

( )  
SUPREME COURT OF THE UNITED STATES  
OCTOBER TERM, 1931

No.

CHARLEY WEEMS AND CLARENCE NORRIS,  
PETITIONERS,

*vs.*

STATE OF ALABAMA

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

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[fol. 1]

[Caption omitted]

**IN CIRCUIT COURT OF JACKSON COUNTY**

No. 2402

THE STATE OF ALABAMA

vs.

CHARLEY WEEMS and CLARENCE NORRIS

INDICTMENT—Filed March 31, 1931

THE STATE OF ALABAMA,  
Jackson County:

CIRCUIT COURT, SPECIAL MARCH TERM, 1931

The Grand Jury of said County charge that before the finding of this Indictment, Haywood Patterson, Eugene Williams, Charlie Weems, alias Charles Weems, Roy Wright, alias Ray Wright, Ozie Powell, Willie Roberson, Andy Wright, Olen Montgomery and Clarence Norris, alias Clarence Morris, whose names to the Grand Jury are 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 March Term, 1931. The State vs. Haywood Patterson, et als. Indictment. Rape. No Prosecutor. Witnesses: Ruby Bates, Victoria Price, Arvell Gilly, Dr. R. R. Bridges, Dr. Linch, C. M. Latham, C. S. Broadway, C. F. Simmons, Tom Taylor Rousseau, Jim Broadway. A true bill. J. N. Ragsdale, Foreman Grand Jury.

[File endorsement omitted.]

IN CIRCUIT COURT OF JACKSON COUNTY

No. 2402

WRIT OF ARREST

STATE OF ALABAMA,  
Jackson County:

CIRCUIT COURT

To any sheriff of the State of Alabama, Greeting:

An indictment having been found against Haywood Patterson et als., at the Special Session, 1931, of the Circuit Court of Jackson County, for the offense of Rape.

You are therefore commanded forthwith to arrest the said Haywood Patterson, et als., and commit them to jail, unless they give bail to answer such indictment at the said Circuit [fol. 2] Court of Jackson County, in the sum of — Dollars.

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

C. A. Wann, Clerk.

Executed by arresting the within named defendants and committing them to jail. March 31, 1931.

M. L. Wann, Sheriff.

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IN CIRCUIT COURT OF JACKSON COUNTY

No. 2402

THE STATE

vs.

HAYWOOD PATTERSON et als.

JUDGMENT ENTRY

April 6, 1931, Comes H. G. Bailey, Solicitor, who prosecutes for the State of Alabama, in this behalf and also came Charlie Weems and Clarence Norris, indicted with Haywood Patterson, et als., and the said Charlie Weems and Clarence Norris demands a severance in this case and the same is granted and the defendants in open Court and by their attorneys of record file a motion for a change of venue and the same is overruled and the defendants except.

April 6, 1931, the said defendants being duly arraigned by having the indictment read over to them and for their plea thereto say they are not guilty: Issues then being joined there came a jury of good and lawful men, to-wit: John N. Coffey and eleven others who being empaneled and sworn, according to law, upon their oaths do say:

“We, the jury, find the defendants guilty as charged in the indictment and fix their punishment at death.

(Signed) John N. Coffey, Foreman.

And the said defendants the said Charlie Weems and Clarence Norris, being in open Court on the 9th day of April, 1931, and being asked by the Court if they had anything to say why the sentence of the law should not now be pronounced upon them, each of them separately and the said defendants say 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 defendants the said Charlie Weems and Clarence Norris 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. Defendants appeal to Supreme Court and sentence suspended pending said appeal.

April 18, 1931, the Clerk of this Court did write death warrants for the said Charlie Weems and Clarence Norris and the same directed to the Warden of Kilby Prison commanding him to fail not in executing the said sentence and make his return as to how and when he executed the same.

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[fol. 3] IN CIRCUIT COURT OF JACKSON COUNTY

No. 2402

THE STATE OF ALABAMA

vs.

CHARLEY WEEMS and CLARENCE NORRIS

**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 6th 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 6th day of April, 1931, the defendants Charley Weems and Clarence Norris, filed in said cause their petition for a change of venue, said petition being also signed by other defendants, and a severance as to the defendants in this cause, to-wit: Charley Weems and Clarence Norris, 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 publication- are hereto attached, marked 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.

[fol. 4] 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. Alen (his X mark) Montgomery. Clarence (his X mark) Norris.

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

C. A. Wann, Clerk Circuit Court.

[File endorsement omitted.]

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

EXHIBIT "A"

Jackson County Sentinel

Scottsboro, Ala., March 26, 1931.

Nine negro men rape two white girls, charge.

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 — called here and escorts prisoners to Gads-  
den for safe keeping until Tuesday.

Two girls and seven white boys were attacked by ne-  
groes as freight train left Stevenson; girls from Hunts-  
ville.

Case has no parallel in crime history. Assault took place  
in mid afternoon as freight train sped through this county.  
[fol. 5] Special term of Grand Jury and court called for  
next Monday and April 6th.

This afternoon (Thursday) eleven National Guard offi-  
cers and seventy Guardsmen are on their way to Gadsden,  
Alabama, escorting nine negro men to jail at that city  
for safe keeping. Every one of the nine blacks is charged  
with raping one or both of two white girls they held  
prisoners 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 19 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 Carter and Orville Gilley. All of these white men gave addresses in other states except Gilley, who stated his home was at Albertville 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, 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 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 ones 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 [fol. 6] white boys, the two girls and seven white boys — 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.

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 plead 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 Gunter'sville, 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 [fol. 7] 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 County

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 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 in 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 [fol. 8] and be a part in keeping peace in this time when it is hard to be law-abiding.

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.

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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 Charge 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.

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 nine negroes. There were nine individual indictments against the negroes for the alleged rape of Victoria Price, 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.

#### 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, [fol. 10] 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 Guntersville, 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 in the night and his men had to be notified at their homes in many parts of Marshall and Etawah 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, [fol. 11] Olalee, C. C. Allen, Olalee, A. L. Starkey, Hollywood, Wade S. Rowe, Pisgah, Will G. Sartin, Pisgah, 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, Scottsboro, Tom W. Flowers, Scottsboro, L. D. Dean, Scottsboro, J. Exum Sumner, Scottsboro, John L. Staples, Scottsboro, J. W. Austell, Scotts-

boro, 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. Scroggins, 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 reported 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, Jno. 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 Clunn, 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.

(Here follows picture from Jackson County Sentinel, side  
folio 12)



SCOTTSBORO, ALA., APRIL 3, 1931.

**ALLEGED NEGRO ATTACKERS AND THEIR VICTIMS**



Pictured above are the nine negroes indicted on a charge of raping two white girls after they had thrown the white boy companions of the girls off a Southern freight train between Stevenson and Scottsboro Wednesday of last week. In the photo the negroes are seen guarded by soldiers with automatic rifles and riot guns.

Below is a photo of the two girls, Ruby Bates, 17, and Victoria Price, 20, who accuse the nine negroes of rape. These girls identified all of the negroes pictured above as attacking them.



15A

[fol. 12½]

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 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. Everybody is urged to keep down any and all friction with the troops. They are nice, gentlemanly [fol. 13] 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.

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### 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.

[fol. 14] 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 beast 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 and 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.

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### 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 have confessed that 12 of them attacked two white 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.

[fol. 15] 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.

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Defendant separately and severally offered in evidence, in support of their 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, defendants separately and severally 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:

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?

Defendants separately and severally 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 defendants separately and severally [fol. 16] 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.

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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 [fol. 17] twenty-five enlisted men and two officers from two of my companies to bring these defendants over for arraignment. I received the call — 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 or-



ders 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 but no hostile demonstration. In my judgment, the crowd here was out of curiosity, and not as a hostile demonstration toward these defendants.

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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.

[fol. 18] ORDER OVERRULING 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 disallowed. 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 defendants duly excepted to the action of the court in dismissing their petition for a change of venue.”

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Upon motion of the State, the court granted a severance as to the defendants in this case, to-wit: Charley Weems and Clarence Norris, and this case proceeded against said defendants. After a jury had been struck to try this case the following proceedings were had:

VICTORIA PRICE, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

My name is Victoria Price. I live at Huntsville, Alabama. I am twenty-one years old. I was before the grand jury at this term of the court here a few days ago. Before that on Wednesday, the 25th day of March of this year, I was on a freight train — through Jackson County. I got on that train at Chattanooga. Ruby Bates was with me on that train. There was someone else. I saw these two defendants, the two sitting right over there, on that train. The train was right this side of Stevenson in this county when I first saw them. The train was traveling from Chattanooga. These defendants, Charley Weems and Clarence Norris, were coming over the train when I first saw them. I was riding on a gondola car. That is a car with no top on

it. It has sides on it. I was inside of that car. That car was loaded with chert or gravel. It was not full to the top with chert or gravel. It lacked two or three feet on each side being full. When I first saw these defendants they were coming over the top of the train; they were coming over the top of the box car next to the gondola, into the gondola which I was in. There were some other negroes with these defendants. Twelve of them, all negroes, came over the top of that car. I know which was the first one that got down into the car in which I was riding; it was one of these defendants, the one sitting right over there, Charley Weems. He had the pistol, a .45. He was the first one that jumped over in the car, and he said "unload." He had that pistol in his hand. Two of the others also had pistols. I don't think I saw Clarence Norris with a pistol. He did not have a pistol. When they came into the car I was in, Clarence Norris asked me if I was going to put out. The one [fol. 19] that had the gun picked me up in his arms and said he was going to throw me out of the gondola. He got me by the leg and by the ankle and slung me back in the gondola and picked me up like he was going to throw me out of it. Then Clarence Norris grabbed me and had sexual intercourse with me. His private parts penetrated my private parts on that occasion. He absolutely had intercourse with me there in that car. At the time, Norris was having intercourse with me the defendant Weems had a knife on my throat. He had one of his hands on my face and the other hand with his knife, so I could not holler. He would not let me raise up. I struggled, hollered and screamed. Some of the other defendants were standing around at that time. The little one, the smallest one, was holding my legs. That train stopped at Stevenson and in Paint Rock. It did not stop between Stevenson and Paint Rock. One of these defendants, Clarence Norris, pulled my overalls off me, and had intercourse with me. The other one helped him; he held me while the other one pulled my clothes off. He took my overalls off and pulled my step-ins off me, pulled them apart. I did not afterwards put my clothes on before I got to Paint Rock. My clothes were not on until I got there, until just before the train stopped; my clothes were not on good when it stopped. When the train stopped at Paint Rock, I was lying there and I got up and fastened my clothes on me and got up on the side of the gondola and climbed

off and I liked one step of going to the ground, and I didn't remember anything for about an hour after I got off the car. That occurrence happened between Stevenson and Paint Rock, while the train was traveling, going fast, between those two points. I don't know about the territory I was in, but about ten minutes after we left Stevenson, they came over the car. There were twelve of them, and these defendants were among the twelve. There were seven white boys, all of whose names I could not call, were in this car when these negroes came over. They were in there before the negroes got in there. Ruby Bates was in there. There was no relative of her's along and no blood relative of mine along. There was not a boy traveling with me.

Cross-examination :

I got on that freight train at Chattanooga, Tennessee. Ruby Bates was with me when I boarded that freight train. She is single. I am single. I have been married. My husband and I are not divorced. I do not know where he is now. I have not seen him in nearly a year. He was in Huntsville when I last saw him. I live in Huntsville.

[fol. 20] Defendant's counsel thereupon propounded to the witness the following question :

Q. Did you leave him at Huntsville?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further :

I married my husband the 18th of last December, a year ago. I have seen him once in a year. That was in Huntsville. I have not been keeping up with how many days ago that was. It has been about a month, not hardly a month, when I saw my husband last. He was leaving for New Orleans the last time I saw him. I have not seen him since and don't know where he is now. I don't reckon he is in Huntsville. My home is in Huntsville. I was not born and raised in Huntsville. I was born and raised near Fayetteville, Tenn.

Counsel for defendants thereupon propounded to the witness the following question :

Q. How long had you known your husband before you married him?

The State objected to the question, the court sustained the objection, and to this ruling of the court the defendants separately and severally reserved an exception.

