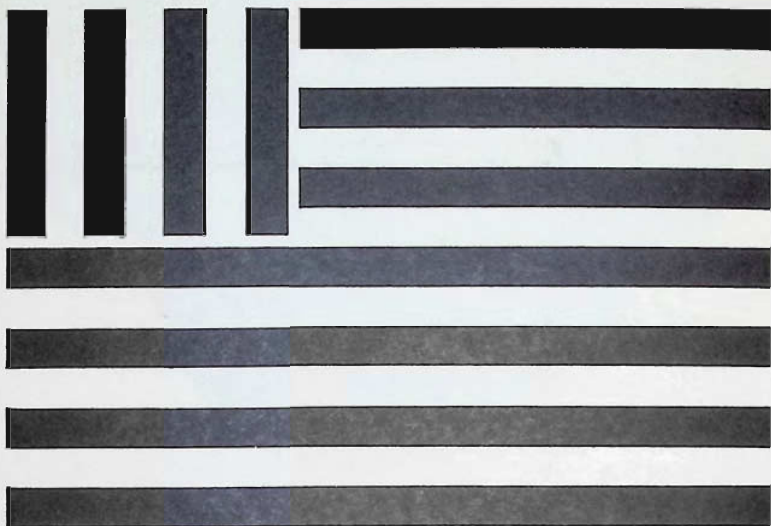


ON TRIAL: Angela Davis or America?



Rev. Ralph Abernathy
John J. Abt
Paul E. Miller

Introduction by **Ossie Davis**

Angela Davis Legal Defense Fund
112 West 120th Street
New York, N.Y. 10027
Telephone: (212) 866-9008

P.O. Box 1288, Manhattanville Station
New York, N.Y. 10027

TRUSTEES

Ossie Davis, *Chairman*
Cyril Philip, *Sec.-Treasurer*
Marvel Cooke, *Asst. Secretary*

Franklin Alexander
Sallye B. Davis
Charles Hayes
William Howard Melish
George B. Murphy, Jr.
William L. Patterson





INTRODUCTION

by Ossie Davis

Dear Friend:

Here are excerpts from two speeches, and an article by Paul E. Miller, Dean of the Law School at Howard University, Washington, D. C. — the speeches made on the occasion of Angela Davis' twenty-seventh birthday on February 2, 1971, to a New York mass meeting. The eminent constitutional attorney, John J. Abt, who, with Miss Margret Burnham, represented Angela Davis at the time of her arraignment and during the fight against extradition to California from New York, made an incisive counterindictment against those who persecute Miss Davis. His remarks are an effective exposé of the precise nature and legal rationale by which the Reagan Administration in California seeks to send Angela Davis to the gas chamber. The other oration was made by Reverend Ralph Abernathy, President of the Southern Christian Leadership Conference. Reverend Abernathy's eloquent words are a penetrating condemnation of the exploitive and racist system which has given rise to Angela's indictment and persecution. These two speeches placed together back to back tell the sad story of another American Tragedy in the making. Dean Miller inspires to supporting action.

At the request of Angela Davis and others, we have brought the *ANGELA DAVIS LEGAL DEFENSE FUND* into existence to raise funds to be used exclusively for Angela's legal defense. This could possibly reach one quarter of a million dollars or more. We ask you to contribute in good measure to this Fund.

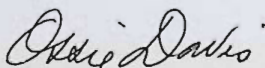
We, who form this Fund, accept without doubt Angela's stirring statement before a Marin County, California court:

**"I declare before this court
and before the world**

that I am innocent of the charges that have been leveled against me." We believe you too will regard her innocent after you study this dastardly frame-up. But whether you subscribe to our view or not, if after reading these presentations of Angela's case you agree that it will be most difficult for her to get a fair trial, then we ask you to contribute funds to help her to get as fair a trial as circumstances will allow.

Personally I am fully convinced that Angela Davis is the victim of a monstrous frame-up. There are in high places those who would silence her, hoping thus to terrorize tens of thousands of youths, Black Americans and progressives of every color and creed who are inspired by her dauntless courage and moved by some phase of her program. I can only say, "FORWARD TO THE FREEDOM OF ANGELA DAVIS!"

Sincerely yours,



Ossie Davis, Chairman
Angela Davis Legal Defense Fund

od/f
Encs.

P.S. Please make out checks or money orders to Angela Davis Legal Defense Fund. The address is: P.O. Box 1288, Manhattanville Station, New York City, N.Y. 10027. A self-addressed, postage-paid envelope is enclosed.

