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# FREE 5 IN PRISON

on the same evidence

**What the  
Nation's  
PRESS  
says about  
the  
SCOTTSBORO  
CASE**

Published by the  
**SCOTTSBORO  
DEFENSE  
COMMITTEE**

Price 5c

# “Mistaken Identity” After Eleven Trials

Statement of the Prosecution  
July 24, 1937

“But after careful consideration of all the testimony, every lawyer connected with the prosecution is convinced that the defendants, Willie Roberson and Olen Montgomery, are not guilty.

“The doctor that examined Willie Roberson the day after the commission of the crime states that he was sick suffering with a severe venereal disease, and that in his condition it would have been very painful for him to have committed that crime, and that he would not have had any inclination to commit it. He has told a very plausible story from the beginning: that he was in a box car and knew nothing about the crime.

“Olen Montgomery was practically blind and has also told a plausible story, which has been unshaken all through the litigation, which put him some distance from the commission of the crime. The State is without proof other than the prosecutrix as to his being in the gondola car, *and we feel that it is a case of mistaken identity.*

“Mr. Bailey, Mr. Lawson and Mr. Hutson all entertain the same view as to these two Negroes, and in view of the doubt generated by the fact that their physical condition was as stated above, the fact that two men were seen in a box car by a disinterested witness, which tends to corroborate Willie Roberson, we feel that the policy of the law and the ends of justice would not justify us in asking a conviction of these two cases.

## Juveniles Not Accused — Now

“Two of the defendants were juveniles at the time this crime was committed. According to a careful investigation by the Attorney General’s office, we are convinced that at the time of the actual commission of this crime one of these juveniles was 12 years old and the other one was 13, and while they were in the gondola car; when the rape was committed, counsel for the State think that in view of the fact that they have been in jail for six and a half years the ends of justice would be met at this time by releasing these two juveniles, on condition that they leave the State, never to return.”

## **FOUR GO FREE FIVE IN PRISON — on the same evidence!**

Practically the whole world became convinced many years ago that the case against the nine Scottsboro boys was a vicious frameup.

Alabama in 1931 accused all nine boys of attacking Victoria Price and Ruby Bates on a freight train. All nine were convicted and eight were sentenced to death.

In a later trial, Ruby Bates heroically came forward and told the truth, saying that the boys had not attacked her or Victoria Price and that the whole case was a frameup.

Yet year after year, these boys have been in prison and year after year Victoria Price has accused each and every one of them as being guilty. Victoria Price told her story twelve times on the witness stand and each time she accused all the boys of attacking her.

In July, 1937, the state itself performed one of the most amazing tricks in judicial history. It admitted that four of the boys were not guilty and convicted itself of the greatest cruelty by stating that one of the boys was a victim of "mistaken identity". It did not accuse two of the boys, who were juveniles in 1931, of participating in the crime in any way. Of the fourth boy, the state declared that he was so ill with a disease at the time of the crime that he could not have committed the crime.

After six and a half years, the state admits that four of the boys accused over and over again and sentenced to death originally are innocent!

But the great question which is in the minds of every person is: if all the boys were accused of this crime and all

were convicted of it, and the evidence against one is the same as the evidence against all, how is it that five can still be guilty if four are innocent?

The answer is, of course, that if four are innocent, as the state now admits, then all nine are innocent and they should be released at once.

Immediately upon the announcement of the freedom of four of the boys on July 24, 1937, the press of the nation spoke out in no uncertain terms upon the twisted brand of justice displayed by Alabama. This pamphlet is composed largely of excerpts from those editorials, all of which should drive home to every defender of the Scottsboro boys that the fight for their liberation must go on because they are innocent.