The witness testified further:

I went to Chattanooga on Tuesday before I came back Wednesday. I just stayed up there one night. I went from Huntsville to Chattanooga. I stayed at Chattanooga that night on 7th Street at Mrs. Brochie's. I was with this young lady at that time. I was not dressed in overalls when I went to Chattanooga. I got them at home. We took off our dresses and put on overalls to keep from getting hurt. We intended to board the freight train. We went up there on a freight. We did not have any money. I went to Chattanooga for the purpose of getting a job and I looked for a job. I just stayed there one night. This lady I went to see took me over to every mill in Chattanooga. I got to Chattanooga when the freight went in there Tuesday night. I got in between seven and eight, about seven-thirty, at night. I left Chattanooga on the morning freight, the next morning. I went to every mill in Chattanooga and this girl went with me. Mrs. Brochie took me to these mills. She lives in Chattanooga on 7th Street. I went to Mrs. Brochie's because she was a friend of mine. Callie is her first name. She is married. I asked a boy where she lived and he said she lived on 7th Street. I don't know what boy that was. I met him on the sidewalk in Chattanooga. I don't know who he was. He was [fol. 21] not a friend of mine; well, one way he was, or he would not have told me where she lived. I had not know him before. I asked him did he know where Mrs. Callie Brochie lived and he said "Yes," and I said "Will you please tell me?" and he said "Yes, she lives on 7th Street." I went to Chattanooga on a freight, in a box car. I had on overalls when I went into Chattanooga, and so did the other girl. I ran up on this boy on the street and he said he knew Mrs. Callie Brochie. He did not take me out to the house. He told me she lived in the fourth house on 7th Street and I went to the fourth house. I don't know how many blocks that is off Market Street. I walked up

to her place on 7th Street. I went three or four blocks. I did not go a mile from where I got off the box car to Mrs. Brochie's. I went four or five blocks. I did not count them. I walked, but I do not know what number. I don't know whether it was the 100 or the 200 block. I could not tell you whether I went east or west from Market Street. We left Mrs. Brochie's house between six and seven o'clock the next morning going to the mills. I left Chattanooga when the freight left there. I did not have a watch. It was between 11:30 and 12:00 or 12:30 o'clock. I visited two mills during the morning and got on the train between 11:30 and 12:00 or 12:30. I did not have on overalls when I went to apply for jobs. I had on a dress. I put on my overalls in Huntsville when I went to Chattanooga. I did not wear overalls during the time in Chattanooga. I had never been to Chattanooga before. I have never been to Scottsboro before. I was not in company with any white men on that trip. I saw some white boys. There were some white boys in that car box as we went up, but we did not talk to them. They were sitting in one end and we were in the other. There were not any white boys in the box car with us when we got on in Chattanooga. This woman I spent the night with in Chattanooga went to the depot with me. I went from the depot down where the train takes water. I did not get on any box car coming back out of Chattanooga. I got on an oil tank coming back to Stevenson, and from Stevenson to Paint Rock I was in a gondola. That is an open car. There was gravel in the bottom of it. I did not see any cement. In the lower end of the gondola we were in, there were seven white boys. We were in the oil tank when I first saw the white boys. One of them went with us from the oil tank down to the gondola and helped us in the gondola. We asked him to and he helped us. [fol. 22] They were sitting on the lower end and they came on down and got in and they were sitting in the lower end and Ruby Bates and I started to get out and we thought we would stay in there, and they started singing and one of the black boys came over. The colored boys told us to unload and I told them they did not have any business in there. All the negroes had knives and guns and things and they were drawing and slashing around there and a part of the white boys got out and a part were knocked off. The white boys did not have time to say anything to the

colored boys. Twelve of the colored boys came into that gondola. All of them came over at the same time. I must have counted them or I wouldn't have known how many there were. I counted twelve negro boys as they came over the top of the car. I was not excited at that time. It did not scare me. I don't reckon there was any fight started between the white boys and the colored boys. The white boys and the colored boys did fight in the gondola, where we were. They were trying to defend us, trying to help us out. These colored boys came on over there and ordered the white boys out, saying they going to shoot. The white boys did not say anything. The colored boys came over and said "All you sons-of-bitches unload." The colored boy sitting there behind defendants' counsel said "unload." I don't know his name. Then he knocked one of the white boys in the head with a gun. Both of these boys here did not have guns. The one sitting there had a gun. I don't know his name. I know another colored boy had a gun but I cannot point him out. I said there were two guns, and I still say two guns. I don't know the name of the other one that had a gun. They must have pointed a gun at me. They hit me on the head with it. When they came over they were getting the white boys off first. They knocked two white boys in the head with guns, not with their fists. They must have hit them with the butt of the gun. I know that one yonder hit him with the butt of it because I seen him hit him with the butt of it, and when he jumped over in the gondola and grabbed me by the leg he threw me down in the gondola and put a knife against my face. There was one white boy on the car that seen the whole thing, and that is that Gilley boy. I surely know which one of the other negroes had a gun. I know his old mug. I don't know his name. Yonder he sits (indicating) right through yonder. I don't know his name, but I am pointing my fingers at him. I am sure about that. He had the gun in his hand. The other one that had a gun is sitting right there (indicating). Those guns were going so fast in there I could not tell whether there were only two that drew their guns on me. There were only two guns I seen and the rest had [fol. 23] pocket knives. Every one of the negroes had pocket knives. Every one of them had their knives open. I did not say they had their knives sticking at me. I said they had them in their hands. If they had wanted to cut

me they could have. The other girl was standing right there with me. They made these white boys get out, all except one. They made them get out with the guns. Two of the boys jumped off the gondola, and the other jumped off; they made them get off. I just met the white boys on the train. A part of the white boys jumped off immediately when those negroes came over. A part of them were made to get off and the other two were knocked off. There were seven white boys, and one of them was left on the gondola and seen the whole thing through with. Two of the white boys fell off when the negroes knocked them in the head with pistols, immediately when they came over. One was lying down flat on his stomach and the negro walked up and hit him in the head and when he hit him in the head he said "Get off, you son-of-a-bitch." They left one white boy in that car because the train was going so fast that he thought it would kill him if he jumped off and he came back and they pressed a knife on his throat there in the corner, and he watched all of them do the work. These negroes made six of the white boys get off the train. The other one must not have gotten off because he didn't want to get killed. He wouldn't get off because he was young and he would have fallen if he had jumped off the train going at a high rate of speed. The others got off but they got skinned up pretty bad too. All seven white boys were on this train when it left Chattanooga. We were all on the same car. We had spoken a few words with the white boys, but that wasn't in no loving conversation. It was about ten minutes after we pulled out of Chattanooga when I first saw these negroes coming from the oil tank into the gondola. I don't know where these colored boys boarded the train. I don't recall that. I put on my overalls in Chattanooga. We had the overalls on over our dresses. I had a dress under my overalls. The other young lady and I did not carry the overalls. We wore them. I did not wear them while I was in Chattanooga. We carried them for the purpose of riding freight trains. When Thurman, the one that got knocked in the head, climbed out of the gondola and fell, he looked back and seen the one sitting behind defendants' counsel grab me by the leg and jerk me back in the gondola. He must have told me to take off my clothes. He didn't tell me to keep them on. He said "Are you going to put out?" and I said "No, sir, I am not," and he



said "You will or die." I suppose I knew what he meant [fol. 24] when he asked me if I was going to put out. I told him "No, sir, I wasn't," and I said "I will die before I will," and when he threw me out of the car I commenced screaming and he put me back in there and stretched a knife on my face. There wasn't but one white boy in there and twelve negroes and I began to scream and they wouldn't let me scream; they kept a hand in my mouth. That one there (indicating) took my clothes off of me. It took two of them to take my clothes off and took three of them to ravish me, and they wouldn't have if they hadn't had knives and guns. The other negroes had the other girl that was with me, over there. I couldn't tell you who the other negroes were that ravished her at that time. I don't know the ones that was over there with her. I know those negroes were taking the other girl's clothes off, but I don't know their names. I don't know them for sure. I will not be positive about them. I know how many there were; she had three. I had six. Three of hers got away; I reckon they got away. I said there was six of her's, but three got away. There were six to me and three to her, and three of her's got away. It took three of them to hold me. I said one was holding my legs and the other had a knife to my throat while the other one ravished me. It took three of those negroes to hold me. I took two to hold me while one had intercourse. The one sitting behind defendants' counsel took my overalls off. My step-ins were torn off. I did not say they were taken off. This negro boy tore them off. He held me while he took them off. Six of them had intercourse with me. The one sitting there (indicating) was the first one. I don't know the name of the next one. I suppose I know them when I see them. I can surely point out the next one. Yonder he sits, yonder (pointing). That boy had intercourse with me. The third one was the little bit of one; yonder he is (pointing). He held my legs while this one and that one ravished me and then he took my legs again. I just showed you the third one that had intercourse with me. Yonder sits the fourth one that had intercourse with me. I don't know his name. All I can do is point him out. That boy was the fourth. That one (indicating) is the fifth one that had intercourse with me. The sixth one, is sitting there behind defendants' counsel. He was the sixth one, the last one that ravished me. I didn't have

a watch and I couldn't tell you how long it took for six of them to ravish me. I don't know how much time elapsed, but it seemed like two hours or three hours. They would not let me up between times, not even let me up to spit. I must have tried to spit. I had snuff in my mouth. They [fol. 25] did not all run away when they got through. They were in the gondola when the train stopped for Paint Rock. When one negro got through having intercourse, he just stood there. My body was not bare. I did not say anything about my body being bare. They left our dresses on; just took off our overalls and step-ins. I did not have on that dress I am now wearing. When one got through the other would step up and lay down with me. I don't reckon I scratched any of them or put any marks on any of them. I offered resistance. I fought back at them. I would try to get up and he would not let me. He would put that knife on my face. Just one boy had a knife on my throat all the time. One boy held the knife on my throat until he was the last one. That was the one sitting behind defendants' counsel. He was the last one that held the knife there while all six of them, including himself, had intercourse with me. He was the last one. As the rest of them finished they just stood around there and watched. When they got through with me they were still in there, telling us they were going to take us north and make us their women or kill us one and we told them then that they would kill us then; that we were getting off at Huntsville, and they said they would throw us in the river. Paint Rock is where I left the train. The first one I knew when I came to myself in Paint Rock was my girl friend Ruby. I reckon I was unconscious. I did not know anything. My back was bruised up and I was "chiked" and everything else. He knocked me to my knees, got me entirely down; he asked me to lay down; he threw me down. He must have had to throw me down. I know he did. My back was beaten up. The one that had the knife on me bruised me up. This other girl was on one end of the gondola and I was on the other, just within a few feet of each other. I don't know whether we were in about two feet of each other. I knew what was going on with her. This girl and I did not say anything to each other while this was going on. I could not talk. They would not let us talk. I said something to these boys. We begged them to quit and they

wouldn't do it. I was begging them to quit. They did not beat me unconscious. I did not say they beat me unconscious. I was unconscious when I got off the train at Paint Rock. When I came to myself I was sitting in a store. I don't know who took me off. It was a grocery store. It was not a drug store. I know where I was taken from the grocery store and who took me. I was taken to the jail at Mr. Wann's here in Scottsboro, and I have been there ever since. I know who took me off the train. I took myself [fol. 26] nearly off it and I fell the rest of the way. The officers did not come in this gondola and get me. I climbed up on the side of the gondola myself with Ruby's help and when I got to the last step I fell and when I came to myself, I was sitting in a store. When the train stopped, the colored boys jumped up from where we were and went to running toward the engine. The other girl and I got up and climbed upon the side of the gondola and seen what was going on. All of the people down there were catching those negroes. That was not on account of any complaint of mine. There was a man ran back to the store and called up down there and told them to stop the train. I was not told what the trouble was. I was not told nothing. I know it. I am not making up nothing or hiding nothing. I know it in my own mind and head. I have answered five times who came and got me off this train. I didn't say I was unconscious. I said I was unconscious after I got off the train on the next to the last step. I said I was brought to a store, a grocery store. You will have to find out who took me there. I became unconscious when I fell off the stirrup on the side of the gondola. I lost consciousness and don't know how I got to the store. I was taken to the jail from the store, and I have been in jail since.

Counsel for defendants then propounded to the witness the following question:

Were you ever in jail before?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further:

I don't know any of the police officers in Chattanooga. I do not know the police matron in Chattanooga. This

train, when they started this raping, was on the railroad track, about ten minutes after it left Stevenson. That is not where the first one ravished me; that is where they came over the train at that time. I don't know where I was when this raping started. I don't know anything about measuring the miles. I could not tell you that. I was riding. I know where the train was when the last one of the six completed the intercourse with me; it was about five minutes before the train stopped in Paint Rock; one of them negro boys had to make him get up. Neither one of these boys that ravished me had intercourse with me more than once; just once each. I have pointed out the six boys that had intercourse with me. I must have pointed out all six; it wasn't seven. I absolutely know each one [fol. 27] as they had intercourse with me; if I didn't I wouldn't say they did. I was not unconscious when they got through with me. I did not say I was unconscious. I did not say I was beaten up. I said I was bruised up a right smart. I was ravished to the point that I could not speak; you can call it what you please. I said I had never known the white boys until I got on the train with them. I have not been in trouble at all in Chattanooga. My clothes were not bloody. I wasn't cut up. I wasn't easy. I must have been hurting. I had a doctor to examine me. He did not tell me whether I was alright or not. I did not ask him whether anything was wrong.

**Redirect examination:**

The doctors made an examination of me after this affair there. I was at their office when they examined me, here in Scottsboro. That was just about an hour after this occurrence, an hour to an hour and a half after it happened. They brought me to the jail from Paint Rock.

