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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1931

No.

HAYWOOD PATTERSON, PETITIONER,

vs.

STATE OF ALABAMA

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME
COURT OF THE STATE OF ALABAMA

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[Caption omitted]

IN CIRCUIT COURT OF JACKSON COUNTY

No. 2404

THE STATE OF ALABAMA

vs.

HAYWOOD PATTERSON

INDICTMENT—Filed March 31, 1931

THE STATE OF ALABAMA,
Jackson County:

CIRCUIT COURT, SPECIAL SESSION, MARCH, 1931

The Grand Jury of said County charge that before the finding of this indictment Haywood Patterson, whose name to the Grand Jury is otherwise unknown than as stated forcibly ravished Victoria Price, a woman, against the peace and dignity of the State of Alabama.

H. G. Bailey, Solicitor for Ninth Judicial Circuit.

Circuit Court, Special Session, March, 1931. The State vs. Haywood Patterson. Indictment. Rape. No Prosecutor. Witnesses: C. F. Simmons, Dr. Lynch, Victoria Price, Ruby Bates, Orvel Gilly, Dr. R. R. Bridges, C. M. Latham, Tom Taylor Rousseau. A true bill, J. N. Ragsdale, Foreman Grand Jury.

[File endorsement omitted.]

IN CIRCUIT COURT OF JACKSON COUNTY

WRIT OF ARREST

To any sheriff of the State of Alabama, Greeting:

An indictment having been found against Haywood Patterson at the Special term, 1931 of the Circuit Court of

1—2024

Jackson County for the offense of Rape. You are therefore commanded forthwith to arrest the said Haywood Patterson and commit him to jail, unless he give bail to answer such indictment at the said Circuit Court of Jackson County in the sum of — Dollars.

Witness my hand this 31 day of Mar., 1931.

C. A. Wann, Clerk.

[fol. 2] Executed by arresting the within named defendant and committing him to jail, March 31, 1931.

M. L. Wann, Sheriff.

IN CIRCUIT COURT OF JACKSON COUNTY

No. 2404

THE STATE

vs.

HAYWOOD PATTERSON

JUDGMENT ENTRY

April 7, 1931 Comes H. C. Bailey Solicitor, who prosecutes for the State of Alabama in this behalf and also came the defendant in his own proper person and by his attorneys of record and the defendant having had served upon him by the Sheriff of this County a copy of the regular jury, and the Special jury, also a copy of the indictment, and the said defendant the said Haywood Patterson, being duly arraigned and having the indictment read over to him, for his plea thereto says that he is not guilty, the said defendant by his counsel did file a motion for a change in venue to which the court overruled and the defendant excepts to the Court's ruling on same.

Issues being joined, there came a jury of good and lawful men to-wit: George R. Joyner and eleven others who being empanelled and sworn, according to law, upon their oaths do say: "We the jury find the defendant guilty of rape as charged in the indictment and fix his punishment at death."

"(Signed) George R. Joyner, Foreman.

April 9, 1931, the said defendant the said Haywood Patterson being now in open court and being asked by the court if he had anything to say why the sentence of the law should not now be pronounced upon him says nothing. It is therefore considered by the court and it is the judgment of the court and the sentence of the law that the said defendant the said Haywood Patterson, in keeping with the verdict of the jury be sentenced to death by electrocution at Kilby Prison, in the City of Montgomery, Montgomery County, Alabama, on Friday the 10th day of July, 1931.

April 18, 1931, the Clerk of this Court did write death warrant for the said defendant the said Haywood Patterson and directed the same to the warden of Kilby prison commanding him to execute the said sentence and fail not in making his return as to how and when he executed the same.

The defendant appealed from the judgment and sentence of this court to the Supreme Court and sentence is suspended pending said appeal.

[fol. 3] IN CIRCUIT COURT OF JACKSON COUNTY

No. 2404

THE STATE OF ALABAMA

vs.

HAYWOOD PATTERSON

Bill of Exceptions—Filed Nov. 30, 1931

CAPTION

Be it remembered that upon the trial of the foregoing styled cause, in the Circuit Court of the Ninth Judicial Circuit of Alabama, beginning on, to-wit: the 7th day of April, 1931, present and presiding the Honorable A. E. Hawkins, Judge of said Court, the following proceedings not otherwise appearing of record, were had, to-wit:

On said 7th day of April, 1931, the defendant, Haywood Patterson, filed in said cause his petition for a change of venue, said petition being also signed by other defend-

ants, and a severance as to the defendant in this cause, to-wit, Haywood Patterson, was granted upon motion of the State. Said petition for change of venue is in words and figures as follows, to-wit:

PETITION FOR CHANGE OF VENUE

To the Hon. A. E. Hawkins, Judge of the 9th Judicial Circuit Court:

Your petitioners, the undersigned, who are defendants in a cause now pending in said court, charged with the offense of rape, respectfully represents that they nor either of them can have a fair and impartial trial in this county; that the newspapers published in this county have so persistently tried the cause asserting the guilt of the defendants in such terms of these defendants, as to inflame the public mind to the extent that the Sheriff of said county had the Governor of this state to call out the National Guards to protect the lives of your petitioners. That after the arrival of said troops, hundreds of people gathered about the jail, where they were confined, apparently in threatening manner. That from the inflammatory statements contained in said newspapers which are circulated all over this county, the minds of the public is such that your petitioners could not have a fair and impartial trial. A copy of which publications are hereto attached marked [fol. 4] Exhibit "A" and "B" and made part of this petition. That the public generally have already convicted them. Wherefore, petitioners prays Your Honor to make an order removing this trial to some other county and the defendants hereby make oath that all the foregoing statements are true.

Ozie (his X mark) Powell. Haywood (his X mark) Patterson. Eugene (his X mark) Williams. Charlie (his X mark) Weems. Roy (his X mark) Wright. Willie (his X mark) Roberson. Andy (his X mark) Wright. Olen (his X mark) Montgomery. Clarence (his X mark) Norris.

Sworn to and subscribed before me this 6 day of April, 1931.

C. A. Wann, Clerk Circuit Court.

Filed April 6, 1931.

C. A. Wann, Clerk.

Said Exhibit "A", attached to said petition, is in words and figures as follows, to-wit:

EXHIBIT "A"

Jackson County Sentinel

Scottsboro, Ala., March 26, 1931.

Nine negro men rape two white girls, charge.
[fol. 5] Threw white boys from freight train and held white girls prisoners until captured by posse.

All negroes positively identified by girls and one white boy who was held prisoner with pistol and knives while nine black fiends committed revolting crime.

National Guard called here and escorts prisoners to Gadsden for safe keeping until Tuesday.

Two girls and seven white boys were attacked by negroes as freight train left Stevenson; girls' home Huntsville.

Case has no parallel in crime history. Assault took place in mid afternoon as freight train sped through this county.

Special term of Grand Jury and court called for next Monday and April 6th.

This afternoon (Thursday) eleven National Guard officers and seventy Guardsmen are on their way to Gadsden, Alabama, escorting nine negro men to the jail at that city for safe keeping. Every one of the nine blacks is charged with raping one or both of the two white girls they held prisoner on a fast through freight train as it was passing through Jackson County Wednesday afternoon between noon and three o'clock after they had attacked and thrown from the train six white boys and held one white boy a prisoner with pistol and knives.

The negroes have all been positively identified by the two girls and all of the white boys, all of whom are now in Scottsboro to await the convening of the Jackson County grand jury called for special term next Monday, March 30th, to investigate the case.

The girls were Victoria Price and Ruby Bates, who gave their ages as 17 and 18 years, and gave Huntsville as their home. They stated that they had been in Chattanooga looking for work and were broke and decided to hobo back

home with the white boy companions. Both girls were garbed in overalls.

The names of the white boys were John Gleason, John Ferguson, Roy Thurman, Lindsay and Odell Gladwell, Lester Ceter and Orville Gilley. All of these white men gave addresses in other states except Gilley, who stated his home was at Albertsville in Marshall County. Gilley was the one held prisoner by the negroes and is an eye witness to every assault.

The negroes, as hard looking lot as ever marched into jail here, gave their names as Ozey Powell, Chas. Weems, [fol. 6] Clarence Morris of Atlanta, Olen Montgomery of Monroe, Ga., and Roy and Andy Wright, Eugene Williams, Haywood Patterson of Chattanooga, and Willie Roberson of Columbus, Ga.

These last four named negroes were identified by Chattanooga police as being "the worst young negroes in Chattanooga" and all of them have bad police records in that city.

Negroes Accuse Each Other

This morning one of the younger negroes was taken out by himself and he confessed to the whole matter but said "the others did it." He was taken back to point out the guilty and the negroes immediately began accusing each other of the crime.

Surprise Attack Overpowered Whites

According to the general story told by both the girls and white boys, the two girls and seven white boys were in a gondola car (or coal car) which had about two feet of gravel in the bottom of it. They were beating their way to Huntsville from Chattanooga. When the fast freight pulled away from the coal chute west of Stevenson, the nine negroes and maybe one or two more jumped down in the car and attacked them, the negroes showing a pistol and knives. Several of the smaller white boys were bodily thrown over the gondola sides and the fight was soon left to only three or four white men and they fought until one by one of the black brutes overpowered them and threw them over the side of the car.

One white boy, Orville Gilley, was struck over the head with a pistol and left in the corner for dead, but he roused up and found a knife held at his throat by two negroes who told him they intended to kill him. While some of the negroes held the two white girls others of the fiends raped them, holding knives at their throats and beating them when they struggled.

Splendid Capture by Deputy and Posse

The first white boy thrown from the train struggled his way back to Stevenson and gave the alarm but the freight had already passed Scottsboro and word was flashed to Paint Rock, where Deputy Sheriff Latham, of Trenton, who happened to be in Paint Rock, quickly formed a big posse of heavily armed citizens and they lined up on both sides of the railroad and stopped the train and got every negro brute as he dropped from the cars.

The white girls were found in the car in a terrible condition mentally and physically after their unspeakable experience at the hands of the black brutes. They were hurried to Scottsboro and given medical attention.

[fol. 7] The negroes were lined up at Paint Rock and Sheriff Wann and the posse brought all nine of them to Scottsboro where they were identified by the two girls and all of the white boys.

A great crowd gathered at the jail and it was thought that the prisoners were being carried to Huntsville for safe keeping, but the Sheriff changed his mind. Mayor Snodgrass and other local leaders addressed the threatening crowd and pled for peace and to let the law take its course and after an hour or two the crowd dispersed and all was quiet.

As a precautionary measure Governor Miller had been asked to send troops to Scottsboro and Major Joe Starnes of Guntersville, with ten other officers, commanding Alabama National Guard Companies E, F, G, arrived here within less than three hours' notice from the time his men were called, establishing a splendid record for the Guard as to ability to "get there when called." However, all was quiet, the soldiers relieving the sheriff and many of his deputies who had been on watch throughout the night.

Today it was decided to send the negroes to Gadsden and the National Guard will escort them to that city, also escort them back to Scottsboro for arraignment and trial.

Some of the white boys thrown from the train were badly beaten up and bruised and were given attention by local doctors.

Case Without Parallel in Country

This crime, the news of which was flashed around the whole county as a "first" Associated Press story, stands without parallel in crime history. Nine Negroes charged with rape, all of them being seen by three white eye-witnesses in open daylight, and this heinous attack following an assault and attempt to murder on the seven white boys who tried to protect the girls.

Calm thinking citizens last night realized that while this was the most atrocious crime charged in this county, that the evidence against the negroes was so conclusive as to be almost perfect and that the ends of justice could be best served by a legal process. The citizens and officers are also commending the citizens of Paint Rock for their splendid and courageous stand in helping uphold the law at a most trying time.

Special Term of Court Called for April 6th

Circuit Judge Alf E. Hawkins and Solicitor Bailey arrived in Scottsboro Thursday morning and immediately went into conference regarding a special term of the grand jury and circuit court.

The grand jury was summoned to reconvene next Monday, March 30th, and the Circuit Court to reconvene the Monday following, April 6th. County Court has been postponed to the first Monday in May.

All members of the present grand jury are given notice to please be at the court house next Monday morning, the convening of the jury at about 10 o'clock.

This jury consists of J. N. Ragsdale, foreman, Charles Morgan, James H. Rogers, J. H. Cox, G. W. Minton, Geo. B. Phillips, Wm. Rash, J. P. Brown, Arthur Gamble, C. A. Mason, Noah Manning, J. M. Tidwell, A. E. Chambliss, John G. Hicks, Robert E. Hall, Raymond Hodges, C. D. Paul, Walter Berry.

According to legal procedure in a case of this grave nature it is necessary to allow certain time to elapse for legal procedure between the indictment and trial. Many citizens had hoped to get a speedier trial even than this date set, but under the law it is properly set and we feel sure that Jackson County people will accept this verdict and be a part in keeping peace in this time when it is hard to be lawabiding. Judge Hawkins and Solicitor Bailey have secured Judge Speake and Solicitor Pride of Madison County to hold their court at Guntersville week after next in order that they might give this early trial to these negroes.

Said Exhibit "B," attached to said petition, is in words and figures as follows, to-wit:

EXHIBIT "B"

Jackson County Sentinel

Scottsboro, Ala., April 2, 1931.

Negroes Indicted on Charges of Rape

Grand jury finds 20 indictments against blacks charged with rape of two white girls on train.

Negroes plead not guilty to most serious charges in legal history of this county.

Trial set for next Monday at Scottsboro; 100 jurors summoned to try case; troops form constant guard to alleged rapists.

[fol. 9] Surrounded by a cordon of soldiers bristling with automatic rifles, pistols and riot guns, nine negro men stood up in the Jackson County court house last Tuesday morning and were indicted on the most serious charges known on the statute books of Alabama, rape. The negroes were Haywood Patterson, Eugene Williams, Charlie Weems, Roy Wright, Ozie Powell, Willie Roberson, Andy Wright, Olen Montgomery and Clarence Norris, all of whom pled not guilty to the charges of having raped Victoria Price and Ruby Bates, two white girls.

Twenty Indictments Against Negroes

The Jackson County Grand Jury went into session last Monday Morning investigating the case and Tuesday morning reported twenty indictments for rape against the nine negroes for the alleged rape of Victoria Price. There were nine individual indictments against the negroes, nine against them for the alleged rape of Ruby Bates, and two indictments against the whole nine negroes collectively for the alleged rape of both Victoria Price and Ruby Bates. This placed three indictments against each negro for the alleged crime of Wednesday of last week when it is said these negroes attacked the two white girls after overpowering or throwing from a moving freight train seven white boys who were in the same car with the two white girls.

The grand jury, under the direction of Solicitor Bailey, and County Solicitor Thompson, called before it a number of witnesses, including the two girls, Victoria Price and Ruby Bates, whose homes are in Huntsville, the boys who were with them and thrown from the train, the boy who was held prisoner and alleged to have witnessed the entire assault, the doctors, several officers and others who had information on the case.

No Disorder at Arraignment

The negroes were brought to Scottsboro from the Gadsden jail where they had been carried Thursday of last week.

They had an escort and guard to and in Scottsboro of Sheriff Wann and deputies and Major Joe Starnes of Guntersville in command of 25 picked soldiers from the Alabama National Guard. These soldiers were armed with automatic rifles, riot guns and pistols and kept order in the court room and kept "crowding" at a minimum. A great crowd of people was present or tried to get into the court room. However, the general temper of the public seems to be that the negroes will be given a fair and lawful trial in the courts and that the ends of justice can be met best in this manner, although these cases charged against the negroes appears to be the most revolting in the criminal records of our state, and certainly of our county.

[fol. 10] Defense Lawyers Appointed

A Chattanooga lawyer, a Mr. Broddy, was at the court Tuesday he said, "to investigate the case of the negroes for

interested parties in Chattanooga, but said he at that time had not been employed as counsel to defend them at the trial. Judge Hawkins appointed the entire Scottsboro bar not otherwise excluded from the case, to act as temporary attorneys for negroes or active counsel for them if it appeared they would have no other counsel. Mr. Broddy also agreed to be listed as a temporary attorney for the defense. So at this time it is not known positively just who will defend the negroes and there may be outside legal talent from several places.

It is understood that the Scottsboro law firm of Proctor and Snodgrass has been retained to assist in the prosecution of the negroes.

Trial Set for Next Monday

The trial of the negroes is set for next Monday, April 6th, in the special term of Jackson County Circuit Court. Judge Hawkins has drawn 100 regular and special jurors to appear for service. The list of jurors appears on this page of the Sentinel.

We are informed the State will make effort to try all the negroes at the same time under one indictment. If this is accomplished the matter will be made brief. If it becomes necessary to try each defendant separately it will take hundreds of jurors and many days court time.

100 Guards Here Next Monday

Major Starnes Will Command Picked Troops at Trial Next Monday.

Major Joe Starnes of the Alabama National Guard stated to the Sentinel Monday that he expected to bring at least one hundred picked men for escort and guard duty to Scottsboro on next Monday when the nine negroes charged with rape on two white girls are brought here from Gadsden to be tried in the Jackson County Circuit Court.

The units coming here will be from Gunterville, Albertville and Gadsden and will be officered by about eleven men. These troops will remain here during the duration of the trial at least.

Major Starnes and his men made a record answer to the emergency call that was sent to them last Wednesday night

by the Governor of Alabama, arriving in full military equipment at the Scottsboro jail in less than three hours from the time the Major got orders to come to Scottsboro. It was [fol. 11] in the night and his men had to be notified at their homes in many parts of Marshall and Etowah counties.

