

Climax Nears in Herndon 'Insurrection' Case

By BENJAMIN J. DAVIS, JR.

When the appeal of Angelo Herndon is argued before the United States Supreme Court, about two weeks from now, a climax will be reached in a campaign which has lasted nearly three years, and which has stirred the white and black masses of America to the very depths.

In the hands of the working-class, now more than ever before, lies the answer to the question:

"Can we let Angelo Herndon go back to the chain gang?"

The thought is one that almost takes the breath away.

Chain Gang Horrors

Shall we let this young heroic man, known and beloved to thousands upon thousands of toilers all over the country who have heard him speak, have read his story, have shaken his hand, have contributed toward the \$15,000 bail loan fund that for a moment has snatched him away from it, go back to the chain gang for 20 years? Shall we let him go back to the chain gang, where it is seldom that anyone survives ten years of the torture, where it would be incredible that the brutalized guards should not attempt to do an Angelo Herndon, a Communist, to death by torture?

The chain gang, with all its horrors, with the tortures which have been exposed by John Spivak in "Georgia Nigger"; with the tortures revealed by the recent investigation in North Carolina, where two Negroes were chained for days and nights to barred cell-doors in freezing weather, so their feet froze and rotted, gangrened and had to be

amputated; the chain gang is where the white bosses of the South want to send Herndon.

"Our Lord Savior never suffered like those poor niggers," a mountaineer told the investigating committee about the chain gang two weeks ago. And in another place the report states that "whites and Negroes were treated very much alike." That isn't true. The Negroes were treated worse. But the report goes pretty far in uncovering the tortures of the Negroes, and it admits the white prisoners were treated as badly as that.

The chain gang, from which the mass campaign of the I. L. D. to raise Herndon's bail saved him for a little while, just takes your breath away. We can't let Herndon go to that chain gang.

Rights Involved

But there are also other, basic, fundamental issues involved in the Herndon case. Herndon was a leader of the toilers, a black leader of black and white.

He is sentenced not only under a slave law of 1851 which was amended in 1886. He is sentenced under an "insurrection" law, which is the Georgia equivalent of the "criminal syndicalism" laws of California, Oregon, Illinois, and many other states.

The whole issues of free speech, free assemblage, and the right to organize in the South, is involved in the Herndon case.

Eighteen other persons, six of them women, are under indictment under the same law, and are still awaiting trial pending the outcome

of the Herndon appeal.

The issue in every case is the right to organize, in general, and the right of white and Negro to organize together, in particular.

Must Win Fight

The whole organization of the South depends on whether we can win this struggle.

The appeal to the court itself won't win it. Whitney North Seymour, who prepared the briefs and will argue the appeal, retained by the International Labor Defense, is one of the most capable constitutional attorneys in the United States. From the legal point of view, the case is crystal-clear.

The United States Supreme Court can't be depended on, not for one moment. "Right," "fairness," "justice," become mere words to these nine pundits when political questions, when the questions of the rights of toilers, white or black, are concerned. The Supreme Court faces the realities of class-struggle. Its learned judges know politics.

Need Big Protest

It takes a bigger noise, a bigger protest, to reach them. But they can be reached. The protest wasn't big enough in the Sacco-Vanzetti case, it wasn't organized enough, it wasn't coherent enough. The Supreme Court refused to intervene in this legal murder.

The Supreme Court refused to intervene in Gastonia.

The Supreme Court was forced by organized protest, in 1932, to reverse the Scottsboro legal lynch verdicts.

The Supreme Court can be forced

to reverse the new, cruder, verdicts in the same case.

The Supreme Court can be forced to set Herndon free!

This is what a reversal means in this case, which is appealed on the grounds of the unconstitutionality of its application in the Herndon case.

The key to the fight is the mass protest.

We cannot let Angelo Herndon go to the chain gang.

We must let the Supreme Court hear this shout.

A National Issue

The whole toiling population must join in—the workers of California and the Pacific Coast, who are now fighting against the criminal syndicalism laws; the workers of Illinois who have just won a big fight and secured the freedom of the fifteen workers charged under its criminal syndicalism and treason laws; the workers of New York who have just witnessed one of the most horrifying examples of police brutality and terrorization of Negroes in Harlem; the workers in the unions, whose right to organize is threatened; the unemployed for whose rights Herndon fought — all must join in.

Let the Supreme Court hear your voices. Send protests, demand that Angelo Herndon be freed.

And support the mass campaign so essential to winning his freedom by sending your contribution in material aid at once to the national office of the International Labor Defense, Room 610, 80 East 11th Street, New York City.