**Recross-examination:**

The white boys had been in the gondola. I don't know how long they were on the train with us before I saw these negroes. I don't have no idea, but they were on the train in Chattanooga when we got on. There were seven of the white boys. The seven white boys were not with us girls. They were in the car with us, and these negroes came on the car when we got to Stevenson, or just after we had passed

Stevenson. There was a white boy in the gondola all the time the ravishing was going on. The negroes were only with us from ten minutes after the train left Stevenson until we got to Paint Rock, and all this ravishing was done. I was ravished by six different men, and that occurred by six different men from the time we left Stevenson until before we got to Paint Rock.

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DR. R. R. BRIDGES, a witness for the State, having been duly sworn, testified as follows:

I am a practicing physician in this county. I am a graduate of the medical school of Vanderbilt University.

At this point counsel for defendants stated to the court that he would admit the qualifications of the witness as a physician.

The witness testified further:

I know this witness that just left the stand, Victoria Price. On or about March 25th, last, here in Scottsboro, I made an examination of her person. She was at my office when I made that examination. It was about four o'clock or a bit after, I don't remember exactly. There was another physician present the County Health Officer, [fol. 28] Dr. Lynch. I found a few bruises on the body of Victoria Price, in the lower lumbar region, down about the top of the hips, and a few minor scratches on the left arm, I believe, one of the arms, just short scratches. I did not find any other bruises anywhere else on the body. I examined genital organs. There were no lacerations or tears; it did not show any bruises, but it showed the semen, the male germ. I got the semen out of the vagina. We just made a mop smear on a slide and put it under the microscope and examined it under the microscope. I found spermatozoa. That is the male germs. We made examination of the body for bruises and those things. We did not make any further vaginal examination. I could not say that the spermatozoa I found were alive; they were non-motile. In my judgment, from that examination, there

had been an intercourse with a man. This was possibly a little after four o'clock. I did not find any recent lacerations. Victoria Price was not hysterical at all at that time, but she wanted to do a lot of talking. She made complaint to me about the treatment she had received. Ruby Bates was present at the time I made the examination. In my judgment as a physician, from the examination I made of the genital organs of Victoria Price, six men, one right after the other, could have had intercourse with her, without lacerations. That is possible.

#### Cross-examination:

We did not count the spermatozoa we found in the vagina of this woman. One time probably would run from one to three million. A male discharges about a dram to three drams, which is about two teaspoonfuls. A discharge from a male amounts to from one to two teaspoonfuls. From the Price woman there were no spermatozoa in the vagina. We made a smear into the vagina cervix to obtain this. I found spermatozoa in her. The slides were covered with the sperm; you see they are very small. From each male there is from one to two teaspoonfuls. I could not count the spermatozoa I found. You see one time there is probably enough to impregnate two or three million women. We found some in the other girl. We found the spermine in the other girl. That carries the male germs. That is a secretion that comes with the spermatozoa. You have the urethra secretion that comes just before the spermatozoa. That comes from the male. We found spermatozoa in both of these girls; I would call it much in each one, a great amount; in one smear we would find eighteen to twenty in one field. I could not say that these germs were alive at [fol. 29] the time I found them. They were non-motile. We put them on a glass slide. I could not say how long they had been there, but they were non-motile at the time I found them there. The Price girl had a few little blue spots on the back down in the lower lumbar region. They were small. She was not lacerated at all. She was not bloody, neither was the other girl. None was bleeding. The discoloration I speak of was very small. The girls were not hysterical at the office on that examination. I saw them the following morning at the jail for further ex-

amination and they were crying and nervous about it. They did not have anything to say about the white boys other than they were put off. There were no lacerations of recent date about the vagina of either of the girls; there were lacerations of old duration.

Counsel for defendants thereupon propounded to the witness the following question:

Both of these girls admitted to you they had had sexual intercourse previous to this, didn't they?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

Counsel for defendants propounded to the witness the following question:

Q. Both of them told you they had had sexual intercourse, one told you she had been married and the other told you she had been——

The State objected to this question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

Counsel for defendants then propounded to the witness the following question:

Q. From your examination, could you tell whether or not they were subject to intercourse? Were they virgins?

The State objected to this question, the court sustained the objections and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further:

The Bates girl was bruised about the vagina. At the lower end of the vagina on either side in the groin there were two blue places, one on each side, about the size of a nickel, or a little larger, probably. I could not say that intercourse caused that.

Counsel for defendants then propounded to the witness [fol. 30] the following question:

Did you find anything in the vagina that indicated to you these girls had had or might have had gonorrhoea or syphilis?

The State objected to this question, the court sustained the objection, and to this ruling of the court the defendants separately and severally reserved an exception.

Counsel for defendants propounded to the witness the following questions:

Do you know whether or not these girls had gonorrhoea or syphilis?

The State objected to this question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further:

They were not lacerated. They were not bleeding and not hysterical in the afternoon when I saw them.

Redirect examination:

I found marks on the throat of one of them. Mrs. Price if I remember, had a blue place along here (indicating) on the throat. It appeared to be bruised. It was discolored.

Recross-examination:

These girls were not torn and were not bleeding. The lips of one was swollen a bit, I don't remember which.

Redirect examination:

I examined Mrs. Price's breast only by inspection. I don't remember picking it up and palpating it. I did not see anything by looking at it.

Recross-examination:

Counsel for defendants propounded to the witness the following question:

Q. Did these girls admit to you they had been in the habit of having sexual intercourses?

The State objected to this question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

Counsel for defendants then propounded to the witness the following question:



Q. Did this particular one (Victoria Price) or either one of them tell you they were subject to sexual intercourse?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

[fol. 31] The witness testified further:

Mrs. Price stated to me she had been married twice and knew no other man but her husband.

Counsel for defendants thereupon propounded to the witness the following question:

Q. Did the other girl make a statement to you about whether she had ever had sexual intercourse before?

The State objected to this question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

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Dr. M. H. LYNCH, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

I am a practicing physician.

At this point counsel for defendants admitted the qualifications of the witness as a physician.

The witness testified further:

I am head of the health department of Jackson County, Alabama. I know Victoria Price. I was present and made with Dr. Bridges an examination of her person along about March 25th. We took her from the jail to Dr. Bridges' office. We found on Victoria Price the next morning some bruises and scratches on the body. Those bruises on Victoria Price were on the left wrist and the left arm and in the small of her back. We did not examine them for bruises that afternoon; it was the following morning. I made an examination of her vaginal organs. I found no tears or bruises on the vagina of Victoria Price at that time. We took a smear from the vagina and examined that and found

male spermine present, under the microscope. We only got enough semen out of the vagina to make a smear.

I have no idea of the spermatozoa that was in there. There was no comparison with the two. There was more in Ruby Bates than there was in Victoria Price. On Victoria Price we had to take a smear from the vaginal walls, but in Ruby Bates there was, I guess, probably two spoonfuls in the vaginal canal. In my judgment as a physician, from my examination made on Victoria Price, she had had sexual intercourse with some male. It would not hardly be possible to tell how long before that. I could not at all tell the difference in the spermatozoa of a negro and a white man.

Cross-examination:

I would not undertake to say whether these girls had had sexual intercourse immediately after coming out of Chattanooga or after getting down to Paint Rock. I have [fol. 32] no idea how many men had intercourse with these girls. I have no idea about the amount of spermatozoa found in the vagina of these women only to the extent that there was more in one than in the other. I could not tell whether or not the girls had syphilis or gonorrhoea. The girls talked with me about the case. They were not hysterical. There were only scratches and bruises on the backs of these girls. On the arms they were slight and on the neck prominent. One man could have brought about the bruises on the back having intercourse. There was nothing to indicate to me that they were beaten unconscious or into insensibility. The vagina was in good condition on both of the girls. There was nothing to indicate any violence about the vagina.

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TOM TAYLOR ROUSSEAU, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

My name is Tom Taylor Rosseau. I live at Paint Rock. I was present about the 25th of March of this year, in Paint Rock, when the defendants, including these two, were arrested and taken in custody on a freight train or near a

freight train. That was along about the 25th of March of this year. It was some time right after dinner, a little after dinner, that that freight train got to Paint Rock. I saw those defendants over there on or about that train when it stopped. The first time I saw the negroes—of course, I was not close to them enough to recognize their faces—coming out of a sand car. That is the same thing as a gondola car. We took off nine negroes, coming out of a gondola car. I imagine all came off there. That is all I could see. I identify them now. I think I can point out every one of them. I see them over there. I saw these girls, Victoria Price and Ruby Bates in the back end of the car, the same car the negroes came out of. I did not observe the condition of the girls right at that time, until after we removed the negroes from the train, and they all left the train. As the train comes in sight it comes around a curve and runs under a coal chute and was taking on coal when we first went to take them off, and while we were taking them off I noticed one of the girls—I don't know which one it was—raise up out of the car—at that time I didn't know which one it was in there—I seen the girl raise up and go back down and I did not pay any attention to her at all until after we got the negroes off and a white boy came running up. That is all I saw at that time. [fol. 33] I did not see the girls get off the car. I saw Victoria Price a little later. When I saw her at that time they were coming around the depot with her in a chair. She had her eyes closed and was lying over this way and they were bringing her from the depot up to town to the doctor's office. That was Victoria Price. I saw her later one time from where I was at. She was still in the chair. I did not go down to where she was at. She was still in the chair. I did not go down to where she was at. I am familiar with the distance in Jackson County along this railroad. I know where Stevenson, Alabama, is. From Stevenson to Paint Rock, I imagine to be somewhere a little better than sixty miles, somewhere along there. From Stevenson to Paint Rock is in Jackson County along the right-of-way of this railroad.

Cross-examination:

I clerk in the store for my father at Paint Rock. I did not testify that I was on this train. I was just down there

at the station when the train came in. What attracted my attention to this affair is that we were notified over the wire to take them off the train. That is all we knew at that time. I was not notified, but the deputy sheriff was, there. I am not a deputy sheriff. I just went down when I heard about it. The negroes were on the train when they were taken off. The bunch we removed, me and them other fellows, there was seven of them came out of that gondola, came out over the top of the train going toward the engine and I was standing next to the tender of the engine and there was four came off the car right below; there was a coal car next to the tender and there was four came off before they got on the coal car and another got on the coal car and came down it and another one went over on the coal car and was up in the middle of it and I kept to get him to come off and he was down in the middle of it on his hands and knees trying to do something and I told him to come off. I told him if he did not come off, I would kill him. He did come off. I saw some white boys there. There were four there. They come running up. They were not on the same car with the negroes. They came up the track. I did not see them on the train at all. The girls had on their overalls. I did not notice whether a part of the overalls was off them, so I don't know. One of the girls was not in condition to walk. I did not help carry her off. There was an officer toted the girl up there. They toted her off the train, a fellow named M. A. Mize. He had to carry her away from the train, unconscious. I don't know about what the doctor said about her not being un-[fol. 34] conscious at that time. I was not there. I was there at the time the girl was taken off.

Counsel for defendants thereupon propounded to the witness the following question:

Q. And if he (the doctor) testified immediately after their arrival here or at Paint Rock she was not unconscious, he is mistaken about it?

The State objects to the question, the court sustained the objection, and to the ruling of the court defendants separately and severally reserve an exception.

JIM BROADWAY, a witness for the State, having been duly sworn, testified as follows:

I was out at Paint Rock when those two defendants, among others, were taken off this train. I saw them on the train. I saw Victoria Price there. We got her off the freight train. She was on one of these gravel cars. That is known as a gondola car. There was another woman with her, the Bates girl. The Bates girl seemed to be in fairly good shape, but the other could not hardly talk and couldn't walk.

The solicitor for the State thereupon propounded to the witness the following question:

Q. Did you hear them make any complaint there, either one of these girls, of the treatment they had received at the hands of these negroes?

Defendants separately and severally objected to the question on the ground that it calls for incompetent, irrelevant, immaterial and illegal testimony, on the further grounds that it calls for hearsay testimony.

The Court stated, "I will confine it to Victoria Price."

Defendants separately and severally objected to the witness testifying as to what Victoria Price said, on the ground that it calls for irrelevant, immaterial, incompetent and illegal testimony, and on the further ground that it calls for hearsay testimony. The court overruled the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further:

I did not hear Victoria Price make any complaint, either to me or anybody else there, about the treatment she had received at the hands of these defendants over there. We sent and got a chair for Victoria Price and carried her to [fol. 35] the doctor's office at Paint Rock.

Cross-examination:

I am not an officer. I was on my way to Huntsville and I saw quite a bit of excitement going on there, and I stopped and they asked me if I would help take those negroes off the train.

RUBY BATES, a witness for the State, having been duly sworn, testified as follows :

Direct examination :

My name is Ruby Bates. I live at Huntsville. Along about March 25th, of this year, I was in company with Victoria Price on a freight train traveling from toward Chattanooga to Paint Rock, Alabama. After the train left Stevenson, I saw those negroes, those defendants sitting over there by the side of defendants' counsel, on the train.

