate spending on trials.<sup>19</sup>

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<sup>17</sup> Howard Haywood, "Scottsburo," Equal Justice, Winter 1941) p. 8.

<sup>18</sup> Ibid.

<sup>19</sup> Secretariat of the Executive Committee of I.R.A., p. 141.

The I.R.A. Congress in 1930 had stated that each front organization must be self supporting.<sup>20</sup> Thus, the I.L.D. which had constantly been in debt must both win the Negro and keep its finances in order.

The I.L.D. had a good defense. Today the innocence of the nine defendants is unquestioned. The charge of rape against the nine boys was completely unfounded. The two girls, Victoria Price and Ruby Bates, were known prostitutes. Only an hour after the supposed assault they were examined by a Scottsburo physician, Dr. R. R. Bridges. He testified that he found no indication of any struggle. The only supporting evidence of any kind was the non-motile sperm found in the vaginal region of Victoria Price. However, Dr. Bridges confirmed that it was almost twenty-four hours old. Concerning the defendants, it was later discovered that one of the accused was incapable of intercourse, another half blind, and all of them were undernourished and illiterate. During the first trial, none of the defendants' parents or relatives were contacted,

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<sup>20</sup>Stassova, MOPR's Banners Abroad, p. 25.

and they were denied adequate counsel.<sup>21</sup>

The Scottsburo case offered immense possibilities for propaganda. The high pitched racial tensions in Alabama and the South played into the hands of the I.L.D. A lynch fever was in the air in Scottsburo as the crowds outside the courtroom on April sixth sang "They'll be a Hot Time in the Old Town Tonight."<sup>22</sup> This case appeared no different than any usual Southern "nigger trial" save for the I.L.D.

After taking the defense in April, the I.L.D. began its campaign. An I.L.D. office was established in Birmingham, Alabama and field operations among Negroes were begun. The I.L.D. was very successful during the early stages of their campaign and soon thousands of Alabama Negroes were carrying an I.L.D. membership card displaying a picture of the Scottsburo boys.<sup>23</sup>

A Share Croppers Union under the auspices of

<sup>21</sup>Vorse, p. 359.

<sup>22</sup>Haywood, p. 10.

<sup>23</sup>Allan Chalmers, They Shall be Free, p. 54

the I.L.D. began enrolling Negroes. A Share Croppers meeting at Camp Hill, Alabama on July 17, 1931 was raided by an Alabama Sheriff's posse. As a result one Negro, Ralph Grey, was killed and thirty-four Negroes were arrested.<sup>24</sup> The I.L.D. used this and other incidents to support their Scottsburo propaganda program.

In the May issue of the Labor Defender, William Patterson cried out against social injustice in his article "Judge Lynch Goes to Court".<sup>25</sup> The June issue was devoted almost entirely to Scottsburo. Such articles as "Lynching Negro Children in Southern Courts" and "Where Nine Boys Await Death" were keyed to emotionalism already rising to fever pitch. The Communist technique is clearly evident throughout the coverage of the case. "No Race Hatred in Worker's Russia" and "Does Russia Love the Negro" were two articles appearing in the Labor Defender during

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<sup>24</sup>Ibid., p. 57.

<sup>25</sup>William Patterson, "Judge Lynch Goes to Court," The Labor Defender, (May, 1931), p. 84.

their coverage of Scottsboro in the summer and fall of 1931.<sup>26</sup> The I.L.D., it appears, was putting its full force into Negro enlistment by use of its early campaign at Scottsboro. However, its chances for success was strongly dimmed by its confrontation with the National Association for the Advancement of Colored People.

At the first trial in Scottsboro the nine boys were defended by Stephen Roddy of Chattanooga, Tennessee. Mr. Roddy took the case under the direction of the N.A.A.C.P.<sup>27</sup> It is hard to ascertain how competent a lawyer Roddy was, but he undoubtedly made a poor showing in the first trial. Perhaps he has been chastized too harshly, however, for under the conditions and environment of Northern Alabama even the best defense would have been futile. Nevertheless, his loss reflected on the N.A.A.C.P. The Negro organization, however, retained Roddy on the case, and he immediately began to prepare an appeal.

