

COMMUNIST PARTY IS LEGAL

● By WILLIAM O'NEALE

THE Communist Party has been adjudged legal anywhere in the United States—that is the main conclusion to be drawn from the Supreme Court decision freeing the youthful Negro Communist organizer, Angelo Herndon, from an 18-20 year chain-gang sentence. By their persecution of Herndon and others the Georgia reactionaries headed by Talmadge and the Ku Klux Klan had hoped to crush the Communist Party leadership, to subdue the Negro people, yearning for freedom, and the unemployed, demanding food. How far they missed their mark may be seen from the fact that the Herndon decision is the clearest Supreme Court decision on record upholding the legality of the Communist Party.

But they might well have succeeded with their plans if intense public pressure had not reached a high point just as the case came up for consideration. There was the pressure from two million citizens who had signed the petition demanding Herndon's freedom, including members of the International Labor Defense and scores of other organizations. At the same time the people showed their determination to liberalize the courts. Even this pressure was just enough to win a 5-4 decision. With the Supreme Court as now constituted the liberty of American citizens, we see, rests in the unsteady hands of Justice Owen J. Roberts, the vacillating member of the court.

THE Herndon decision clinches a recent trend of court actions to explode the fiction that the Communist Party "advocates force and violence" and is therefore "illegal." Considered together with Chief Justice Hughes' opinion in the Oregon case against Dick DeJonge, and Vice-Chancellor Fielder's decision in the Communist Party's injunction suit against Jersey City officials, the following constitutional rights have been won:

1. American citizens have a right to speak openly in the name of the Communist Party at meetings arranged by the Communist Party.

2. It is illegal for officials arbitrarily to prevent Communist Party meetings.

3. A citizen has a right to be a member of the Communist Party, to possess party literature, and to solicit others for membership.

In all of these cases the reactionary forces tried desperately to make the courts accept their theory that the Communist Party "advocates force and violence" and that laws making the party illegal do not abridge the constitutional rights of free



Angelo Herndon, National Vice-president of the Young Communist League. The Supreme Court's decision which freed him from a twenty-year sentence on the chain gang clearly upholds the legality of the Communist Party in the United States.

speech, press and assembly. In his argument of the Herndon case before the U. S. Supreme Court, the Georgia prosecutor built up an elaborate web of fine-spun reasoning. It went something like this: He first read certain portions from the program of the Communist Party dealing with land for the landless, the rights of the Negro people as a minority nation, and the need for an alliance between the Negro people and the industrial wage-workers so that each can secure the drastic changes in their conditions they both require. Next he proved that Angelo Herndon was a member of this party and showed from literature on party discipline that every member accepts and advocates the entire party program. The final step in his argument was to state that the landowners of Georgia will never accept this program without forcible resistance. From all this he drew the conclusion that Herndon and the Communist Party, by putting forth such a program, advocate force and violence no matter how they propose to put the program into effect.

THIS argument was good plenty for four of the "justices." In his minority opinion Justice Van Devanter says in high-flown legal language that, even if Commu-

nist activity is legal for some people, surely we are not going to let a Southern Negro get away with it. He says in his opinion:

"It should not be overlooked that Herndon was a Negro member and organizer in the Communist Party and was engaged actively in inducing others, chiefly Southern Negroes, to become members of the party and participate in effecting its purposes and program."

The court majority could not bring itself to accept this interpretation at a time when their actions were being carefully watched by the American people. The majority opinion freeing Herndon said:

"His membership in the Communist Party and his solicitation of a few members wholly fails to establish an attempt to incite others to insurrection. . . . In these circumstances, to make membership in the party and solicitation of members a criminal offense, punishable by death, in the discretion of a jury, is an unwarranted invasion of the right of freedom of speech."

GEORGIA reaction, however, openly defies the United States Supreme Court and the constitution. An Atlanta newspaper mockingly calling itself "The Constitution" commented on the Herndon decision on April 28, saying:

"Regardless, however, of whether or not this particular Georgia statute is constitutional, Communists of all shades, whether deep-dyed reds or mere dilettante pinks, may take warning."

Evidently they have not learned the lesson of the Herndon case—that the free air of American traditional democracy gives us the strength to oppose their worst persecutions. As the Kentucky miner's wife said, "American flesh don't scare easy." Probably they will try more "drastic measures" in their frantic attempt to divide and rule—to split the organizations of the common people into a dozen fragments—whites against Negro, employed against unemployed, South against North, and by threats, terror and red-baiting to wrench the Communist Party away from the open body of labor. The lesson of the Herndon case is: **THEY WILL FAIL.**

The unity of labor and the progressive forces behind the Herndon defense was a heavy blow to reaction. Herndon, a Negro, unemployed, Southern Communist, received abundant support from all sections of progressive and patriotic Americans—Negro and white, employed and unemployed, Northern and Southern, Socialists, Communists, and non-party liberals. A powerful united front supporting a militant defense policy won the victory for Angelo Herndon and for American traditions of freedom, liberty, and progress.