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

Q. You say you saw those two defendants on the train?

Defendants separately and severally objected to the question in the form stated and pointing to the defendants by the Solicitor, on the ground that it calls for incompetent, irrelevant, immaterial and illegal testimony, on the further ground that it is leading; the court overruled the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness answered :

A. Yes, sir.

The witness testified further :

I say I saw them. When I first saw them they came over the top of the box car. When I saw them coming over the top of the box car they had guns and they told the white boys to unload. Then one of them hit one of the white boys in the head with a pistol. That one on the left hand side was the one that hit the white boy in the head with the pistol. Then some of the white boys began to get off the gondola, and all of the white boys got off but one. After the white boys got off, the colored boys threw us down in the car. The one on my left hand side had a gun.

Cross-examination :

I had a talk with a doctor. I recall that I told the doctor. I have never been married. I had a conversation with the doctor about having sexual intercourse. I am talking about the doctor after I arrived at Scottsboro. I do not remem-

ber his name. He was the doctor that examined me at [fol. 36] Bridgeport. I just told him to examine me and see if he could find anything wrong with me. I told him about those negroes.

Counsel for defendants thereupon propounded to the witness the following question:

Q. No, not about the negroes, but did you tell him you had had intercourse before?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

The witness testified further:

I told the doctor I had had sexual intercourse. I had on my overalls when I got off the train at Scottsboro. I knew what was going in when I got off the train at Scottsboro. I knew what was happening. I knew there had been a fight between the colored boys and the white boys. I arrived at Chattanooga Tuesday afternoon. I was at Huntsville before I started to Chattanooga. I saw some white boys on the way from Huntsville to Chattanooga. There were several white boys on there. I could not tell you where the white boys got off the train at Chattanooga. I know where I got off the train. I got off in the yards, in the railroad yards in Chattanooga. I could not tell you whether the white boys were still on the train when the other girl and I got off. We got off first at Chattanooga. We went to Mrs. Brochie's when we got off in Chattanooga. Mrs. Brochie lived on 7th Street. I could not tell you how far that is from Market Street, for I had not been there before. I do not know whether it is one block off Market Street or two blocks or how far it was. We did not ride a street car. We walked. I do not know where Georgia Avenue is. We went to 7th Street. This woman had a two story frame house. She kept boarders. We did not pay her for staying there. She was a friend of this girl I was with. I have no idea how far off Market Street it was, the number of the house, or anything. I don't know whether she was married. I didn't ask her any questions myself. We stayed all night. The other girl and I occupied the same room there. The next morning we got up and went to the mill. Mrs. Brochie went with us, the woman that ran the boarding house. We

visited just one mill. That was the Thatcher Company Mill. I could not tell you where the Thatcher Company mill is. This woman that ran the boarding house went with us. We left Chattanooga at 11:45.

[fol. 37] The woman did not go down to the railroad yard with me to catch the freight train. I told this woman I was going to catch a freight train out of Chattanooga. I had on my overalls when I left Chattanooga. I did not wear my overalls when I visited this mill. I just had on my dress. We put on the overalls just before we left Mrs. Brochie's. I wore both my overalls and my dress, my overalls on over my dress. That was my first trip riding freight trains. I left Chattanooga at 11:45. The white boys were not on the freight train when I got on. I first saw the white boys after we got on the oil tank; some of them got on there. They were not the same white boys that rode from Huntsville over to Chattanooga. I did not know they were going to be on there. I did not know these white boys were going to be in that train. I had never seen these white boys before. They were not the same boys that came over with us the day before. I did not talk with them after I saw them on the train. I did not have any talk with them. I did not have any talk with them after I got down in the gondola. They got in one end of the gondola and we were in the other end and they were singing. I got in the gondola car. I did not get in where these boys were. We got in the gondola before they did, then they came in there. I did not talk with them, didn't say a word. I had not said a word to these white boys when I saw the negroes coming over. Nothing had been said between either me or my companion to the white boys. They were in one end of the car and we were in the other, sitting perfectly quiet, no sort of conversation, just sat there looking at each other. When I saw the negroes coming, one of the white boys looked up over the car and said "Look coming yonder," and we all looked up then, and they told the white boys to unload and the white boys still hadn't said nothing to us. There was one white boy out of seven left on the train. I do not know the names of any of the white boys. I could not tell you why they left this one. He stayed on in that gondola car. The negroes hit him but they did not put him off.

Counsel for defendants then propounded to the witness the following question:



Q. They could have put him off just like they did the rest of them, there wasn't any reason for not putting him off, was there?

The State objected to the question, the court sustained the objection, and to this ruling of the court defendants separately and severally reserved an exception.

[fol. 38] The witness testified further: They left him on the train. I could not tell you whether he was any older or bigger than the rest of them. They were all grown. The white boys and the negroes fought considerably in this car. This other girl and I saw the beginning of this fight. I did hear everything that was said. I was sitting right there and it all went on right before me. Not all of the white boys and negroes were fighting. The two biggest white boys were fighting. I could not tell you which negroes fought them. All of the negroes came over at the same time; didn't but two come over at first; two of them stepped down in the gondola and the rest followed them. The rest of the negroes came right behind the two in the gondola car. There was a little lapse of time, and the fighting had already started before the rest of the negroes came over. There was pretty much of a fight between those negro boys and the white boys. The other negroes came down there and they all got into it. All the colored boys were fighting. Some of the white boys began to get off the car when they told them to unload. Some of the white boys ran. Those white boys that were not fighting were the ones that ran away. There were two guns; just two guns were used. Two colored boys had guns. The white boys did not have any guns. When the fight started, the train was just this side of Stevenson. That is when the negroes came over. I do not know approximately how many minutes I had been out of Stevenson; I don't know how long it was. We were right around ten minutes out of Stevenson when that started. I had not been bothered at all up to that time and hadn't any conversation with the white boys; had not even spoken to the white boys; this girl with me had not spoken to the white boys. They were all sitting in one end of the car and we girls were in the other end, and not a word said between us; hadn't even recognized them in any sort of way. The negroes came over then in that gondola car and started a fight and some of the white boys jumped off the train. Two of the white boys

fought with the negroes and the rest of the white boys jumped off and left the train except one, and one stayed on the train. All of them ran away and just left one white boy in there. I could not tell you how much time elapsed while these negroes were ravishing me. I do not know how far it is from Stevenson to Paint Rock. I don't know how long it took; don't have any idea. This other girl, my companion, was in one side of the gondola and I was in the other. I was not in one end and she in the other; we were just side and side there in one end. This white boy was in the other [fol. 39] end while that was going on. That is where he was before the fight started. My overalls were taken off. They were on when I got to Paint Rock. I had a dress on under my overalls. The colored boys had a knife during the fight between the white boys and the negroes. I could not tell you how many knives the colored boys had. The other colored boys drew knives. I do not know which one it was. He held the knife on this girl. The same boy did not hold the knife on both girls. There were two of them that held knives on us. It was one of those great long knives. Both had knives just alike. The knives had long handles and long blades. The negroes that held the knives were not the same ones that held the pistols. I know the negroes that held the pistol. I don't know whether I know the ones that held the knives. The negro held the knife on me while I was having sexual intercourse. They held the pistol at the same time. The negro that held the knife on me held the pistol on me while this other girl and I were having sexual intercourse with them. He just held the knife against my throat. I could not feel the blade. He held that across my throat while I was having sexual intercourse, and another negro held a gun on me. There were three negroes to each girl, one for intercourse and one for holding the knife and one for holding the pistol. They never did remove the knife or pistol. While six men had intercourse with me they stood there with a knife and pistol on me. They put the knife and pistol up after this was over. I could not tell you how long they stood there with the knife and pistol drawn on me. I don't have any idea about how long it was. I remember getting off the train. Someone did not come on the train and get me off. I just got off the train. I voluntarily told the officers. After I got to Paint Rock, I told them there had been a fight on there between the negroes

and the white boys. After I got off at Paint Rock, I told the people there had been a fight between the negroes and white boys. I had on my overalls at that time. They did not take me to a hospital. I was all right when I got off the train. I am seventeen years old. I have been working a year and over. My home is at Huntsville. I was not born and raised there. I have never been married. I have never lived in Chattanooga. That was my first time in Chattanooga. I have never been to Birmingham. I have never been away from home before. I have been knowing this girl that was with me a little over a year. I have never been out on trips before. We had never been with each other on trips. I had never ridden a freight train before. This was the first time.

[fol. 40] Redirect examination:

After I got off at Paint Rock I told those men there had been a fight between the colored boys and the white boys and they had thrown some off the car and some got off and I did not know whether they were hurt or killed or what, and they told that some of the boys had called up from Stevenson to stop the train there and get us girls off. I told them something else about what happened in the car.

I told them the negroes had ravished us.

Recross-examination:

The boys put up the pistols and the knives just before the train stopped at Paint Rock. They did not put them up until the other boys were through with having intercourse with us. They sat there until the last one had, just one after the other. No boy had intercourse with me over once. Just before the train got to Paint Rock, they put up the knives and pistols. They had their knives and pistols on them when they stopped the train at Paint Rock. I put my overalls back on then. I put my overalls on and helped the other girl put hers on. Both of us climbed off the gondola. I was pretty much alarmed about this fight between the negro boys and the white boys. I had traveled with the white boys from Gadsden to Chattanooga, that is, there were white boys on the train, and also from Chattanooga down to Paint Rock. I was very much alarmed about the white boys when the fight started between the

white boys and negroes. I was excited and worked up over it. I did not know whether the white boys had been killed or not when they took me off the train. My mother lives at Huntsville. I don't know where my father lives. I don't know about my father. I intended getting off the train at Huntsville. I was going back down to Huntsville

Redirect examination:

When I went from Huntsville to Chattanooga there were none of these white boys along with me. I first saw these white boys that had the fight with the negroes when they got on the oil tank after the train pulled out of Chattanooga. There was nobody along with Victoria Price and myself when we went to Chattanooga; just we two girls. I saw some boys on the train, but they were not the same boys that came back. I was not acquainted with the boys that went up with us. They just happened to be on the train. These boys that went up with us were not on the train with either Victoria Price or myself.

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[fol. 41] LUTHER MORRIS, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

I live at Stevenson, Alabama, in this County. Along about the 25th of March, when it is said these defendants were taken off a freight train at Paint Rock, I was about a mile and a half this side of Stevenson that day. I saw a freight train coming toward Scottsboro.

I observed it between twelve and one o'clock. I was on the place at home. I own land on each side of the railroad. I was up in the barn loft. I was about thirty yards away when the train past. I saw a bunch of negroes put off five white men and take charge of two girls. I saw between eight and ten negroes, and they put five white men off the train, made them get off the train. They did not throw them off; they just overpowered them and made them get off. I saw five white men get off that train along there. I did not hear any pistol shots. The train was making so much racket, I could not hear. I figure that the train was making between thirty-five and forty miles an hour. I

saw those white men get off or fall off the train. I guess I observed that and could see that train there for about four hundred yards. I was there in thirty yards of the track. The kind of car on the train they were getting off was a coal car, or gravel car, you might call it.

Cross-examination:

I could hear the racket and the fight between the white boys and the negroes. The white boys were not yelling and screaming. The negroes did not make any noise; they were just putting the boys off; they were making them get off, making them jump off. There were five white boys they put off there; that is all I saw. From where I was standing, I figure there was between eight and ten negro boys, the best I could say. I saw two women in the gondola, two white girls. The two white girls were doing their best to jump and the negroes caught these two white girls and they were pulled back down in the car. I was standing above this train so I could get a good view. I saw all of this going on. I don't know exactly how far I was from Paint Rock. It is eighteen miles to Stevenson and I live a mile and a half of Stevenson.

Redirect examination:

I was in the barn loft and could see from the barn loft. I went out to where these boys were, the two that got knocked in the head, but they were hurting so bad they [fol. 42] could not talk. They just said "I am dying." I certainly did notice wounds or bruises about them; one looked like along here somewhere and another one right along in the forehead. They ran off and left me. They would not talk with me. They ran back to Stevenson. I saw five after the train passed. They were not all hurt or bruised; there were only two that I saw hurt.

Recross-examination:

These boys were hurting so bad they would not talk with me; they went on to Stevenson. They went afoot. They were badly hurt. It was a mile and a half to Stevenson. They went on and would not talk to me. All I know about

this is what I saw from my loft, looking over in that gondola car, and I think I saw a plenty.

T. L. DOBBINS, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

I live up this side of Stevenson. I live right on the Southern Railroad. I saw the negroes passing by the day it is said some negroes were taken off the train at Paint Rock, going toward Huntsville. I reckon it was between eleven and twelve o'clock or between twelve and one o'clock, when I saw the train pass by up there. I was in the house when it passed, maybe thirty or forty steps from the track. In the house I could not see more than fifty yards up and down the track, but on the porch I can see a quarter of a mile. I was in the house. I did not see anybody get off the train. As well as I recollect, there were three darkies in a box car, standing in the door, in front of this gondola where these people were scuffling. A boy of mine called attention and hollered at me and as I came to the door, I saw them scuffling and it ran in behind the barn from the door from me. They looked like negroes to me, that I saw scuffling. They were in this gondola where they were scuffling.