Jurors Drawn for Special Term of Court

The following is a list of regular jurors drawn to appear next Monday morning for service at the special term of Jackson County Circuit Court which will try the nine negroes indicted for rape:

A. H. Hill, Bridgeport, Lem. R. Jones, Bridgeport, Geo. R. Joyner, Bridgeport, J. M. Barnes, Bridgeport, Luther Hart, Bridgeport, L. M. White, Bridgeport, W. C. Lindsay, Stevenson, Luther Ballard, Stevenson, John St. Clair, Stevenson, John N. Coffey, Stevenson, Virgil Knight, Stevenson, Horace McCrary, Stevenson, A. L. Akins, Stevenson, G. C. Reeves, Bryant, James Walker, Fackler, Clay Shrader, Fackler, Albert Rash, Rash, James D. Allen, Rash, Lee Hicks, Olalee, Ed. Matthews, Olalee, Arthur Gamble, Olalee, C. C. Allen, Olalee, A. L. Starkey, Hollywood, Wade S. Rowe, Pishgah, Will G. Sartin, Pishgah, Griff Callahan, Langston, Chas. Utter, Langston, T. Gaines Elkins, Tupelo, Steve J. Mitchell, Tupelo, Perry B. Hall, Larkinsville, J. B. Selby, Larkinsville, Pleas Kennamer, Woodville, Wm. Bishop, Woodville, P. W. Page, Woodville, Roy Wilbourn, Trenton, Richard Hill, Collins, Chas. Grady Swaim, Collins, Tom Austell, Collins, John W. Butler, Bishop, P. R. Sanders, Kyles Spring, O. C. Proctor, Scottsboro, Wm. McCutchen, Tom W. Flowers, L. D. Dean, Scottsboro, J. Exum Sumner, John L. Staples, Scottsboro, J. W. Austell, Scottsboro, J. H. Harris, Section, J. A. Galloway, Section, McKinley Gilbreath, Section, J. A. Staten, Section, Granville Carter, Section, Luther B. Whitten, Section, J. A. McFarlin, Garth, J. A. Houk, Garth, J. G. Enochs, Hollytree, W. C. Seroggins, Dutton, Fred Morris, Dutton, Robert Hope, Dutton, Tom J. Dean, Dutton, Sam Dobbs, Dutton, T. M. Holloway, Dutton, Joe M. Kennamer, Gross Spring, Albert Britt, Haigwood, R. D. Bryant, Haigwood, John D. Culpepper, Haigwood, W. G. Isbell, Lim Rock, W. B. Clark, Princeton, J. F. Wilkins, Wininger, M. P. Adams, Rosalee, Alfred James, Deans, M. H. Moore, Deans, Eli

L. Brown, Deans, J. E. Creswell, Deans, B. M. Bradley, Deans.

Special Jurors

The following is a list of 25 special jurors drawn to supplement *to* regular list above of 75. According to law only 100 jurors can be summoned at one time and if more are needed during progress of Court the judge is empowered to [fol.12] draw them as needed. The following jurors also report next Monday morning:

Wm. E. Moore, Pisgah, Mose Dawson, Scottsboro, John Strawn, Section, Joe L. Outlaw, Section, Marion Johnson, Lim Rock, Lee Golden, Princeton, W. Gordon Harris, Hollywood, John L. Blevins, Stevenson, Wm. E. Glover, Lim Rock, Tom Shepard, Swaim, Willie J. Wells, Paint Rock, John N. Hatchett, Swaim, Geo. O. Cook, Paint Rock, Hub. F. Everett, Paint Rock, Avery Steele, Olalee, J. Walter Cluun, Princeton, John Golden, Princeton, Tom Arnold, Pisgah, John W. Sumner, Scottsboro, Albert Hoge, Tupelo, Charles S. Sewell, Flat Rock, Lee Sahby, Maxwell, Joe A. Ross, Woodville, Geo. R. Allison, Stevenson, Jesse C. Smith, Section.

Jackson County Sentinel

(Editorial)

Scottsboro, Ala., April 3, 1931.

The Case of the Negroes

The editor of the Sentinel is informed that the attorneys for the nine negroes being held for rape of two white girls on a train in Jackson County, last Thursday will petition for a "change of venue" under the claim that newspaper stories and other propaganda have made it impossible to get a fair and unprejudiced trial in Jackson County for the negroes.

This claim is without foundation at all. The citizenship of Jackson County just wants one thing—justice. They would want the same thing for white men charged with this offense just the same as they want it for the

blacks. Under most trying circumstances our citizenship has acted fairly and, we believe, most wisely. If these negroes are guilty of the heinous crime of which they are charged they should get the severest penalty of the law, is our honest opinion. If they are not guilty, they are the most mistreated so far as charges are concerned, of any men ever arrested in this county. None of the parties, either negroes or white, are residents of Jackson County. Jackson County certainly gets no pleasure out of the matter.

But in justice to the Sentinel and the article it printed last week regarding the affair, we tried very hard to temper the story down to keep from inciting the people rather than to do so. There was testimony of the two girls that was entirely too revolting to go in any paper or even [fol. 13] be made public property. If these stories are true, these nine negroes are all guilty and should pay. The negroes have offered nothing to refute these charges except their mumbled "not guilty" answers in the court Tuesday. It is their privilege and the privilege of their attorneys at the trials next week to prove these charges false if they can do so. The citizenry of this county and this state wants these negroes to have every opportunity to prove their innocence before a verdict is rendered. If they cannot prove innocence the law is expected to do its full duty.

Next Monday should be orderly in Scottsboro in every way. A tremendous crowd will be here, most of them out of curiosity. The town will have a hundred or more soldiers in it too. Every body is urged to keep down any and all friction with the troops. They are nice, gentlemanly young men from our neighboring counties who will carry out their every obligation to their state and country and are not sent here as "bullies" to intimidate citizens.

The Sentinel is not prejudiced. The nine negroes face the gravest charges ever docketed at one time in Jackson County or Alabama. The evidence against them is corroborated and witnessed. It hardly seems possible that all evidence can be broken down, but these negroes will be given every right of defense of their own liberties and lives. Jackson County lives by the law; it will accept the settlement of this matter by the law. But we just want the world to know that these negroes were not scooped up on vague charges and slammed in jail on a pretense of a rape charge. The editor of this paper heard and saw the two poor white girls

identify and point out the negroes and heard and saw the white boys who were thrown from the train and the one who was held prisoner and witnessed, he said, the wholesale rape of these two helpless white women, identify and point out every one of the nine blacks, as parties to the rape and assault. This white boy was bruised and scratched, he said by the negroes choking and beating him. The Sentinel is not trying to convict the negroes without a trial, it just resents the insinuations on those who accuse our citizenry of being acting on race prejudice, when evidence and not prejudice is what is holding and indicting these negroes. We fail to see where a change of venue could benefit the negroes very much, if any. The testimony would be the same, and the witnesses are as well known elsewhere as in this county and court.

[fol. 14]

A Hideous Blot

(Chattanooga News)

How far has our vaunted Southern chivalry sunk when we must contemplate two young women being forced out into the world to find work, and when we review the fact that they were then forced to return home in overalls, stealing a ride in a gravel car on a freight train.

How far has humanity sunk when we must contemplate the frightful things which occurred in that gravel car.

How much farther apart than night and day are the nine men who perpetrated those frightful deeds and a normal kind-hearted man who guards his little family and toils through the day, going home to loved ones at night with a song in his heart.

How is it possible that in the vesture of man can exist souls like those nine, while others in the vesture of man can dream such beauty as Keats dreamed, or can paint as did Raphael, or sing as Caruso, or play as Kreisler? The beasts of the fields do not differ among their own kind as do men, who are either blessed or cursed with imagination.

The terrible story of the ride on that freight train between Chattanooga at Scottsboro was strangely depressing to all the South. It lay like a weight on the heart of those who read it.

The News urges the Alabama grand jury to return speedy indictments. We still have savages abroad in the land, it seems. Let us have the solace of knowing that at least we have arisen above the justice of savages.

Mob Violence Again Averted
(Montgomery Advertiser)

Sheriff Wann, of Jackson County, is a cool, sensible and determined officer of the law, the sort of man whose neighbors must have learned to respect before they had occasion to test his mettle. Otherwise those 300 Jackson County citizens might have opened the jail at Scottsboro, and seized the nine or twelve negroes who were charged with criminal assault upon two white girls. But with nine deputies and one volunteer standing by his side the sheriff sent word, to the impassioned men without, that he would fight before surrendering the prisoners. They stood around a while—300 of them, say the dispatches—when the weather turned cold unexpectedly and to be comfortable they dispersed and went to their homes.

The circumstances were peculiarly trying. Some of the negroes confessed that 12 of them attacked two white [fol. 15] girls, two of the negroes having escaped capture. Ordinarily it would be next to impossible to restrain the mob spirit in such circumstances. But two factors entered into the success of Sheriff Wann in protecting his prisoners. The first is that the angry citizens without must have known that the Sheriff was in earnest. The second is the growth of anti-lynching sentiment in Alabama. Today mobs are more reasonable and tractable than they used to be, because it has been the policy of public officials, especially Governors, and the policy of newspapers, for many years to condemn mob action. Alabama Governors generally have been vigorous in their efforts to combat the mob spirit.

Governor Miller acted promptly and in the best Alabama tradition in sending National Guardsmen to Scottsboro. This was a wise precautionary measure.

The courts are acting promptly in arranging for a grand jury investigation of the crime.

In other words, in the face of extreme provocation, Alabamians have again shown that they are willing to let the law have its way.

Defendant offered in evidence, in support of his petition for change of venue, said Exhibits "A" and "B", separately and severally, and the same were accordingly admitted in evidence, separately and severally.

In support of said petition for change of venue, defendant offered the following oral testimony:

M. L. WANN, having been duly sworn, testified as follows:

"My name is M. L. Wann. I am Sheriff of Jackson County, Alabama. To bring these defendants to Court to trial today I did call this National Guard unit to accompany the prisoners in court, although I did have a crowd here, I did not see any guns or anything like that and I did not hear any threats. I had this National Guard unit to accompany the prisoners to court when they were brought here several days ago. As Sheriff of this county I deemed it necessary for the protection of the defendants for the National Guard unit to bring them to court. That was not only on account of the feeling that existed here against these defendants, but by people all over the county. I deemed it necessary not only to have the protection of the Sheriff's force but the National Guard."

Cross-examination:

The Solicitor for the State propounded to the witness the following question:

[fol. 16] Q. Sheriff, you make up your mind from the sentiment of the people on the ground of the offense and not from any voice of feeling?

Defendants objected to the question on the ground that it is leading; on the further ground that it calls for a mental operation of the witness; on the further ground that it calls for a conclusion of the witness; on the further ground that it calls for an unauthorized conclusion of the witness; on

the further ground that it calls for incompetent, irrelevant and immaterial testimony.

The court overruled the objection; and to this ruling of the Court defendant duly and legally reserved an exception.

The witness answered: A. Yes, sir.

The witness testified further: It was more on the grounds of the charge that I acted in having the guards called than it was on any sentiment that I heard on the outside. I have not heard anything as intimated from the newspaper in question that has aroused any feeling of any kind among a posse. It is my idea, as Sheriff of the county that the sentiment is not any higher here than in any adjoining counties. I do not find any more sentiment in this county than naturally arises on the charge. I think the defendants could have as fair trial here as they could in any other county adjoining. From association among the population of this county, I think the defendants could have a fair and impartial trial in this case in Jackson County. That is my judgment. I have heard no threats whatever in the way of the population taking charge of the trial. It is the sentiment of the county among the citizens that we have a fair and impartial trial.

Redirect examination:

I have troops here right now to keep the crowd back from the court house, and there is a great throng around this court house right now that would come in if I did not have the troops; they are from different counties here today. I know there are lots of them; there are several from Madison, Marshall and DeKalb. There are hundreds of them around the court house at the present time. They are not allowed by the guards to come to the court house. That is the rule. At the time these prisoners were arrested and brought to this jail I estimated the crowd at around two hundred. Then I took precautions to protect them. I thought that was my duty as an officer. I think there are three or five units of the National Guard here, protecting these defendants at the present trial, if I understood Major Starnes. I have five units of the State militia here now.

[fol. 17] JOE STARNES, having been duly sworn, testified as follows:

Direct examination:

I am Major Starnes, of the Alabama National Guard. I have one Hundred and seven enlisted men here protecting these defendants. There are five units of the National Guard represented. I have eleven officers. I have one hundred and seven enlisted men and some non-commissioned privates. Two companies accompanied these defendants to this court. Several days ago I had a picked group of twenty-five enlisted men and two officers from two of my companies to bring these defendants over for arraignment. I received the call from the State Adjutant General at Montgomery at nine o'clock P. M., on the evening that the attack occurred in the afternoon. On every occasion I have been in Scottsboro I have found a crowd of people gathered around, and at the present time I have issued orders to my men not to let any come in the court house or court house grounds with arms. That situation exists right now, and has existed not only today but under orders of the court on every appearance of the defendants. My units of the National Guard have protected these men and have been with them on every appearance they have made in this court house. Every time it has been necessary, and for the arraignment of the defendants, I have brought them here and have carried them away. After these men were arrested, I first brought them back on Tuesday of the past week, is my recollection, March 31st. I brought them back here for arraignment. We arrived here at 10:30 and left at 4:00 o'clock. I brought them at 10:30 in the morning and left at four in the afternoon and took them back to Gadsden, then I brought them back here and arrived at 5:15 o'clock this morning. I have had them here twice from Gadsden. I brought them here and carried them back.

Cross-examination:

I first came here, of course, under orders from the Governor, and I have been here under his orders ever since. This is the third trip I have made here from Gadsden. In my trips over to Scottsboro in Jackson county and my

association with the citizens in this county and other counties, I have not heard of any threats made against any of these defendants. From my knowledge of the situation gained from these trips over here, I think these defendants can obtain here in this county at this time a fair and impartial trial and unbiased verdict. I have seen absolutely no demonstration or attempted demonstration toward any of these defendants. I have seen a good deal of curiosity [fol. 18] but no hostile demonstration. In my judgment, the crowd was here out of curiosity and not as a hostile demonstration toward these defendants.

The foregoing is all the evidence offered on the hearing of said petition of defendants for a change of venue.

The court denied said petition for change of venue and dismissed the same, to which action of the court defendant reserved an exception.

The court entered the following order denying and dismissing said petition:

ORDER DENYING PETITION FOR CHANGE OF VENUE

“The petition for change of venue having been heard on this 6 day of April, 1931, before the Honorable A. E. Hawkins, Judge, presiding, on the evidence introduced in open court and the exhibits, the copy of the Jackson County Sentinel and the proof introduced for the defendants, and for the state, and the court being of opinion that said petition is not well taken, the same is overruled and dismissed. It is, therefore, ordered and is the judgment of the court that the defendant’s petition for a change of venue in this cause be and the same is hereby dismissed. The defendant duly excepted to the action of the court in dismissing his petition for a change of venue.”

Upon motion of the State, the court granted a severance as to the defendant in this case, to-wit, Haywood Patterson, and the case proceeded against said defendant.

Before proceeding to strike the jury in this case defendant demanded a special venire in addition to the regular

venire for the trial of the case. The court declined to allow a special venire for this case and required the defendant to strike a jury from the regular venire drawn for the week and the special venire drawn in the case of the State of Alabama vs. Charley Weems and Clarence Norris, to which action of the court in not allowing them a special venire in this case, and requiring him to select a jury from the regular venire and the special venire drawn in the case of the State vs. Charley Weems and Clarence Norris, defendant duly and legally reserved an exception.

Thereupon, after the striking of the jury for the trial of this case, the following proceedings were had:

[fol. 19] VICTORIA PRICE, a witness for the State, being first duly sworn, testified:

Direct examination:

My name is Victoria Price; I live at Huntsville, Alabama. On or about the 25th of March, 1931, I was on a freight train traveling through this county from Stevenson, Alabama, to Paint Rock, Alabama. Ruby Bates, another woman, was with me. I saw this defendant, Haywood Patterson; I saw him come over the top of the train. At that time I was in a gondola car. When I first saw the defendant come over the top of it, the train had just left out of Stevenson about ten minutes; that was after it had left out of Stevenson about ten minutes. The train was traveling towards Scottsboro, in this county. There were eleven more colored men with the defendant when he came over the top of the train. I stated that I was riding in a gondola car. There were Ruby Bates and seven white boys in the car with me. When these colored men came over the top of the car, this defendant told these white boys to get down, to unload. There were twelve of these negroes, as I stated. After that time, they commenced knocking the white boys off and shot a time or two. The defendant was among them. In that fight, I saw this defendant knock a boy in the head with a gun, a 38 pistol. I saw him do something else in that fight with the white boys. He put his hands on me and had sexual intercourse with me there in that car; that occurred while the train was running this side of Stevenson, in this county. Others there had hold of me while he had intercourse with me, but

I do not know their names; that little one sitting over yonder (indicating) had hold of me while the defendant was having sexual intercourse with me, and that one over yonder (indicating); both of them held me while he ravished me. This defendant's private parts penetrated my private parts. The defendant was in that bunch there and he helped to take my clothes off. He had a knife and a gun, and I don't know what all, and he was cursing them and calling them all sorts of names and everything. I got off the train at Paint Rock, Alabama. This defendant was on the train when I got off there. Those twelve negroes were not on there at the time I got off, but nine of them were on there.

When the train stopped at Paint Rock, I crawled up by the side of the gondola and finished getting my clothes fixed up and started to get off the train and got next to the bottom step and fell of-, and when I came to myself I was sitting down at a store. I made complaint to several who were down there at the store about the way this defendant [fol. 20] had treated me. Somebody took my clothes off; this defendant had something to do with that; he sat on my overalls after they were taken off; that was after he had had intercourse with me, that he sat down on my overalls. The overalls were then off of me and were about a foot or a foot and a half from me at this time. After I had gotten off the gondola car, when I came to myself, I was sitting at a store and the Doctor was there and I left there and came to the jail. The store at which I was when I came to myself is at Paint Rock, Alabama, in this county. I came to the jail at Scottsboro;

After I came to Scottsboro, the Doctor made an examination of me while another Doctor was present, but only one made the examination. It was about an hour and a half, somewhere along there, after I got off the train at Paint Rock before this Doctor made the examination of me here in Scottsboro; it was about an hour and a half; I will not be positive of the time.

Cross-examination:

I do not know what county this is. I do not know where the county line is. I suppose that Paint Rock is in the same county as Scottsboro, I reckon it is; I don't know anything

about that. I have not been living around here. I was afraid when I saw the negroes coming over the top of that car. I screamed and cried out when I saw them coming over the car. They had pistols and knives out; two of them had pistols. I counted them as they came into that car and counted two pistols and all of them had knives but two. They had their knives out and open. They came up there and shot over the gondola where we were and said, "unload." All of them did not have pistols; I said that two of them had pistols; it looked like all of them had knives; I never saw the like in my life. The knives were open. They came down there and told the boys to "unload", and Ruby Bates and I started to get off the train and they grabbed us. I was grabbed by that one over yonder (indicating), that black one, the big one. I know how they came over the top of the car; the big one came first and the others followed him, one right after the other. This defendant here was the second one to come into the car. There is the third one (indicating) to come into the car, that one over there at the left. The fourth one was that one sitting right over yonder (indicating). I know there were four of them came in there and they stood there knocking the white boys off and the rest of them just came and jumped in there. They began to jump two at a time and you couldn't tell who they were. I know four of them, because I was standing up there [fol. 21] in the corner. Ruby Bates and I were standing up there in the corner looking at them.

I did not ask the boys whether any of them were cut with the knives these negroes had. All the colored boys had knives, and those knives were opened. I did not examine the knives to see whether they were long-bladed knives or not, but I saw the knives. I did not say that everyone of the negroes had knives; I said I saw knives on them and it looked like pretty well all of them had knives. They had two pistols. Those two that had pistols also had knives, because one of them held a knife on me. He put the pistol in his pocket or did something with it after he threw me down in the car. I was very much excited at the time. Six of them had intercourse with me. I know which one had intercourse with me first; I know the second one that had intercourse with me. None of the boys had intercourse with me twice. I have made no statement to the newspapermen or to the National Guardsmen or others that some of the men had

intercourse with me two or three times. I have not made such a statement. They wanted to, but I did not say that they did it; I said they wanted to and they would have if the train had not stopped, I guess. There were twelve of those boys and only six had intercourse with me. I did not have intercourse with six of them, and six with the other girl.

I can tell you that all six had intercourse with me, but as far as picking out each one that came, one at a time, that is pretty hard to do; I could not undertake to pick them out from the first to the sixth one; I had seen some of these negroes before; I had seen two of them before in Huntsville but did not know them. I do not believe that I had ever seen this defendant before, not until that day I have seen these defendants since I got off the train at Paint Rock; I have seen them once or twice over there at the jail. I have not talked to them; I had no business to talk with them. I don't associate with them. I was hurt, I was not well and was pretty sick. I was not torn. I have been married; I have been married twice. Both of my husbands are not now living; one of them is dead.