The Akron, Ohio, JOURNAL for July 26, 1937, asks the question editorially which is in everyone's mind:

## **"WHY ONLY FOUR"?**

*"Alabama's foremost export product, propaganda for and against the nine Scottsboro boys, is due for a sharp curtailment now that four of the young Negroes have been allowed to go free after six years of imprisonment. The state's reason for the release is that it 'is convinced the defendants are not guilty,' and that 'the ends of justice would not justify' further convictions.*

*"Obviously the dismissal is a repudiation of justice as usually practiced below the Mason and Dixon line against the Negro race. But there immediately arises the question, 'Why were only four of the nine released?'*

**"ALL CONVICTIONS SO FAR HAVE BEEN ON IDENTICAL EVIDENCE. PRESUMABLY IF ONE OF THE BOYS IS GUILTY ALL ARE GUILTY; OR IF ONE IS INNOCENT ALL ARE INNOCENT.** *Of the other five, one is under a death sentence, three have been sentenced to what amounts to life imprisonment, and the fifth has drawn a 20-year sentence on assault charges growing out*

*of his long imprisonment. Each conviction that has been fought to the supreme court has been reversed.*

*“Perhaps Alabama has good reasons for not making the dismissal unanimous. The nation would be interested to know what they are”.*

### **“Mistaken Identity”**

The Camden, N. J., COURIER for July 27, 1937, declares:

*“The State of Alabama comes off without honor or even dignity in the ‘settlement’ of the Scottsboro case.*

*“Two of the nine boys are released because ‘they were in a different car’ than the one in which the alleged rape of the two girls took place.*

*“The State, through Prosecutor Thomas S. Lawson, has come to the conclusion that one of the girls, Mrs. Price, made a mistake in identity.”*

*“If she is wrong about these two, why is it assumed she is right about the seven others?”*

*“Two more of the boys are released because they were very young’ at the time of the alleged rape. They are now 6½ years older, having been aged to that extent in some of the choicer Alabama prisons, a long sentence for no crime.*

*“To cap this structure of inconsistency, the prosecution opines that the time already spent in jail satisfies justice, and declares the boys must never return to the state.*

*“If they are innocent, why does justice have to be satisfied, and if they committed no crime, why the banishment? This is one of the most amazing works of Southern criminal administration.”*

### **Prosecution Confesses Guilt**

The Alabama prosecution has virtually confessed its guilt of prosecuting innocent persons, according to an editorial in the Buffalo, N. Y. TIMES:

*“And yet the evidence against the five now freed was exactly the same as they used to put Norris in the shadow of the electric chair. If Olen Montgomery deserves to go free, so do Patterson and Weems. And if Patterson, Norris and Weems are guilty, so is Montgomery.”*

*“Of the two female principals in the case, Ruby Bates recanted her testimony after the first trial and admitted that the case was a frame-up. A physician who examined the girls immediately after the alleged rape found no evidence to support the charge. Yet the trials opened in an atmosphere tense with mob hysteria, on several occasions with the courtyard filled with a mob clamoring loudly for the Negroes’ blood. Until the Supreme Court put a stop to it, Negroes were systematically excluded from the jury panels.”*

*“To the Supreme Court’s rebuke is now added the prosecution’s own virtual confession of guilt”.*

## **Case Weakened**

“The governor of Alabama . . . should take gubernatorial note”, writes John Temple Graves II in the Birmingham AGE HERALD, “of the extent to which the prosecution’s statement in releasing two of the other Negroes in the case weakens the case against all nine of them. ‘After careful consideration of all the testimony’, runs the statement, ‘every lawyer connected with the prosecution is convinced that the defendants, Willie Roberson and Olin Montgomery, are not guilty’.