Cross-examination:

I live at Stevenson. All I saw was just some scuffling between some men there. I did not see any guns. That was right this side of Stevenson, about a mile and a half or two miles. I just saw some negroes fighting in a gondola car. I could not tell what they were doing. I thought [fol. 43] maybe it was the brakeman trying to put them off. All I know about it is that it looked like there was a sort of a fight going on.

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LEE ALLEN, a witness for the State, having been duly sworn, testified as follows:

Direct examination:

I live at Stevenson, I was along the right-of-way of the Southern Railway on the day it is said the negroes were taken off a freight train near Paint Rock, the train going

toward Huntsville. On that day I was up this side of Stevenson when the freight train passed going toward Huntsville. It was along about 12:30 or one o'clock. I was about two hundred yards from the track. As the train went by I saw a bunch of people in a car. They were negroes; they were all of them in the car. I saw them striking this way (illustrating) and about that time I saw someone go out over the top of the car, on the other side of the car from me. That was a coal car, commonly called a gondola car. After the train passed, I saw two men coming back up the track. They were white men, with blood running down their faces. They were walking along the railroad then, going back up the road in haste toward Stevenson.

At this point the State rested its case.

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#### DEFENDANTS' EVIDENCE

CHARLEY WEEMS, one of the defendants, having been duly sworn, testified as a witness in his own behalf as follows:

My name is Charley Weems. I was on this freight train running between Stevenson and Paint Rock on March 25th. There were twelve of us negro boys on that train. There were seven white boys on there. I first seen the white boys when we left Chattanooga. I did not see the girls on the train till we got to Paint Rock. I got on the side of a box car at Chattanooga and crawled over to an oil tank. When the train slowed up at Main Street I came across the box car to the oil tank. When we got up to that next little town above Chattanooga, I left the oil tank and went to the gondola. I don't know what town it was. I had been out of Chattanooga about an hour or a little over. The fight between the white boys and the negroes started down here at Stevenson, after we left Stevenson. The white boys were in the gondola. The negroes got in the gondola directly [fol. 44] after we left Stevenson. Haywood Patterson and that long yellow boy back there first went in the gondola. Three of us went over in the gondola. What prompted me to go in the gondola, Haywood Patterson had a pistol and he said "Come on and help me get the white boys off; if

you don't I am going to shoot you off." I don't know whether any of the negro-s had been quarreling. They were not on the train where I was. I was one of the three boys that went in the gondola first. I was behind Haywood Patterson. Haywood Patterson just walked up and hit this white fellow over the head with a pistol. I was not doing anything at all. I didn't have a pocket knife or nothing. I just told the white boys to get off. A fight did not start. These white boys did not fight at all; they just run and tried to get off the train. About five got off the train. I could not tell how many stayed on the train. Some of them went off toward the engine. I don't know where the girls were. I didn't see the girls. I never did see the girls. I got off the train when we got to Paint Rock. I got off the train. Five boys got off the train in all. The five were me and Clarence Norris, Ozie Powell, Willie Rober-son and that boy back there, Olen Montgomery, that blind boy. I had known these negroes that were with me since we left Atlanta; we left Atlanta together. I did not know the rest until we got on the road. The first time I saw these girls was when we got to Paint Rock. They were getting off the train. They got off the gondola. I wasn't in the gondola they were on. I wasn't in that gondola at all. I had not been in that particular car, not where they were. I did not see the girls until they were getting off the gondola. I don't know how many gondolas were on that train; five or six on that train along in line together; some were, and some on the other side of box cars; a box car was between them. I had nothing to do with the girls at all. If anybody had anything to do with the girls, I don't know nothing about it. I have been in trouble in Atlanta one time, about a fight. That is the only time I have been arrested. I worked with W. B. Shepherd on a grading camp. I have been working for him about three years. My home is in Atlanta, Ga. My parents are not living. My mother and father are dead. I stayed at home and went to the country and worked with my aunt before I went to work for Shepherd.

Cross-examination:

My name is Charley Weems. I got on that train at Chatta-nooga. I was going to Memphis, Tennessee. I got on between [fol. 45] a box car down at the bridge. I got on top when



it got to Main Street and walked over and got down on an oil tank. When the train pulled out of Main Street, I saw some girls on that tank car. I wasn't on a gondola. I was on an oil tank, I got over in the gondola down at Stevenson. I walked over the top of the gondola. Some white fellows were in the gondola. There was gravel in that gondola. These white boys were in the car when I got in it at Stevenson. I did not jump off the box car into the gondola. I climbed down and stepped in. The car had steps on the end of it. Haywood Patterson told me to go in there and help throw them white fellows off; if I didn't he was going to shoot me off. That is Patterson (indicating). He told me why he wanted me to go along. He wanted to go in there and help throw the white fellows off. He said he was throwing them off because they had been trying to run over him down in the oil tank. Haywood Patterson had a pistol. I did not have a pistol. I saw his pistol. He went back along the train to call me to help throw the boys off. There were seven white boys on the train. We had come to Stevenson from Chattanooga before we got in there. I could not see all over the gondola and there could not have been anybody hid in there where I could not have seen them. I did not see those two girls in there. The boys were lying right in the center of the gondola car. I did not see the girls at no time until I got to Paint Rock. Five boys were put off. Haywood Patterson hit one; I don't know his name, but he had on a big wide belt, and he hit him across the head with a pistol. When he hit him he did not catch hold of him. He didn't grab him. This white fellow just jumped off and said "Yes, we will get off." He did not fight because the white fellow got scared of the pistol and climbed down on the side of the car and jumped off. The other fellow jumped off. They all jumped off but one. One little white boy stayed in the car and Patterson said to put him off and he done put his foot down on the side and another boy had a big knife around his throat. He did not jump off. He begged for mercy and I reached down and pulled him back on the box car. I never saw these girls at all and never had anything to do with them; never had my hands on them. I could tell the girls from the boys. Just because they had on overalls, it would change their looks with me. There wasn't a soul in that car with me and Patterson except these negroes and one white boy.

There were four of us colored boys back there in a box car where I was. The other five were back in the car with this other white boy, talking. Some of them left there from the [fol. 46] time I left Chattanooga until I got to Paint Rock. They left down here after we got through this next town above here, Stevenson. Five boys got off there. There were nine on the train when we got to Paint Rock. I told the jury a while ago that there was four of us boys together when we left Chattanooga. I did not tell the jury a while ago that there was only twelve negroes when we started from Chattanooga. I did not say how many negroes was on the train at all; there was fourteen on the train. I counted them five that got off did not have nothing to do with these people at all. Those five got off between here and Stevenson. I did not know them, and don't know who they were. When I got to Paint Rock, I was up about that car where them boys were talking to them white fellows. I wasn't in the gondola car when I got there. I don't know where I was when I passed this place. I never saw the girls until I got to Paint Rock. I am the one being tried with Clarence Norris. He was there with me. He was in the gondola with me. We were sitting down. Me and him and Ozie Powell and Willie Roberson and Olen Montgomery were in there. We were all in the gondola when we got to Paint Rock. I never saw no girls in this gondola we were in at all. I first saw the girls when they came toting them through Paint Rock. They had the oldest girl in a chair coming through Paint Rock. She did not get out of the gondola I got out of. I don't know whether she got of- a gondola or not. The first I saw of either one of the girls they were bringing the oldest girl up in a chair. I told that to the officers when I was arrested. I told them I did not have anything to do with either one of the women. Nobody made any threats against me. Nobody made me talk. Nobody made any promise to get me to talk. I did not tell the officers there at Paint Rock that I saw these other boys rape those girls and I did not have anything to do with it. I told them he had a pistol; that is all I told them, that Haywood Patterson had the pistol. My friend and I being tried did not have a pistol. I did not have a pistol or any pocket knife. I had nothing to do with the raping of the girls. I never saw anything done to the girls.

CLARENCE NORRIS, one of the defendants, having been duly sworn, testified as a witness in his own behalf as follows:

[fol. 47] Direct examination:

I am one of the defendants. My home is in Atlanta. I have been living there about five years. I have never been in any trouble. What I was doing up here in this section of the country I was going down to Sheffield to my aunt's. I got on this train at Chattanooga. Four of us caught the train together. The boy that just testified was one of them. I have forgotten the boys name yonder; he is right yonder (indicating). I got on an oil tank. I don't know how far I remained on that oil tank; we were about four or five miles, I guess. I went across from the oil tank to a flat of cross-ties. I went to go and sit down. I went to go by myself. I was the only one there. I did not leave that car. I stayed there. I was not in the gondola when this fight occurred. I seen two boys on the flat where I was on the cross-ties. I did not have any trouble with them. I did not have a pistol or a knife. I did not leave that car I was riding on. I did not leave it at Paint Rock. I don't know who took me off the train at Paint Rock, there was so many there. I remember getting off. I got off at Paint Rock, I reckon. I did not just leave the train. They threw guns on me, the officers did. I had not been engaged in the fight at all but I seen the fight. The fight took place in the gondola car. Every one of them colored boys was fighting. They were all fighting. That one yonder, Haywood Patterson, started the fight. He came across the flat car where I was on the crossties; him and the rest of them colored boys come across that car and said he was going over there to run the white boys off and going to have something to do with them white girls. I saw this boy that just testified before me on the stand. They came across where I was sitting down at that time. They knew the girls were on the train and the white boys with the girls on the gondola car. I had not seen the girls. I hadn't seen them till I got off this flat car I was sitting in, and seen these boys fall off the train; after he said he was going to run them off I seen them fall off the train and I asked two white boys what they were getting off the train for and he told me he did not know, and I got up on the

train to see if he was putting them off, and sure enough I got up on the box car and looked where they were and the whole crowd was putting the white boys off. One had a knife around the other's neck and trying to push him off, and he wouldn't get off and the other boy took him and pulled him back up in the car. I did not have anything to [fol. 48] do with the girls. I did not have my hand on any of them. I did not hold them or anything of that sort. When I first saw the girls the train was away up the road. When I saw the girls was when I got up on the box car and looked over where he was putting the white boys off.

Cross-examination:

My name is Clarence Norris. I did not get into that gondola at all. I just looked in. This Weems I was speaking about here is not my friend. I knew him. I saw him over in the gondola and I saw the girls in there, but I did not go in there. I saw that negro in there with those girls. I seen every one of them have something to do with those girls after they put the white boys off the train. After they put the white boys off I was sitting up on the box car and I saw every one have something to do with those girls. I was sitting on top of the box car. I saw that negro just on the stand, Weems, rape one of those girls. I saw that myself. When the officers searched me they did not find anything on me. They did not find a pearl-handled knife. They did not find a pearl-handled knife on me. I did not have a knife or pistol. I did not go down in the car and I did not have my hands on the girls at all, but I saw that one rape her. They all raped her, everyone of them. There wasn't anyone holding the girls legs when Weems raped her, as far as I saw. The other boy sitting yonder had a knife around her throat, that one sitting on the end behind the little boy. I don't know what his name is, but he is the one that had the knife. I did not see the little one hold of her legs while this one was raping her. I did not see anybody holding her legs. I don't know who pulled off her overalls. The girls were lying down when I got up on the box car. This big one did not have a knife on her throat. That little boy sitting behind yonder—I don't know his name—is the one that had a knife around her neck, making her lie down while the others raped her.

I didn't see any of the negroes take her overalls off. The girls were lying down when I got up on the box car. I saw the overalls lying in the car. I did not see any step-ins. I did not get down in the gondola, never did get down in there. When the officers arrested me I was on a flat car of crossties where two white boys were. Some of the white boys are here in jail. They said they had seven white boys down there; I don't know whether it is them or not, but we were in Paint Rock when they took us off the train. I was not down in the gondola. I did not take a knife off one of the girls and put it in my pocket. The [fol. 49] officers did not take that knife off of me when he arrested me. I did not have any knife. When I saw these girls they had on overalls. I don't know whether they had any coat on or not. The overalls had bibbs on them, like mine, running up to the neck. I don't know what was under those overalls.

Redirect examination:

I don't know whether they had on dresses under the overalls or not. I know what step-ins are. Step-ins are what women put on under their clothes. I don't know what they are. They are something. I did not see any step-ins these women had. They had their overalls off when I got on the box car. I don't know who took them off. They were lying down when I got up on the box car. I don't know whether they had on clothes or not. I was standing looking at them but I could not tell whether the girls had clothes on or not. I could see their faces but I could not see their bodies. I don't know whether they had on stockings. I did not see that much of them. Everyone that was in that gondola car had something to do with those girls, all eight of them, but I did not. I did not make a statement a few minutes ago to Judge Moody and Mr. Roddy that that boy just on the stand did not have anything to do with them. I did not say that boy never. I said I never had anything to do with them. I did not tell Judge Moody and Mr. Roddy that he didn't. I say now that he did; he had something to do with them, but I did not have anything to do with them. I told Mr. Roddy that. I told Mr. Roddy I did not have anything to do with them and the rest of them did have something to do with them. I

did not say this man just on the stand did not have anything to do with them. I pointed out some of them and did not have anything to do with them.