Counsel for defendant asked the question:

Q. Are you divorced?

The State objected to the question, which objection was sustained by the court, to which ruling the defendant duly and legally reserved an exception.

[fol. 22] The Witness (continuing): I left Huntsville on Tuesday, the day before I came back. The other young lady in this case with me left Huntsville with me. We left on a freight train and rode to Chattanooga. We got off of the train there when it stopped. I could not tell you the name of the place where it stopped, but it was pretty close to the water tank; it was right there in the Chattanooga yards. I was in overalls then. I was not in company with the white boys on the train coming to Chattanooga; we were by ourselves. There were no white boys in the car with us going to Chattanooga with us. I stayed all night in Chattanooga. I know where I stayed there; I stayed at Mrs. Kelly Brochie's; I do not know how you spell her name; I do not write good and I have not asked her how it was spelled. I had known her about four years. I had known her in Huntsville. She had lived in Chattanooga a pretty good while.

She lived on Seventh Street, but I *do*d not know the number of her house. I did not notice whether Seventh Street runs East and West or North or South. I did not pay any attention to that; it was pretty close to town, the business section; It was four or five blocks off the business streets. I walked to her home. I did not know the house when I saw it. A boy there showed us where the house was. I do not know who the boy was. We met him on the street, on the sidewalk in Chattanooga; I did not know the boy; I butted into him and asked him where she lived; and he happened to know her. He said he had lived there all his life. He did not take us to where she lived, but showed us there. He did not walk with us or accompany us any part of the way. He told me to go down that street and when I got to the fourth house to go in. All I know is that it was on Seventh Street; it was not a storehouse, but was close into the town section. The mill is not out in the country. I do not know the name of the mill there; that is a mill where I applied for work. I applied for work at two of them. They call one of them the factory mill. Seventh Street is out close to the factory mill. The factory plants are not a mile or two from the mill house, I do not reckon, I have never measured the distance. I applied for work at two places. I left Chattanooga the next morning when the freight train pulled out.

This woman with whom I stayed went to the mill with me. The white boys were on the train when I got on. I had never seen any of them before that time. I had not seen any on the train the day before when I went up there. I told you we went by ourselves. I think that I had seen two [fol. 23] of the negroes who came into the gondola before that time, but I did not know them. I did not scream or raise my voice or draw my knife when I saw these negroes coming over with open knives and pistols; I fought with them, I tussled with one of them, with the one sitting right there (indicating), and he smacked me. It took three of them to get my clothes off, and they just paired off and six of them had intercourse with me and six with the other girl. I do not know anything about this section around Paint Rock or this place through here, but the train was pretty close to Paint Rock when the last one got through having intercourse. I was going from Chattanooga to my home at Huntsville; I did not have any other place to go. I have

worked in the mills at Huntsville for eleven years. I live at Huntsville; my mother lives there. I have known the other girl about two years. She has worked in the mill at little over a year.

Counsel for defendant asked the question:

Q. Did you ever practice prostitution?

The State objected to the question, which objection was sustained by the court, to which ruling the defendant duly and legally reserved an exception.

The Witness (continuing): I don't know what you are talking about. I do not know what prostitution means. I have not made it a practice to have intercourse with other men.

Counsel for defendant asked the question:

Q. Never did?

The state objected to the question, which objection was sustained by the court, to which ruling the defendant duly and legally reserved an exception.

The Witness (continuing): I have not had intercourse with any other white man but my husband; I want you to distinctly understand that.

Redirect examination:

I went to Chattanooga looking for work. One of these white boys was in that gondola car when the train got to Paint Rock. I know which one that was; it was the Gilley boy. The other six white boys that were on the train when it left Stevenson were knocked off by the negroes. They were knocked off about five or ten minutes after the train left Stevenson; I could not say the exact place it was. When the negroes had intercourse with me, there was only one white boy on the gondola with me. He saw the whole thing. The negroes got these white boys off the train. They knocked [fol. 24] two of the white boys in the head before they were put off. The white boys did not fight them. They did not have anything to fight them with. Eleven negroes had knives and guns.

Recross-examination.

I stated that this negro (defendant) had a .38 revolver. The other gun was a .45, a big, old black long-looking gun; I ought to know; he hit me up by the side of the head; I was tapped with it. I was not knocked in the head, because I am not dead.

Thereupon the following occurred:

The Court: I think the jury is ready to report. Sheriff, take this jury into the jury room while the other jury reports.

(Thereupon the jury retired to the jury room.)

RUBY BATES, a witness for the State, being first duly sworn, testified:

Cross-examination.

My name is Ruby Bates; I am seventeen years old. I was with Victoria Price on a freight train in this county running from Chattanooga to Huntsville. I was riding on that freight train between Stevenson and Paint Rock. On that train, I saw the defendant over there; I saw him there on the train. When I first saw him, the train was just this side of Stevenson, and at that time he was coming over a box car with the rest of the colored boys. I could not tell you just how many colored men I saw there; I saw more than the defendant; I saw more than one. When I first saw them, I was sitting down in the gondola. There was gravel in that car; it was not plumb full. I was in the end of the car next to where the negroes jumped into it. Mrs. Price and I were together. At the time the negroes jumped over into it, there were seven white boys in there with us. After the negroes jumped in there, they told the white boys to "unload" and hit two of them in the head with pistols, and then all of them got off but one; he stayed on there. All seven of the white boys got off but one. They had a fight with those negroes; they fought back with them. I saw two negroes with pistols; this defendant was one of them; I saw him with a pistol; he was one that had a pistol, and an-

other one had a pistol and the rest had knives, and these knives were open.

[fol. 25] I know what happened after these white boys got off the train. They threw us down in the gondola and they all ravished me. I saw some of them ravish Victoria Price. I saw the defendant. I saw him when he was having intercourse with her. When he had his hands on her or was on her, I saw other colored men around her. One of them had a knife holding it on her throat and the other was holding her legs, and that is when I saw this defendant over there (indicating), the one sitting next to Mr. Roddy (of counsel for defendant) on Victoria Price.

I got off the train at Paint Rock. These colored men were on the train when we reached Paint Rock or stopped there. When the train stopped there, the colored men ran toward the engine and the people down there surrounded the train and got them off. I got off the gondola car without anybody helping me off. When I got off the car, Victoria Price was unconscious at that time; she got nearly off the car and fell off and I picked her up and laid her on some grass and stayed there with her about ten minutes before the people brought a chair down there and put her in it and carried her to a store. Mrs. Price and I did not go anywhere until they brought us up here. Some doctors made an examination of Mrs. Price after she got to Scottsboro.

Cross-examination:

I have never traveled with Victoria Price; I had never been with her before. I had never ridden a freight train before. I had known Victoria Price a little over a year. I worked with her in the mill. I did not live in the same house with her; I have never lived with her. We are good friends. We go with each other.

Going into Chattanooga on the day before, I saw some white boys on the train. There were white boys on the train. I did not talk with them; never said a word to them. They were in the same car with me. There were white boys in the car with us going into Chattanooga the day before. I did not count them and do not know how many there were. I spent the night in Chattanooga with Mrs. Brochie; I did not know her. Victoria Price met a boy up there and asked him where Mrs. Brochie lived. She just saw this boy and

stopped him and asked him where she lived. She did not know this boy but he knew this woman. He told us she lived on Seventh Street. He did not take us to her home. I could not tell you how far from the business section her home was. I do not know how far I walked; I do not know the number of her home; I know it was on Seventh Street; that is all I know about it. I could not tell you how far from the mill it was.

[fol. 26] This woman went with Victoria Price and me the next morning to seek work at the mill; she accompanied us. We visited Thatcher's Mill; that is the only one we visited. We talked with the boss at the mill. I do not know his name.

I do not know how many boys were in the car with us when we were going into Chattanooga. There were no boys on the car with us when we got on the train to leave Chattanooga. They got on just after the train pulled out from Chattanooga. At that time the train was still in Chattanooga. Seven boys got on then. I do not know how many were on there the day before, but there were seven on there when we left Chattanooga.

I do not know how far we had gone when the negroes came over in the car, but we were just this side of Stevenson. I counted the negroes as they came in the car—I did not count them as they came into the car; I counted them after they were in the car. I counted twelve of them. They had not been in the car but a few minutes when I counted them. I do not know what prompted me to count them; I just did it, and I am sure there were twelve of them. They all come in a bunch. One of the negroes that had a gun was the first one to come into the car. I do not know what his name is, but I can point him out. The second one to come into the car was the other one that had a gun. The two that had pistols were the first ones in the car.

One of them had a .38 and the other was a .45. I saw them. I am familiar with guns and I recognized them as a .38 and a .45. That one sitting right there (indicating) had a .38, and the one that had the .45 was the one that was over there this morning. I can see the boys. I do not know exactly which one of them it was that had the .45. All except the two that had the pistols had open knives when they came over the car.

I do not know the second negro that came over into the car; I could not tell exactly which was the second one. I stated that they told the white boys to "unload". I was in a high state of excitement, and was not paying any particular attention to what was going on with anybody else. I was busy looking after myself. I do not know all of the boys that were having intercourse with Victoria Price. I could not be sure about who was the first one that had intercourse with her; that was happening to me at the same time. I would not undertake to say who was the first and the second and third and fourth and fifth and sixth of the boys that had intercourse with Victoria Price; I could not say that. My attention was fully taken up with what was happening to me. There were twelve negroes there all together. There are nine of them here now. The other three got off the train between Woodville and Paint Rock somewhere. I do not know how they happened to leave the train; they just got off. I did not hear them say why they left the train. I could not be sure about the boys that had intercourse with Victoria Price.

Dr. R. R. BRIDGES, a witness for the State, being first duly sworn, testified:

Direct examination:

(Qualifications of the witness were admitted in open court by counsel for defendant.)

I remember the time it is said a freight train was stopped here at Paint Rock and these negroes taken off of it. Some time after that, I made an examination of Victoria Price and Ruby Bates. It was something around four o'clock, or just after, when I made that examination; it was on the same day this train was stopped; it was four o'clock in the afternoon.

At the time of my first examination on the afternoon or evening, I found their vaginas were loaded with male semen, and the young girl was probably a little more used than the other, the other was not showing as much. On the body were bruises on the lower part of the groin on each side of Ruby Bates, that is the young one, and there was a

bruised spot around the hips, or the lower part of the back, on the other girl, the Price girl, a few scratches, small scratches on the hands and arms, and a blue spot here (indicating) on the neck of one of them; I think that was Mrs. Price, I will not be sure about that. On my first examination in the afternoon, they were not nervous or hysterical over it at all, they submitted readily to the examination and answered questions readily, and on the next morning I went over their bodies again, from the waist up, hunting for other bruises, and they were both panicky and crying and nervous about it.

I obtained male semen from the vagina of each of these women. I obtained just enough to put on a slide, just a speck that will smear out on a glass, and you cover that with another glass and take a high-power microscope and looked under that. I found spermatazoa; that is the male germ. I know that both of these women had had sexual intercourse. I could not say whether this spermatazoa that I found was alive or dead.

[fol. 28] Cross-examination:

I remember counting in one field, which is very small, with the microscope, which you could not count with your eye at all, in one fifteen spermatozoa and in the other seventeen; you could not see that with your eye at all. I do not know how many times these girls had intercourse. I do not know how long a time had elapsed since then. I could not swear as to the color of the persons with whom they had intercourse; I could just swear as to the intercourse. I made the examination about four or a little later. They were in the office about an hour or an hour and a half.

Counsel for defendant asked the questions:

Q. Do you know whether or not these girls had a venereal disease?

The State objected to the question, which objection was sustained by the court, to which ruling the defendant duly and legally reserved an exception.

The Witness (continuing): I did not see any bleeding or tears in my examination, but saw a few minor bruises. The Bates girl had two blue places, one on each side of the

vagina, low down in the groin, and her vagina was a bit red, more than normal, but no torn places on either one of them.

Redirect examination:

In my judgment as a physician, six men could have had intercourse with these women, one right after the other, without producing lacerations or tears.

Recross-examination:

These girls told me that each had received six negroes. I did not hear one of them say she had intercourse twenty times and the other thirty times. They told me how they were held, how they went through it, how it was done, while they were in the office.

THOMAS ROUSSEAU, a witness for the State, being first duly sworn, testified:

Direct examination:

I was out at Paint Rock, along about two or three o'clock, when these negroes were taken off of the train. I am familiar with this railroad through this county. The territory along the right of way of that railroad from Stevenson to [fol. 29] Paint Rock is in Jackson County, Alabama. I do not know just exactly how far it is from Stevenson to Paint Rock; I imagine, I would say it is sixty or seventy miles, somewhere along there. All of that territory between there and Stevenson is in Jackson County.

I saw these negroes on that train. I saw the defendant over there getting off the train. When I saw him getting off of it, the train was at Paint Rock. I saw these girls, Victoria Price and Ruby Bates on that train. These negroes got off of the train right up close to the tender, next to the engine and coal car and the bulk of them were two cars behind the coal car. I did not see the girls in the car where the negroes were getting off. They were not in the car at that time. I saw the negroes come out of the car where the girls were. When I saw the girls, one of them had been brought up from the train unconscious, and they had her

in a chair, with her head over that way (indicating) and her eyes closed. I did not know the names of the girls, but I was told it was Victoria Price. I saw the other girl one time, but was not close to her.

Cross-examination:

I did not go down to the train because of the fact that I had information that the negroes were on there after these white girls, but did have information that the negroes had thrown some white boys off of the train. I was given that information by Will Brannon. He is a blacksmith. The message had been telephoned down to Paint Rock; that was on complaint of the boys that were thrown off. I did not read the message.

LEE ADAMS, a witness for the State, being first duly sworn, testified:

Direct examination:

I live at Stevenson, I recal- the day it is said a freight train going toward Huntsville was stopped down at Paint Rock and some colored men taken off it. On that day, I observed a freight train pass while I was near the Southern Railroad track this side of Stevenson; I was at that time out about the coal chute, about a mile, or a mile and a half this side of Stevenson. It was twelve-thirty or one o'clock when I saw the freight train pass there; that was in the afternoon. As that train passed me, I saw them striking this way (indicating) and fighting; that was in a coal car, or a gondola car, they call it. The backs of the men who were striking were to me; I did not see but one doing that; that was over the side of the coal car. They were striking [fol. 30] over on the right-hand side of the car. I saw somebody thrown off or someone get off of that train or coal car there; I saw them throw him off on the right-hand side. I was on the left-hand side and they went off on the right-hand side. After the train passed, there were two men who came back up the track with blood running down their faces. They were white men and went in a rush up the road toward

Stevenson. They were about a mile or a mile and a half from Stevenson when I saw them.

Cross-examination :

I do not know where those men are now; I just saw them as the train came by. I do not know anything about this defendant having intercourse with one of the girls. I do not know whether he did or not; I did not hear any words spoken. All I know is that I just saw them fighting in the car, saw them go off and saw these men coming back up the road with blood running down their faces.

ORY ROBBINS, a witness for the State, being first duly sworn, testified:

Direct examination :

I live at Stevenson. I recall the day it is said this freight train was stopped down at Paint Rock, along about the 25th of March. On the day that is said to have happened, I saw a freight train pass my place up there. When that train passed by, I was standing at the woodpile, about a hundred yards from the track. I could see about a mile one way along the track and I could not see so far the other way, because the train passed the barn and it obstructed my view. The place where I could see a mile is going toward Stevenson. The train was traveling in the direction of Huntsville. As the train passed, I saw two girls and these colored people, and as it got by, one of the colored men grabbed a woman and threw her down, and the train then got by the barn; I saw that in a coal car of the train. I did not pay any attention to the colored men. I just saw that one grab her and throw her down. I saw one white boy on the train. I did not see any white people getting off of the train or thrown off of it. As it passed, all I saw was one colored man and one white boy on it.

Cross-examination :

I do not know anything about who they were. The train was just passing along there.

[fol. 31] C. M. LATHAM, a witness for the State, being first duly sworn, testified:

Direct examination:

Along about the 25-h of March, I was out here at Paint Rock when a freight train came along going toward Huntsville when some negroes got off of it. When I first saw the negroes, they were in a coal car. I saw the defendant over there; he is one of them. From where I was, I could not tell where he was when I first saw him; I was down the railroad a little piece, I guess a hundred yards down the road. I saw these women getting off the train. When I saw them, they were getting off the train from the side. They were getting off the same car the negroes were in; it was a coal car, loaded with gravel, I think, a gondola car. I saw the women and saw how they appeared. When I saw them they were standing there and said, "We have been mistreated" as I passed them. It looked like one of them could not walk the way she was getting along. I think she was carried to the Doctor's office. I took her to the doctor's office. They stayed in Paint Rock something about thirty minutes before they left.

Cross-examination:

I was not in there and do not know anything about this particular intercourse or about the girls. All I know is that they told us. I did not see the defendant here doing anything.

Here the State rested its case.
State rests.

DEFENDANT'S EVIDENCE

HAYWOOD PATTERSON, the defendant, being first duly sworn, testified in his own behalf, as follows:

Direct examination:

I was on the train with four boys. I was headed for Memphis. I did not have an intercourse with or have my hands on either one of those girls. I did not have a thing

to do with them; I had nothing to do with taking their clothes off. I did not have a pistol. Neither one of the boys had a pistol. If either did, I did not see it. There were no shots fired. I saw one pistol there in the crowd, and the fellow that had it got off the train. Neither one of the boys back there had a pistol; I did not see either of them [fol. 32] with a pistol. I did not have a pistol, and I did not see either one of them with one.

I first saw these girls after the train left out of Stevenson, as the train was just leaving Stevenson. They were in a gondola car and when I first saw them I was up on top of a box car. I did not go down in this car where the girls were; I did not go down in that gondola car there. I was not in the car with the girls and had nothing to do with holding them, nor draw a gun on them. I did not even have a knife. The officers searched me. They did not find a knife nor a gun on me. I did not throw any away. I did not hold the girls. I have never been in trouble before. My home is in Chattanooga. My people live there. I have mother and father and a sister and a brother. I work there for the American Brake Shoe Company. I work there evening and help those fellows over there shake out.

Cross-examination:

I have lived all the time in Chattanooga. I never have been in Judge Fleming's Court; I have been in the court room. I have not been up for some violation. They have not had me arrested. They have not had me arrested up there. They had me once for late hours but not for prowling. They had me just for late hours.

