Herndon Is Free!

And it is the collective might of the American people, not Supreme Court whim, that frustrated the bourbons

By Joseph North

Every mail day I get a letter
Son, come home, O son, come home.
—*Georgia prison song.*

FULTON TOWER glowers over Atlanta, and I stood inside its stone corridors, hoary as the Confederacy, waiting for a chance to talk to Angelo Herndon—but the warden changed his mind. After I looked that prison over, the warden even showed me the chamber where the gibbet stood and hanged black and white without discrimination—death knows no jim crow—and I thought: it will be a long time and a hard fight to get Angelo out of this dungeon.

But Angelo felt otherwise. I had accompanied him to Georgia back in October 1935, when he returned to give himself up to a sentence of eighteen to twenty years on the chain gang. He could have jumped bail, and George Schuyler, columnist of the Pittsburgh *Courier,* said he was a fool not to; but today everybody knows who the fool is. The *Courier* liked Schuyler's line so much they printed a cartoon that week showing Angelo handing himself over to the Dixie sheriff and the caption was "Little Man, What Now?" Everybody knows who the little man is today.

Angelo Herndon returned to prison of his own sweet, twenty-one-year-old will to what seemed certain death in some Georgia morass. He was assigned to prison in Lanier County, a marshy, malarial region where convicts often work in mud up to their knees.

Before Angelo went in, about a block or so away from the courthouse I recall him halting and saying to me with a wry smile:

"You know, Joe, the nearer I get to the court, the nearer I feel to freedom. I'm dead sure I'll get out soon. Funny, isn't it? The nearer I get to Fulton Tower this time, the closer I feel to freedom." He was silent a moment. "That must be the old dialectics, hey, Joe?"

The old dialectics it was. The simple heroism of this young Negro lad had inspired a world of workmen and progressives to his side, had inspired that hard-fought battle which ultimately unlocked Fulton Tower's mediæval gates and set him free.

I'll never forget that trip on the mile-a-minute express in the jim-crow car going back South with Angelo, who was giving himself to what appeared certain death on the chain gang. The locomotive was the latest stream-lined model, with four gold bands running along its sides, and it tore down the Atlantic Coast hell-bent to put Angelo behind bars for twenty years. We talked of a lot of things that night

Bertrando Valloton

Angelo Herndon

in that jim-crow car—for even this ritzy locomotive with the 10,000 horsepower recognized the color line—and Herndon sang me some songs he had learned in prison. One sticks in my mind particularly:

Every mail day
I get a letter
Son, come home, O son, come home.

How can I go
Shotgun and pistols
All around me
To blow me down
O Lord, to blow me down.

If I had my, had my
.32-20
I'd go today,
Lawd, Lawd,
I'd go today.

And I think of the power, greater than that pathetic old .32-20 that meant freedom to this unknown singer. The power of tens of millions of common people, on continents across the world as well as here, unlocked Fulton Tower, freed Herndon.

We talked of many things then, and life, as you can imagine, is sweet to a twenty-one-year-old lad. He told me how he felt when he discovered communism. "It was like turning off an old, muddy road onto a broad, shining highway," he said.

He came across communism one day while hunting for work. He had passed a post on which a leaflet fluttered. He crammed it into his pocket. That night he unfolded the leaflet, spread it on the table under the lamplight. "Would You Rather Fight—or Starve?" it asked.

"The letters danced in front of my eyes," he said to me. " 'It's war—it's war—it's war,' I said to myself. 'I might as well get into it now as any other time.' "

That introduced the concept of class war to Angelo. Practically, he had known it all his life, ever since he went down that mine at fourteen—no, even before that, for he was born a Negro lad, and they learn sooner than even the poor white child.

FIVE YEARS AGO, this unknown Negro boy stepped into an Atlanta post office for his mail. A couple of dicks hiding behind pillars stepped out, clamped a pair of handcuffs on him, carried him off to Fulton Tower where they held him incommunicado for eleven days before he smuggled out a note to his friends.

That was the anonymous beginning of the famous Herndon case. Forty, fifty persons knew him by name then. Today millions know him. Letters three inches high in the metropolitan headlines announced his freedom and they said "HERNDON" without even an identifying phrase.

He had been arrested for organizing a demonstration to demand more relief from the county authorities. That was his crime. Twice the Supreme Court turned his case down, returned him to the mercies of a Georgia chain gang. But that happened before American labor swung into motion in steel, in Detroit—before the C.I.O. was more than three letters in the alphabet.

The friends of Herndon wouldn't call it a day even after the Nine Old Men pontificated. Under the initiative of the International Labor Defense and the Communist Party, they carried on, held their endless meetings, passed their multitudinous resolutions, did all the thousand and one prosaic things generally summed up in the proletarian term "mass pressure," and it added up to the strength of a million .32-20's the old prisoner sang about.

