

C A P T I O N

STATE OF ALABAMA
JACKSON COUNTY

Be it known, that at a Special Session of the Circuit Court of Jackson County, Alabama, at which the Officers authorized by law to hold or serve such Court were present and serving when the following proceedings were had and done in the cause styled:

CAPTION

THE STATE OF ALABAMA
VS
CHARLEY WEEMS AND
CLARENCE MORRIS

NO. 2402.

INDICTMENT.

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 Morris, alias Clarence Morris, whose names to the Grand Jury are otherwise unknown than as stated, unlawfully and forcibly ravished Victoria Price, a woman, against the peace and dignity of the State of Alabama.

INDICTMENT

H.G. Bailey
Solicitor for Ninth Judicial Circuit

Circuit Court, Special March Term, 1931. The State vs Haywood Patterson, et al. INDICTMENT RAPE, No prosecutor. Witnesses: Ruby Bates, Victoria Price, Arvell Gilly, Dr. J.B. Bridges, Dr. Lynch, C.M. Lathan, C. Broadway, J.P. Simmons, Tom Taylor Rousseau, Jim Newberry. A TRUE BILL. J.N. Bagdale, Foreman Grand Jury. Filed in open Court on the 31 day of March, 1931.
A. Mann, Clerk.

WARRANT

STATE OF ALABAMA
JACKSON COUNTY

CIRCUIT COURT NO 2402

An indictment was returned against Haywood Patterson, et al., at the Special Session, 1931, of the Circuit Court of Jackson County, for the offense of Rape.

WARRANT

You are therefore commanded, under penalty of law, to arrest the said Haywood Patterson, et al., and to bring them before the Court to answer to the said indictment, to be held and tried in the County of Jackson, Alabama.

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

W. L. HARRIS
SHERIFF.

HERBERT HENRY

THE STATE

VS

HAYWOOD PATTERSON

NO. 2404.

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

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

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

April 12, 1931, The Clerk of this court did write death warrant for the said defendant the said Haywood Patterson and directed the same to the Warden of Kilby Prison commanding him to execute said sentence and fail not in making his return as to how and when he had executed the same.

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

Patterson
72 June 1932

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT OF ALABAMA

STATE OF ALABAMA,

VS

HAYWOOD PATTERSON

No. 2404

BILL OF EXCEPTIONS

BE IT REMEMBERED That upon the trial of the foregoing styled case, in the Circuit Court of the Ninth Judicial Circuit of Alabama, sitting on, to-wit, the 7th day of April, 1931, present and presiding Honorable A. E. Hawkins, Judge of said court, the following proceedings, not otherwise appearing, of record, were had, to-wit:

On said 7th day of April, 1931, the defendant, Haywood Patterson, filed in said cause his petition for a change of venue, said petition being also signed by other defendants, and a severance as to defendant in this cause, to-wit, Haywood Patterson, was granted upon motion of the State. Said petition for change of venue is in words and was as follows, to-wit:

THE HON. A. E. HAWKINS,

JUDGE OF THE 9th JUDICIAL CIRCUIT COURT:

Your petitioners, the undersigned, who are defendants in a cause pending in said court, charged with the offence of rape, respectfully presents that they nor neither of them can have a fair and impartial trial in this county; that the newspapers published in this county have persistently tried the case asserting the guilt of the defendants in the 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. After the arrival of said troops, hundreds of people gathered about the jail, where they were confined, apparently in threatening manner. From the inflammatory statements contained in said newspapers which circulated all over this county, the minds of the public in such a way that your petitioners could not have a fair and impartial trial. A copy of said petitioners are hereto attached, marked exhibit "A" and "B" and

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*motion and severance of 7-1-31
copy of Supreme Court opinion by Wright 74*

made part of this petition. That the public generally have already convicted them. Therefore, 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.

his
Odie X Powell
mask
his
Waywood X Patterson
mask

his
Hagood X Williams
mask

his
Charlie X Sims
mask

his
Ray X Wright
mask

his
Willie X Johnson
mask

his
Andy X Wright
mask

his
Olen X Montgomery
mask

his
Clarence X Morris
mask

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

G. A. NASH,

Clerk Circuit Court.