I got on the train in Chattanooga; I had started to Memphis. All four of us were going to Memphis. I know three of the negroes, Roy Wright and Gene Williams and Andy Wright, but did not know the other one. I did not ravish that girl; I did not go down in the gondola, but stayed up on the box car and went back on the flat car. I was up there by myself. I did not see Norris up there with me; he was not up there with me. I heard him testify that I ravished her, but I did not do it. I did not help beat him up down at the jail at dinner. There was a fellow already in jail, and he had a piece of iron and he took the piece of iron away from him. Norris had the piece of iron. I did not beat him up down there, nor did I help to do it. When I was sitting up

on the box car, I guess Norris was down with the other crowd; I did not see him. I saw a lot of men down there, about eleven or twelve men down there, all colored. Twelve were down in there and I made the thirteenth, and I stayed up on the car. I did not go down in there. I saw all but three of these negroes ravish that girl. I do not know none of their names that ravished the girl; Weems was one; I saw him ravish her. The fellow back there (indicating), I saw him down there; I did not see him ravish her; I saw him down there. I don't know what they were doing. There [fol. 33] were twelve down in the car and three of us up on top of the car. Roy Wright, Eugene Williams and Andy Wright were on top of the car with me. We four left Chattanooga together and we stayed together. While the others were down there in the car, we were sitting up on that box car. I do not know the names of the men down in the gondola. I did not say that there was one down in the Gondola where the girls were. I said there was about eleven or twelve in there with the girls, and three more sitting upon the top with me; that made four of us up there, and we had been that way from the time we left Chattanooga. I did not hear the girls scream. I saw one of them with a pistol. The one that had the pistol got out and got off right after we left Stevenson. He is the one I saw with the gun. I did not hear anybody shoot a gun while I was in there. I did not hear any guns fired all the way around.

I did not see the girls crying nor hear them screaming, but I saw them all down in there. I could not tell you what they were doing down there; there was no scuffling in the car down there. There was gravel in the car they were in. I did not see any negroes on top of either one of those girls. I came back on top and sat down there with the other boys. I got away to where I could not see down in there.

When they arrested me down at Paint Rock, I was sitting on a flat car and the flat car was not next to the gondola these girls were in. There was another car in between them. I was not on the car they were when I was arrested; I was on the same car I left Chattanooga on. I went back to that car directly after they started the fight.

I saw some of the white boys put off the car. I could not tell whether any of them were bleeding when I saw them. They jumped down off the train. I did not see any negroes hit them.

I did not have anything to do with ravishing either one of the girls. I heard the girl testify. I did not even get down in that car. There were twelve in there and four of us on top; that would be twelve and two, or fourteen, negroes in the car and on top of the box car. There were twelve down in the bottom and four on top and five got off the train. I do not remember passing any station when I saw them in there. I did pass through here (Scottsboro), and at that time I was standing on the flat car, and one car was in between the gondola and the car I was in; that was a big box car.

When I saw the boys in there, I crawled up on top and looked over in there. I did not see the girls in there; I did not tell you a while ago I saw them; I did not see any girls. I did not see any girls in there until we got to Paint Rock. [fol. 34] The other fellows were doing the fighting in there, that the other fellows that were on the train; I did not know there names; they were colored. They were not fighting by themselves; they were fighting at the white boys, the white fellows who jumped off. All of them jumped off, every one of them; I saw every one of them jump out of the car; I was sitting back there. After they jumped off, I rode on to Paint Rock before I looked in that car. I was not looking down in that car all the time. I left the place and went back to the car I came out of Chattanooga on. When I left the place, a gang of colored fellows were in the car; no white fellows were in there at all; I did not see any white men in there. I did not see any white women in there until I got down to Paint Rock. I do not know what the white boys and negroes were fighting about; I did not inquire about that. I did not try to find out what they were fighting about. I saw all of the white boys, every one of them jump off the car and leave the car.

Redirect examination:

I was not with the other boys who took part in the fight. I saw the girls first at Paint Rock.

ROY WRIGHT, a witness for the defendant, being first duly sworn, testified:

Direct examination:

My name is Roy Wright. I know this boy that just left the stand; I was on the train with him. I have a brother

here that was on the train. He works in Chattanooga for the Lookout Furniture Company. My mother works there and has been working there a pretty good while. I am fourteen years old. I got on the train with this defendant at Chattanooga. Gene Williams, Andy Wright, the defendant and I all left Chattanooga together. We were intending to go to Memphis. They boy (defendant) did not have anything to do with those girls on that train. He was not down in the car with those girls; he was standing up on top of a box car. I saw a pistol. A long, tall, black fellow with duck overalls on; that is the only pistol I saw. This boy (defendant) did not have a knife. He did not open his mouth to the girls. I saw the girls on the train. They were on an oil car when I saw them. There were nine negroes down there with the girls and all had intercourse with them. I saw all of them have intercourse with them. I saw all of them have intercourse; I saw that with my own eyes. The defendant was not down there; he was never down there with the girls. The boys I left Chattanooga with were [fol. 35] named Haywood Patterson, Eugene Williams and Andy Wright.

Cross-examination:

I first saw the girls on the oil tank; that was up in Chattanooga before we left the yards. I was by myself when I saw the girls. They caught the oil tank in front of the car Haywood Patterson, Andy Wright and Eugene Williams were on and I caught a box car and walked over the box car and passed by that car the girls were in and walked on down to the oil car where they were. The girls were not in the gondola car then, but were in the oil car. I walked along the oil car until I got to where these boys were. When I got down there, I found three boys there. The others were away up further; I did not see the other boys until we got to Stevenson.

The girls rode the oil car down to Stevenson and then got off that car and got in this gondola, and then we boys got on the car together. They were fourteen colored boys on the car together. I had seen the girls in the gondola. I did not tell the fourteen boys the girls were on the train; I did not tell them anything; I saw the girls myself; I do not know whether the other boys saw them, too. We met the other boys in Stevenson. We did not talk about the girls.

I did not hear someone say, "Let's go down there." The way it was, those white boys, when we were laying back on the oil car, kept walking backward and forward across it and liked to have knocked the defendant off. When we left out of Stevenson coming this way, we were on a cross-tie car; we had gotten off the oil car. This cross-tie car was about three cars from the gondola these girls were in. We started on the cross-tie car from Stevenson. There were fourteen in the car when we started from Stevenson, all of us in the same car. There was nothing said about the girls being down in the gondola; we were talking about men. We knew that the men were down there, too. They had been passed by and we had a few little words. Haywood Patterson, Eugene Williams, Andy Wright and I were on the oil car and the white boys kept walking backward and forward and liked to have knocked Haywood Patterson off and Haywood said, "How come you did not ask me to move," and so the white man said, "What do you care?" and Haywood said, "I care a lot, I don't want to be knocked off," and the white man said, "We will settle it when the train stops." It was the white boy that said that. He was on the train and he went up and got some more white boys [fol. 36] and then the train stopped in Stevenson and they got off and went up in the gondola. The boys all got off and went up in the gondola. The white girls went up there with them, I guess, or they were up there. The negroes all got on a cross-tie car and stayed there. I was on the cross-tie car, all fourteen of us on the cross-tie car. The cross-tie car was not the next car to the gondola, but was three cars from it. We all got on the cross-tie car. After the train started off, the first one of the white men came over, the one that had on a big, black belt, and we were telling the other boys about it, that they were intending to put us off, that is that the white boys were intending to put us off, but we overpowered them and put them off; that occurred down in the gondola. We all made it up among ourselves to put them off; we made it up while we were over there on the cross-tie car, and after we all had made it up among ourselves to go over and put the white boys off, we all came along the cross-tie car and got over the box car and jumped down in the gondola. I did not put any of the white boys off, but the little boy and I saved the life of one of them. They were intending to put him off and every time his feet

would hit, it would throw him in between the cars, and we took pity on him and told him we would let him alone, and they reached down and pulled him back up and he got on the gondola and Haywood, Eugene and Andy went back over the top and left the rest in there, and I was sitting up on the box car, together with Patterson. He and I were on one box car and Eugene and Andy on the other one. I was sitting there looking in on the gondola, but Andy, Haywood and Eugene were not. Haywood was sitting as far as that man (indicating) from me and the others were back on the other box car. Andy went down in the gondola when they were putting the men off; it was not at Paint Rock, but right after the train left Stevenson; that is not Andy Patterson sitting right there (indicating); his name is Haywood Patterson. We all went down in there when we went to put off the men. Patterson went down there with us; all four of us went down in there to put them off. I was in the gondola when I told them not to throw him off but to bring him back.

The long, tall black fellow had the pistol. He is not here. I saw none of those here with a pistol. I saw five of these men here rape the girl. After we put the men off, we went back on the box car and I was sitting up on the box car holding to that wheel, looking down at them. I did not tell the officers I saw everyone rape her but me. I did not tell them that. I did not tell them that I saw the defendant [fol. 37] rape her. I did not see the defendant rape the Bates girl. I did not see him do anything except he just helped put off the man. He was putting them off because they kept stepping across him and talking about putting us off. I saw one knife down in there. That boy back there (indicating) had it, Eugene; he is the one that had the knife. I did not see him hold it on the throat of that girl. He did not have hold of her throat, because he was sitting up on the box car. I saw one down in the gondola, a little white-handle knife. Clarence Norris had that knife; I do not know where he got it; I do not know what he did with it. He had it the last time I know anything about it. I am sure the defendant did not do anything.

(Thereupon the further hearing of this case was adjourned to 8:30 A. M. April 8, 1931).

Adjourned.

Morning Session, April 8, 1931

ANDY WRIGHT, a witness for defendant, being first duly sworn, testified:

Direct examination:

My name is Andy Wright. My home is in Chattanooga, Tennessee. I work for the B. L. Tally Produce Company and have worked there for them for five years. I will be nineteen years old the 23d day of this month. When I boarded the train in Chattanooga, I was with Eugene Williams, Haywood Patterson and Roy Wright. I boarded the freight train on Twenty-third Street, in Chattanooga. We were going to Memphis, Tennessee. Haywood Patterson and I got on an oil tank. I did not see any girls on the train. I did not know any girls were on the train; I had not seen them. I was at Paint Rock when I first saw the girls.

I was riding on an oil car. I was on a box car a part of the time. We ran across the other boys at Stevenson. They got on at Chattanooga, I reckon; I first saw them at Stevenson. There were fourteen of us in all, and four of us. I went down in the gondola car when the fight started up there. There were some white boys and some colored boys fighting. Fourteen of us went down in there when I went down in there. The white boys started the fight. It started from one of the boys passing by Haywood Patterson and liked to have knocked him off and Haywood asked him if he had asked him he wanted by he would have got up and let him by; that was on the oil car and before we got to Stevenson; he said to Haywood, "What difference did it make if he knocked him down?" and he said when the train [fol. 38] stopped he would settle it, and when the train stopped, we got off the train and came up by a gravel car.

There were seven white boys and fourteen of us. The boys were not thrown off this oil car or tank car. Some of them jumped off and some climbed off. I did not see a pistol at all. I did not see any knives. The defendant here, Haywood Patterson, did not have anything to do with any girls on that car, nor did anyone on the train. If he had, I would have seen him. All four of us were sitting back there. He was not armed with a pistol or knife.

Cross-examination:

My name is Andy Wright. I know the defendant over there; I have known him about three years. I knew he was on the train when I got on at Chattanooga. There were four of us. Three of us got on the oil tank and Roy Wright could not catch the oil tank and got on a box car. I did not see these girls until we got to Paint Rock; I did not see them get on the train up there in the yards. I did not see them down at Stevenson, when we all got off the train there. I told counsel for defendant awhile ago I was in the gondola where the fight occurred; I was in there when the fighting was going on; I did not take part in the fight. One of the boys hollowed and I went down there to see what was the matter. I had to go and jump in the gondola before I could find out what was the matter. When I saw them in the gondola, I saw them fighting. They did not put the white boys off; they made them get off. I was in the gondola at that time. I did not see the girls in that car, the gondola.

I did not see anybody on top of those girls.

(Witness is handed a knife.)

I know whose knife this is; it is Eugene Williams' knife. I know that, because I saw it in Chattanooga; I saw it in Chattanooga before I came down here. I did not see it that day. I did not see it on that girl's neck while the defendant was on top of her; I did not see that. I did not see the girls in the gondola. I never saw a negro have anything to do with that girl in the gondola; I swear that to that jury.

EUGENE WILLIAMS, a witness for defendant, first being duly sworn, testified.

Direct examination:

I am Eugene Williams. My home is in Chattanooga, Tennessee. I have lived there all of my life; I am fourteen [fol. 39] years old; I do not work up there; I have not been working. I was with Patterson and Andy and Roy Wright. I got on that train at Twenty-third Street, in Chattanooga. I caught an oil tank. Three of us caught an oil tank and Roy Wright could not catch it and he climbed up on a box car and came down there where we were. The gondola was

about three cars from the oil tank. I did not go over to the gondola until the white boys started the fight. At the time the fight started, the train was coming up the grade about fifteen miles from Chattanooga. The fight started then and they said they were going to put us off when the train stopped and the train did not stop until we got to Stevenson. The fight was not going on when we got to Stevenson; it did not start until we got about a mile and half out of Stevenson. We started up to the gondola when the train stopped and got over the top. I did not see the girls in that gondola car.

The defendant, Patterson, did not have anything at all to do with those girls. If he had, I would have seen him. I saw one pistol, and the boy that had it had on duck overalls, a black boy. He went off the train. There was no shooting going on. I had a knife myself, but I kept it in my pocket. My knife is the one that was just shown the witness, the boy who was just on the stand. He saw that knife before I left Chattanooga; he was with me there and saw it.

Cross-examination:

(Witness is handed knife.)

This is my knife. All four of us got on the oil tank in Chattanooga. The defendant, the two Wrights and myself. My name is Eugene Williams. This is my knife. I did not let anyone have this knife. I had it at all times until the officers took it off my person; I did not hand it to anybody. I did not hold this knife over that girl's neck while they were ravishing her. This knife was not used by anybody that did have it. This is my knife; I kept it in my pocket all the time. I did not go down in the gondola until the boys got in a fight. When I left the oil tank to go down in the gondola, I knew there was a fight going on. The white boys started the fight on the train about fifteen miles out of Chattanooga; that was not on the gondola, but on the oil tank. There were about three cars between the oil tank and the gondola. They just started the fight coming from Chattanooga; that was on the oil tank. I went down to the gondola to end the fight. I did not know, while I was on the train and on the oil tank, that they were fighting down in the gondola. I went down there to end the

fight. I went down there to keep them from throwing us off. I went and hunted up the white boys to end the fight [fol. 40] to keep them from throwing us off the train. They were fixing to make up a plot to throw us off. When this boy asked Patterson, "What you got to do with it?" Patterson said, "I have a lot," he wanted to get by and he said he was going to settle this when the train stopped. The white boys said that. The train stopped at Stevenson. The white boys did not come back up there and start it over, but when the train started out from Stevenson, we all went up there, but I did not hear any fighting going on in the gondola. I went up there to fight, and that is what I did. We all got down in the gondola, but did not see any girls in there; I did not see anybody both the girls. I did not see the girls. I swear to the jury that the girls were not in that gondola.

OLEN MONTGOMERY, a witness for defendant, being first duly sworn, testified:

Direct examination:

I live at Monroe, Georgia. I was not with the defendant and the others with him. I did not see them until we got to Paint Rock. I first saw him there. I did not see him on the train as we left Chattanooga; I saw several other boys up the line first; I could not tell you who they were, though. I know nothing about the fight that took place on the train. I was back the seventh car from the end of the train, on an oil tank between two box cars. I first ran across the other boys at Paint Rock. I had not seen anything of the fight on the train; I did not see that; I was not in the gondola car. I could not see the gondola car or inside of it from where I was unless the train would go around a deep curve. I do not know anything about the fight.

I did not know a fight had taken place before this train got into Paint Rock. I do not know how many colored boys were on that train. When the officers took me in custody, I was right down by the car I got off of; I started walking up the track and walked right into the man. I did not know any of these other boys. I did not see any

knives or pistols. I saw the officers search these boys, after we got to Paint Rock. They took a piece of a pocket knife off of me but nobody knew I had it. They did not take it off of me; I gave it to them. I did not see any pistols. I do not know where this defendant was on the train; I do not know whether he was down in the gondola or not. I could not say whether any of them were down in [fol. 41] the gondola or not, I don't know.

Cross-examination:

My name is Olen Montgomery. I came from Georgia. I can hold my eyes up. There is something wrong with my eyes; one is weak and one is out. I claim that I was on the oil tank all the way from Chattanooga down to Stevenson. Nobody else was on the oil tank with me. I do not know the gondola they claim this fight occurred in; I do not know where it was. I do not know how many cars it was from mine; I was in the seventh car from the end of the train. I do not know where the gondola was that they had the fight in; I was not about the gondola. I was not with any of those negroes from Chattanooga down to Stevenson; I was by my lonesome. Nobody talked to me. I did not get off at Stevenson. I did not see any negroes nor any white boys at Stevenson. I was by myself. I was not hidden. I do not remember, when I ran at that girl, that I told the other boys, "You keep all of them back now and let me to her." I deny that I ravished that girl. I deny that I saw the girl. I was not in the gondola. I had nothing to do with the fight and know nothing about it.

Redirect examination:

I do not know how many oil tanks there were in that train.

HAYWOOD PATTERSON, the defendant, being recalled, testified in his own behalf as follows:

Direct examination:

I saw as high as two oil tanks in that train. They were not together.

Cross-examination:

I was not up and down the train. I caught the train at Twenty-third Street in Chattanooga. Andy Wright, Roy

Wright and Eugene Williams were with me at that time. Eugene Williams is not one that was just on the stand a while ago. He has been on the stand; he was on the stand this morning. We are the four that were on the oil tank; that was about two cars from the gondola, where the fight occurred. I did not see this negro Montgomery anywhere around there; I did not see him. He was not down there in the fight; I did not see him. I do not know him; I don't [fol. 42] know anything about him. I would not know him if I saw him. A box car was the next car to the gondola, and next behind that was a flat car and an oil tank. Cross-ties were on the flat car; it wasn't a gondola, just like the other one with cross-ties in it; it was a flat car, and the next was an oil tank. I did not go up and down that train up there in Chattanooga. I did not see this negro Montgomery at all anywhere; I do not know anything about where he was. I was down in the gondola; I went down there after we left Stevenson. I helped in the fight, still I never saw Montgomery down in there, and no negro that looks like him. When I got in the gondola, there were fourteen negroes with me in there. We did not make up to go down in there and run the white boys off. They were making it up themselves to beat us off. I know that because they said so. They said, when we left out of Chattanooga, they were going to put us off. I do not know which white boy said that, one of them out there, I think; I don't know which one out there it was. I could not describe the one that said that. He was a little boy; that was not while we were on the ground in Chattanooga, but after the train had left out of Chattanooga. When we were about fifteen miles out of Chattanooga, they said they were going to put us off, and they kept running backward and forward across me and liked to have knocked me off, and I asked him to ask me when he wanted by and I would get up and let him by, because it was an oil tank and it was all a fellow could do to set down on there, and that is the time he asked me what was my part about it, what did I care about him running off, and he said he was going to put me off when the train stopped. They left us in the oil car, but I do not know where they went. When we made it up to go down and put them off, we went to the gondola, all fourteen of us; four went down there; some were already down there. We four then went down there. We had to come over the box

car to get down in there; we came over the box car and jumped down in there. Those four were Eugene Williams, Andy Wright, Roy Wright and myself. I did not see anybody up on top of the car after I got in there; there was nobody up there. Not all of us were fighting in there; some were fighting; I did not help to put the boys off. The boys were surrounded; I could not — a chance, but that is what I went down there for. I looked around in the gondola; I could see all over it, but I did not see any women in there. I was in the gondola when it got to Paint Rock, but I did not see any women in there. There were no women in [fol. 43] the gondola, and none there when I got to Paint Rock.