Reverend Ralph Abernathy
President, Southern Christian Leadership
Conference.
Close friend and co-worker of the late
Reverend Martin Luther King, Jr.

“I BRING AN INDICTMENT AGAINST THE AMERICAN SYSTEM”

by Reverend Ralph Abernathy

We meet in defense of Miss Angela Davis; therefore, let us first ponder the question, “Who is Angela Davis?” Let us first recall this young Black woman who was born twenty-seven years ago today in Birmingham, Alabama, where the blood of her people flowed under a reign of official racism and terror.

She lived in a Black community which came to be known as “Dynamite Hill.” As she grew up she learned of fifty bombings against Black people in her native Birmingham — all of them unsolved.

She knew four little Black girls, who were her friends, and who were murdered in the bombing of the Sixteenth Street Baptist Church in Birmingham in 1963, but none of us knows the exact identity of the bombers today because there were no arrests, and the FBI did not possess the ability and the skill to find those bombers.

In the face of death every day of her life, Angela Davis began to learn the life of struggle — struggle for survival, struggle for her people, struggle for justice.

She participated in the battle against segregation in voter registration drives conducted by the Southern Christian Leadership Conference in Birmingham, Alabama.

Her courageous family made personal and financial sacrifices for the movement. Miss Davis pursued a brilliant academic career.

But she found racism and oppression of the poor everywhere she went. She knew the profound outrage of all Black people over the fact that the prisons and the jails of this country are filled with Black men and women while the college campuses and offices of the American military-industrial empire are filled with White men; and we don't like it.

Angela Davis is one intellectual who did not hide in a library or behind a desk. **She transformed her**

**mental principles into an
active commitment of struggle
against injustice.**

She was not afraid to express her political beliefs; this ultimately cost Miss Davis her job, led to her imprisonment and presently threatens her with death.

Let me warn all of you this evening that today it is Angela, but if we sit silent and keep our peace, tomorrow it will be you and it will be me.

Angela Davis would be the first to remind us that she is not the only political prisoner in America. Ladies and gentlemen, brothers and sisters, there are thousands of political prisoners in America, and the only way to free them is to get out and struggle in a mass movement of the people. We need fund raising for Angela Davis, but we also need hell-raising for millions of others in this country.

Let us work to teach the people these things about the case of Angela Davis:

Number one, in a democratic society an accused person is supposed to be presumed innocent until proven guilty. Yet already, in my estimation, Angela Davis has been tried and found guilty in the news media.

Number two, an accused person has a right to a fair trial in which the accused is entitled to be judged by a jury of his or her peers. But I raise this question with you — how can Angela Davis get a fair trial in Ronald Reagan's California?

Number three, since the state itself has placed the political beliefs of Angela Davis in question, and since public officials and the mass media have unloosed a torrent of adverse publicity before Miss Davis has even been brought to trial, this in fact is no ordinary criminal case, but a political case that raises overwhelming questions about the possibility of a fair trial. In fact, I see it as a trial, not of Angela Davis, but of America.

I see the American system charged with the kidnapping, the murder and the conspiracy.

I charge the American system with the kidnapping of Black people from Africa.

I bring charges this evening against the American system for the enslavement of Black people on this continent.

I charge the American system with the kidnapping of young men and with sending them to die in a criminal, racist, godless war in Southeast Asia ten thousand miles away.

I further charge America with being a liar and a hypocrite. Almost two hundred years ago the cry was heard in these streets of America, "There must not be taxation without representation," and yet today we are over-taxed and we are under-represented.

Almost two hundred years ago, Thomas Jefferson dipped his pen deep in the wells of ink and etched across the pages of history a document we call The Declaration of Independence. He said that, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain Inalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness."

I want you to know today that we do not have those rights, we do not have that liberty, but we are more determined than ever before that we are all going to have

**freedom in America
or there will be
no America to
have freedom.**

I bring an indictment against the American system. I charge the American system this evening with robbery of the Puerto Ricans, the Mexican-Americans. I charge the American system with almost completely exterminating the Indians, and then stealing the country from the few Indians that were left.

I charge America with hypocrisy.

There is a second charge I bring against the American system this evening. The second charge is murder. I charge the American system with the murder of the Vietnamese people. I charge the American system with the murder of Malcolm X and my dearest friend, Martin Luther King, Jr. I charge the American system with the killing of Michael Schwerner, Andrew Goodman, James Chaney, Viola Liuzzo, Jimmy Lee Jackson, Medgar Evers and a host of others.

I charge the American system with murder in its genocidal tendencies which are clearly defined in the United Nations Charter.