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<sup>26</sup>William Patterson, "No Race Hatred in Worker's Russia," The Labor Defender, (July 1931) p. 130.

<sup>27</sup>The New York Times, (April 24, 1931), p. 4.

Without consulting the N.A.A.C.P. the I.L.D. sent the following letter to Governor Miller of Alabama.

"We demand a stay of execution and an opportunity to investigate and prepare for a new trial or appeal. We demand the right for our attorneys to interview defendants and obtain formal approval of defense counsel."<sup>28</sup>

Eight days later the defendants' parents, evidently distressed at the N.A.A.C.P.'s loss, accepted the defense of the I.L.D. legal staff.<sup>29</sup> Mr. Roddy in a public statement denounced the Communist aid and said he was still defending the boys under their wishes.<sup>30</sup> For several months the defendants were represented by both organizations. The Labor Defender in the Fall of 1931 published several articles condemning the N.A.A.C.P. for its poor showing in the first trial and its anti-Communist's attitude. It

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<sup>28</sup>Crenshaw, p. 175.

<sup>29</sup>The New York Times, (July 5, 1931), p. 4.

<sup>30</sup>Quinton Reynolds, Courtroom, p. 259.

is true that the N.A.A.C.P. was opposed to the I.L.D.'s defense on the grounds that the Communist atmosphere of propaganda would hamper the chances of the defendants release. The Labor Defender of November 1931 printed several pleas from the boys and their parents to the I.L.D. fervently requesting the I.L.D. to take their case from the N.A.A.C.P.<sup>31</sup>

In the Fall of 1932 the N.A.A.C.P. obtained Clarence Darrow for the defense. However, by January, Darrow refused to work with the Communists and left the defense.<sup>32</sup> With the withdrawal of Darrow the N.A.A.C.P. gave up its efforts in the case. Had the I.L.D. been able to take the defense without antagonizing the N.A.A.C.P. their rewards in Negro enlistment would certainly have been enhanced. Though they succeeded in their primary goal of winning the defense, the cost was dear to Negro recruitment.

Throughout the Fall of 1931 Walter Pollock and George Chamblee of the I.L.D. worked on an appeal to the Alabama Court. Finally in March of 1932 the

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<sup>31</sup>Charlie Weems and Willie Robertson, "Voices From Prison," The Labor Defender, (Nov. 1931), p. 222.

<sup>32</sup>The New York Times, (January 5, 1932), p. 2.

case was reviewed in Birmingham. After several days of debate, Alabama's highest court refused the appeal.<sup>33</sup> Though the I.L.D. had met its first defeat, the defense had gained much propaganda and support through the loss. The next appeal would be to the United States Supreme Court and the publicity that was already reaching huge proportions would now soar even higher.

Protests and demonstrations for the Scottsburo case had begun shortly after the first verdict was announced in April of 1931. Partly as a result of the I.L.D. campaign, protests began pouring in from all over the world. In July of 1931 a demonstration against the Scottsburo verdict was held at the American consulate in Berlin.<sup>34</sup> This demonstration was followed by others in Lepzig, Dresden, London, and Geneva.<sup>35</sup> All over Europe organizations were established to aid the "Scottsburo victims." In Germany the Scottsburo Committee was headed by German intellectuals, of whom

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<sup>33</sup>Haywood, p. 8.

<sup>34</sup>The New York Times, (July 1, 1931), p. 9.

<sup>35</sup>The New York Times, (April 26, 1931), p. 2

Albert Einstein was a noted member.<sup>36</sup> The protests were not limited to Europe however, for demonstrations were held in Havana, Buenos Aires, and of course the United States. How successful these protests were is hard to ascertain. They served to gain commendable publicity for the defense in the case and also illuminated bigotry in the United States. Financially it has been estimated that over \$1,000,000 dollars was accumulated by the I.L.D. in the early stages of the case.<sup>37</sup> Also it was reported that I.R.A. membership increased from about ten to fourteen million from 1930 to 1932. In Alabama over six thousand Negroes had joined the Share Cropper's Union, an organization under the auspices of the I.L.D.<sup>38</sup>

In October the appeal reached the United States Supreme Court. On October 11, the day the appeal was heard, demonstrations were held outside the Supreme Court building.<sup>39</sup> Inside Walter Pollock argued for the defense and Attorney General Knight for the State of Alabama. The appeal was based on three points:

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<sup>36</sup>The New York Times, (March 27, 1931), p. 25.