OZIE POWELL, a witness for defendant, being first duly sworn, testified:

Direct examination:

I live at Atlanta. I do not know the defendant, Haywood Patterson; I don't know anyone but Willie there. I first saw Patterson at Paint Rock. I did not know the girls were on this train until I got to Paint Rock. The defendant did not have anything to do with those girls or any girl on that train; I know that, and if he had, I would have seen it. When the fight started, I was down between the gondola car and the box car and the fight was in the gondola car. I do not know how many white boys were there, nor could I say how many negroes were there.

I did not see any knives or pistols; they *they* were there, I did not see them. I did not hear any shooting. The first time I saw the defendant he was in the gondola at Paint Rock. I was riding between the gondola and box car when the fight started; I did not have anything to do with the fight; when it started, I got up on this gondola car and walked to the back end and got down between the other gondola car and the box car.

Cross-examination:

I know the gondola they had the fight in. When I started out of Chattanooga, I was between the gondola and the box car. I did not see any negroes coming across from the box

car into the gondola after I left Chattanooga. When I saw them first, I climbed up on the gondola car and they were then fighting. I rode from Chattanooga down to Stevenson between the gondola the girls were in and the box car; I did not see any negroes from Chattanooga to Paint Rock climb from the box car over into the gondola; I was on the other end and they climbed on this end, I guess, but none of them climbed from back this way; I was on the front end of the gondola, and there was a box car on the front and next to the gondola and I was on that end. I did not see any negroes coming over the box car into the gondola from the back end. I could not see all right; I could not see any further than my head. I did not look into the gondola until I saw one of the white boys getting off and then I climbed up on the steps and saw the fight and then got in the gondola and walked between the other box car and the gondola and got down between them. [fol. 44] I did not see any girls in there where the fight was going on; I went from one end to the other and did not see a girl in there at all.

I was this side of Stevenson when I went through that car; that was while they were all fighting. I could not tell you who was doing the fighting; I did not know who they were. I was trying to get out of the way. I left the front end of the gondola and went to the back end of it because the white boy was getting off there; I just moved to give them room to get off. I did not have anything to do with this girl. I did not see the girls; I did not see anybody ravish her. I was riding there at one end of the gondola from Stevenson to Paint Rock; I was not looking in; I did not see inside until I crossed over and went across there and get down between there; I did not see inside then until I got to Paint Rock; I got up under that little, old flat and got up on the side of that. I did not have anything to do with the girls; I did not rape one of them myself. I do not know a white boy named Gilley; I did not have my knife on a white boy's throat while the fighting was going on; I did not have a knife at all; I did not have anything to do with the fight. I did not see Olen Montgomery until we got to Paint Rock. I did not see the defendant until we got to Paint Rock; I did not see either one of the Wright

boys; I saw a gang in the box car, but I could not tell who they were—not in a box car, but in the gondola where the fight was going on; I saw the fighting going on, but did not see any girls in there; I tell the jury I did not rape one of those girls.

Here the defendant rested his case.
Defendant rests.

Rebuttal Evidence—State

VICTORIA PRICE, a witness for the State, being called in rebuttal, testified:

Direct examination:

I saw the two Wright boys that came around on the witness stand, and also Olen Montgomery, the defendant, and the last witness here, Powell. They were all in the gondola. I stated that this defendant is one that raped me. This one here (indicating) held the knife on Gilley while the defendant raped me; there were two back there holding him and he was one of them. I saw this negro Powell; he was in the car when this defendant raped me, I mean the de-[fol. 45] fendant that is on trial.

The above and foregoing was the evidence, and all the evidence adduced upon the trial of this cause.

CHARGE TO JURY

Thereupon the court charged the jury orally as follows:

“GENTLEMEN OF THE JURY: Let me have your attention for a few moments and we will finish the trial of this case.

The defendant, Haywood Patterson, is on trial before you under an indictment that charges that he forcibly ravished Victoria Price, a woman, against the peace and dignity of the State of Alabama.

That charges rape under our statute. The law, gentlemen of the jury, that defines what it takes to constitute rape is as follows:

“To sustain an indictment for rape, proof of actual penetration is sufficient when the act is shown to have been committed forcibly and against the consent of the person on whom the assault is made.”

Forcibly and against the consent of the person on whom the assault is made. That, gentlemen of the jury, if actual penetration is made, constitutes rape.

The state in this case insists that this defendant some time ago, while he was passing through this county on a freight train where this prosecutrix was, that he then and there forcibly had intercourse with this prosecuting witness, that he used force and that it was against her consent. Well, if that is true, gentlemen of the jury, if you are convinced of that beyond a reasonable doubt, of course the defendant would be guilty of rape.

The defendant in answer to this indictment, gentlemen of the jury, says he is not guilty. What has that to do with the case? When any defendant, gentlemen of the jury, charged, as this defendant, with this offense, or any other offense, pleads not guilty, that puts the burden of proof on the State to satisfy the jury from the testimony beyond a reasonable doubt of the defendant's guilt, before he can be convicted. He comes into court with the presumption of innocence in his favor. This defendant comes into court [fol. 46] with the presumption of innocence in his favor, and that presumption remains with him throughout the trial of the case till the jury from the testimony is convinced of his guilt beyond a reasonable doubt. The indictment is no evidence against the defendant and is not to be so considered by you; it is only a method by which the defendant is brought to trial before you.

You, gentlemen of the jury, are the sole judges of the testimony; it is not for me to say or to suggest what I think of the testimony of any parties or any witness testifying in this case; that is for you to determine from all the testimony as to whether or not the defendant is guilty beyond a reasonable doubt.

You may consider the testimony of the witnesses and the parties, and the defendant in this case, in the light of their interest, their reason for knowing or not knowing the facts about which they testified. You may take all that into consideration in determining what will be your verdict in this case.

The law, gentlemen of the jury, in regard to the offense of rape, is short and simple. It must be forcibly and done against the consent, where it is accomplished, of the person assaulted. You are not to be influenced, gentlemen of the jury, by anything except the testimony in this case. When you are, gentlemen of the jury, you are not performing the duties that your oaths bind you to perform. The oath you took in this case is that you would well and truly try the issues and a true verdict render according to the evidence, and that binds you in the performance of your duty throughout this trial. Take the testimony and go to your jury room and consider it and make up your minds from this testimony delivered on the witness stand, and that alone, and then do what you think is just and right; of course, let your oaths as jurors bind you in that performance. So, gentlemen of the jury, that is this case.

It is necessary for me to outline to you the extent of the law or offenses covered by this indictment. It charges in terms, gentlemen of the jury, the offense of rape, but by implication of law and offense of an assault with intent to rape and an assault and battery is also covered and embodied in this indictment. In other words, if you are not convinced of this defendant's guilt of the higher of offense of rape, you may, if you are convinced of an assault with intent to rape beyond a reasonable doubt, find him guilty of that, or of a simple assault, or an assault and battery.

[fol. 47] Gentlemen of the jury, the punishment for rape under our law is death or imprisonment in the penitentiary for not less than ten years—punishment by death or imprisonment in the penitentiary for any number of years not less than ten. The punishment for an assault with intent to rape is imprisonment in the penitentiary of this State for not less than two or more than twenty years, and the punishment for an assault and battery is a fine of not more than five hundred dollars.

If you are convinced of the defendant's guilt of rape, as charged in the indictment, this is the form of your verdict: "We, the jury, find the defendant guilty of rape, as charged in the indictment, and we fix his punishment at death, or at imprisonment in the penitentiary for *for* —" so long, naming the years, not less than ten.

If he is guilty, gentlemen of the jury, of an assault with intent to rape, it is: "We, the jury, find the defendant guilty of assault with intent to rape, as charged in the indictment", and the punishment is with the court. The punishment for an assault and battery is a fine of not more than five hundred dollars, and is: "We, the jury, find the defendant guilty of an assault and battery, as charged in the indictment, and we assess a fine against him of —" so much, not more than five hundred dollars; and if he is not guilty, the form of your verdict is: "We, the jury, find the defendant not guilty".

In either event, one of your number sign your verdict as Foreman.

Show them to the jury room, Sheriff. Retire, gentlemen, and make up your verdict.

Thereupon, on the 9th day of April, 1931, the defendant, Haywood Patterson, filed in said cause and spread upon the motion docket of said court a motion to set aside the verdict and to grant the defendant a new trial, which said motion is in words and figures as follows, to-wit:

IN CIRCUIT COURT OF JACKSON COUNTY

No. 2404

STATE OF ALABAMA

vs.

HAYWOOD PATTERSON

PETITION FOR NEW TRIAL

Comes the defendant and moves the court to set aside the verdict of the jury in this cause for the first, the court was in — — refusing to grant defendants petition for a change of venue removing his trial to some other county upon the grounds set out in said petition.

[fol. 48] 2nd. For that while he was on trial the jury, who has in charge the cases of Clarence Norris and Charlie Weems came into the court room making their report the death penalty. That the jury in the defendant's case were

removed to the jury room some twenty feet from the bar and door closed, but the transom of said room partly open, which conditions permitted the hearing of any demonstration in the court room. That on the report of said jury, a most tremendous demonstration took place all over the court room by shouts and clapping of hands that could be heard for a hundred yards about the court room. That immediately the shouts were taken up in the court yard. That said applause of the Jury was so great that the court ordered the National Guards who were on duty to quell the demonstration, which was done, and the Jury only a short distance away as stated were bound to have heard all and probably influenced them in their verdict.

Roddy & Moody.

[File endorsement omitted.]

Thereupon, on the 6th day of May, 1931, the defendant, Haywood Patterson, filed in said cause and spread upon the motion docket of said court, an amended motion to set aside the verdict and judgment rendered in said cause and *go* grant him a new trial, which said amended petition is in words and figures as follows, to-wit:

IN CIRCUIT COURT OF JACKSON COUNTY

STATE OF ALABAMA

vs.

HAYWOOD PATTERSON, Defendant

AMENDED MOTION FOR NEW TRIAL

Comes the defendant, Haywood Patterson, in the above styled cause of the State of Alabama, vs. Haywood Patterson, and moves the court to set aside the verdict and judgment rendered in this case No. 2402 against him on the 7th day of April, 1931, in the Circuit Court of Jackson County, Alabama, and to grant him a new trial, and he assigns the following reason and causes separately and severally, to wit:

I

Because the indictment was too vague and indefinite and stated no cause of action, and failed to put the defendant [fol. 49] on notice of what he was called upon to answer, and the judgment ought to be arrested, and a new trial granted, because it was void and illegal.

II

Because the court erred in failing and refusing to grant this defendant a change of venue and to remove the hearing to some other county, because in a trial involving human life, the defendant has a right to be tried by a jury entirely free from bias or prejudice, and free from outside or extra-legal influences which might distract their minds from a free and impassionate consideration of the merits of the case.

III

A new trial should be granted because the court refused to grant this defendant a special jury or a special venire of jurors on the demand made by his counsel and when it was then appearing necessary to have military guards to guard the prisoner and the court house, and when the rights of the defendant were being jeopardized by presenting to him a list of jurors from which his jury was drawn in contravention and in violation of the jury laws of the State of Alabama as is provided by the Statutes of Alabama.

IV

The court erred in failing to continue this case of his own motion when the jury in the case against Norris and Weems jury reported its verdict and there was a demonstration in the court house.

V

The court erred, in not questioning and in failing to qualify the trial jurors as to race prejudice, as to whether or not they could and would give the defendant a fair and an impartial trial, and calling the attention of the jurors to the fact that he was a colored man and the prosecuting witness, Mrs. Price, was a white woman; if it had appeared that any juror held prejudice, or caprice, such juror should have been discharged from jury duty.

VI

The court erred in not explaining to the jury that while there was a custom prevailing in this state not to have jurors who are negroes, that under the laws of the State of Alabama, negroes in certain cases were eligible for jury duty, and that under the laws there was no bar against their service, and that while under the custom prevailing to select only white men for jury duty, that a colored man, [fol. 50] had the same legal right to fair and impartial trial that was accorded to white men.

VII

A new trial should be granted, because public sentiment and feeling against the defendants and the crime charged were of such a character, and publications thereof throughout the northern part of the State and in Tennessee and Georgia, that defendant could not get a fair and an unbiased jury.

VIII

A new trial should be granted because the proof in this record and certain affidavits procured, sworn to by parties and filed, that the train on which Victoria Price and Ruby Bates claim to have been riding, had on it some twenty or more negro boys and about seven or eight white boys and that between the time of the fight that is alleged to have occurred in the neighborhood of Stevenson, Alabama, and the time that this train reached Paint Rock, Alabama, was about forty or fifty minutes and that about one-half of the negro boys had left the train between the time it passed Stevenson, Alabama, and the time it reached Paint Rock, Alabama, and it is alleged that all this trouble occurred while this train was in Jackson County, Alabama, and if this be admitted for the sake of argument, the time was too short for everything to have happened as contended for by these two girls, and when half of the negroes were not arrested, that it is impossible for them to identify positively all of the crowd and to make this proof beyond a reasonable doubt.

IX

A new trial should be granted because the Court failed to declare a mistrial in the case of Haywood Patterson, because

while his case was on trial, a jury in the case of Norris and Weems made its report to the court, and when the report of the jury was made, there was a demonstration in the court room by the clapping of hands and stamping of feet and hollering in approval of the verdict against Norris and Weems. Immediately thereafter the report passed from the court room to the streets that Norris and Weems had been convicted and thereupon there was a demonstration on the streets in the town of Scottsboro and men were hollering and yelling and this street demonstration pervaded the business section surrounding the court house square where the jurors and court officers and military officers were assembled. This demonstration was calculated to prejudice, and did prejudice, the mind of the jurors who were sitting [fol. 51] on the case trying Haywood Patterson, and it also prejudiced the jurors who were soon thereafter to try the five other defendants and made it impossible for any of the defendants to obtain an unprejudiced, impartial and unbiased jurors in their cases.

X

A new trial should be granted because of newly discovered evidence showing that Victoria Price and Ruby Bates were women of bad character and from their general reputation that they are not entitled to full faith and credit on their oath in the Court of justice.

XI

A new trial should be granted this defendant because the jurors were not sent off the court room during the preliminary discussion of this case between the Court and various attorneys appointed by the Court to represent the defendants. This discussion between the Court and counsel, and some remarks during the discussion, was calculated to and may have prejudiced the jury.

XII

A new trial should be granted because the constitutional rights of the defendants were violated in that Article 14, Section 1, of the amendment of the Constitution of the United States, which provides, "No state shall make or enforce any law which shall abridge the privilege or immuni-

ties of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws", and the rights of this defendant were violated under the Constitution for the following reasons:

(a) He was arrested and had no fair chance to employ counsel or to communicate with his family or friends; (b) He was placed in a jail in a distant city from his home where his parents or kinsfolk were afraid to visit him on account of their fear of personal violence; (c) because he had no opportunity to employ and make financial arrangements to pay an attorney to represent him; (d) because there was not sufficient time between the time he was arrested and the time of his trial to prepare the case for trial; (e) because of racial prejudice prevailing in the county where the trial was held, he was denied a fair and impartial trial before an unprejudiced and an unbiased jury; (f) because while his case was on trial, a jury in another case reported convicting two defendants accused in the same matter and there was a [fol. 52] clapping of hands and hollowing and a demonstration in the court room while the jury in this defendant's case was in an adjoining jury room; (g) Because there was a demonstration in the streets outside of the court house while this case was on trial, as a result of the conviction of Norris and Weems; (h) because of the ignorance of this defendant and his immature years, he did not know how to prepare for a trial, or how to get his witnesses to the court, and being a man of color and unacquainted and uneducated and ignorant of the law; (i) because he had been threatened and intimidated and thought his life was in eminent peril, and he could not get in communication with his father or mother to employ him an attorney or to advise him about his rights until the case was called for trial and therefore the verdict returned by the jury and the judgment entered thereon are in violation of his *constitution* constitutional rights of the due process of law clause of the Constitution of the United States, and a new trial should be granted.

XIII

A new trial should be granted because the constitutional rights of this defendant, as guaranteed by the Fourteenth

Amendment to the Constitution of the United States were violated in that he is about to be deprived of his life and liberty without due process of law and is being denied, within the jurisdiction, the equal protection of the laws in that he was tried without reasonable opportunity to prepare his case and without time to employ counsel to represent him, and he was tried in a county where a mob had assembled and threatened to take his life and the Sheriff and the Governor deemed it necessary to call out a military force to guard this defendant from the jail to the court house and to surround and guard the court house during the time of the trial and *go* guard him after the trial back to the jail to prevent an effort being made to take his life.

Under stress of great excitement against the defendant, and others indicted with him, and in view of the charge of rape made against him and publication thereof in the newspapers in bold headlines, there was such prejudice, caprice and passion prevailing in the County and throughout adjacent counties near the trial as to render the verdict of the jury and the judgment thereof illegal and void and for these reasons a new trial ought to be granted.

[fol. 53]

XIV

A new trial should be granted because there is no legal evidence to support the verdict of the jury and the judgment entered thereon and the evidence preponderates against the verdict of the jury in this case.

XV

A new trial should be granted because of newly discovered evidence which has been discovered since the trial of this case, and which the defendant did not know and could not discover before the trial, tending to prove that he is innocent of the charge made against him and tending to prove the bad character of the two prosecuting girls, and tending to prove that there was twenty or more negroes on the train at the time of the alleged trouble and that a number of those involved in the trouble left the train and were never arrested.

XVI

A new trial should be granted in this cause not only for the reasons stated in the foregoing motion for a new trial,

but because when the defendant was arrested, it created such excitement and passion and rumors in the neighborhood where the trial was to be had as to make it impossible for him to get a fair and impartial trial and that he was denied a fair and impartial trial as contemplated by the due process clause in the Fourteenth Amendment to the Constitution of the United States, which provides, in part, "that no state shall make or enforce any law which abridges the privilege or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

The defendant is a negro of African descent, born in the United States and a citizen of the United States and subject to the jurisdiction thereof.

XIX

A new trial should be granted because of newly discovered evidence discovered since the trial in this case and which the defendant could not discover because he was in jail in the State of Alabama, and these witnesses were principally in the State of Tennessee, and this defendant, Haywood Patterson, had no chance to talk to his parents or friends and that he had no attorney hired to represent him and no one with money who is able to make a search for testimony and that he used all the diligence that he could but was utterly helpless and his parents lived in the [fol. 54] State of Tennessee and on account of public demonstration, were afraid to come to see the defendant for fear of personal violence.

Said newly discovered evidence tends to show that Ruby Bates and Victoria Price were girls of bad reputation and unworthy of belief and that their associations and character was of such a nature and to totally and thoroughly discredit anything either of them might say or swear on the witness stand, and that if this proof had been before an impartial jury that a different result would have been obtained as a result of the trial, and that upon another trial said witnesses could be produced in court.

