

Is It CONSTITUTIONAL?

What are the issues involved in the present stage of the Herndon case—what can you do to help save Herndon from death on the chain gang—

By ANNA DAMON, Acting National Secretary International Labor Defense

When the Supreme Court of the United States reconvenes in October 1936, it will have before its "nine black robed corporation lawyers,"—as Eugene Debs named them—for the second time in four years, the case of Angelo Herndon.

The legal battle and the mass campaign for the life and freedom of this twenty-three year old fighter was begun by the International Labor Defense in the summer of 1932 immediately after his arrest in Atlanta, Georgia. Five times the case was carried to court—twice to Georgia's lower courts, twice to Georgia's State Supreme Court and once to the United States Supreme Court. In the past four years, during which the battle against his barbarous sentence has been waged, the power of organized labor defense has succeeded in accomplishing something unique in its history.

All too many political prisoners have languished in jail for months and years awaiting trial, awaiting favorable action on appeals in their cases, hostages of the powers who wanted them out of the way. *Angelo Herndon has been a free man for almost two years* out of the four in which the Georgia authorities have utilized every method, every instrument of power at their command to send him to his death on their murderous chain-gangs. This is truly a unique and significant accomplishment to the credit of organized labor defense, a powerful argument in favor of vigilant, united and wide spread mass action backing up every step in the legal battle.

What was the crime of Angelo Herndon? The whole world knows today that there was no crime. Herndon's action in behalf of the starving unemployed of Atlanta, Negro and white in their demand for bread, embarrassed, the officials of Atlanta, Georgia. It forced them to provide relief. It confronted them with a unified strength which they could not brush aside. It was for the purpose of discouraging the repetition of such actions, of holding back the further welding of this unity, of terrorizing the entire population, that Georgia authorities fell back on that very convenient law which they found at their disposal. So convenient have they found it, they have kept it hanging like a threatening sword over 18 other persons, black and white, pending the outcome of the Herndon case.

And what is this law? Can it properly be used as Georgia is trying to use it against Angelo Herndon? Is it constitutional?

The United States Supreme Court which was brought into being for the express purpose of ruling on the constitutionality of legislation in the best interests of the people has never looked into the constitutionality of this outworn slave law of 1866. When the Herndon case was brought before it 15 months ago, the majority of that court refused to consider it. They cited technical grounds which were seriously questioned and even denied by the three justices who dis-

sented from the majority decision. The Georgia State Supreme Court has twice upheld the constitutionality of the law, but never quoted any law except their own vicious decision to prove it.

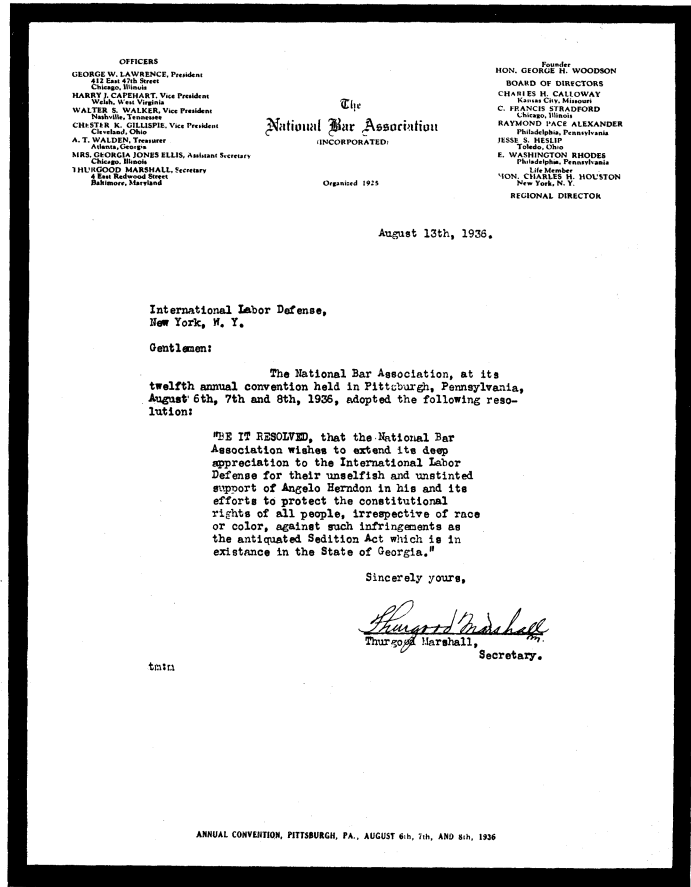
The only judge who did examine this law in the light of its constitutionality was forced to declare it *unconstitutional*. That was Judge Hugh M. Dorsey, ex-governor of