<sup>37</sup>Crenshaw, p. 201.

<sup>38</sup>Ibid., p. 204.

<sup>39</sup>The New York Times, (Oct. 11, 1932), p. 19.

The hostile atmosphere in which the trial had been conducted, the lack of adequate counsel for the defendants, and the systematic exclusion of Negroes from the Jury. Pollock based his first argument for appeal on the grounds of hostile atmosphere during the trial. He gave evidence that the large crowd that assembled after the arrest of the defendants on March 31 forced them to be transferred from Scottsboro to Godsen, Alabama. Because of the hostile atmosphere Governor Miller called out the National Guard, which several times during the trial was called upon to repress the heckling crowds. Next Pollock argued that the defendants were denied equal protection on the grounds that members of their race were systematically excluded from the Jury.<sup>40</sup> This was also a valid judgement, which as his first point should have been sufficient to warrant an appeal by the court. However, the court voting seven to two granted the appeal on the unexpected grounds that adequate defense had been denied, Pollock's third point.<sup>41</sup>

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<sup>40</sup>"Powell v. Alabama," United States Reports, 287 U.S. 45, (1932), p. 48.

<sup>41</sup>Ibid., p. 66

Though opinion applauded the success of the appeal, the Supreme Court was bombarded for its logic. In December, The Nation blasted the court and accused it of taking a cowardly stand by not ruling on discrimination of Negroes on juries.<sup>42</sup> This was truly a valid charge, for later in the second appeal to the Supreme Court, Samuel Leibowitz, by supplying concrete evidence and argument was able to win his appeal on these grounds. The court also disregarded the equally valid point that the hostile atmosphere had prevented a fair and impartial trial.

On what did the court base its ruling that adequate counsel had been denied? The N.A.A.C.P. had employed Stephen Roddy, who had been assisted by Milo Moody, a local lawyer in the first trial. It was determined that both lawyers were incompetent in the handling of the case. Roddy did not arrive in Scottsburo until the morning of the trial; did not confer with the defendants; nor had he prepared his case. The court also determined that Moody, his assistant in the defense fared little better, for he

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<sup>42</sup>"Alabama Justice," The Nation, (April 19, 1933), p. 54.

had not been assigned to the case until the morning of the trial.<sup>43</sup> Thus, the Supreme Court had a valid right to grant the appeal on these grounds.

However, in evading the other two issues and granting the appeal solely on the grounds of inadequate defense, the court had unfortunately played into the hands of the I.L.D. The I.L.D. had previously blasted the N.A.A.C.P. for providing inadequate defense for the Negroes. Now their charges against the N.A.A.C.P. appeared to be backed by the Supreme Court. The I.L.D.'s campaign against the N.A.A.C.P. may not have been in vain. Many Negroes might well have begun to consider I.L.D. allegations that the N.A.A.C.P. did not really represent their interests. Though it is difficult to ascertain if any Negro enlistment was incurred due to this development, it is certain that the I.L.D. benefited from the Supreme Court decision.

The second trial was set for March 27 in Decatur, Alabama. The I.L.D. in preparation for the trial continued its vast propaganda campaign. Utilizing the mothers of the defendants, they appealed to sentimental emotionalism. Mrs. Ida Wright, mother

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<sup>43</sup>"Powell v. Alabama," p. 68.

of Andy and Roy Wright, undertook a speaking tour through Europe conducted by the I.R.A. She spoke to a large crowd in Belgium which became so unruly that she was asked to leave the country.<sup>44</sup> In Germany, the demonstration on the American Embassy following her address resulted in her arrest. Back in the United States Mrs. Haywood Patterson and Mrs. Ozzie Powell conducted tours under the auspices of the I.L.D. in behalf of their sons. Mrs. Haywood Patterson proved a valuable asset to I.L.D. for she always attracted large crowds in her speeches in New York City.<sup>45</sup>

Meanwhile the I.L.D. was making legal preparations. In January of 1933 the I.L.D. tried to procure one of the most outstanding trial lawyers in the country for the defense. Samuel Leibowitz, a crooked lawyer,<sup>?</sup> but a non-Communist was their choice.<sup>46</sup> The selection of Leibowitz was a strict departure from their previous practice of using only the I.L.D. legal staff for

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<sup>44</sup>The New York Times, (Aug. 24, 1932), p. 4.