Said testimony is set out in full in the affidavit of Oliver Love, marked Exhibit No. 1; McKinley Pitts, marked Exhibit No. 2; Isaac Hinch, marked Exhibit No. 3; J. P. Hobby,

marked Exhibit No. 4; Annie Linson, marked Exhibit No. 5; Asbury Clay, marked Exhibit No. 6; Savannah, marked Exhibit No. 7; Willie Douglas, marked Exhibit No. 8; Tom Landers, marked Exhibit No. 9 and Silas Johnson, marked Exhibit No. 10, and an exhibit to the affidavit of Silas Johnson, being a newspaper with a photograph of Victoria Price and Ruby Bates which is exhibited to Johnson's affidavit as Exhibit No. 1 and filed herewith and all of said affidavits and said exhibits are made a part of this motion as fully as if set out herein.

XX

A new trial should be granted in this cause and the judgment arrested because the indictment failed to state any cause of action and it failed to notify the defendant, Haywood Patterson, of any criminal charge made against him and failed to put him on notice of the charge he was required to meet on the trial of this case, and for this reason the verdict should be arrested and a new trial awarded.

XXI

A new trial should be granted because under the constitution and laws of the State of Alabama the defendant was entitled to notice in the indictment and was entitled to be given a statement of facts in the indictment such as is required by the constitution and laws of the State of Alabama, and the indictment in this case did not contain such a statement of fact as are required under the constitution and laws of the State of Alabama.

XXII

A new trial should be granted because on the trial of this case, counsel for the defendant asked the prosecuting witness, Victoria Price, if she practiced prostitution in order to show her character and her credibility and the court committed error in refused to permit counsel for the defendant to pursue this line of examination, which would have developed that she was a common prostitute and that she was unworthy of belief. (Affidavit is filed herewith as a part of this motion.)

XXIII

A new trial should be granted, because the court committed error, in refusing to permit counsel to interrogate the prosecuting witness Victoria Price, touching her character and reputation as a common prostitute, and evidence of previous acts of prostitution, on her part, should have been admitted to go to the jury in mitigation of punishment, especially where, as in this case, the punishment is fixed in jury's discretion from 10 years to death. (See affidavits filed herewith touching Victoria Price's reputation and character).

XXIV

A new trial should be granted because a special venire was demanded for this defendant and refused by the court and because a list of all jurors drawn for the week and those especially drawn must be served, together with a copy of the indictment, forthwith upon the defendant, and the record fails to show that this was done, and this being a capital case that was an error for which a new trial should be granted.

XXV

A new trial should be granted because the court committed error in refusing to permit counsel for the defendant to ask the doctor that examined Victoria Price as to whether or not she had a venereal disease, and the court ruled this incompetent and sustained the State's objection. This was error, her condition in this respect was a material matter and the subject of legitimate inquiry.

XXVI

A new trial should be granted because the court failed to charge the jury, and law as to consciousness of innocence, shown by the fact, that if this defendant had committed rape knowing its penalties in the South, and the swiftness with which it is applied, this defendant instead of leaving the train and fleeing, he remained on the train, which was a circumstance consistent with his innocence and made no effort to flee, and the fact that his actions tends to prove he was innocent, should have been charged and explained by the court to the jury, and the failure to do so was error.

[fol. 56]

XXVII

A new trial should be granted, because the State had under arrest several boys who were on this train and one witness named Gilley was named on the indictment, and one of them were examined in this case, and if they would have supported the prosecuting witness Mrs. Price, the State quite naturally would have examined them, on the trial, and its failure to do so was error, and for this reason it throws suspicion on her testimony whereas the witness might have corroborated her. He did not do so, and no reason given for not examining him.

XXVIII

The State had within its power a number of boys that were alleged to have been on this train at the time of the alleged rape and no one of them introduced in this trial. This circumstance indicates and gives rise to the presumption that if they had been willing to tell the same story as Mrs. Price, they would have been introduced, and the very fact that they were not introduced and not permitted to testify gives cause to believe that they might have benefited the defendant if put on the witness stand and required to testify.

G. W. Chamlee, Attorneys for Patterson, Defendant.

EXHIBIT "A" TO MOTION FOR A NEW TRIAL, CASE STATE OF
ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Oliver Love

Oliver Love, makes oath in due form of law that he and his wife are colored people and run a rooming house in 1929, and part of the year 1930 and they are personally acquainted with Ruby Bates and Victoria Price, two white girls who claimed that their people lived at Huntsville, Alabama, and he has seen a picture published in the papers and that he recognizes that picture as a picture of Ruby Bates and Victoria Price, in connection with the alleged ravishing case, at Scottsboro, Alabama, and involving Haywood Patterson and eight other negro boys.

Affiant Oliver Love further states that in 1929 that these two girls engaged rooms in his rooming house and that they made a practice of coming to their rooms in company with me, and that on many occasions they would entertain negro men in their rooms all night and both the man and the girl would come out the next morning and admit that they had spent the night in the room together.

[fol. 57] These girls had separate rooms and one bed in each room and they would bring different men in their rooms at night and spent the night there, and they would each girl have her own company in her own room, and it made no difference whether she slept with a white man or a negro to her, and they would both get drunk and they danced with and embraced colored men, and would hug them and kiss them, and one one occasion in the early part of 1930, Ruby Bates was at my house and she ask- me to help her make some money and she explained to me that she wanted to meet and have intercourse with three men that afternoon, and said she could make some money and that pay-day at the Casey & Hedges Shops in Chattanooga, and I let her have a front room of the rooming house and three men came and visited with her in that room that day and they were all three negro men who worked at the shop but had gone home and changed clothes and washed up.

After this meeting with three men in one day, Ruby Bates made arrangements that if one of these men wanted to see her, he would come down on the corner of Twenty-third and Fort Street in the City of Chattanooga, Tennessee, and that if she had a man in her room, when that man left she would stick her head out of the window for the next man to come on up to her room, and in this way she had a great number of men visit her in her room and entertained them there from time to time and this practice at different times was carried on by her for many months, in the latter part of 1929.

Victoria Price frequently met and entertained negro men in her room and eat her lunches there and she had a great many negro men meeting her there, and because of the need of money, we permitted this traffic to go on for a long time and it became known all through the community where we lived and these women were common prostitutes.

They were visitors of bootleg joints, saloons, bawdy houses and houses of ill-fame and they practiced prostitu-

tion and smoked and drank and indulged in profanity and vulgar language.

Their general reputation- were bad and they were unworthy of belief, from their general reputations.

Oliver Live.

Subscribed and sworn to before me, May 2, 1931.
J. B. White, Notary Public, Hamilton County,
Tenn. My commission expires Jan. 29, '35.

[fol. 58] EXHIBIT "B" TO MOTION FOR A NEW TRIAL, CASE
OF STATE OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of McKinley Pitts

McKinley Pitts makes oath that he is a citizen of Chattanooga, Tennessee, and that he lives at 2330 Fort Street and that he knew Victoria Price and Ruby Bates, the girls involved in the case against Haywood Patterson and the other boys at Scottsboro, Alabama, and they roomed near his house for a few months in 1930, and that during the time they were in his neighborhood, they kept company with negro boys and men; he saw them dance with negro boys and men in negro houses; saw them drinking intoxicating liquor with negro boys and men and saw them embracing negro men in dances in negro houses and heard them talk to negro men in the most foul and vulgar language and ask colored men the size of his privates, and stop men and ask them for money and sometimes in Chattanooga, she would make a date with a white man and go fill her date, and then come and ask me to go get her a negro man and she was greatly in love with Shug Moore and I called him for her one time and he is a young negro man, who sells liquor and handles money and she wanted to make dates with him, and I know Asberry Clay, and he is a reliable man and he said Ruby Bates told him she could take five negroes in one night and not hurt her, and from the number of dates she was filling, she was a hot proposition, a common street prostitute of the lowest type, and she did not seem to care for decency or anything. Her general reputa-

tion was bad and from it she was not entitled to full faith and credit on her oath in a court of justice.

McKinley Pitts.

Subscribed and sworn to before me May 2, 1931. J. B. White, Notary Public, Hamilton County, Tenn. My commission expires Jan. 29, 1935. (Notarial impression seal of J. B. White here attached.)

EXHIBIT "C" TO MOTION FOR NEW TRIAL, CASE OF STATE OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Isaac Hinch

Affiant, Isaac Hinch, makes oath that he is 22 years old and resides at 2327 Sidney Street in Chattanooga, Tennessee, and that he was personally acquainted with Ruby Bates and that she visited Chattanooga in 1930, and he had seen her a number of times. On one occasion she came to a dance that was being given at a house of a colored family [fol. 59] and three colored men were with her and they danced a while and they had some liquor and they got in a car and went away and after a while they came back and danced again and then went away again, and finally came back and associated with this colored crowd in and around the house for an hour or two and went off again with these men and I don't know how long she was gone, but later in the night she came back and was drunk and I didn't want the police to arrest her so we called an ambulance and let the ambulance come and get her and take her away.

She had the reputation of being immoral and associated with more colored people than any woman that I ever saw, unless it was a blackheaded girl that run with this Ruby Bates, but I did not know the black-headed girl's name but I did know Ruby Bates.

Her general reputation was bad on the subject of immorality, drunkenness, telling stories, and from her general reputation, she was not entitled to credit of belief on oath in a court of justice. She was an exceedingly low type of woman and spent her time in the main around bootleg joints and places where liquor was being sold and danced and

associated in the main with colored people when she was in Chattanooga.

Isaac Hinch.

Subscribed and sworn to before me on this the 2nd day of May, 1931. J. B. White. Notary Public, Hamilton County, Tenn. My commission expires Jan. 29, 1935. (Notarial impression seal of J. B. White attached.)

EXHIBIT "D" TO MOTION FOR A NEW TRIAL, CASE OF STATE OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of J. P. Hobby

J. P. Hobby makes oath that he is a citizen of Chattanooga, Tennessee, and lives at 1929 Fort Street, which is in the factory district of Chattanooga, Tennessee, and that in the year 1929 and 1930 that he knew Victoria Price and that he saw her in the neighborhood of his house in that section of the city on many occasions, and that in 1929 and more than a year ago, he retailed a little liquid refreshments and that Victoria Price would get liquor and get drunk, and he had a piano at his home and she would dance and put herself on the lowest terms that she could; that she was grossly immoral and danced in a vulgar fashion and she [fol. 60] would dance with colored men and was guilty of the highest order of immorality and her conduct was disgraceful and scandalous and this fact is known to a great many colored people in that section and in that neighborhood.

He also states that he knew Ruby Bates and that she was here in 1930 and that she would get drunk and smoked cigarettes and associated with colored men and would dance in an immodest fashion and was regarded as a very common woman, and it was commonly reported and generally believe- to be true that she spent the nights on many occasions with colored people and colored men at their houses, and this story does not tell hal- of what affiant could tell if it become necessary and if he was given an opportunity to

be a witness, but she was just as bad in his opinion as a girl could get to be and keep out of prison.

J. P. Hobby.

Subscribed and sworn to before me on this the 2nd day of May, 1931. J. B. White, Notary Public, Hamilton County, Tenn. My commission expires Jan. 29, '35. (Notarial impression seal of J. B. White herewith attached.)

EXHIBIT "E" TO MOTION FOR A NEW TRIAL, CASE OF STATE OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Annie Linson

Annie Linson makes oath that she is a citizen of Chattanooga, Tennessee, and personally acquainted with Victoria Price and Ruby Bates, the two girls who made charges against Haywood Patterson, and others, and that she has seen the picture of these girls in the newspapers and she identified the picture attached to the affidavit of Silas Johnson, to be filed in this cause as a picture of Victoria Price and Ruby Bates.

She further states that these two girls lived at various places and rooming houses in Chattanooga in the year 1929 and in 1930, and up until about last Christmas, at various times.

She has seen them one time in her own home when affiant lived on corner of 23rd & Fort Street while affiant had been out in the store to buy groceries for supper, and when she returned home she found Victoria Price and Ruby Bates in her house, sitting in the laps of two negro boys, with one arm around the boy's necks and smoking cigarettes in her house, and this was about two o'clock in the day time [fol. 61] and she made these two girls and the boys all leave her house.

That incident was in 1929. During 1930, she saw them on many occasions, in the neighborhood where she lived, and they would visit the homes of negroes and would dance, with colored men and put their arm around colored men, and smoke cigarettes with them and hug them and carry

on with them just like colored girls would do with their own husbands.

These girls Victoria Price and Ruby Bates lived at the home of a Mrs. Luvenia Bennett, a white woman and she made one of them leave her house, and it was reported by Mrs. Luvenia Bennett, that the reason she made the girl leave her house was because this white girl had got a ring from a white man and loaned it to a negro man and the negro man was wearing the ring, or had it and she made the girl go get it from the colored man and give it back to the white man.

She states that in the summer of 1930, during the fishing season, that she saw Victoria Price down on the bank of the river near the brick yard, and she was drunk and she had her shoes and stockings off and had on a dress but no sign of underclothes and she was exposing her nakedness and a white man picked her up and brought her up on the street and turned her loose and she fell down and he told affiant to go and call the police patrol and have the patrol wagon come and get her.

When we left this street she was lying there drunk and two colored men were there with her, but I don't think the police got her that time.

Affiant further states that she has seen these two girls, Price and Bates, in a number of colored people's homes, with men, and one time she saw them in a colored gambling house, where liquor was sold and they were just as familiar with negro boys and men as they could be.

Their reputations were bad; it was bad for lewdness, drunkenness, for going dressed half naked, and dance with negro men and boys and associate with negro men and boys and smoke cigarettes and bet out at all hours of the night and curse and swear, and were a general nuisance to the negro population near where they stayed.

She saw them one time throwing rocks while drunk and fighting with some other white women, where they roomed and the police arrested them.

When affiant saw this Price girl drunk at the fishing place, Dan Bohanan, a negro was there and she told Dan [fol. 62] that if the Price girl did not get sober, for him and the boy with him not to bother her, because I was afraid it might cause trouble, if they had anything to do with her.

They, Victoria Price and Ruby Bates, had a habit or practice of going out on a vacant lot lying between Chestnut Street and the Railroad tracks, which was about 100 yards wide and about six hundred feet long, and they would stay out on this field until late hours at night with men in the dark, as there were no electric lights out on this field, and the men were nearly all negro men with whom they associated.

She further states that these two girls, Victory and Ruby Bates, were women of bad reputations on the subject of truth and veracity; it was bad on the subject of lewdness and vulgarity and bad on the subject of profanity.

Their reputations were bad on the subject of soliciting company among negro boys and negro men; they would hail a negro boy that was a stranger to them and they would ask their intimate friends among colored people to make engagements for them to meet negro men and boys for the purpose of prostitution and lewdness.

I can give the names of a number of people who can tell you all of this and that is not half what I know about them. I am no kin to any of the defendants.

Annie Linson.

Subscribed and sworn to before me April 28, 1931.
J. B. White, Notary Public, Hamilton County,
Tenn. My commission expires Jan. 29, 1935. (Im-
pression notarial seal of J. B. White here at-
tached.)

EXHIBIT "F" TO MOTION FOR A NEW TRIAL, CASE OF STATE OF
ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Asberry Clay

Asberry Clay, age 48, married, and residing at 2309 Chestnut Street, Chattanooga, Tennessee, makes oath in due form of law that he is personally acquainted with Victoria Price and Ruby Bates and that he has seen the pictures of these girls attached to the affidavit of Silas Johnson and that he identifies the girls from that picture also.

That he knew them in the year 1929 and 1930 and that

where he lives is a colored section, and nearly all the people are negroes, and these two girls were living at the house next door to where he lived and they stayed there about [fol. 63] one month in 1919, and while they were there, their conduct was very bad, in that they associated with colored men, and would curse and s-ear and smoke cigarettes and they had a custom or habit of going out on a vacant lot about 100 yards wide and about two hundred yards long, and staying out with men until as late as four o'clock the next morning, and this lot is near the railway tracks and near several big foundrys that employ hundreds of negro men and these women were more familiar with negroes than they were with white men.

Affiant states that on five or six or more times he has seen these two girls, Viola Price and Ruby Bates, in negro houses dancing with colored boys and men and seen them have their arms around these negro men in a most intimate manner, and they were frequently meeting this affiant on the street and they would say and said to him, "Give me a dollar" and that was a signal for an engagement, and an offer to meet for the purpose of prostitution and lewdness, and these girls made many visits into the railroad yards and they had a camp or ten- where railroad hoboos and people would stop and it was a sort of a camping place and there was a gang or crew of colored men working near there, and the Price girl made this tent-, a loafing place in both day and night time, and associated with many colored men in both day time and night time.

It was nothing uncommon or infrequent to see these girls on the sidewalks and street with negro men and they visited a number of places where liquor was sold and made bootleg joints a familiar resort and they would stop negro men or boys on the street and ask for a cigarette, or a match or engage them in conversation and then they would follow up this plan of getting acquainted by going to the shop where the negroes worked and watch for them to come out of the shop at night, and then meet them and go away with them.

Affiant further has seen both of these girls at the Casey & Hedges Foundry and also at the Giles foundry on pay-days and numerous negro men would draw their money and would get the money and go outside and hand money in various sums to these two girls.

Affiant further states that he has seen these two girls come out of the houses of colored people before daylight in the morning when the man was going to the shop and he has seen this at several houses where these girls would spend the night with negro men and then leave before day and return to their place of residence. He knows about them staying all night at Sewell's house, a colored man's residence, and a woman whose name he has forgotten but [fol. 64] who has a girl called "Dump" and lived on Chestnut Street near 23rd Street.

He has seen her down at the river drunk on a number of occasions, and he heard about her being naked one night and drunk, but he did not see her naked but she dressed like a woman wearing a bathing suit, too naked to be on the streets, but she was not ashamed.

Affiant further states that one night in 1930, he saw Victoria Price and three colored men on the field near Chestnut and Twenty-third Street and they had a quart of liquor and he was trying to get some of this liquor and he saw three men have intercourse with Victoria Price on that field that same night, in about one hour's time.

Affiant further states that she has met him and asked him to give her a dollar and her method was to say "Hay—Bo give me a dollar," and that was a signal for an engagement and one time she asked me if I wanted to go up in the field and she said she could stand five men and I told her nothing like that for me.

Affiant was afraid she would get some of these negro men or boys killed, and he was afraid to give her cigarettes. Her reputation was bad for lewdness and prostitution; bad on the subject of truth and veracity and she was unworthy of belief on her oath in a court of justice, from her reputation.

Affiant knew her character was bad, immoral and lewd, and her associations were largely with negroes, and it was currently reported as a part of her reputation that a white man asked her for a date one day and she said No, that "This is negro night," it was pay day at the shop and she wanted to meet the negroes at the shop.

She was a notorious prostitute in the neighborhood and her associations were with the lowest class of negroes in Chattanooga, Tennessee. Affiant saw them with Tom Landress in his house in Chattanooga, arms around him hugging

him and embracing him both in day and night time. He had every chance to have intercourse with them but I never saw him in bed with either of them.

Asberry Clay.

Subscribed and sworn to before me April 29, 1931.
 J. B. White, Notary Public, Hamilton County,
 Tenn. My commission expires Jan. 29, 1935.
 (Notarial impression seal of J. B. White attached.)

