

Herndon Writ Plea Decision Is Reserved

(Special to the Daily Worker)

ATLANTA, Ga., Nov. 13.—Decision was reserved today by Judge Hugh M. Dorsey in Superior Court following argument on a writ to free Angelo Herndon, young Negro organizer of the unemployed, under sentence of 18 to 20 years on the chain gang. Until the decision is finally handed down, Angelo Herndon will remain in Fulton Tower Prison and will not be sent to the chain gang.

The writ was sought on the grounds that the insurrection statute under which Herndon was sentenced in January, 1933, is unconstitutional under both the Georgia and Federal Constitutions and that in any event its application in this case is in violation of the Fourteenth Amendment guaranteeing the right of due process of law. Whitney North Seymour, New York attorney retained in the Herndon case by the International Labor Defense, appeared to argue the constitutional questions.

Makes Brilliant Plea

His argument was presented with the same brilliant forcefulness which characterized his splendid presentation of the Herndon appeal to the United States Supreme Court last April.

W. A. Sutherland, Atlanta attorney retained by Seymour for the writ actions, presented the general arguments for the defense and stated that the fight to win a writ of habeas corpus would be taken all the way to the U. S. Supreme Court, if necessary. Herndon sat in court intently following the proceedings. The effect of his confinement in Fulton Tower for ten days upon his health is noticeable. He coughed frequently.

The entire section reserved for Negroes in the jim crow court was jammed, and Negroes who came to

Court Reserves On Herndon Case

(Continued from Page 1)

see the trial of the young leader overflowed into the section ordinarily reserved for whites.

Moves to Bar Petition

Assistant Solicitor General Walter Le Crow of Fulton County, who represented Georgia before the U. S. Supreme Court in the Herndon case, represented the State in a two-hour argument. He moved to eliminate from the petition for a writ of habeas corpus all reference to the evidence in the case. This evidence is the basis of the argument of the defense, that the application of the "Insurrection" law in the Herndon case violates the due process law clause of the Constitution. Le Crow's argument was marked by the same red-baiting and chauvinism that filled his impassioned plea to the U. S. Supreme Court. He reiterated the charges that "Herndon sought to foster the aims of the Red Committee at Moscow advocating the confiscation of the property of white landlords for the use of Negro farmers." He also charged Herndon with "advocating the overthrow of republican government to set up a Negro government in the so-called Black Belt in the South."

Reserves Decision

Judge Dorsey reserved decision on Le Crow's motion to eliminate all evidence. His summation speech was in its entirety an appeal to passion, against the slogans of equal rights for Negroes and self-determination for the Black Belt. "Herndon was not convicted on the basis of any specific act," he said. "He was convicted for general activity to incite the formation of a Negro republic through soliciting membership in the Communist Party."

The provocative statements of both prosecutor and judge were expanded upon by one of Georgia's outstanding red-baiters, Major A. L. Henson, state chairman of the American Legion honorary society, in a statement to the local press on Monday. The statement was made in connection with the proposed debate between Gov. Floyd B. Olsen of Minnesota and Gov. Eugene Talmadge of Georgia. Gov. Olsen objected to debating in the State of Georgia on the grounds that he "would be obliged to comment on the denial of free speech in Georgia and might find himself on the chain-gang with Angelo Herndon."

Wires to Gov. Olsen

Major Henson took exception to this statement and announced the following in a telegram which he sent to Governor Olsen:

"Angelo Herndon was not arrested for distributing Communist literature but for inciting a group of Georgia's population to armed insurrection and seizure of the major portions of five Southern states for the establishment of a soviet republic independent of the United States. He possessed and presented written contract of the Communist Party, plans of attack on the native population and seizure of lands and property and maps defining territory to be conquered."