Filed April 6, 1931,

G. A. Nash, Clerk.

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

EXHIBIT "A"

JACKSON COUNTY SENTINEL

SCOTTSBORO, ALA., MARCH 26, 1931.

NINE NEGRO MEN RAPE TWO WHITE GIRLS, CHARGE

THREE WHITE BOYS FROM FREIGHT TRAIN AND HELD WHITE
PRISONERS UNTIL CAPTURED BY POSSE

ALL NEGROES POSITIVELY IDENTIFIED BY GIRLS AND ONE WHITE
BOY WAS HELD PRISONER WITH PISTOL AND KNIVES WHILE NINE BLACK
BOYS COMMITTED REVOLTING CRIME

NATIONAL GUARD CALLED HERE AND ESCORTS PRISONERS TO
HERE FOR SAFE-KEEPING UNTIL TUESDAY

TWO GIRLS AND SEVEN WHITE BOYS WERE ATTACKED BY NEGROES
ON FREIGHT TRAIN LEFT STEVENSON; GIRLS HOME HUNTSVILLE

CASE HAS NO PARALLEL IN CRIME HISTORY ASSAULT TOOK PLACE
LATE AFTERNOON AS FREIGHT TRAIN SPED THROUGH THIS COUNTY

SPECIAL TERM OF GRAND JURY AND COURT CALLED FOR NEXT MONDAY
APRIL 6TH

This afternoon (Thursday) eleven National Guard officers and seventy
riflemen are on their way to Oadson, Alabama, escorting nine negro men
to the jail at that city for safekeeping. Every one of the nine blacks
is charged with raping one or both of two white girls they held prisoner
on a fast through freight train as it was passing through Jackson County
Friday 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
opening 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
return home with the white boy companions. Both girls were garbed in
blue flannel.

The names of the white boys were John Glennon, John Ferguson, Roy
Cowan, Lindsay and Edell Gladwell, Lester Carter and Orville Gilley.
None of these white men gave addresses in other states except Gilley, who
stated his home was at Albertville in Marshall County. Gilley was the
only white boy held prisoner by the negroes and is an eye witness to every assault.

The negroes, as they looked out over the jail here, saw
the names of the boys, Olen, Olen, Clarence Morris of Olen,

BILL OF
EXCEPTIONS

Owen Montgomery of Monroe, La., and Roy and Andy Wright, Eugene Williams, Raywood Patterson of Chattanooga, and Willie Robertson of Columbus, Ga.

These last four named negroes were identified by Chattanooga police as being "the worst young negroes in Chattanooga" and all of them have had 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 white boys, the two girls and seven white boys were in a gondola car (or coal car) which had about two feet of gravel in the bottom of it. They were heading 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 side and the fight was soon left to only three or four white men and they fought until one by one the black brutes overpowered them and threw them over the side of the car. One white boy, Orville Wiley, 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 Point Rock, where Deputy Sheriff Latham of Trenton, who happened to be in Point 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 unpeepable experience at the hands of the black brutes. They were hurried to Scottsboro and given medical attention.

The negroes were lined up at Point Rock and Sheriff Hann and the posse brought all nine of them to Scottsboro where they were identified as the two girls and all of the white boys.

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

As a precautionary measure Governor Miller had been asked to send troops to Scottsboro and Major Joe Starnes of Cantonville, with ten company officers, commanding Alabama National Guard Companies E, F, G, arrived here within less than three hours notice from the time his men were called, establishing a splendid record for the Guard as to ability "get there when called." However, all was quiet, the soldiers obeying 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 arraignment and trial.

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

CASE WITHOUT PARALLEL IN COUNTRY

This crime, the news of which was flashed around the whole country as "first" Associated Press story, stands without parallel in crime history. Nine negroes charged with rape, all of them being seen by three white 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 our country, that the evidence against the negroes was so conclusive as to be almost perfect and that the ends of justice could be best served by a legal process. The citizens and officers are also commending the citizens of Point Rock for their splendid courageous stand in helping uphold the law at a most trying time.