**IF, AFTER INSISTING FOR SIX AND A HALF YEARS THAT THESE TWO WERE GUILTY ALONG WITH THE REST, THE PROSECUTION CAN, WITHOUT ANY NEW EVIDENCE, SUDDENLY COME TO A UNANIMOUS BELIEF THAT THE TWO WERE NOT GUILTY, THAT WOULD SEEM TO REFLECT UPON THE CERTAINTY OF GUILT IN THE OTHER INSTANCES”.**

## **“Clearly Something Wrong”**

The Baton Rouge, La., ADVOCATE declared July 27:

*"A curious ending is written to the case in Scottsboro, Ala., which involved nine Negroe boys charged with assault. Twice they were sentenced to death, twice their convictions were reversed and their cases sent back by the United State Supreme court. . . .*

*"Clearly something was wrong with the early trials."*

## **Truth of the Charges "Extremely Doubtful"**

The Birmingham, Ala., NEWS, which of all the large daily papers was closest to the whole Scottsboro case, asserted in its editorial of July 25 that all the charges against the defendants were surrounded by grave doubt:

*"At most, the truth of these charges has been extremely doubtful. There has been evidence and testimony to indicate that the Negroes actually were not guilty as charged. One of the accusers, Ruby Bates, repudiated her original testimony that she was assaulted, and denied that there were any assaults on either her or Victoria Price. The latter testified throughout the numerous trials that she was assaulted, though her testimony, in its conflicting statements and in its discrepancies with the testimony of others, was of such a nature that it was never conclusive.*

*"Grave doubt therefore surrounded these charges. In view of this doubt, and in view of all the other circumstances, no one could be certain of where truth and justice lay."*

And from the Philadelphia EVENING LEDGER:

*"Nobody now believes that justice was done, or intended, at the first Scottsboro trial in 1931. . . .*

*"The last verdict stamps the others as unjust."*  
From the South, the Ashville, N. C. TIMES:

*"The settlement inevitably confirms some of the doubts which from the first surrounded the case."*

## **Inconsistency**

The inconsistency of the freeing of four and the holding of five defendants is thus commented on by the St. Louis, Mo., POST DISPATCH for July 25:

*“Dismissal of the charges against five of the youths at Decatur yesterday seems to have resulted from long behind-the-scenes efforts to work out a compromise. If this is the case, one may be sure that the negotiators for the Negroes have not agreed to such an inconsistency as for the charges against five to be dropped while the other four are condemned to spend the rest of their lives in prison.”*

And from the Rockford, Ill., REPUBLIC of July 28:

*“This does not free us from the impression that the trials of the defendants have become almost a mockery on justice.”*

## **The State of Alabama “Had to Have Its Way”**

After the freeing of the four lads, Olen Montgomery, Willie Roberson, Eugene Williams and Roy Wright, on July 24, the excitement in the South died down somewhat, but in August, there was printed a curious explanation of the attitude of Alabama in the Baltimore EVENING SUN. It was written by Grover C. HALL, editor of the Montgomery ADVERTISER, and in it, Mr. Hall made the statement that Alabama was simply determined to have its own way in the Scottsboro case.

For this statement, another southern newspaper, the Raleigh, N. C., NEWS AND OBSERVER, takes Mr. Hall to task in the following editorial:

*“The Southwide sigh of relief that an end had been written to the Scottsboro case must be interrupted here at least for permission to record what an editor of an Alabama paper thinks of Alabama and the Scottsboro boys. He is Grover C. Hall, editor of the Montgomery*

ADVERTISER who, it seems, has all along declined firmly to tear his shirt about the affair.

*“Now, for the EVENING SUN of Baltimore he renounces a resolution of silence to speak his mind.*

*“Alabama was reviled and insulted by the civilized world, and at last became sick of these cases. Alabama never wanted to take the life of any ‘Scottsboro’ prisoner—I think I am sure of this. Alabama merely wished to have its own way. It has had its own way, at a greater cost, of course, than it had anticipated.*

*“But now Alabama is tired and is ready for any decent terms. I anticipate that the State’s case against the five remaining defendants will yet be settled with satisfaction to all concerned—with the possible exception of Mr. Samuel Leibowitz, attorney for the nine ‘boys’, four of whom were recently ‘saved’ by a preacher in Brooklyn. What a close shave they had!”*