<sup>45</sup>The New York Times, (Oct. 15, 1932), p. 18.

<sup>46</sup>The New York Times, (March 14, 1933), p. 10.

defense cases. Their decision was probably based on several points. First, Leibowitz was a criminal lawyer of national repute, which would add more publicity to the already famous case. Also, the fact that Leibowitz was a Jew would fit nicely into the I.L.D. image as a champion of minorities. It appeared that the I.L.D. in securing Leibowitz had once again made headway in the case. However, this move was later to be regretted by both parties.

#### VI. SAMUEL LEIBOWITZ and the I.L.D.

In January of 1933 Samuel Leibowitz received a letter from the I.L.D. asking him to take the defense in the Scottsburo case to open in Decatur in March. Leibowitz undoubtedly knew of the I.L.D. and its Communist affiliation for in the letter to him the I.L.D. stated:

"We do not ask you upon condition of your acceptance as a trial counsel to give up any of your social, economic, or political convictions."<sup>47</sup>

In his acceptance, Leibowitz stated that he thought of the case only on criminal and not political grounds. Leibowitz specified in taking the case that he would

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<sup>47</sup> Reynolds, p. 249.

take no fee for his services; he hoped that by donating his services he could divorce himself as much as possible from any association with the Communists.<sup>48</sup> Although there seemed to be a clear understanding between the I.L.D. and Leibowitz, later both parties would be involved in a bitter dispute which would end in the withdrawal of the I.L.D. from the Scottsburo case.

By the opening of Haywood Patterson's second trial in Decatur in March, 1933, the I.L.D. appeared to be firmly in control of the situation. Representing the defense was Samuel Leibowitz and two I.L.D. staff lawyers, Joseph Brodsky and George Chamblee. Leibowitz, leading the defense, began by challenging the exclusion of Negro jurors. After the jury had been selected, he began hammering away at the prosecution led by Attorney General Knight. Leibowitz' brilliant defense was lending much strength to the I.L.D. cause. By harassing Victoria Price, one of the alleged rape victims, he was able to affirm that she was a prostitute. Using the testimony of Dr. R. R. Bridges, he proved that neither Victoria Price nor Ruby Bates could have been forcibly raped by the

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<sup>48</sup>Ibid., p. 255.

defendants. Leibowitz' prime witness was Ruby Bates who repudiated her previous testimony and declared that the rape charge had all been a hoax. It appeared to all but the jury that Leibowitz had won the case. However, on April 9, the verdict of guilty was delivered.<sup>49</sup> Although Leibowitz was somewhat disillusioned by defeat, the I.L.D. had gained a great deal. The National stature of Leibowitz lent the I.L.D. an aura of respectability. In addition racial and anti-semitic tensions were aroused by the trial. The prosecution repeatedly referred to "Jew money" being used to buy acquittal for the Scottsburo boys.

The presence of the I.L.D. at the trial caused tensions to be raised against the Communists. Trying to win the public over to the prosecution, Wade Wright and Attorney General Knight called for the death of the defendants on grounds that it would be a defeat over Communism.<sup>50</sup> In April Sherman Rodgers, associate editor on the Staff of The Saturday Evening Post

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<sup>49</sup>Henry Hammond, Jr., "Due Process of Law in Alabama," The Nation, (Dec. 20, 1933), p. 701-702.