The third charge I bring against America is conspiracy. I charge the American system with a conspiracy to exploit peoples throughout the world, and to oppress millions of our people here in our own land. I charge the American system with spending billions of dollars to put a man on the moon and spending countless dollars more to send Spiro T. Agnew around the world to pass out moon rocks, when he ought to be passing out loaves of bread to hungry children.

I charge the American system with conspiracy to repress and violently subjugate those who resist it. All you have to do is to look in any corner of this nation or ours, and you will see the conspiracy to repress the Black Panthers and to destroy this group of individuals under the disguise that they believe in violence.

What about the Ku Klux Klan? What about the Minutemen? What about the Birchites? What about all of these forces and groups in White America that have always believed in violence: the CIA, Tricky Dick? We cannot sit idly by and let them repress and destroy the Black Panthers, for they are our brothers in this struggle.

So not only do I call for the freedom of Angela this evening, but I call for the freedom of Bobby and Ericka as well. I call for the freedom of the Berrigan brothers. Yes, they were in a conspiracy — to save lives, to feed the hungry, to stop the killing in the world. They were a part of a conspiracy, and I'm part of that same conspiracy. You are a part of that conspiracy to save lives.

Jesus Christ of Nazareth was a part of that conspiracy, for he said that the "Spirit of the Lord is upon me, because he has anointed me to preach the Gospel to the poor, to free the captives, to set at liberty them that are bruised, and then to proclaim the acceptable year of the Lord."

Let the cry be heard,

"Free the Nation of Racism,

Free it of Poverty and

Free it of War." And let the cry be heard from the highest mountain peak to the lowest valley, "Free the Nation of a Nixon-Agnew-Reagan Administration. Free the Exploited and the Oppressed People Throughout the Society and Throughout the World. Free Men and Women Who Stand Up for Their God-Given Rights. Free Men and Women so they can live in dignity. Free men and women so they can stand up and know that if a man has not discovered something that he is willing to die for, that man is already dead."

Let us speak until the jailhouses fly wide open. Let us speak until Angela Davis is as free as a bird in these United States of America.

Let the people speak. Power to the people.

John J. Abt, Esq.
General Counsel, Communist Party, U.S.A.
Eminent constitutional and civil liberties
lawyer. Mr. Abt, together with attorney
Margret Burnham, represented Angela Davis
in New York at her arraignment and during
the fight against her extradition to
California.

THE CASE MUST BE DISMISSED!

by Attorney John J. Abt

It seems to me that the first thing that needs to be emphasized in speaking about Angela Davis is that here is a young Black woman whose life is in gravest danger. She stands charged in Marin County, California – a wealthy, racist, reactionary, suburban county of San Francisco (population 184,00 Whites, 5,000 Blacks) – with the crimes of murder, kidnapping, and conspiracy to commit these offenses.

Under California law, each one of these offenses carries with it a mandatory sentence of death in the gas chamber or life imprisonment and – in the case of kidnapping for ransom – life imprisonment without the possibility of parole. Now, the state doesn't claim that Angela Davis was present on August 7 at the Marin County Courthouse where the events occurred that resulted in the death of Marin County Judge Harold Haley. The charge against her is aiding and abetting, and under California law, as under the law of most states, one who aids and abets a crime is just as guilty as the principal actor who actually commits the crime.

Now, when Angela was arraigned in Marin County on January 5, she arose in the courtroom and said, "I declare before this court and before the world that I am innocent of the charges that have been leveled against me." And no one who knows Angela as I came to know her as her attorney, and no one who has studied the transcript of the evidence that was presented before the Marin County grand jury, can have any doubt of the truthfulness of her declaration.

Let me say something about the evidence as revealed by that transcript, remembering that the indispensable ingredients of the crime of aiding and abetting are knowledge that a crime is about to be committed and an intent to help in its commission. The evidence on which the state relies to connect Angela with the events of August 7 is the fact that the guns that Jonathan Jackson brought into the courtroom on that day had been openly purchased by Angela and publicly registered by her in her own name as required by Federal and California law. **Where is the evidence**

of knowledge?

Where is the evidence of intent?

There isn't any.

Furthermore, as everyone knows, after Angela publicly acknowledged her membership in the Communist Party and engaged in the fight with Reagan and the Board of Regents to retain her job as Assistant Professor of Philosophy at UCLA, her life was threatened almost daily by anonymous telephone calls and anonymous notes from fascists and right-wingers. Because of these threats, she asked Jonathan Jackson to become her bodyguard.