*“If this is truth out of Alabama, little wonder that Mr. Leibowitz wasn’t satisfied and still isn’t. In fact, if the final disposition of these troublesome cases merely represents concessions of a State determined to have its way at such a cost to the State and to the victims of its stubborn pride, there’s no satisfaction in it for anyone who approves of justice uninfluenced by geographical lines and racial distinctions.”*

## **Reflects No Credit**

### **On Alabama**

Says the San Diego, Cal., UNION:

*“The long and confused record of the notorious Scottsboro attack case has produced no more amazing episode than the queer legal compromise which imposes upon five of the nine defendants sentences ranging from 20 years’ imprisonment to death and sets the other four free.*

*“But all of the evidence showed that all nine of the*

*defendants were present together at the scene of the alleged attacks and, according to the prosecution, all participated.*

*"The entire proceeding has reflected nothing but discredit upon the town and state where the trials were held."*

And the Deep South speaks through the New Orleans, La., STATES:

*"The Scottsboro, Ala., case . . . comes to a curious end.*

*"We said at the beginning that the early trials were convincing that the cases as originally handled were irregular and the charges improbable. It is clear the final outcome and admissions of the prosecutors are proof of that fact, and that the wholesale convictions were unjustifiable."*

While the Wilmington, Del., NEWS declares:

*"After six and a half years, Alabama has dropped charges against five of the nine 'Scottsboro boys' because 'the state is convinced the defendants . . . are not guilty.'*

*"This decision opens to question the conviction of the other four."*

And the influential Baltimore SUN points its finger:

*"Compromise or not, it still leaves many questions unanswered as to the defendants now under sentence. And the record of having prosecuted for six years two defendants who, by the State's own formal admission, are now proved to be innocent is not one to which Alabama can look back with any satisfaction."*

## **HOW WAS THE VICTORY WON?**

Only by the pressure of public opinion was the partial victory won in the Scottsboro case after six and one-half years and only by the continuance of that pressure will the five re-

maintaining defendants win their freedom. The recognition of this pressure brought by persons outside the state of Alabama is contained in the editorial of the Kansas City, Mo., STAR for July 27:

*“Public opinion in Alabama was outraged by the fact that outside organizations intervened, to provide defense council and arrange for appeals in the Scottsboro case. But where would these defendants be now if it had not been for such intervention?”*

*“Belatedly, justice has been accorded at least four of the Scottsboro defendants. But it is justice only made possible by the power and wisdom of the United States Supreme Court in overriding state verdicts, and by the interest of outsiders who were convinced that justice was being denied.”*

Further tribute to the mass pressure of public opinion is found in the editorial of the St. Louis POST DISPATCH for July 25:

*“It is heartening to know that justice can be made to prevail, by marshaling public opinion, even against such stubborn obstacles as the Scottsboro cases presented. Justice is being accomplished now only because Alabama was made to bow to world opinion and stop her medieval persecution of the Scottsboro boys, all of whom have already spent six years in jail.*

*“The world knew—the thoughtful people of Alabama knew—six years ago that the attack charges were an audacious frame-up or, at least, that the evidence was too palpably weak to justify a conviction. But it has taken all the intervening time, together with countless columns of publicity in the world press and the expenditure of a large sum of money raised by public subscription, to convince the State of Alabama that it could not sacrifice nine Negro boys to race prejudice.”*

## THE FIGHT TO FREE THE FIVE MUST GO ON

The unanimous opinion of all lovers of justice is that the fight must go on. The task before the Scottsboro Defense Committee and all its supporters throughout the country is to secure the freedom of the five remaining defendants. This sentiment is echoed by the St. Louis POST DISPATCH:

*"Whether it is part of an understanding or not, the same courageous fight must go on until the four facing life sentences are also freed."*

And from the Camden, N. J., COURIER:

*"We do not agree with those who feel that because a partial victory has been won, a few kind words of praise are due to Alabama, and good-feeling all around."*