Special Judge J. H. ... and Solicitor Wiley arrived in

BILL OF EXCEPTIONS

Open Montgomery of Macon, Ga., and Roy and Andy Wright, Eugene Williams, Raywood Patterson of Chattanooga, and Willie Roberson of Columbus, Ga.

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Circuit Judge, L. J. ... and Solicitor Gilley arrived in

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Scottsboro Thursday morning and immediately went into conference regarding a special term of the grand jury and circuit court.

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

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

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

According to legal procedure in a case of this grave nature it is necessary to allow certain time to elapse for legal procedure between the indictment and trial. Many citizens had hoped to get a speedier trial even than this date set, but under the law it is properly set and we feel sure that Jackson County people will accept this verdict and be a part in keeping peace in this time when it is hard to be law-abiding.

Judge Hawkins and Solicitor Bailey have secured Judge Speaks and Solicitor Pride of Madison County to hold their court at Ountersville week after next in order that they might give this early trial to these negroes.

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

EXHIBIT "B"

JACKSON COUNTY SENTINEL

SCOTTSBORO, ALA., APRIL 2, 1931

NEGROES INDICTED ON CHARGES OF RAPE

GRAND JURY FINDS 20 INDICTMENTS AGAINST BLACKS CHARGED WITH RAPE OF TWO WHITE GIRLS ON TRAIN

NEGROES PLEAD NOT GUILTY TO MOST SERIOUS CHARGES IN LEGAL HISTORY OF THE 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 Johnson, Magame Williams, Charles Woods, Ray Wright, Ozie Powell, Willie Roberts, Andy Wright, Olen Montgomery and Clarence Morris, all of whom pled not guilty to the charges of having raped Victoria Price and Ruby Bates, two white girls.

TWENTY INDICTMENTS AGAINST NEGROES

The Jackson County Grand Jury went into session last Monday morning investigating the case and Tuesday morning reported twenty indictments for rape against the nine negroes for the alleged rape of Victoria Price, 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 seven 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, patrol officers and others who had information on the case.

NO DISORDER AT ARRAIGNMENT

The negroes were brought to Scottsboro from the Madison jail where they had been carried Thursday of last week. They had an escort and guard in Scottsboro of Sheriff Hann and deputies and Major Joe Starnes of Ountersville 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 ~~them~~ "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 rule of justice can be met best in this manner, although these charges urged against the negroes appears to be the most revolting in the criminal records of our state, and certainly of our county.

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DEFENSE LAWYERS APPOINTED

A Chattanooga lawyer, 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 Procter and Smigra has been retained to assist in the prosecution of the negroes.

TRIAL SET FOR NEXT MONDAY

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

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

100 GUARDS HERE NEXT MONDAY

MAJOR STARNES WILL COMMAND PICKED TROOPS AT TRIAL NEXT MONDAY

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

The units coming here will be from 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 Stowah counties.