I did not point them all out because all were trying to talk. The boy just on the stand had something to do with them. I could tell whether the girls had on any clothing at all. When one of those negroes would get off, I could tell whether she had on any clothes. I don't know a thing about her clothes at all. I just seen the overalls lying down in the gondola car. I don't know who took the overalls off of them. When I got up on the box car looking down in there, they were on the girls. I don't know who took them off.

Recross-examination:

I am positive and I am swearing now. I held up my right hand to tell the truth, and I am telling the truth. That negro Weems that was on the witness stand did ravish that girl. He was on her. I have never seen this [fol. 50] knife before, which is exhibited to me by counsel for the State. I have not had any knife at all. The officer did not get this knife off me. I had nothing to do with it and I don't know anything about it.

At this point the defendants rested their case.

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STATE'S REBUTTAL EVIDENCE

ARTHUR WOODALL, a witness for the State, in rebuttal, having been duly sworn, testified as follows:

I am deputy sheriff of this county. I was down there the evening those darkies were brought to jail. I was assisting the Sheriff, as his deputy; the Sheriff wasn't there. I searched all of these darkies. I don't know the negro Norris, sitting over yonder is one of the negroes. I don't know his name. He gave me his name as Norris. I took the names down. I took this knife, exhibited to me by counsel for the State, off that negro there, that big lipped one. That is the knife I took off of him.

Cross-examination:

It was day time when I took it off him, about four or four-thirty o'clock. These negro boys were brought from

Paint Rock and I came from Stevenson. I brought the white boys down here. I found this knife on that negro right there (indicating).

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VICTORIA PRICE, a witness for the State, in rebuttal, having been duly sworn, testified as follows:

Direct examination:

I know this knife, exhibited to me by counsel for the State. That is my knife. I had it on my person at the time of this trouble on the train. I did not lose it. It was taken off me. That Norris, the smallest one, that one sitting there, took it off me. He also took \$1.50 in money and a pocket handkerchief.

The foregoing is all the evidence offered on the trial of this cause.

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After both sides had closed their testimony, defendants' counsel stated to the court that they did not care to argue the case to the jury, but counsel for the State stated to the court that they did wish to argue the case to the jury, and one of counsel for the state proceeded to argue the case to [fol. 51] the jury. At the conclusion of said argument of counsel for the state to the jury counsel for defendants stated that they still did not wish to argue the case to the jury, and objected separately and severally on behalf of the defendants to any further argument of the case to the jury by counsel for the State, on the grounds that after counsel for defendants had declined to argue the case to the jury any further argument on behalf of counsel for the State to the jury would be contrary to the law and the rules of practice of this court, and would be harmful and prejudicial to the interest of the defendants. The court overruled said objection and permitted counsel for the State to further argue the case to the jury, to which action of the court defendants separately and severally reserved an exception.

## COURT'S ORAL CHARGE TO JURY

The court thereupon charged the jury orally as follows:

Gentlemen of the jury, let me have your attention for a few moments and then you will have this case. The defendants in this case, Charlie Weems, alias Charles Weems, and Clarence Norris are indicted jointly with several other defendants charged with the offense of rape under our statute. Only the defendants Norris and Weems are on trial before you and you only consider, of course, their case in your consideration now.

Gentlemen of the jury, the grand jury of this county has indicted these two defendants, together with several others, for the crime of rape under our statute. Rape, gentlemen of the jury, as defined by the Code of Alabama, is "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 offense was committed." The State insists that these defendants together in one act, one assisting the other while the act was committed by force and against the consent of one Victoria Price, had intercourse with her somewhere up here in this county. That is the charge set out and made to this indictment here by the grand jury.

In answer to this charge, gentlemen of the jury, the defendants each plead not guilty. That puts the burden of proof on the State in this case as in all other cases to satisfy you from the testimony beyond a reasonable doubt of the guilt of these defendants before you can convict them. They come into the court with the presumption of innocence in their favor and that presumption remains with them throughout the trial of the case till the testimony convinces the jury of their guilt beyond a reasonable doubt. [fol. 52] Gentlemen of the jury, under our law, and it is proper that I call your attention to it, the indictment by implication also covers the lesser degree of criminal assault in cases of this kind, that is to say, an assault with intent to rape and an assault and battery. If you are not convinced beyond a reasonable doubt of the guilt of the defendants or either of them of the higher offense, then they may be convicted, if you are convinced beyond a reasonable doubt, of the lesser offense. The law, gentlemen of the jury,



is short in regard to charges of this kind, it is simple, and the case comes to you as jurors under your oaths to settle this case according to law as I have endeavored to give you in charge and the evidence you have heard here from the witness stand. You are the sole judges of the testimony and of the weight you give the testimony of each party concerned, the prosecutrix and the witnesses testifying and of the defendants. It is improper for me to say what I think or to intimate what I might think of the testimony of the parties or witnesses or any of them concerned in it. That is a matter for you and of which you are the sole judges and for you to determine under your oaths as jurors.

Take this case in a few minutes and try it under your oaths and let that guide you in the performance of your duty when you go to your jury room and from the testimony and the facts you have heard endeavor to give these defendants on one side and the State on the other a fair and impartial trial. You have a right to look at the testimony of the witnesses and the parties in the light of their interest, if they are interested, and you may weight their testimony according to their reason for knowing or not knowing the matters about which they testify, and from the whole thing ferret it out, weigh it, revolve it in your minds and see what is just and right between the State on one side and the defendants on the other.

As I said to you a while ago, gentlemen of the jury, if you are convinced of the defendants' guilt beyond a reasonable doubt, then you fix the punishment in the higher offense. If they are guilty as charged in the indictment of rape, gentlemen of the jury, the punishment is by death or imprisonment in the penitentiary for not less than ten years. If they are not guilty of the higher offense or either of them and you are convinced of the guilt of the lower offense as outlined to you a while ago, then the punishment is not with you, but the guilt or innocence is only what you pass on, the punishment is left with the court. The punishment for an assault, gentlemen of the jury, is a fine of not more than [fol. 53] \$500.00. If, however, you reach the conclusion that one defendant is guilty of the higher offense and the other not guilty of the higher offense or some other offense, it would be necessary for you to so state in your verdict.

The State in this case, gentlemen of the jury, insists that one of the defendants actually had intercourse forcibly and

against the consent of this prosecuting witness, Victoria Price, and that the other held the prosecutrix or this girl while the other was committing the offense of rape. What has that to do with the case? It means this, gentlemen of the jury: Under our law they both may be guilty of the higher offense of rape, though only one performed the act of criminal knowledge, had carnal knowledge forcibly against the will of this prosecutrix, if the other was present aiding and assisting in the forcible assault made by the other party. In other words, it would not be necessary for both to have had intercourse forcibly and against the consent of this prosecuting witness at that time and place for both to be guilty; if one held knife or held the girl by the throat or mouth as the State insists, then they would, of course, be equally guilty. Any person who aids or assists another in the commission of an offense like this, or any other offense, one is as guilty as the other, though the real act may only be performed by one. How that is, gentlemen of the jury, is for you to say. If one of the defendants was only present and had nothing to do with the commission of the crime and the other committed it, then, of course, only one would be guilty. How that was, gentlemen of the jury, they both plead not guilty, and that is for you to say. And in order to convict these defendants, you must be convinced of their guilt beyond a reasonable doubt.

Gentlemen of the jury, it is necessary for me to give the forms of several verdicts in this case under the law. If the defendants are guilty of the higher offense, this is the form of your verdict, "We, the jury, find the defendants guilty of rape as charged in the indictment, and we fix their punishment at death," or at imprisonment for any number of years, not less than ten. If they are not guilty of the higher offense but are guilty of an assault with intent to rape, then this is the form of your verdict, "We, the jury, find the defendants guilty of an assault with intent to rape as charged in the indictment," and you don't fix the punishment. For the lower offense it is, "We the jury, find the defendants guilty of an assault and we assess a fine against them for so much," not more than \$500.00. If they are not guilty, then it is, "We, the jury, find the defendants not guilty."

[fol. 54] But, however, gentlemen of the jury, if you should find the defendants guilty of different degrees, that is,

separate, one of the higher and one of the lower, then it is necessary for you to so state in your verdict, "We, the jury, find the defendant Charley Weems guilty of rape as charged in the indictment" and fix his punishment, and we find the defendant Norris guilty of some other offense, if you should find him guilty, then your verdict would be separate. If you find them guilty of the same offense then it is "We, the jury, find the defendants guilty of so and so as charged in the indictment." I was just trying to make that clear to you if you were to give them different punishment for either; if both are not the same, then it would be necessary for you to so state in your verdict.

It is necessary that I outline, gentlemen of the jury, all these different elements of assault and assault with intent to ravish as well as the law of rape. The law makes it my duty to outline them to you and to give you the different verdicts and it is for you to say what the defendants are guilty of and whether they are guilty of anything or not, and as I said to you, you must be convinced beyond a reasonable doubt.

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

IN CIRCUIT COURT OF JACKSON COUNTY

STATE OF ALABAMA

vs.

CHARLIE WEEMS, CLARENCE NORRIS

MOTION FOR NEW TRIAL

Comes the defendants and moves the court to set aside the verdict of the conviction in this cause for that:

1st. The court was in error in refusing to grant the petition of defendants asking for a change of venue and removing this cause to another county.

2nd. The defendants allege that the court was in error in refusing to allow him a special jury to be drawn and summons on his request for his trial.

Stephen R. Roddy, Milo Moody, Attorneys for Defts.

[File endorsement omitted.]

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[fol. 55] On the 6th day of May, 1931, the defendants separately and severally filed in said cause and spread upon the motion docket of said court an amendment to the foregoing motion for new trial, which said amended motion is in words and figures as follows, to-wit:

#### AMENDED MOTION FOR NEW TRIAL

Comes the defendants, Charley Weems and Clarence Norris, by permission of the court, and amends their motion for a new trial heretofore filed in the cause of the State of Alabama vs. Charley Weems and Clarence Norris, and moves the court to set aside the verdict and judgment rendered in this cause on the 7th day of April, 1931, and to grant these defendants a new trial and for grounds of said motion sets down and assigns the following reasons and causes separately and severally.

I. The court was in error in refusing to grant the petition and motion of the defendants, Charley Weems and Clarence Norris for a change of venue and in failing to enter an order removing the trial of this cause from Jackson County to some other county in the State of Alabama.

II. The court was in error in failing and refusing to allow the defendants a special jury, or special venire to be summoned and drawn at their request in this case on account of local prejudice and because of publications which had been made through the press in Jackson County, Alabama, and in other counties where the newspapers were circulated in Jackson County.

III. A new trial should be granted because the court erred in not questioning and interrogating the members of the jury who tried this case, as to whether or not they entertained racial prejudice against the defendants because they were negroes.

IV. A new trial should be granted because public excitement was so high that when these defendants were arrested that a large crowd gathered at Paint Rock, Alabama, and threats of violence and lynching was made against the defendants to such an extent that an appeal was made to the Governor of the State of Alabama to send state troops to Scottsboro for protection of the defendants, and state troops were sent to Scottsboro and the defendants guarded by state troops from Scottsboro jail to Gadsden, Alabama, where they were detained in jail until the time of the trial and were escorted by an escort of troops from Gadsden, Alabama, to Scottsboro, Alabama, and guarded during the trial by more than one hundred troops and by six or eight machine guns and weapons used in military warfare during the trial.

[fol. 56] V. A new trial should be granted because notwithstanding the excitement throughout the county of Jackson and adjacent counties in that section of Alabama, hundreds of people visited Scottsboro who did not live in Jackson County, but some in other counties and some in the State of Georgia and some from the State of Tennessee, and this crowd that visited Scottsboro were all unfriendly to the defendants. No friends appeared during the trial to offer the defendants comfort, advice, or financial aid, and they were held in jail without bond and without an opportunity to see their kinsfolk or friends, or prepare their case for trial.

VI. A new trial should be granted because of the state of excitement in Scottsboro, and when the jury reported in the case of these defendants, there was a public demonstration by the clapping of hands and hollowing in the court room in the court house where these defendants were tried as a result of the verdict of the jury imposing the death sentence.

VII. A new trial should be granted because of error in the part of the court in refusing to permit the defendant's counsel to cross-examine and interrogate the prosecutors as to their general reputation and character.

VIII. A new trial should be granted Charley Weems because he was tried with Clarence Norris when there was

hostilities between he and Norris thought that it would benefit Norris for him to say that Charley Weems was guilty of one of the charges, or the evidence tends to the inference that there was hostilities between these defendants.

IX. A new trial should be granted Clarence Norris because of antagonistic interest on the part of Charley Weems all of which is developed in the redirect examination of Clarence Norris in his examination on the trial of this cause tending to show that he made a statement before going on the stand to the attorneys and after going on the stand, he repudiated his statement to them which prejudiced his case in the mind of the jury and about a matter which was improper to be brought in the trial against Norris himself. The question of guilt or innocence of Weems was used to the prejudice of Norris, when Norris ought to have been tried by himself and tried alone on the evidence against him.