<sup>50</sup>The New York Times, (April 8, 1933), p. 30.

addressed a large crowd on the steps of the Alabama State Capital. He declared that:

"The United States was depending upon the South's loyalty to the Constitution to stay the tide of Communism that threatens to engulf the country."<sup>51</sup>

Throughout Alabama and the Nation came other attacks and protests against Communist interference in the case. Wade Wright, in his concluding remarks called for the jury to find the defendants guilty to show that, "Alabama justice could not be bought with Jew money from New York."<sup>52</sup> The I.L.D. made good use in propaganda from such racial, anti-semitic, and anti-Red blunders by the prosecution.

A third trial opened on November twentieth of 1932 for Haywood Patterson. The more liberal Judge Horton of the previous trials had been replaced by tougher Judge Callahan. The State's mounting costs of prosecuting the case caused Callahan to favorably finish the trial in three days. Leibowitz and the I.L.D. were over-ruled in every way by Callahan who read the verdict of guilty on December fourth.<sup>53</sup>

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<sup>51</sup>Crenshaw, p. 246.

<sup>52</sup>The New York Times, (April 8, 1933), p. 30.

<sup>53</sup>"Scottsburo," The New Republic, LXXVII (Dec.6, 1933) p. 85.

An appeal to the Alabama Supreme Court followed, but the conviction was upheld. However the I.L.D. planned to continue its appeal to the United States Supreme Court.

Under the direction of Leibowitz, the I.L.D. had taken a firm hold in the case. All looked well for the I.L.D. in the Fall of 1933 as it prepared for its appeal to the Supreme Court. However, on October fifth, news flashed across the nation that two representatives of the I.L.D. had been seized in Nashville, Tennessee on charges of attempting to bribe Victoria Price. The two men, Sol Kone and Daniel Swift, were working out of the office of Joseph Brodsky, head of the I.L.D. legal staff. It was reported that J. W. Pearson, a local resident of Alabama, had offered Victoria Price \$1,000. for signing an affidavit refuting her previous testimony against the defendants. She was to meet Kone and Swift in Nashville, where she would receive the money for the signed affidavit. Kone and Swift, when freed on bond, fled to Alabama and were never brought to trial; however, this guilt is almost certain.<sup>54</sup>

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<sup>54</sup>The New York Times, (Oct. 7, 1934), p. 5.

Leibowitz, upon hearing of the alledged bribery charges, denounced the I.L.D. The I.L.D. brazenly retorted Leibowitz. Joseph Brodsky accused Leibowitz of being a "Klaner" and trying to lay the losses and frustrations of the case on the I.L.D.<sup>55</sup>

A bitter and bizarre dispute over the right of defense now ensued. On October 6 the accused Negroes gave the case to Leibowitz, however, ten days later they revoked the case from Leibowitz and granted the defense to the I.L.D. This strange reversal appeared to be caused by a dispute among the parents of the defendants. For example, Haywood Patterson's mother was partial to the I.L.D., while his father wanted Leibowitz to take the case. Finally on October 20 the case again switched hands for the final time and Leibowitz was given the defense. The I.L.D.'s appeal to the Alabama Supreme Court for the defense, was refused and from a legal standpoint they were out of the case.<sup>56</sup> However, the I.L.D. continued using the case for propaganda purposes, and articles on Scottsburo

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<sup>55</sup> Joseph Brodsky, "Mass Action - Mass Protest - Mass Defense," The Labor Defender, (Dec. 1934), p. 45.

<sup>56</sup> Crenshaw, p. 265-266.

were still being written in I.L.D. publications in the 1940's, long after the case had been closed.

## VII CONCLUSION

In January of 1934 Leibowitz was in complete control of the case under the auspices of the newly formed Scottsburo Defense Committee. His appeal to the Supreme Court was accepted in 1934 on the grounds that Negroes were systematically excluded from juries.

However, the fate of the boys was still not bright. In 1936 Haywood Patterson was convicted for the fourth time and sentenced to seventy-five years. Four of the other boys were also tried and received heavy sentences. However, the remaining four were freed. The fight for the five imprisoned boys was continued. Haywood Patterson, escaped to Michigan and died of cancer, while the other four were later paroled.

The I.L.D.'s success in the case is somewhat ambiguous. While the propaganda campaign was widespread and successful in the early stages of the trial, the I.L.D.'s loss of the defense in 1934 nullified any of its previous enlistments of Negroes.

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