Now it seems to me clear that the inference from these facts and from the evidence of her public purchase and public registration of those guns must be an inference not of her guilt, but of her innocence. The only reasonable inference is that young Jonathan Jackson, driven to desperation and despair by the seemingly endless and futile legal fight to gain freedom for his brother George, possessed himself of Angela's guns without her knowledge and went on to make the hazardous, ill-fated attempt that he did.

Let me make a second point about the transcript of the evidence before the grand jury. The charge of murder against Angela is a charge that she aided and abetted the killing of Judge Haley. Her co-defendant, Ruchell Magee — the only survivor of the four men who took the judge hostage — is charged with firing the gun that resulted in Judge Haley's death.

The state put a pathologist on the witness stand who testified that Judge Haley suffered two wounds, either of which would have been

fatal. One was from a shotgun and the other from either a rifle or a hand gun. **But there is**

**a significant omission
from the evidence**

presented by the prosecution. It failed to call a ballistics expert or to produce any ballistic evidence to identify the guns which fired these shots. And the evidence indicates that the so-called law enforcement officers present on the scene — deputy sheriffs and prison guards — were armed not only with rifles and hand guns, but also with shotguns.

Now there is a legal principle, applicable to criminal cases, that if the state is in possession of evidence but fails to produce it, the inference is that this evidence is unfavorable to the state and favorable to the accused. That's only common sense. And so we can say that the failure of the state to produce ballistic evidence before the grand jury leads to the inference that the shots that killed Judge Haley were fired not by Ruchell Magee, or one of the other prisoners, but by the so-called law enforcement officers themselves.

If this were an ordinary criminal case, one could say with some reasonable confidence that the indictment of Angela would have to be dismissed because the evidence adduced before the grand jury was insufficient even to charge her with the crimes for which she was indicted. **But this is not**

an ordinary case.

It is a political case. Tonight Nixon is escalating the war against the people of Southeast Asia, and the escalation of that war is being accompanied by his escalation of the war against the civil liberties of the people of the United States. So the fight to free Angela becomes a fight against both of these escalations.

The prejudice, the hysteria that the ruling circles in this country have tried to whip up against Angela, must be countered by a vast people's movement. Never in my experience as a civil liberties lawyer have I known such broad support for any case as the support that has been demonstrated for Angela Davis here in this country and throughout the world. Support that ranges all the way from the Young Women's Christian Association to the extreme left.

Paul E. Miller
Dean, Howard University Law School.
Dean Miller is chairman of a panel of distinguished Black law professors, who have been brought together by the National Conference of Black Lawyers for the purpose of giving advice and counsel to Angela Davis.
The full article appeared in *The Sunday Star*, Washington, D.C., on Feb. 14, 1971.

IN DEFENSE OF THE RIGHTS OF ANGELA DAVIS

by Paul E. Miller

A great number of persons and some organizations, including the news media, have asked why 12 Black law professors from 11 different law schools have joined together to provide advice and counsel to Angela Davis through her attorney. Some of those who inquired have expressed amazement and open displeasure at the idea of prominent Black legal scholars banding together to aid an avowed Communist. Others have discerned in this joint effort a sinister plot to foster the forces of revolution and subversion against the established order.

Implicit in the statements of these critics is an unfavorable judgment of Miss Davis' political views and a suggestion that only those who share her beliefs in a certain ideology would come to her defense. It is startling in this era to find people who still seriously believe that a lawyer defending a person's right to a fair trial is automatically defending that person's ideology or opinions. It is plain that when the political powers-that-be decide that someone or some group of people is engaged in activities inconsistent with what those powers admit as proper conduct, the offenders must be punished or forced to abandon that impermissible conduct.

If it takes suspension or repression of constitutional rights and guarantees to achieve this punishment, then it is done with the rationalization that it is necessary to protect the interest of the "whole society" or the "silent majority" or whatever against the interests of individual offenders.

**To set the record straight,
we have not joined together
to champion ideology.**

This has not been a consideration at all. I neither know nor care what political views other members of our panel hold. To me, and, I hope, to each of the individual panel members, what Miss Davis espouses, what political "bag" she is in, and what and who her associates are, are irrelevant. What is relevant and important is our deep belief in the soundness and sanctity of the principle that any American citizen, irrespective of color, political belief, race, class or economic station, is entitled to all the privileges, rights and immunities incident to that citizenship. We are determined to live by that principle and in the practice of law to honor it.

Very recently we have observed the Department of Justice, the White House and the Congress sponsor various pieces of legislation which seriously threatened individual freedom.