X. A new trial should be granted because the jurors to try the case against these two defendants were permitted to sit in the court room and to hear the discussion between the court and counsel preliminary to the opening of the trial and to hear the evidence introduced by the defendants on their application for a change of venue.

[fol. 57] XI. A new trial should be granted these defendants because their constitutional rights as guaranteed by Article 14, Section 1, of the Amendment to the Constitution of the United States which provides, "That no State shall make or enforce any law which shall abridge the privileges 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 law," and the rights of these defendants were violated under the Constitution of the United States for the following reasons:

(a) They were arrested and placed in jail and had no fair chance to employ counsel or to communicate with their families or friends;

(b) They were placed in a jail in a distant city from their homes where their kinsfolk were afraid to visit them on account of fear or personal violence;

(c) Because they were unacquainted with any attorney or attorneys in that neighborhood and unable to make financial arrangements to employ an attorney to represent them;

(d) Because there was not sufficient time between the time they were arrested and the time of their trial to properly prepare the case for trial;

(e) Because of racial prejudice prevailing in the county where the trial was held, they being negroes or citizens of African descent;

(f) Because there was a demonstration in the court room and out on the streets outside of the court room when the jury reported its verdict against these defendants;

(g) Because of the ignorance of these defendants and their immature years they did not know their rights under the law and did not know how to prepare for a trial and did not know how to get witnesses to the court and were held in jail without bond;

(h) Because they were frightened, intimidated and had been threatened and thought their lives were in peril and they had no money with which to employ counsel, or to send for friends, and they were utterly helpless;

(i) Because they were not guilty of the charges preferred against them and should have been granted a separate trial.

XII. A new trial should be granted because the constitutional rights of these defendants were violated for the reason that Article 1, Section 6, of the Constitution of the State of Alabama, which provides, "That in all criminal prosecutions, the accused has a right to be heard by him- [fol. 58] self and counsel \* \* \* and he shall not be deprived of life, liberty, or property except by due process of law," and the trial of these defendants were conducted in such a manner as to be violative of the due process of law clause of the Constitution of the State of Alabama, for the reasons set out in this motion and for the reasons appearing in the transcript of the testimony of the trial of this case.

XIII. A new trial should be granted because under the laws of the State of Alabama, and under the laws of the United States, the defendants were not given a fair and impartial trial as contemplated by the laws of the State of Alabama and by the laws of the United States.

XIV. A new trial should be granted because the case should have been continued on application made by counsel for the defendants at the time of the trial, for the reason the public excitement was prevailing in the county against the defendants, and because the defendants had not had reasonable time to prepare their defense for trial, and because the necessity for troops rendered it impossible to keep inviolable the precincts of the prisoners' dock, the counsel's place, the witness chair, the jury's seats and the intervening space within the court house and in the surroundings free from hostility and unfriendly invasion or intrusion, because the accused ought not to be terrified on the trial, or his counsel confused in making his defense, lest the witness testify falsely under fear of inducement, or lest the jury be overawed, or their minds influenced by an atmosphere surcharged with hostility or partiality, and this trial was surcharged with hostility towards these defendants and violated the Constitution of the State of Alabama.

XV. A new trial should be granted because there is no evidence to support the verdict of the jury against the defendants, and because the weight of the legal evidence preponderates in their favor.

G. W. Chamlee, Attorney.

[File endorsement omitted.]



[fol. 59] EXHIBIT TO AMEND MOTION FOR A NEW TRIAL  
IN CIRCUIT COURT OF JACKSON COUNTY, SPECIAL SESSION  
1931

No. 2402

STATE OF ALABAMA

vs.

CHARLEY WEEMS and CLARENCE NORRIS, alias CLARENCE  
MORRIS

Section 12 Above

Appearances:

H. G. Bailey and Proctor and 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 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?

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 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—

[fol. 60] 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 through the courtesy of Your Honor.

The Court: Of course I give you that right; well are you 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—

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 [fol. 61] 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 to 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 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 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 a limited appointment; of course I don't mean to cut off your assistance in any way—well, gentlemen, I think you understand it.

[fol. 62] 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 would 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."

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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:

No. 2402

STATE OF ALABAMA

vs.

HAYWOOD PATTERSON et al., Defendants

PETITION OF CLAUDE PATTERSON ET AL.

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

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 petitioners, Ada Wright and Mamie Williams desire that the cases against their boys be appealed to the Supreme Court of the State of Alabama.

Claude Patterson shows unto *to* the Supreme Court that George W. Chamlee had been his attorney in legal matters several years ago and recently in the early part of 1931, Claude Patterson employed Mr. Chamlee as his attorney to defend a case against his son, Julian Patterson of Chattanooga, Tennessee, and that they had made a contract with Mr. Chamlee to represent their boys in these cases at Scottsboro, Alabama, and also on appeal from the case at Scottsboro, Alabama, and that they had not employed any other attorney and they had not authorized any other [fol. 63] attorney to represent them, or to bind them in the premises.

They further show unto the court that since their boys have been arrested that they had only had one opportunity of visiting their boys and that was in the City of Birmingham, Alabama, and that their boys told them that they had signed a request in the form of a contract asking Mr. Chamlee to represent all of them on appeal in their cases, and that all of the defendants in Birmingham jail stated to these petitioners that they had likewise signed such a contract and that they wanted Mr. Chamlee as their counsel, but there was no time on this occasion to make any reasonable investigation of the cases, and the defendants were all in company with each other in their joint cells in jail and no opportunity to write or take notes of what each one had to say about his case and no opportunity for a private conversation whatsoever with the defendants.

Petitioners carried their attorneys with them and *was-* informed that if their attorney had not been with them that

they could not have seen their boys and that they would soon be removed from Birmingham to Kilby Prison at or near Montgomery, Alabama. Petitioners then set about planning to have their attorney visit these defendants at Kilby Prison at Montgomery, Alabama, and on April 29, 1931, their attorney communicated with the warden of Kilby Prison and was informed that no one could see the defendants except upon a written order of this Honorable Court and for them not to come to Montgomery, Alabama, with the expectation of seeing them without an order from this Honorable Court.

Petitioners are advised that important evidence, touching the merits of the cases of these defendants, has been discovered since the trial and that in order for newly discovered evidence to be presented, under the laws of the State of Alabama, that the defendant must make an affidavit or show a good cause why he did not have the evidence on the regular trial and give a meritorious reason for not producing it when he was tried before it would be available on the hearing of a motion for a new trial.

Petitioners further show unto the court that the defendants were arrested on the 25th day of March, 1931, and were indicted in the last days of March, 1931, and the first days of April, 1931, and were put on trial about the 6th, 7th, and 8th and 9th of April, 1931, and that these petitioners were not permitted to see them prior to the time of the trial and they have only seen them one time since the trial. They are advised that under the laws of the State of Alabama [fol. 64] that the parents of children under twenty-one years of age, who in company with responsible and reputable counsel, have a lawful right to a conversation with their children separately and apart from other persons, one at a time, for the purpose of preparing cases for trial.

These petitioners have not read the transcripts of the records in these cases and do not know the merits of the testimony introduced on the trial, but have been informed that there was some antagonistic interest involved between certain of the defendants and that separate trials ought to have been had by some of them in order to avoid conflicting interest prejudicing the case or cases against others.

These petitioners are all colored people and they were afraid to visit Scottsboro at the time of the trial and are

afraid to visit Scottsboro now, and if the defendant, Haywood Patterson, has to be brought to court when the motion for a new trial is heard, they would petition the hearing be had at Montgomery, Alabama, or at Kilby Prison, so that no risk of violence would be assumed and that they might attend the hearing in person when the motion for a new trial was heard.

Petitioners further show and represent that they are advised, that in view of new facts and newly discovered evidence, that has been learned of since the trial, that the hearing of a motion for a new trial ought to be continued from May 6, 1931, until some later date, in order to prepare the motion for a new trial to be presented to Your Honor.

Petitioners especially appeal to this Honorable Court to afford them and to their counsel every reasonable opportunity to present such evidence as they may have, or may obtain on the hearing of the motion for a new trial and to afford them an opportunity of presenting additional affidavits from witnesses of whom they have heard, and which said witnesses, one of whom is reported to be at Paint Rock, claims that when Victoria Price first got off the train, she was asked if any of the defendants had done anything to her, and that she said they had not.

Affiants desire to file this petition as parents and next friends of their children, and especially does Claude Patterson desire to file it on behalf of Haywood Patterson, whose motion for a new trial has been set for hearing May 6, 1931, and that as Haywood Patterson is in Kilby Prison and as the keeper of that prison has informed G. W. Chamlee, attorney, that he could only see Haywood Patterson upon a written order from the Judge of the Circuit Court of Jackson County, that this affiant desires to file that affidavit, to be considered on the motion as a reason why the affidavit of Haywood Patterson is not filed herein.

Affiant Claude Patterson, further makes oath that Haywood Patterson told him that threats were made against him when he was arrested to lynch him, and that all of the defendants were scared, and if it had not been for the military company coming he believes that all of them would have been killed.

Affiant further stated that Haywood Patterson told him that when the jury reported in the case against Weems

and Norris, and give them a verdict of death, that the people in the Court house clapped their hands and some of them hollered, and a few people left the court house and went outside and in a minute or two the crowd outside commenced hollering and that there was a great demonstration out in the streets of Scottsboro.

Affiant further states that he was afraid to go to Scottsboro and was afraid to go to Gadsden, and that he was utterly helpless, at and before the trial, as far as rendering any assistance to his boy was concerned, or getting him any witnesses.

Ada Wright and Mamie Williams join in this affidavit, and say their boys told them about the demonstration in the court house when Norris and Weems were convicted, and about the threats against their lives.

Affiant further states that they are advised that there are a number of witnesses who saw the train leave Chattanooga and going by Lookout Mountain, where it had to go through the tunnel and that there was about twenty or twenty-five negroes on the train besides the white girls and boys, and that they are advised that the trouble on the train was provoked by the white boys and that after the alleged fight that about ten negro boys got off the train between the time of the alleged fight and the reaching of the station at Paint Rock, and that these parties are evading giving any information about it because they are afraid of the consequences of such disclosures.

Affiants further state that they have talked to a number of people in Chattanooga who claim to know Victoria Price and Ruby Bates and who say that they were women of bad character and reputation and unworthy of belief on their oaths in a court of justice.

They will file with this petition such affidavits as they can get and they hereby make application to this Honorable Court for a permission to file other affidavits, including affidavits of the defendants, in support of the motion for a new trial in the case against Haywood Patterson and such other evidence as they may be able to obtain material thereto.

[fol. 66] The premises considered, the petitioners pray that this Honorable Court will make an order addressed to the Warden of the State Prison of the State of Alabama at Kilby Prison at Montgomery, Alabama, directing or



permitting that counsel for Haywood Patterson, et al., be permitted to confer with them in private so as to prepare their legal evidence in the motion for a new trial of Haywood Patterson, and for the appeal of the cases against the other defendants who have been tried.

## II

That an order be made authorizing the Warden of Kilby Prison to permit the parents and relatives of the defendants to see the defendants in the presence of the Deputy Warden, or guards, such as may be provided by the rules of the prison, so that the petitioners will not be denied the right to visit their children while they are confined in Kilby Prison awaiting the execution of the death sentence.

## III

That the hearing of the motion for a new trial of Haywood Patterson set for May 6th, 1931, at Scottsboro, Alabama, be continued for thirty days, or for some reasonable time, and that it be heard at Montgomery, Alabama, or if the defendant is not required to be present at the hearing, that he be granted time to file additional affidavits while the State is making its reply to such as he has filed.

(Signed) G. W. Chamlee, Attorneys.

*Duly sworn to by Claude Patterson et al. Jurat omitted in printing.*

[File endorsement omitted.]

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[fol. 67] On the 19th day of May, 1931, the defendants separately and severally filed in said cause, in support of their motion for new trial, the following affidavits:

IN CIRCUIT COURT OF JACKSON COUNTY

No. 2402 and 2404

THE STATE OF ALABAMA

vs.

HAYWOOD PATTERSON, CLARENCE NORRIS, CHARLIE WEEMS,  
Ozie Powell, Willie Robertson, Andy Wright, Olen Montgomery, Eugene Williams

AFFIDAVIT- OF HAYWOOD PATTERSON, CLARENCE NORRIS,  
CHARLIE WEEMS, OZIE POWELL, WILLIE ROBERTSON, ANDY  
WRIGHT, OLEN MONTGOMERY, AND EUGENE WILLIAMS

The undersigned affiants make oath in due form of law that they were defendants in the above-styled cause, tried at the special session of the Circuit Court of Jackson County, in April, 1931, at Scottsboro, Alabama. Affiants further state that when the court was organized and their cases called for trial, that that did not know who would be their counsel and that they had been in jail ever since they were arrested, March 25, 1931, and had no opportunity to employ counsel and no money with which to pay them and had no chance to confer with their parents, kinsfolks or friends and had no chance to procure witnesses and no opportunity to make bond or to communicate with friends on the outside of the jail.