*"Four Scottsboro defendants are still under the shadow of long jail sentences and one awaits the death chair. The freedom of the fortunate four was won not by conciliating Alabama opinion, but by fighting it."*

*"American justice still is blotted and will remain so until freedom is won for all the Scottsboro defendants."*  
Also from the Philadelphia INDEPENDENT:

*"We are glad that the compromise method freed almost half of those boys jailed, but we hold it should not be accepted as the final disposition."*

*"We must redouble our efforts to let those other victims of Southern justice know that freedom has not died. That justice, although peeping out of one eye, can still weigh the facts carefully. For Scottsboro Boys' sake—  
LET FREEDOM RING."*

And most emphatically from the Washington, D. C., TIMES:

*"Naturally, we're delighted over the sudden ending of the Scottsboro case as regards the four colored boys"*

*who were set free Saturday and arrived in New York Monday with their attorney, Samuel Leibowitz.*

*“Their guilt in the famous boxcar rape case of six and one-half years ago seemed open to question from the start; the case swiftly became clouded over with racial and sectional hatreds and favored with strong dashes of perjury and persecution. The Alabama Attorney General’s office acted with great wisdom, we think, in calling off further prosecution of these four of the nine boys.*

*“But not with complete wisdom, if Alabama’s main object was to get entirely rid of a case which has been calling down the scorn and wrath of tens of millions of people all over the civilized world on the State of Alabama.”*

*“It does seem that the State of Alabama would do itself and everybody else a favor if it would avail itself of the strong doubt that any of the Scottsboro boys were guilty of rape, and just ease all the other five out of jail—imposing any conditions it might see fit regarding their getting out of Alabama and staying out.”*

# SCOTTSBORO DEFENSE COMMITTEE

112 EAST 19th STREET

NEW YORK CITY

American Civil Liberties Union

Roger N. Baldwin

Brotherhood of Sleeping Car  
Porters

A. Philip Randolph

Church League for Industrial  
Democracy (Episcopal)

Rev. William B. Spofford

Fellowship of Reconciliation  
Harold Fey

International Labor Defense  
Robert Minor

League for Industrial Democracy  
Norman Thomas

Methodist Federation of Social  
Service

Bishop Francis J. McConnell

National Association for  
Advancement of Colored People  
Walter White

Unitarian Fellowship for Social  
Justice

C. P. Wellman

*Sponsoring Organizations:*

National Urban League

National Committee for Defense  
of Political Prisoners

*Sponsoring Committee:*

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Louise Thompson

Ashley Totten

Oswald Garrison Villard

Mrs. Walter Weyl

Mary E. Woolley

Louise Young

## **THE PRESENT STATUS OF THE SCOTTSBORO CASE:**

The United States Supreme Court on October 25, 1937, refused to review the case of Haywood Patterson. This was equivalent to sustaining the savage sentence of 75 years imprisonment against this innocent boy.

In the cases of Clarence Norris (sentenced to death), Andy Wright (sentenced to 99 years), Charlie Weems (sentenced to 75 years), appeals are pending in the Alabama State Supreme Court.

*"The Scottsboro Defense Committee, believing in the complete innocence of all the defendants, is not ceasing its activity and will explore every avenue of public opinion and official procedure to the end that the boys now in prison will be set free."*

REV. ALLAN KNIGHT CHALMERS, *Chairman,*  
*Scottsboro Defense Committee*

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## **WHAT YOU CAN DO TO HELP FREE THE FIVE REMAINING SCOTTSBORO BOYS**

1. Sign the petition addressed to Gov. Bibb Graves of Alabama, demanding unconditional release for the 5 remaining boys.
2. Get your organization to pass a resolution and send a protest telegram to Gov. Graves urging him to free the boys.
3. FUNDS are needed to continue the successful conquest of the defense, to pay for the pending appeals, to rouse public opinion in behalf of the innocent boys.

**SCOTTSBORO DEFENSE COMMITTEE**

112 EAST 19th STREET  
New York City