[fol. 65] EXHIBIT "G" TO MOTION FOR A NEW TRIAL, CASE
 OF STATE OF ALABAMA V. HAYWOOD PATTERSON

Affidavit of Savannah Clay

Savannah Clay makes oath that she is the wife of Asberry Clay, who has this day given his affidavit in this case, and that she has seen the photographs of Victoria Price and Ruby Bates and that she has known these girls for about two years.

She further states that she has seen these girls in company with colored men on 23rd and Chestnut Street and in that neighborhood on many occasions, and the people everybody around there give them bad names and the people say they are immoral women.

She has seen them on the field near the railroad track on many occasions and they would be there late at night and they were in Landress' house lots of nights and would be coming out late at night.

This field alongside the railway track is a place where immoral men and women meet and frequent, and is in a negro section of Chattanooga in the factory district and not much police interference down in that section.

Their reputations were bad for lewdness, and their reputations were that they visited bootlegging joints and bawdy houses, and houses of ill-fame and were bad as prostitutes and unworthy of belief on their oaths in a court of justice.

My husband told me about one of these girls asking him for cigarettes and stopping him on the street.

I saw them on the street on many occasions with negro men and negro boys.

Savannah Clay.

Subscribed and sworn to before me April 29, 1931.
J. B. White, Notary Public, Hamilton County,
Tenn. My commission expires Jan. 29, 1935.
(Notarial impression seal attached here.)

EXHIBIT "H" TO MOTION FOR A NEW TRIAL, CASE OF STATE
OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Willie Douglas

Willie Douglas makes oath that she is a citizen of Chattanooga and her brother William Douglas and Laura Douglas, her mother, live in Huntsville, Alabama, and she [fol. 66] is personally acquainted with Victoria Price and Ruby Bates, and that on Monday before the trouble on the train Wednesday, in March, 1931, that she was with Victoria Price and Ruby Bates, and she met them on the railway tract near 19th Street in Chattanooga, and she had known them when they stayed at Mrs. Luvenia Bennett's house and a colored man named "Shug" Moore used to go with Victoria Price and he is a negro man.

Affiant further states that on Monday in March 23, 1931, that these girls went down on the river at Frank Quann's place, trying to buy liquor but did not have the money and could not get the liquor.

In 1930 these girls were running with and visiting colored men and boys and associating with them and they often told me that they went home with negro men and stayed with them all night lots of times and they were with colored men here on Monday before this trouble occurred on Wednesday, March 25, 1931, and it is a fact that these parties were trying to get liquor on the Tennessee River and when we did not get it I left these two girls with Roosevelt Conn and Jim Cunningham, two colored men.

Willie Douglas.

Subscribed and sworn to before me April 29, 1931.
J. B. White, Notary Public, Hamilton County,
Tenn. My commission expires Jan. 29, 1935.
(Notarial impression seal of J. B. White attached.)

EXHIBIT "I" TO MOTION FOR A NEW TRIAL, CASE OF STATE
OF ALABAMA VS. HAYWOOD PATTERSON

Affidavit of Tom Landers

Tom Landers makes oath that he is a citizen of Chattanooga, Tennessee, and that he knows Victoria Price, the girl who was the prosecuting witness against Haywood Patterson and others in the case, now called the Scottsboro cases, charging Haywood Patterson with the crime of rape.

That in the year 1929, he knew where Victoria Price stayed in Chattanooga on Chestnut Street for a while and that he saw her in numerous bawdy houses and bootlegging houses and she would talk to colored men about prostitution and lewdness and he has seen her on the corner of Chestnut and Twenty-third street lots of times, both in day [fol. 67] time and in the night time, always in company with colored people.

I heard about her taking a white man's ring and giving it to a negro man and the lady where she roomed made her go get the ring from the negro man and take it back to the white man, and this is a part of her general reputation.

It is a fact that she has asked me for matches and cigarettes and that she gets drunk and she did not wear any clothes hardly and dressed in a lewd and almost nude fashion, and I saw her drunk and in a fight with another woman one night and she had her clothes up around her body and she had on only two garments, and exposed her private parts and it was a drunken, disgraceful spectacle in the presence of a number of colored people. There was no police officers in that section of the city and they were not arrested as far as I know. Her general reputation was bad, and from her general reputation she is not entitled to full faith and credit on her oath in a court of justice.

Tom Landers.

Subscribed and sworn to before me May 1, 1931.
J. B. White, Notary Public, Hamilton County,
Tenn. My commission expires Jan. 29, 1935.
(Notarial impression seal here attached.)

EXHIBIT "J" TO MOTION FOR A NEW TRIAL, CASE OF STATE
OF ALABAMA VS. HAYWOOD PATTERSON

Affiant Silas Johnson makes oath that he is 56 years of age and lives in Chattanooga, Tennessee, and that he lives in what is known as the factory district where a great many colored people are employed. At the U. S. Cast Iron Pipe & Foundry Company, they usually employ about 1000 colored men and at Crane & Company about 2000 men; at Walsh Weidner and Hedges about 2000; Ross-Meehan Foundry Company, 200 or 300 men; the Chattanooga Blow Company, 200 or 300; the Vesta Gas Range Company, 100 or 200, and at the Brick Yard and Tannery and the Sewer Pipe Works several hundred more.

That he is acquainted with Victoria Price and Ruby Bates, the alleged girl victims that were involved in the trial of nine negro boys at Scottsboro, Alabama. That he [fol. 68] attaches hereto a photograph of these two girls taken from a newspaper which he identifies as being the two girls that were in Chattanooga in the latter part of the year 1929, and in the early part of the year 1930 and girls that he had seen on many occasions.

That he had seen Victoria Price and Ruby Bates drunk on many occasions and that they visited and procured their whiskey in the houses of colored people and were often in colored houses at night and that on the edge of the City of Chattanooga near the river, is a place where garbage is dumped and destroyed and is called the city dump and at and near this dump there are various persons who sell intoxicating liquor, and on many occasions he has seen these two girls under the influence of liquor near the city dump on the bank of the Tennessee River.

He further states that on many occasions he has met them on the streets and they would call him pet names or try to engage him in conversation, and that he refused to have any talk with them or to pay them any attention because he felt that it was improper and calculated to get him in trouble and he has told them on many occasions not to speak to him or call him pet names or try to become familiar with him, and notwithstanding the fact that he has in this way tried to avoid them on many occasions, they have tried to stop him and engage him in conversation

on the streets and other places and to engage him in conversation in daytime and night time.

He further states that he has seen them in houses of colored people in Chattanooga on many occasions and that they visited the house of a man called Buddy and whose wife is named Lillian and that at or near the foot of Look-out Mountain there was a little shack of a building which might be termed a tent and that these girls stayed in this house on a number of nights, and the neighborhood surrounding the place where these girls were spending their time was a colored section of Chattanooga and that they were familiar and unduly familiar with many colored men and boys in Chattanooga.

He further states that he is acquainted with the reputations of both of these girls in Chattanooga where they lived for several months and that their reputation on the subject of virtue was bad and that their reputation on the subject of decency was bad, and their reputation on the subject of truth and veracity were bad and that they were regarded as immoral women and unworthy of belief on oath in a court of justice.

He repeats that he is personally acquainted with their general reputation in Chattanooga and that that general reputation is bad, and that from their general reputation they are not entitled to full faith and credit on their oath in a court of justice.

[fol. 69] He files and attaches to his affidavit the picture of these two girls as exhibits to this affidavit.

Silas Johnson.

Subscribed and sworn to before me on this the 29th day of April, 1931. J. B. White, Notary Public, Hamilton County, Tenn. My commission expires Jan. 29, '35. (Notarial impression seal attached.)

[fol. 70] EXHIBIT "—" TO MOTION FOR A NEW TRIAL IN
CASE OF STATE OF ALABAMA VS. HAYWOOD PATTERSON

IN CIRCUIT COURT OF JACKSON COUNTY, SPECIAL SESSION, 1931

No. 2404

STATE OF ALABAMA

VS.

CHARLIE WEEMS and CLARENCE NORRIS, alias CLARENCE
MORRIS

Appearances:

H. G. Bailey and Proctor & Snodgrass, Attorneys for
State.

Stephen W. Roddy and Milo Moody, Attorneys for De-
fendants.

This cause coming on to be heard was tried on this the
6th day of April, 1931, before his Honor A. E. Hawkins,
Judge presiding, and a jury when the following proceed-
ings were had and done, to-wit:

The Court: All right, the first case, Solicitor, is the case
of State vs. Haywood Patterson et al., what says the State?

Mr. Bailey: We are ready if the Court please.

Mr. Roddy: If the Court please, I am here but not as
employed counsel by these defendants, but people who are
interested in them have spoken to me about it and as your
Honor knows, I was here several days ago and appear
again this morning, but not in the capacity of paid counsel.

The Court: I am not interested in that, the only thing I
want to know is whether or not you appear for these de-
fendants.

Mr. Roddy: I would like to appear along with counsel
that your Honor has indicated you would appoint.

The Court: You can appear if you want to with the coun-
sel I appoint, but, I would not appoint counsel if you are
appearing for them, that is the only thing I am interested
in—I want to know if you appear for them.

Mr. Roddy: I would like to appear voluntarily with local
counsel of the bar your Honor appoints; on account of

friends that are interested in this case, I would like to appear along with counsel your Honor appoints.

The Court: You don't appear if I appoint counsel.

Mr. Roddy: I could not like for your Honor to rule me out of it——

The Court: If you appear for these defendants, then I will not appoint counsel; if local counsel are willing to [fol. 71] appear and assist you under the circumstances all right, but I will not appoint them.

Mr. Roddy: Your Honor has appointed counsel, is that correct?

The Court: I appointed all the members of the bar for the purpose of arraigning the defendants and then of course I anticipated them to continue to help them if no counsel appears.

Mr. Roddy: Then I don't appear then as counsel, but I do want to stay in and not be ruled out in this case.

The Court: Of course I would not do that——

Mr. Roddy: I just appear here through the courtesy of Your Honor.

The Court: Of course I give you that right; well are you all willing to assist?

Mr. Moody: Your Honor appointed us all and we have been proceeding along every line we know about it under Your *your* Honor's appointment.

The Court: The only thing I am trying to do is, if counsel appears for these defendants, I don't want to impose on you all, but if you felt like counsel from Chattanooga——nooga——

Mr. Moody: I see his situation of course and I have not run out of anything yet, of course if your Honor proposes to appoint us, Mr. Parks, I am willing to go on with it. Most of the bar have been down and conferred with these defendants in this case, they did not know what else to do.

The Court: The thing, I did not want to impose on the members of the bar if counsel unqualifiedly appears; if you all feel like Mr. Roddy is only interested in a limited way to assist, then I don't care to appoint——

Mr. Parks: Your Honor I don't feel like you ought to impose on any member of the local bar if the defendants are represented by counsel.

The Court: That is what I was trying to ascertain, Mr. Parks.

Mr. Parks: Of course if they have counsel, I don't see the necessity of the Court appointing anybody; if they haven't counsel, of course I think it is up to the Court to appoint counsel to represent them.

The Court: I think you are right about it Mr. Parks and that is the reason I was trying to get an expression from Mr. Roddy.

Mr. Roddy: I think Mr. Parks is entirely right about it, if I was paid down here and employed, it would be a different thing, but I have not prepared this case for trial and have only been called into it by people who are interested in these boys from Chattanooga. Now, they have not given me an opportunity to prepare the case and I am not familiar with the procedure in Alabama, but I merely came down here as a friend of the people who are interested and not as paid counsel, and certainly I haven't any money to pay them and nobody I am interested in had me to come down here has put up any fund of money to come down here and pay counsel. If they should do it I would be glad to turn it over — a counsel but I am merely here at the solicitation of people who have become interested in this case without any payment of fee and without any preparation for trial and I think the boys would be better off if I step entirely out of the case according to my way of looking at it and according to my lack of preparation for it and not being familiar with the procedure in Alabama, and whatever might come from people who have spoken to me will go to these counsel. I don't know what they will pay and cannot make any statement about it, I don't know a thing about it. I am here just through the courtesy of Your Honor, if Your Honor will extend me that courtesy, I have talked to these gentlemen about the matter and they understand the situation and the circumstances under which I am here, and I would like for your Honor to go ahead and appoint counsel. I understand how they feel about it.

Mr. Parks: As far as I am individually concerned, if I represent these defendants, it will be from a high sense of duty I owe to the State and to the Court and not to the defendants, I could not take the case for a fee because I am not practicing in the general court to any extent. I am a member of the bar and I could not refuse to do what I could for the court if the court saw proper to appoint me.

The Court: I understand your situation, Mr. Parks, just an officer of the court trying to do your duty under your oath. That is what I was trying to find out from Mr. Roddy, if he appears as counsel for the defendants, I don't think I ought to appoint counsel. If he does not appear, then I think the members of the bar should be appointed.

Mr. Roddy: If there is anything I can do to be of help to them, I will be glad to do it, I am interested to that extent.

The Court: Well, gentlemen, if Mr. Roddy only appears as assistant that way, I think it is proper that I appoint members of the bar to represent them, I expect that is right. If Mr. Roddy, will appear, I wouldn't of course, I would not appoint anybody. I don't see Mr. Roddy how I can make a qualified appointment or a limited appointment, of course I don't mean to cutt off your assistance in any way—well, gentlemen I think you understand it.

Mr. Moody: I am willing to go ahead and help Mr. Roddy in anything I can do about it under the circumstances.

[fol. 73] The Court: All right, all the lawyers that will, of course, I would not *not* appear a lawyer to appear if—

Mr. Moody: I am willing to do that for him as a member of the bar, I will go ahead and help do anything I can do.

The Court: All right.

Mr. Proctor: Now, Your Honor, I think it is in order for me to have a word to say. When this case was up for arraignment, I met Mr. Roddy and had a talk with him and I gathered from Mr. Roddy that he would be employed in the case and he explained the situation to me that he was going back to see the parties interested and he thought probably there would be employed counsel in the case and I recognize the principle involved and the fact that I took it for granted that Mr. Roddy would be here as employed counsel and I was approached then to know if I was in a position to accept employment on the other side of the prosecution, and I thought under the circumstances I was. I am not trying to shirk my duty, and I know my duty is whatever the Court says about these matters but I did accept employment on the side of the State and have conferred with the Solicitor with reference to matters pertaining to the trial of the case and I think it is due the

Court, I was not trying to shirk any duty whatever and I want the Court to understand my attitude in the matter, I am ready to obey any order of the Court.

The Court: Of course that is a matter with counsel, I know nothing about those affairs.

Mr. Proctor: I wanted the Court to understand why it was I agreed to become assisted with counsel for the State, thinking they had counsel, I accepted employment on this side, thinking of course they had counsel and I would be relieved from that duty, and I have been conferring with the deputy solicitor about matters pertaining to the trial. I am ready to do whatever the Court thinks is the proper thing to do.

The Court: I will leave that with the attorneys interested, Mr. Proctor, because I know nothing about it.

Mr. Roddy: Your Honor, the gentlemen here have been very agreeable and want to do what they can to express themselves that way to me, and I am willing to appear, with their assurance that they will go ahead with me in the trial of these cases.

The Court: All right.

The Court: All right, now what says the defendant?

[fol. 74] Mr. Roddy: Your Honor, please, we have a petition we wish to present at this time for a change of venue—shall I pass it to Your Honor?

The Court: Have you more than one copy?

Mr. Roddy: No, sir, I just have one copy.

Mr. Roddy: If your Honor please, while the Solicitor is reading that, I wish to call the Court's attention to the fact that two of these defendants are under the age of sixteen years, Roy Wright is under the age of 14 and Eugene Williams 15.

The Court: All right.

Mr. Bailey: If the Court please, we interpose an objection to the filing and consideration and hearing of this petition, on the grounds that it comes too late. I think the statute provides that it must be done as soon as practicable and the State must have seasonable notice of it. A week has passed since the date of arraignment and to wait till the day of trial is called to introduce a thing like this, a motion for change of venue, I think in the first place comes too late.

The Court: I would not require you of course—I will give you time to answer it.

Mr. Bailey: That is the first ground. If your Honor permits the filing of it, I move to strike it because it is nothing except conclusions, there are no sufficient instances of fact set out in there, it is a conclusion from start to finish.

The Court: I don't know what the exhibits were.

Mr. Bailey: The exhibits is just a copy of a newspaper article, and that is a conclusion pure and simple; there is no po-tion concerning that newspaper article, no affidavit attached and not witness in support of this. Now, we first object to the filing and the consideration of it. Your Honor permits them to file it, we move to strike it because the grounds alleged are mere statements of conclusions and not sufficient and we also want to prepare and file a demurrer setting out the same grounds.

The Court: I expect that is in time Solicitor, I know the circumstances some time but I expect under the circumstances that is proper.

Mr. Bailey: Then we move to strike it because the substance of it is setting out a mere conclusion; the proof even of a newspaper article alone is not sufficient, there is no affidavit attached in support of it. Now, your Honor might permit me to offer testimony on it but we move to strike [fol. 75] it and to demur to it.

Mr. Roddy: Your Honor, I might suggest that the petition does not only base conclusions but it tells facts about troops being here, and your Honor please we offer the Sheriff at this time to show the reason for it and why. The matters set out in the petition itself.

The Court: Well, do you want time to answer it—have you any further testimony, anything in support of your petition?

Mr. Roddy: We offer the Sheriff if the Court please.

The Court: Do you want to examine him now?

Mr. Roddy: Yes sir.

M. L. WANN examined as witness on defendant's petition.

Examined by Mr. Roddy:

Q. What is your name?

A. M. L. Wann.

Q. You are the Sheriff of this County?

A. Yes sir.

Q. Did you deem it necessary to call out a unit of the National Guard to bring these defendants to court to trial?

State objects to that. Court overruled.

A. Well, I will just answer it this way; I had a crowd there, I see any guns there or anything like that and I did not hear any threats but—

Mr. Roddy: Did you call this National Guard unit to accompany the prisoners in court.

Mr. Wann: Today?

Q. Yes, sir.

A. Yes, sir I did.

Q. Did you when they were brought here several days ago?

A. Yes, sir.

Q. As Sheriff of this county you deemed it necessary for their protection for the National Guard unit to bring these prisoners to court?

A. Yes, sir, I thought so.

Q. That is on account of the feeling that existed against these defendants?

A. Not only here but people all over the county.

Q. You deemed it necessary not only to have the pro-[fol. 76] tection of the Sheriff's force but the National Guard?

A. Yes sir.

The Court: Is that all?

Mr. Roddy: That is all.

Cross-examination:

Examined by Mr. Proctor:

Q. Sheriff, you make up your mind from the sentiment of the people on the grounds of the offense and not from any voice of feeling?

Mr. Roddy: We object to the leading question.

The Court: He has a right to lead, Mr. Roddy.

A. Yes sir.

Q. It was more on the grounds of the charge you acted on in having the guards called than it was on any sentiment you heard on the outside?

A. That is right.

Q. You have not heard anything as intimated from the newspaper in question that has aroused any feeling of any kind among a posse have you?