Georgia will be there to fight for it.

Appropriate defenders of this law of theirs! Georgia authorities, headed by Gov. Talmadge have openly expressed and shown their fascist ideals and tendencies. Their grass roots convention, their filthy sheet the *Georgia Woman's World* which rivals Hitler's best, their championship of the chain-gang—all in the name of protecting the CONSTITUTION against the "REDS" (including President Roosevelt in that classification) are splendid qualifications for their role as defenders of the constitutionality of the unconstitutional slave law of 1866.

The threat to organized labor, to independent political thought and action which this law embodies has been recognized by the American labor movement. It is not the only law of its kind on the statute books of our states and nation. There are dozens. But this law has become the most dramatic example

This letter speaks for itself. The I.L.D. is proud of the recognition and praise it is receiving for its work in the Herndon Case; and pledges to increase its energies and activities in behalf of all victims of terror and oppression.



Georgia, justice of the Fulton County Superior Court. His decision set Herndon free once more on bail while the state of Georgia appealed against it.

But other public officials, prominent citizens, labor leaders, jurists, educators, have considered this law and by their actions declared it unconstitutional. These are the scores of congressmen, mayors, professors of law, etc., who have signed their names to the 2,000 signature petition to Gov. Talmadge demanding that he abolish the law and free Herndon.

The State of Georgia was upheld in its appeal by its own supreme court on June 13 of this year. It is against this decision that the I.L.D. is appealing to the United States Supreme Court today. When that court convenes in October, the nine old men will be forced to consider its constitutionality, and the chain-gang officials of the State of Geor-

of this type of legislation and as such was condemned by the 55th national convention of the American Federation of Labor. The A. F. of L. not only passed a resolution urging the abolition of this law, but it also voted nation-wide support to every action of the Georgia Federation in combatting it.

We face today the hardest legal battle in the case of Angelo Herndon. The four years of struggle and partial victory have brought the underlying issues clearly to a head. During these four years ever wider sections of the American population have become involved not only in a battle for the life and freedom of a courageous young man, but also in a determined fight against the menace of fascism as represented by the 1866 insurrection law.

The biggest job in the Herndon case is now before us. It will require the utmost energy, enthusiasm, activity—and funds. A \$5,000

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defense fund is necessary to assure not only the timely and proper filing of the legal records, briefs, papers, etc., the preparation of the legal arguments, but also the gearing of the machinery for still further broadening the front of public opinion in support of Angelo Herndon.

750,000 signatures must still be collected to reach the called for 2,000,000. Many important organizations must still be won for the Herndon defense. Hundreds of prominent and influential people must still be secured as active participants in this struggle.

Unity of action—as exemplified by the Joint Committees to Aid the Herndon defense which already exist nationally and in many important centers throughout the country—has many encouraging accomplishments to look back upon. Spurred on by these partial victories and by the inspiration which Herndon's unflinching courage and steadfastness holds constantly before us, we must now go forward determined to win complete victory. Angelo Herndon must be saved from death on the chain-gang and the thousands of Angelo Herndons must be saved forever from the menace which this savage unconstitutional law represents.