They further show that there was a discussion between the trial judge and Mr. S. R. Roddy and Mr. Milo Moody and some other attorneys about the cases of these defendants and a copy of that discussion taken from the official record will be filed and marked Exhibit #1 and made a part of this affidavit as fully as if copied and set out herein.

That the case against Clarence Norris and Charlie Weems was tried first and prior to the trial that the Governor of the State of Alabama had provided military forces [fol. 68] with 107 men and officers with six or eight machine guns and rifles commonly used in military warfare to guard the court house and jail and to guard these defendants, prior and during the trial and these military officers had surrounded the courthouse and were keeping the hostile mob or at least keeping away from the courthouse persons that had no business in the courthouse and who might wish to do violence to the affiant or some one of the defendants and while these guards were on duty, the case against Clarence Norris and Charlie Weems was tried and there was a great excitement prevailing throughout the county and in Scottsboro at the time and when the jury reported in this case, the case against Haywood Patterson had been started and his jury was in the jury room adjoining the court room when the jury in the Clarence Norris and Charlie Weems case made its report imposing death penalty, and there-

upon there was a demonstration in the courthouse by citizens clapping their hands and hollowing and shouting and soon thereafter a demonstration broke out on the streets of Scottsboro and not long thereafter the Hosiery Mill band came into the business district apparently celebrating the victory of the State and paraded through the public streets and along in front of the courthouse making music for the entertainment of the crowds and at a time when the whole atmosphere was surcharged with excitement and this demonstration was carried on in the presence and hearing of jurors who had to try the third case composed of Ozie Powell, Willie Robertson, Andy Wright, Olen Montgomery and Eugene Williams and the excitement which had been produced by the seriousness and enormity of the charge made against the defendants and added to this the newspapers and press circulated stories through Jackson County which were generally read and accepted as the facts, when in truth these stories were, many of them, utterly untrue and when these defendants had no newspaper to print anything for them and when they had no attorney to write or publish anything on their side or in their defense, or showing that they were innocent and why their identity could be easily mistaken, but notwithstanding these disabilities and these unfortunate circumstances there was a hostile demonstration in the court room and a hostile demonstration through the streets and on the sidewalks in the town of Scottsboro and then a parade by the Hosiery Mill band apparently celebrating and felicitating the jurors upon their verdict and musical demonstration in cooperation with the demonstration put on by the citizens in the streets and on the sidewalk following the verdict in the case against Clarence Norris and Charlie Weems. The jurors who were summoned in the cases next [fol. 69] to be tried were exposed to these demonstrations and celebrations (possibly they participated in the celebration) and they would have to be more than human not to be affected by these demonstrations, and the effect upon the jurors could not help to adverse to the defendant then on trial and yet to be tried.

These demonstrations were produced because of high excitement in Jackson County, and that the people who had gathered at Scottsboro to witness these several trials had produced so much excitement that apparently a gen-

eral holiday was being taken by the Hosiery Mill band so that at the most inopportune time for the interest of these defendants this Hosiery Mill band was parading the streets of Scottsboro and it is reported that they played (such pieces as "Hail, Hail, the Gang's All Here" and "There Will Be a Hot Time in the Old Town Tonight"), but whatever it was and whether this band was innocent and appeared as a mere coincidence or whether it was purposely on the streets can make no difference because the effect on the jurors at that time trying Haywood Patterson and the next jury later selected from the crowd that tried the other five defendants was adverse to them and manifestly to their disadvantage and detriment, and the fact that jurors were or might have been adversely affected by matters happening outside of the court room which adversely affected the interests of the defendants or anyone of them was a denial of due process of law to the defendants and adversely affected the defendants and necessarily denied to them a fair and an impartial trial by free and unbiased and impartial jurors.

Affiants further state that because of the enormity of the charge in the first instance, they were not given a fair trial.

Second. That because they were negroes and paupers and locked in jail without an opportunity to confer with or employ counsel they were not given a fair trial.

Third. That the alleged victim was a white woman.

Fourth. Publications in newspapers averring that the proof of guilt was most positive and falsely alleging that some of the defendants or all of them had confessed their guilt, which was not true, but the public throughout Jackson County was made to believe that such were the facts, rendered an impartial — impossible; the fact that the defendants were compelled to go to trial represented by attorneys who, by their own admission in open court, stated that they were not prepared and had made no preparation whatsoever, constituted a denial of due process to the defendants and prevented a fair and impartial trial; this is especially true because in fact the defendants were neither represented by [fol. 70] counsel retained by them or anyone on their behalf authorized to make such retainer, nor was such counsel

appointed by the court as trial counsel, according to the record of pages one to eight of the Weems-Norris record annexed hereto and marked Exhibit 1, and made a part hereof, proves that so far as Mr. Roddy is concerned, he made no pretensions that he was retained as attorney for the defendants, and the record shows that he was not appointed as attorney for the defendants; he was, in fact, present merely as an observer by his own admission and made no pretensions at having prepared the case for trial, but sought a change of venue, and that the record shows Mr. Roddy was appointed for the purpose of arraignment only, and when Mr. Roddy appeared the court released all the members of the Scottsboro Bar after arraignment, and when the trial was about to start during the discussion Mr. Moody agreed to assist Mr. Roddy who was never employed and who appeared only by the courtesy of the court, and the defendants were never asked, according to this record, their wishes or desires in the premises and yet the lives of all eight of them were at stake and were later demanded at the hands of a jury at a trial about to begin without an opportunity to tell their trial lawyer their separate defenses, and when forced into trial without witnesses and without an opportunity to secure any witnesses, and in a county hostile to their race and when there was no chance to communicate with the outside, to either parents, relatives or friends, and when they had no money and no one to advise them of their legal or constitutional rights and when they were overawed and intimidated and threatened by a mob of hostile citizens from the day they were arrested until after the sentence of death was pronounced upon them and because of their immature years and because seven of them can neither read nor write anything of consequence and are ignorant of the law and did not know how to prepare their case for trial or how to protect their rights or themselves from insult, embarrassment and intimidation and especially when a mob had gathered in Scottsboro after they were arrested and the Mayor and public officials had to make speeches to try to persuade the mob to adjourn and it was necessary for military forces to come to Scottsboro and to by force of arms disperse this hostile and enraged gathering and to re-

quire them to leave the town of Scottsboro and from the County of Jackson the trial jury for all the defendants had to be selected and by reason of a custom of long standing there was not one negro selected for the entire trial, throughout the whole county where a population of 30,000 people when a large number of negro land-owners were [fol. 71] qualified jurors, or for jury service and members of the negro race; all of these indubitable and undisputable facts lead directly to the inevitable and irresistible conclusion that these defendants did not have and can never have a fair and an impartial trial in Jackson County as they are entitled to have under the law of the State of Alabama and under the law of the land.

Affiants further show that the trial was unfair because damaging evidence was admitted in the trial against some of them about Ruby Bates and they were not indicted or called upon to answer any charge about her and any testimony with reference to her should have been excluded and not considered by the court or jury under the indictment upon which they were tried.

Affiants further state that before reaching Paint Rock, Alabama, they did not leave the train because they were not guilty and had no motive or reason to run and they did not run or make any attempt to leave the train or to get away, but a number of other negroes did leave the train and did get away and were never arrested.

Affiants are advised that the prosecuting witness, Victoria Price was a woman of bad reputation and bad character and that the defendants ought to have been permitted to prove on the trial that she was of bad character and bad reputation and the refusal of the court to permit her to be cross-examined on this subject was error and for which a new trial ought to be granted. See affidavits of Silas Johnson and others filed in this cause. Affiants are advised that newly discovered evidence touching the character and reputation of Victoria Price and Ruby Bates has been filed in this case and these affiants did not discover or know about this evidence and its importance until since the trial, but if they had known about it they had no chance to have procured it and to produce it on the trial at Scottsboro, because the witnesses who made the affidavits were afraid to go to Scottsboro to attend the trial and lived

out of the State of Alabama where they could not be compelled to attend the trial by court process of this State.

Affiants are advised that there were no safeguards thrown around the jury prior to the starting of the trial in order to keep them free from contact with the population in general and that they were permitted to read hostile newspapers and to witness the demonstration in the Court-house and on the streets of Scottsboro and to witness the parade of the Hosiery Mill band through the streets when Clarence Norris and Charlie Weems were convicted and that there was no effort on the part of military authorities [fol. 72] to keep jurors, not yet placed on the jury separate and apart from the people in general and these jurors were exposed to excitement, hostilities and prejudicial newspaper articles combined with public feeling surcharged with excitement produced a situation impossible of correction and the result of which adversely affected the defendant, confused counsel who tried to represent them, overawed the men who sit on the jury and rendered an impartial, orderly, quiet, judicial hearing impossible and as a direct result thereof these affiants are about to be deprived of their lives without due process of law and in violation of the most sacred constitutional rights ever provided for in this State and under the laws of the land.

Affiants made application for a change of venue and in their application swore they could not get a fair trial and the events which happened during these several trials confirmed and verify that contention and the trial should have been removed from Scottsboro to some other county as requested in their application for a change of venue.

Affiants are advised that the trial judge did not question the jurors who tried these defendants on the subject as to whether or not they held racial prejudice and whether or not they would give a negro the same fair, patient, impartial hearing that they would give a white man under similar circumstances and that this prejudiced their rights in this case because from all that happened at Scottsboro there was no man on any of these juries under all the excitement that was qualified to meet the legal requirements of an impartial uninfluenced and unbiased juror as provided for by the laws of the State of Alabama and the laws of the land.

Affiants further state that they were threatened with lynching, terrified by mob and confused and embarrassed through the trial by hostile words, threats and public demonstrations and the jury which tried them knew or had a chance to know and were exposed to these illegal influences, and their minds influenced by an atmosphere surcharged with hostility, partiality, prejudice, caprice and rancor against the defendants and their lives were demanded as a sacrifice therefor without due process of law, then they were not guilty of the charge contained in the indictment against them.

The defendants demanded a special venire or a special list of jurors for their separate trial and this request was refused and denied and the defendants had to go to trial without the right to select or to be consulted about selecting the jury to try these cases. These defendants did not challenge any juror and did not know that they had a right to challenge jurors.

The indictment in these cases fail to state sufficient facts in that no time or place or a statement of circumstances were set out giving the facts constituting the alleged offense so as to enable the defendants to properly prepare for trial and to be protected against double jeopardy.

There was a number of white boys on this train who were available as witnesses for the state and were not introduced by the state and no reason given for not doing so and the name of one or more of them appeared on the indictment.

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

Subscribed and sworn to before me on this 15th day of May, 1931. (Signed) U. L. Heustess, Notary Public. My commission expires Feb. 27th, 1935. (Seal.)

[File endorsement omitted.]



EXHIBIT No. 1 TO AFFIDAVIT OF THE EIGHT DEFENDANTS,  
STATE VS. HAYWOOD PATTERSON ET ALS.

IN CIRCUIT COURT OF JACKSON COUNTY, SPECIAL SESSIONS,  
1931

STATE OF ALABAMA

vs.

CHARLEY WEEMS and CLARENCE NORRIS, Alias CLARENCE  
MORRIS

[fol. 74] 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 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?

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

Mr. Roddy: If the court please, I am here but not as em-  
ployed counsel by these defendants, but people who are in-  
terested 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 in-  
terested 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 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—

[fol. 75] Mr. Roddy: I just appear here through the courtesy of Your Honor.

The Court: Of course I give you that right; well are you 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 the defendants I don't want to impose upon you all, but if you feel like counsel from Chattanooga—

Mr. Moody: I see his situation of course and I have not run out of anything yet. Of course, if Your Honor purposes 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 local 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 I certainly 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 to counsel, but I am barely 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 [fol. 76] 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 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 a 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 would 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.

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 ar-[fol. 77]raignment, 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 in the prosecution, and I thought under the circumstances I was. I am not trying to shirk any 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 I 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 these 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 matter 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 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?

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 have just 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.

[fol. 78] 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 reasonable 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 exhibit is just a copy of a newspaper article, and that is a conclusion pure and simple; there is no petition concerning that newspaper article, no affidavit attached, and no witness in support of this. Now, we first object to the filing and the consideration of it. If 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 sometime 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; 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 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.

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

[fol. 79] 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 didn't 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 protection 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?

[fol. 80] 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 anything 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?

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 court house?

A. Yes, sir.

Q. And there is a great throng around this 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 DeKalb.



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

[fol. 81] 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. Have you five units of the State militia?

A. Yes, sir.

Mr. Roddy: That is all.

The Court: Anything else?

Mr. Roddy: I might ask Major Starnes.

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[fol. 82] 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.

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. These 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 9:00 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 or 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 courthouse?

A. That is correct.

[fol. 83] 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?

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 back 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?

[fol. 84] 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 hostile demonstration.

Q. Your judgment the 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.

*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 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.

[fol. 85] 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?

Mr. Bailey: Roy Wright is, yes, sir.