Last week the court freed him. Yes, he did happen to be the national chairman of the Young Communist League, he was a member of the Central Committee of the Communist Party. None of these accomplishments endeared him to one solitary soul on the Supreme Bench; four of the nine could not overcome their revulsion at this "damn yellow black Red" as one Southern official called him. Four others voted as they had previously, in their liberal tradition. Justice Roberts swung

like a weather-cock, and Angelo walked a free man. Something had happened throughout America these past months, and the Supreme Court realized it even in their marble grotto.

WHAT WAS the Herndon crime? What the basis for trying to jam him into a coffin at the age of nineteen?

The story of Herndon harks back to 1932, when hunger cut a wide swath through the country, leaving its deepest marks in Dixie. Herndon had come down from Cincinnatti to find work, found the Communist Party, worked in the unemployment movement.

After his arrest for organizing the relief demonstration, the authorities excavated an ancient slave-insurrection law passed in 1804 that had been nullified by the four years of Civil War. But in 1866, during the treachery of the early Reconstruction period, the slave-owners refurbished it, put it into use once again.

As Herndon himself says, the significance of his case is far greater than the freedom of Herndon the individual.

The declaration by Justice Roberts that this insurrection law is unconstitutional involves the entire question of Supreme Court personnel and set-up; the question of criminal-syndicalism legislation throughout America; the question of the right of labor to organize in the South.

The fact that Justice Roberts reversed himself and produced a "liberal" verdict must befuddle nobody. This is precisely the strategy of the Nine Old Men under fire today.

No legerdemain caused this verdict, so different from the other two decisions. No sudden impulse of humanitarianism impelled Justice Roberts, no fundamentally differing viewpoint in interpretation of the constitution was involved.

The august judge merely found that membership in the Communist Party and the soliciting of other members did not constitute insurrection. He avoided the principal issues invoked by the case, narrowed the question down to the issue of whether membership in the Communist Party and the soliciting of other members constituted "insurrection." It did not, he grandiloquently conceded.

The Supreme Court, since 1866, had betrayed the thirteenth, fourteenth, and fifteenth amendments many times. It had helped bring on the Civil War by its infamous Dred Scott decision, and today, more than half a century afterward, it declared itself for a verdict America had passed in the historic fury of those four years of civil warfare. And that by the grace of one man.

The court had indicted itself irrevocably in the two earlier Herndon decisions. Liberalism, suddenly displayed, was induced by the indignation of the American people which made itself felt even in that marble mausoleum in the capitol.

As it was, four of the nine members could not bring themselves to change their traditional attitudes. Consider the declaration of the amazingly frank Justice Van Devanter:

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

Not deigning even to conceal his bourbon attitudes, he declared that the literature Herndon possessed

> was particularly adapted to appeal to the Negroes in that section, for it pictured their condition as an unhappy one resulting from asserted wrongs on the part of white landowners and employers, and sought by alluring statements of resulting advantages, to induce them to join in an effort to carry into effect the measures which the literature proposed.

In case this is not clear enough, the tory wound up with this statement:

> In this instance the literature is largely directed to a people whose past and present circumstances would lead them to give unusual credence to its inflaming and inciting features.

Could the owner of the largest cotton plantation in Dixie speak up more clearly and graphically than impartial Mr. Justice Van Devanter?

Then how come this change in attitude of the court—or rather, in the attitude of one member of the Court, Justice Roberts?

The answer is to be found in a thousand workshops in America; in the factories of General Motors, of United States Steel, of Chrysler. The tidal wave of labor organization, the surge of sit-down strikes and their victorious conclusions, the growing unity of labor, the drive on the Court induced by the President's reform plan, all this inevitably caused the Court to reconsider its previous decision.

This is the meaning of the Herndon victory; this the essence of its importance. A smashing victory, yet it is not a conclusive victory in the fight on criminal syndicalism. The court did not inveigh against "insurrection laws" per se. It skirted the fundamentals of the issue.

But it did do this: it freed Angelo Herndon. It proved to the people their might. It established a precedent that will permit greater freedom of movement to labor and Communist organizers in the South. It indicated the duplicity of the court and established the necessity for reform in its set-up.

It was a liberal decision established, one might say, at the muzzle of a .32-40. It was induced by the irresistible weapon of the mass pressure of the American people. It helped cement the alliance of black and white in labor.

Indubitably it will prove a landmark in the fight for greater political and industrial democracy in America.

A. Ajay

"After so much talk about Mr. Mellon, we're tempted to give our tropical flies to the government."