

Mass Defense Was Determining Factor in Fight to Free Herndon

By SASHA SMALL

During the summer of 1933, the relief situation in the state of Georgia reached a climax. The authorities in charge announced that the Community Chest was empty and that there was no more money for relief. They also announced that this was no great tragedy because there weren't any hungry people in Atlanta anyway. To prove it, they also added, that all hungry people could personally present their case to the County Commissioner.

A young Negro boy, 19 years old, had been working among Atlanta's unemployed during the Spring and Summer of 1933. He had been helping them organize their forces against starvation, against being evicted from their homes. The boy's name was Angelo Herndon. On the very next day after the announcement, a leaflet appeared on the streets of Atlanta, calling on all those who were hungry to come together to call on the officials at an appointed time. When the day came more than a thousand persons gathered—Negro and white, men, women and children. In peaceful orderly ranks they marched to the office of the County Commissioner. Mothers carried pale, ragged children in their arms.

A committee was elected to present their plea to the authorities. On the next day \$6,000 was suddenly found in the empty Community Chest and promptly assigned for relief purposes.

One week later, Angelo Herndon went to the post-office to get his mail. He was seized by two plain clothes men and carried off to jail. His room was illegally broken into and all his belongings, papers and books were seized without a warrant.

For eleven days he was held incommunicado. He was beaten. He was third degraded. But no charges were placed against him.

Finally he managed to get in touch with the local International Labor Defense. At the same time Georgia's officials finally decided what they could charge him with. He was indicted before the grand jury on charges of "inciting to insurrection" under the terms of an ancient law dating back to days of slavery.

In January, 1933, he was finally brought to trial. The International Labor Defense retained two young Negro attorneys, Ben Davis Jr. and John Geer of Atlanta to defend him. In court it developed, that the charge was based on literature found in Herndon's room. Assistant Solicitor General Hudson, ranted and raved and demanded Herndon's life for attempting to overthrow the constituted authority of the state of Georgia. Proof? Pamphlets dealing with the Negro problem, urging self determination for the Negro people in the Black Belt, and even a magazine called "Red Book."

The defense called in witnesses, to prove that all the literature found in Herndon's room was to be found in every library in the country. These witnesses were professors from Emory University. Their testimony meant nothing to the prosecution and the judge—Lee B. Wyatt. The judge heckled them—asked one of the professors whether he would allow his daughter to marry a Negro.

"Thousands Will Take My Place" Herndon was put on the stand. In words that have now become famous all over the world, he spoke to the all-white jury. He told them

what he had done, and why he had done it and then he said, "You can do what you will to Angelo Herndon, but there will come thousands of other Angelo Herndons to take his place. You cannot kill the working class."

The jury deliberated and brought in a verdict of guilty with a recommendation of mercy. The penalty under the slave insurrection law is death. The jury recommended 18 to 20 years on the Georgia chain-gang.

The International Labor Defense appealed the case to the State Supreme Court of Georgia. The virtual death sentence was upheld. But the mass pressure on the court mobilized by the I. L. D. resulted in the setting of bail. The court decided on \$15,000 cash—an exorbitant sum.

Bail Raised

Only twenty-three days was allowed for the raising of the bail, pending appeal to the United States Supreme Court or Angelo Herndon would be sent to the chain gang.

In a whirlwind campaign that swept the country, the I.L.D. raised and oversubscribed the bail fund in twenty-three days. Attorney Joseph R. Brodsky was rushed down to Atlanta by airplane and on Aug. 7, 1934 Angelo Herndon arrived in Pennsylvania Station where he was greeted by thousands of enthusiastic workers—a free man for a time.

From that day on until April, 1935, Angelo Herndon toured the country speaking to thousands on street corners, in meeting halls, in churches explaining to them the true significance of his own case and mobilizing their support for the Scottsboro boys.

In April, 1935, the appeal on Herndon's case was heard before the Supreme Court of the United States. It was presented by Whitney North Seymour, retained for that purpose by the I. L. D. The case for Georgia was presented by Walter LeCraw, another assistant solicitor general. With less frenzy than displayed by the Rev. Hudson but just as bitterly, LeCraw screamed that Angelo Herndon had tried to overthrow the State of Georgia and set up in its place a Negro Republic. He waved a map showing the Black Belt in the faces of the judges. He showed them a clipping from the Daily Worker. He fumed and raved.

On May 20, 1935 the high court handed down its decision—six to three. The majority stated it had no jurisdiction to interfere in the Herndon case. There was some sort of an obscure technicality which tied their hands. The dissenting minority denied the existence of the technicality.

In June, 1935, the International Labor Defense obtained a stay of execution from one of the justices, until Oct. 7, when the court would reconvene after its vacation.

Broad Petition Campaign

From that moment on every effort was strained to broaden the front of Herndon's defenders. A campaign was launched to secure 2,000,000 signatures to a petition to Gov. Talmadge of Georgia demanding Herndon's freedom and the abolition of the insurrection law, which threatened the lives of eighteen other men and women Negro and white in the State of Georgia.

The petition campaign was soon

endorsed by several outstanding national organizations, the American Civil Liberties Union, the Socialist Party, the Young People's Socialist League, the American Youth Congress, Communist Party, American League Against War and Fascism, League for Industrial Democracy, Church League for Industrial Democracy, the Sharecroppers Union, Southern Tenant Farmers Union and others.

In many parts of the country broad united front Herndon defense conferences were called. Committees were set up including representatives from all types of organizations. In New York a Joint Committee for Herndon defense was formed by five defense groups, the International Labor Defense, the League for Industrial Democracy, the General Defense Committee of the I.W.W., the Non-Partisan Labor Defense and the National Committee for Defense of Political Prisoners.

Second Hearing

Signatures from United States congressmen, mayors, other public officials, famous writers, and trade unionists began to pour in from all parts of the country. Fourteen foreign nations added their voices of protest.

On Oct. 15, the United States Supreme Court once more announced when petitioned for a rehearing that it had no jurisdiction in the Herndon case. Herndon was ordered to surrender.

A series of protest demonstrations culminating in a mass meeting at Manhattan Opera House on Oct. 23, called by the Joint Committee, mobilized additional thousands behind the determined effort to free An-

gelo Herndon. A united front conference in New York City pledged itself to Herndon, "as long as you are in chains, no worker in America can call himself free."

On Oct. 29, Angelo Herndon surrendered to Georgia authorities. Unable to wait until they got their hands on him, they had even selected the chain-gang to which they would send him—the worst in the whole state, in swamp-infested Lanier County.

Unity Won Case

But the International Labor Defense and all the organizations involved in the defense, forced a restraining order from the courts, keeping Herndon in Fulton Tower jail until Nov. 12, when a hearing on a writ of habeas corpus was ordered.

The hearing demanded Herndon's freedom on the grounds that the constitutionality of the law had never been tested in state or federal courts. The protest movement deluged Gov. Talmadge with demands for Herndon's freedom. The signature petitions continued to circulate from hand to hand.

And yesterday, Dec. 7, Judge Hugh L. Dorsey of the Fulton County Superior Court declared the law unconstitutional.

United action was crowned with victory. The months and weeks of literally feverish activities resulted in forcing the release of Angelo Herndon. If ever the homely maxim, in unity there is strength, received undisputable truth, if anybody doubts the power of united action—they will see the answer at Pennsylvania Station today when Angelo Herndon gets off the train from Georgia.