We have heard arguments supporting the need for a bill to create or establish preventive detention. We have heard asserted needs for legislation empowering state and federal agents to tap wires for a number of purposes. We have heard the asserted need to invade the individual's privacy through "no knock laws." We have witnessed the horrible overreaction of police and legislators to civil disturbances, to peace demonstrations, and to such other legitimate protest efforts as Resurrection City.

In each instance justification for this individual suppression is made on the basis of protecting the interest of the "majority," as though the majority were not composed of individuals often as different from each other as is possible in custom and belief. Individual rights and the individual dignity constitutionally protected are thus sacrificed in the name of protecting some asserted competing interest of the "masses" or "majority" unknown to our Bill of Rights.

Dignity is every man's right and **the United States**

**Constitution was fashioned to insure
the dignity of man**

and his ideas, as well as to insure his concomitant right to disagree with the majority or a minority. Yet we see a trend developing, aided by highly placed

officials in the state, to sacrifice an individual's rights on the false altar of majority or societal rights, as defined by the powers that be.

The Constitution never knew such a balancing of rights. The state was conceived of as an instrument, among other things, to protect the individual in his rights against the state. The political, social and environmental ills that plague our nation today are monumental. But in our efforts to deal effectively with the onslaught of these problems, we cannot sell cheap the individual's dignity that lies at the heart of our constitutional theory; we should not create a false dichotomy of individual vs. societal interests so as to beguile us into believing that it is constitutionally sound to balance these interests one against the other. If we do so, we will find ourselves in a police state, where only the "people's" or "society's" interests will be protected and "society's" interest will be defined by the powers that be, and will be protected by the police as agents of the powers that be. Then our democracy as it was conceived will be over. Minority groups will be especially subjected to this kind of police power, as will be all nonconforming individuals.

We cannot allow capricious and arbitrary acts by government officials

to deprive any individual of his dignity — and as long as one human being, be it Angela Davis or anyone else, is deprived of the social justice that is guaranteed under our Constitution, no citizen is safe. The time is gone forever when middle class Blacks who have a certain expertise will sit back and allow their leadership to be destroyed by those who believe that a contrary opinion is a dangerous force.

Jack Johnson, the first Black heavyweight champion of the world, and W.E.B. DuBois, one of the greatest scholars the world has ever known, and Paul Robeson, one of the greatest singers of all times, who because of his political beliefs was driven from the stage — these Black leaders were all effectively silenced — and thus the Black community was deprived of dignity and heroes. No longer will we stand by and allow our community to be deprived of the best of our brains or our political dissenters.

We are saying no, never again will a Black man be persecuted simply because he disagrees with a majority political belief or engages in activities which are not in conformity with majority values.

The sum total of our lives, individually and collectively, is determined by the kinds of laws that we have and the manner in which they are administered. The law can bring equality to one's life. It can assure life, liberty and the pursuit of happiness, but the kind of laws being passed today do not aid equality or assure life, liberty or pursuit of happiness.

The Blacks of today as well as the youth, Chicanos and brown Americans are, indeed, making certain demands of government. They are in fact demanding power to deal with the various political and legislative forces that repress them.

They are demanding the freedom to participate in the formulation and application of standards of responsibility. These groups have been dictated to for centuries, and their identities have been defined for them. And for centuries American lawyers have sat by and refused to champion them in these demands for improvement. A lawyer has a responsibility to see that citizens are treated fairly, equally and with justice. We hope by forming this panel we can demonstrate to others this aspect of the lawyers' role to assure us that no citizen will go unprotected or will go without the guarantees that all citizens and humans under our government should have.

THIS ARTICLE

The National Conference of Black Lawyers announced recently that a panel of 12 Black law professors from 11 colleges will provide advice and counsel to the defense of Angela Davis in California. . .

The appointment of the law professors to help Miss Davis' counsel was unprecedented in this country. *The Star* invited the chairman of the group, Dean Paul E. Miller of the Howard University Law School, to present the reason why the panel was formed and what it hopes to accomplish.

The Sunday Star



As this brochure goes to press, Angela Davis is being held in prison under brutal conditions. Restricted and isolated in a windowless cell, she is in near-solitary confinement. Her meals are poor in quality, insufficient in quantity. Though Miss Davis needs and has requested medical attention, prison facilities do not allow adequate care. We have learned of at least one occasion when Miss Davis suffered physical abuse from her jailers.

Prejudged guilty by Nixon and the news media, her continued imprisonment prevents Miss Davis from reaching the American people to tell her own story.

Write or wire to Gov. Ronald Reagan, State House, Sacramento, California. Demand Angela Davis be released on bail pending trial.