A. No sir.

Q. Is it your idea as sheriff of the county that the sentiment is no higher here than in any adjoining counties?

A. Not any higher here than in any adjoining counties.

Q. You don't find any more sentiment in this county than naturally arises on the charge?

A. No sir.

Q. Is it your judgment that the defendants could have a fair trial here as they could in any other county adjoining?

A. I think so.

Q. I will ask you whether or not this county—if it is your judgment or opinion from association among the population of this county if they could have a fair and impartial trial in this case in Jackson County.

A. I think they can.

Q. Is that your judgment?

A. Yes sir.

Q. You have heard nothing of any threats or any thing in the way of the population taking charge of the trial?

A. None whatever.

Q. I will ask you if it is not the sentiment of the county among the citizens that we have a fair and impartial trial?
[fol. 77] A. Yes sir.

Mr. Proctor: That is all.

Redirect examination:

Examined by Mr. Roddy:

Q. You have the troops here right now to keep the crowd back from the courthouse?

A. Yes sir.

Q. And there is a great throng around the courthouse right now that would come in if you did not have the troops?

A. Yes sir, they are from different counties here today.

Q. You don't know from how many different counties?

A. I know there is lots of them, there are several from Madison and Marshall and De Kalb.

Q. And there are hundreds of them around the courthouse at the present time?

A. Yes sir.

Q. They are not allowed to come by the guards to the courthouse?

A. No sir, that is the rule.

Q. Isn't it a fact that at the time these prisoners were arrested and brought to this jail that several hundred gathered there?

A. I estimated the crowd around 200.

Q. Then you took precautions to protect them?

A. Yes, sir, I thought it was my duty as an officer.

The Court: Is that all?

Q. How many units of the National Guard are there here protecting these defendants at the present time?

A. I think there is three if I understood Major Starnes, or five.

Q. You have five units of the State militia?

A. Yes, sir.

Mr. Roddy: That is all.

The Court: Anything else?

Mr. Moody: I might ask Major Starnes.

Major JOE STARNES, witness for Defendants on their motion, testified:

Examined by Mr. Roddy:

Q. You are Major Starnes, of the Alabama National Guard?

A. I am.

[fol. 78] Q. How many men have you here protecting these defendants?

A. 107 enlisted men.

Q. How many units of the National Guard?

A. Five units represented.

Q. You say you have 107 privates?

A. Enlisted men and some non-commissioned privates.

Q. How many officers?

A. Eleven officers.

Q. Those men accompanied these defendants to this court?

A. Two companies did.

Q. How many companies brought them over several days ago for arraignment?

A. I had a picked group of 25 enlisted men and two officers from two of my companies.

Q. How soon after their arrest was this outfit called for the protection of these defendants?

A. I received the call from the State Adjutant General at Montgomery at 9 P. M. on the evening that the attack occurred in the afternoon.

Q. On every occasion you have been in Scottsboro you have found a crowd of people gathered around?

A. That is correct.

Q. And at the present time you have issued orders to your men not to let any come in the courthouse grounds with arms?

A. That is correct.

Q. That situation exists right now?

A. That is correct.

Q. And has existed on every appearance of the defendants?

A. Not only today but that under orders of the Court.

Q. Now your units of the National Guard have protected these men and have been with them on every appearance they have made in this court house?

A. That is correct.

Q. Every time it has been necessary and for the arraignment of the defendants you have brought them here and have carried them away?

A. Yes sir.

Q. After these men were arrested when did you first bring them back?

[fol. 79] A. On Tuesday of the past week is my recollection, March 31st.

Q. Why did you then bring them back here?

A. For arraignment.

Q. How long were they here?

A. We arrived here at 10:30 and left at 4:00.

Q. You brought them at 10:30 in the morning and left at four in the afternoon?

A. That is correct.

Q. Took them to Gadsden?

A. That is right.

Q. Then when did you bring them back?

A. Brought them back and arrived here at 5:15 this morning.

Q. You have had them here twice from Gadsden?

A. That is right.

Q. You bring them here and then carry them back?

A. That is right.

Mr. Roddy: That is all.

Cross-examination.

Examined by Mr. Bailey:

Q. You first came here, of course, under orders from the Governor?

A. Yes, sir.

Q. And you have been here under his orders ever since?

A. That is correct.

Q. You say you made how many trips here from Gadsden?

A. This is the third trip.

Q. In your trips over to Scottsboro, in Jackson County, and your association with the citizens in this county and other counties, I will ask you if you have heard of any threats made against any of these defendants.

A. I have not.

Q. From your knowledge of the situation, gained from these trips over here, I will ask you if it is your judgment these defendants can obtain here in this county at this time a fair and impartial trial and unbiased verdict?

A. I think so.

Q. Have you seen any demonstration, or attempted demonstration, toward any of these defendants?

A. Absolutely none; a good deal of curiosity but not hos-[fol. 80] tile demonstration.

Q. Your judgment that crowd here was here out of curiosity?

A. That is right.

Q. And not as a hostile demonstration toward these defendants?

A. That is right.

Mr. Bailey: That is all.

The Court: Anything else for the defendants?

Mr. Roddy: That is all, Your Honor.

The Court: Anything further for the State?

Mr. Bailey: No, sir, we don't care to offer anything further. Now, was our objection to the newspaper articles noted.

The Court: Well, the motion is overruled, gentlemen.

Mr. Roddy: We want to except to Your Honor's ruling.

The Court: Yes, I will give you an exception. Let the motion be filed Mr. Clerk—I will give you an exception to it Mr. Roddy.

The Court: Now, is the State ready to go ahead?

Mr. Bailey: Will your Honor have our witnesses called; we have some we are not sure about.

The Court: Call the State's witnesses, Mr. Clerk.

(Witnesses called by the Clerk for the State.)

Mr. Roddy: Your Honor please, it is about twelve o'clock and we have a motion in here about the trial of these boys under the age of sixteen years.

The Court: Well, we will see which one we will try first.

Mr. Roddy: We can show their ages to the court.

The Court: We will see about it when we get to it. What says the State?

Mr. Bailey: The State is ready for trial.

The Court: Which one do you want to try first, Solicitor?

Mr. Bailey: Is there a severance demanded?

Mr. Roddy: No, sir, we don't demand a severance.

The Court: No severance is demanded? Now, do you want to try them all?

Mr. Bailey: The state demands a severance, and we will try under the first joint indictment, Clarence Norris, Charley Weems and Roy Wright first.

Mr. Roddy: If the court please, I would like to inquire about these two boys that are under the age of 16.

The Court: Are they in that group?

[fol. 81] Mr. Bailey: Roy Wright is, yes, sir.

The Court: Do you want a severance as to this young one who claims he is under age?

Mr. Bailey: This is a matter with the court.

The Court: I understand, but that procedure will delay the procedure in the other cases.

Mr. Bailey: I would like to take up the question of his age first.

The Court: I think, if you can, you ought to proceed with the others.

Mr. Roddy: We are willing to offer proof of the age of these two boys.

The Court: I understand, but I don't want to take that up now. I want to proceed with the others.

Mr. Bailey: As long as this age is not presented to the court we want to proceed.

Mr. Roddy: Before these boys are placed on trial, we would like for your Honor *ot* pass on that.

The Court: I will pass on that but we can do that possibly some night when we are not engaged up here with the jury, of course that is a matter if it is raised it comes up to be passed on here first.

Mr. Bailey: Then we will proceed as to the other two.

The Court: What are the names of the other two, Solicitor?

Mr. Bailey: Charley Weems and Clarence Norris, alias Clarence Morris.

Mr. Roddy: All right, call our witnesses.

(Witnesses called by the Clerk for the defendants.)

Mr. Roddy: We want our witnesses, if the court please, or know that we can get them.

The Court: Do you want an attachment for the ones that do not answer?

Mr. Rody: Yes, sir.

The Court: I expect it would not be right to attach Mr. Amos; he is in mighty bad health and I don't expect I ought to give it as to him.

Mr. Roddy: We don't want to impose a hardship on anybody, if the court please, but we want our witnesses here; all we want to know is that the witnesses can be had before we announce ready for trial.

The Court: Have these witnesses been served?

The Clerk: Yes, sir.

The Court: Who are the other two? I will give you a showing for Mr. Amos, of course. I know his condition. Who else besides Mr. Parrish that did not answer? [fol. 82] Mr. Thompson: Mr. Riddick and Water Sanders did not answer.

The Court: Have they been served?

Clerk: Yes, sir.

The Court: Do you want an attachment for these witnesses?

Mr. Moody: Yes, sir; we would like to get them here; if we cannot get them here, then we would like to have a showing for them.

The Court: I expect every one of them on a telephone call would come. Sheriff, at the noon hour, you call these witnesses, and I expect they will come right on.

(Court adjourned for noon recess.).

The Court: All right, let's go ahead.

Mr. Roddy: Your Honor, we were talking with the defendants out here and if your Honor will grant me a few minutes time I might simplify these matters, I want to be of all the help I can with the Court and very one concerned but there are some very material facts in the case, I have no motive in this world in appearing down here except to get the absolute truth about this matter and if your Honor will indulge me a few minutes——

The Court: All right, go ahead as far as you can.

Mr. Roddy: It will take me ten or fifteen minutes.

The Court: What says the defendants now, Mr. Roddy?

Mr. Roddy: We don't know your Honor please about our witnesses?

The Court: What about the witnesses Mr. Sheriff—all right gentlemen, if we don't get the witnesses here I will allow you a showing for them, is that all right?

Mr. Moody: Yes, sir.

Mr. Bailey: Subject of course to legal objections.

The Court: All right, Sheriff, now call the jurors.

(Jurors called by the Sheriff and qualified by the Court and a list made up containing the names of 72 qualified jurors from which to strike the jury.)

Defendants Charley Weems and Clarence Norris arraigned and plead not guilty.

Indictment read to the jury by the Solicitor and the defendants by their counsel plead not guilty thereto.

Witnesses sworn by the Clerk and on motion of the State are put under the rule, except as to the other defendants not on trial excused from the rule by the Court.

[fol. 83] Affidavit of T. W. Killough

STATE OF TENNESSEE,
County of Hamilton, ss:

I, T. W. Killough, Clerk of the County of Hamilton, State of Tennessee, (and a Court of Record of the aforesaid County, having by law a seal) do hereby certify that J. B. White, Esquire, whose name is subscribed to the attached certificate of acknowledgement, proof, or affidavit, was at the time of taking said acknowledgment, proof or affidavit, a Notary Public, duly commissioned and sworn and residing in said County, and was, as such, an officer of said State, duly authorized by the laws thereof to take and certify the same, as well as to take and certify the proof and acknowledgement of deeds and other instruments in writing to be recorded in said State, and that full faith and credit are and ought to be given to his official acts; and I further certify that I am well acquainted with his handwriting and verily believe that the signature to the attached certificate in his genuine signature.

In witness whereof I have hereunto set my hand and affixed my official seal this 2nd day of May, 1931.

T. W. Killough, Clerk, by Margaret Orell, D. C.
(Impression seal "Hamilton County Court seal,
Tennessee", here attached.)

Affidavit of Judge Cummings

County Court Room

STATE OF TENNESSEE,
Hamilton County:

Chattanooga, Tenn., May 2, 1931.

I, Will Cummings, sole and presiding Judge of the County Court of said County, certify that T. W. Killough,

who gave the foregoing certificate, is now and was at the time of signing the same, Clerk of said Court, and that said Court is a Court of Record, and that his attestation is in due form, and his official acts, as such, are entitled to full faith and credit.

Witness my hand this 2nd day of May 1931.

Will Cummings, Judge. (Seal "Hamilton County Court seal, Tennessee," herewith attached.)

[fol. 84] STATE OF TENNESSEE,
Hamilton County:

I, T. W. Killough, Clerk of the County Court of said County, certify that Hon. Will Cummings, whose genuine official signature appears to the above and hereto annexed certificate, is, and was at the time of signing the same, sole and presiding Judge of the County Court in and for the County and State aforesaid, duly commissioned and qualified, and that all his official acts, as such, are entitled to full faith and credit.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court, at this office, in the City of Chattanooga, this 2nd day of May, 1931.

T. W. Killough, Clerk, by Margaret Orrell, D. C.
(Seal "Hamilton County Court seal, Tennessee," here attached.)

[File endorsement omitted.]

EXHIBIT TO AMENDED MOTION FOR A NEW TRIAL—SECTION 12
ABOVE

IN CIRCUIT COURT OF JACKSON COUNTY, ALABAMA, SPECIAL
SESSION, 1931

No. 2402

STATE OF ALABAMA

vs.

CHARLEY WEEMS and CLARENCE NORRIS, Alias CLARENCE
MORRIS

Appearances:

H. G. Bailey and Proctor & Snodgrass, Attorneys for
State.

Stephen W. Roddy and Milo Moody, Attorneys for Defendants.

This cause coming on to be heard was tried on this 6th day of April, 1931, before his Honor A. E. Hawkins, Judge Presiding, and a jury, when the following proceedings were had and done, to-wit:

The Court: All right, the first case Solicitor is the case of State vs. Haywood Patterson, et als., what says the State?

[fol. 85] Mr. Bailey: We are ready if the court please.

Mr. Roddy: If the court please, I am here but not as employed counsel by these defendants but people who are interested in them have spoken to me about it and as Your Honor knows I was here several days ago and appear again this morning, but not in the capacity of paid counsel.

The Court: I am not interested in that, the only thing I want to know is, whether or not you appear for these defendants.

Mr. Roddy: I would like to appear along with counsel that your Honor has indicated you would appoint.

The Court: You can appear if you want to with the counsel I appoint but I would not appoint counsel if you are appearing for them that is the only thing I am interested in—I would like to know if you appear for them.

Mr. Roddy: I would like to appear voluntarily with local counsel of the bar your Honor appoints; on account of friends that are interested in this case I would like to appear along with counsel Your Honor appoints.

The Court: You don't appear if I appoint counsel.

Mr. Roddy: I would not like for Your Honor to rule me out of it.

The Court: If you appear for these defendants, then I will not appoint counsel; if local counsel are willing to appear and assist you under the circumstances all right, but I will not appoint them.

Mr. Roddy: Your Honor has appointed counsel, is that correct?

The Court: I appointed all the members of the bar for the purpose of arraigning the defendants and then of course I anticipated them to continue to help them if no counsel appears.

Mr. Roddy: Then I don't appear then as counsel, but I do want to stay in and not be ruled out in this case.

The Court: Of course I would not do that——

Mr. Roddy: I just appear here through the courtesy of Your Honor.

The Court: Of course I give you that right; well are you all willing to assist?

Mr. Moody: Your Honor appointed us all and we have been proceeding along every line we know about it under your Honor's appointment.

The Court: The only thing I am trying to do is, if counsel appears for these defendants I don't want to impose on you all, but if you feel like counsel from Chattanooga——
[fol. 86] Mr. Moody: I see his situation of course and I have not run out of anything yet, of course if Your Honor proposes to appoint us, Mr. Parks, I am willing to go on with it. Most of the bar have been down and conferred with these defendants in this case, they did not know what else to do.

The Court: The thing, I did not want to impose on the members of the bar if counsel unqualifiedly appears; if you all feel like Mr. Roddy is only interested in a limited way to assist, then I don't care to appoint——

Mr. Parks: Your Honor, I don't feel like you ought to impose on any member of the local bar if the defendants are represented by counsel.

The Court: That is what I was trying to ascertain, Mr. Parks.

Mr. Parks: Of course if they have counsel I don't see the necessity of the court appointing anybody, if they haven't counsel, of course, I think it is up to the court to appoint counsel to represent them.

The Court: I think you are right about it Mr. Parks and that is the reason I was trying to get an expression from Mr. Roddy.

Mr. Roddy: I think Mr. Parks is entirely right about it, if I was paid down here and employed it would be a different thing, but I have not prepared this case for trial and have only been called into it by people who are interested in these boys from Chattanooga. Now, they have not given me an opportunity to prepare the case and I am not familiar with the procedure in Alabama, but I merely came down

here as a friend of people who are interested and not as paid counsel, and certainly I haven't any money to pay them and nobody I am interested in had me come down here and pay counsel. If they should do it I would be glad to turn it over to counsel, but I am merely here at the solicitation of people who have become interested in this case without any payment of fee and without any preparation for trial and I think the boys would be better off if I step entirely out of the case according to my way of looking at it and according to my lack of preparation of it and not being familiar with the procedure in Alabama, and whatever might come from people who have spoken to me will go to these counsel. I don't know what they will pay and cannot make any statement about it, I don't know a thing about it. I am here just through the courtesy of Your Honor, if your Honor will extend me that courtesy. I have talked to these gentlemen about the matter and they understand the situation and the circumstances under which I am here, and I would like for Your Honor to go ahead and appoint counsel. I understand how they feel about it.

[fol. 87] Mr. Parks: As far as I am individually concerned, if I represent these defendants, it will be from a high sense of duty I owe to the State and to the court and not to the defendants. I could not take the case for a fee because I am not practicing in the general court to any extent. I am a member of the bar and I could not refuse to do what I could for the court if the court saw proper to appoint me.

The Court: I understand your situation, Mr. Parks, just an officer of the court trying to do your duty under your oath. That is what I am trying to find out from Mr. Roddy, if he appears as counsel for the defendants I don't think I ought to appoint counsel. If he does not appear, then I think the members of the bar should be appointed.

Mr. Roddy: If there is anything I can do to be of help to them I will be glad to do it, I am interested to that extent.

The Court: Well gentlemen, if Mr. Roddy only appears as assistant that way I think it is proper that I appoint members of this bar to represent them, I expect that is right. If Mr. Roddy will appear I wouldn't of course, I would not appoint anybody. I don't see, Mr. Roddy, how I can make a qualified appointment or limited appointment;

of course I don't mean to cut off your assistance in any way—well, gentlemen, I think you understand it.

Mr. Moody: I am willing to go ahead and help Mr. Roddy in anything I can do about it under the circumstances.

The Court: All right, all the lawyers that will, of course, I could not require a lawyer to appear if—

Mr. Moody: I am willing to do that for him as a member of the bar, I will go ahead and help do anything I can do.

The Court: All right.

On the 6th day of May, 1931, the defendants, separately and severally, filed in said cause a petition, which said petition is in words and figures as follows, to-wit:

IN CIRCUIT COURT OF JACKSON COUNTY

No. —

THE STATE OF ALABAMA

vs.

HAYWOOD PATTERSON et al., Defendants

[fol. 88] PETITION OF CLAUDE PATTERSON ET AL.

To the Honorable E. A. Hawkins, Judge of the Circuit Court of Jackson County, Ala.:

The petitioners, Claude Patterson, Ada Wright, and Mamie Williams most respectfully show unto the court that Claude Patterson is the father of Haywood Patterson, and that Ada Wright is the mother of Roy Wright and Andy Wright, and that Mamie Williams is the mother of Eugene Williams and that these petitioners employed George W. Chamlee, attorney-at-law, of Chattanooga, Tennessee, to represent their boys in the case of the State of Alabama vs. Haywood Patterson et al., pending in the Circuit Court of Jackson County, Alabama, and which they desire to be appealed from that court to the Supreme Court of the State of Alabama, in the event a new trial is not granted Haywood Patterson, and if a new trial is granted for him, the