JURORS DRAWN FOR SPECIAL TERM OF COURT

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

A. M. Hill, Bridgeport, Lem R. Jones, Bridgeport, Geo. R. Joyner, Bridgeport, J. A. Barnes, Bridgeport, Luther Hart, Bridgeport, L. M. White, Bridgeport, W. C. Lindsay, Stevenson, Luther Ballard, Stevenson, John St. John, Stevenson, John H. Coffey, Stevenson, Virgil Knight, Stevenson, Grace McCrazy, Stevenson, A. L. Akins, Stevenson, G. C. Reeves, Bryant, James Walker, Fackler, Clay Shrader, Fackler, Albert Rash, Rash, James B. Allen, Rash, Lee Hicks, Orlace, Ed Matthews, Orlace, Arthur Gamble, Orlace, J. G. Allen, Orlace, A. L. Starkey, Hollywood, Sade C. Rowe, Pisgah, Will B. Hartman, Pisgah, Griff Callahan, Langston, Chas. Utter, Langston, I. James Atkins, Tupelo, Steve J. Mitchell, Tupelo, Perry B. Hall, Centerville, J. B. Selby, Larkinsville, Flenas Kennamer, Woodville, Wm. Bishop, Woodville, P. W. Page, Woodville, Roy Milbourn, Trenton, Richard Hill, Collins, Chas. Grady Swain, Collins, Tom Austell, Collins, John W. Miller, Bishop, F. R. Sanders, Kyles Spring, G. C. Procter, Scottsboro, W. B. Dean, Scottsboro, J. Egan Sumner, Scottsboro, John L. Staples, Scottsboro, J. W. Austell, Scottsboro, J. H. Harris, Section, J. A. Galloway, Section, McKinley Milbreath, Section, J. A. Staton, Section, Granville Carter, Section, Luther B. Whitten, Section, J. A. McFarlin, Garth, J. A. Houk, Garth, J. G. Enoch, Hollytree, W. C. Scroggins, Dutton, Fred Morris, Atton, Robert Hope, Dutton, Tom J. Dean, Dutton, Sam Dobbs, Dutton, T. E. Galloway, Dutton, Joe M. Kennamer, Opos Spring, Albert Britt, Haignood, W. D. Bryant, Haignood, John D. Culpepper, Haignood, W. G. Isbell, Haignood, W. B. Clark, Princeton, J. C. Atkins, Ininger, E. F. Adams, Tommie, Alfred James, Beans, M. H. Moore, Beans, Eli L. Brown, Beans, J. B. Creswell, Beans, B. M. Bradley, Beans.

SPECIAL JURORS

The following is a list of 25 special jurors drawn to supplement to regular list above of 70. 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 draw them as needed. The following jurors also report next Monday morning:

Wm. B. Moore, Flagah, Nose Dawson, Scottsboro, John Strawn, Section, Joe L. Outlaw, Section, Marion Johnson, Limrock, Lee Golden, Princeton, G. Gordon Harris, Hollywood, John L. Blevins, Stevenson, Em. N. Glover, Limrock, Tom Shepard, Swain, Willie J. Wells, Paint Rock, John H. Hatchett, Swain, Geo. O. Cook, Paint Rock, Hub F. Everett, Paint Rock, Avery Steele, Clales, J. Walter Clumn, Princeton, John Golden, Princeton, Tom Arnold, Flagah, John W. Sumner, Scottsboro, Albert Hago, Tupelo, Charles B. Howell, Flat Rock, Lee Sahby, Maxwell, Joe A. Ross, Woodville, Geo. R. Allison, Stevenson, Jesse C. Smith, Section.

JACKSON COUNTY SENTINEL, SCOTTSBORO, ALA., APRIL 3, 1931.
(EDITORIAL)

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

of paper or even to make public property. If these stories are true, you who negroes are all guilty and should pay. The negroes have shown willing to refute these charges except their usual "not guilty" answer in the court building. It is their privilege and the duty of their attorneys at the trials next week to prove these charges false if they can do so. The citizenship of this county and the 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.

That Sunday should be entirely in Scottsboro in every way. A thousand men will be here, most of them out of custody. The town will have a hundred or more soldiers in it too. Everybody is urged to get down on all friction with the troops. They are nice, ordinarily young men from our neighboring counties, who will carry out their other obligations to their state and country and are not sent here to "bother" to intimidate citizens.

The Sentinel is not prejudiced. These nine negroes face the same charges ever docketed at one time in Jackson County, or Alabama. No 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 a law. But we just want the world to know that these negroes were not roped up on vague charges and slammed in jail on the pretense of a rape charge. The editor of this paper heard and saw the two poor white boys 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 released, he said, the wholesale rape of the two helpless white women, testify 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 the negroes shaking and beating him. The Sentinel is not trying to assist the negroes without a trial, it just resents the insinuations these who accuse our citizenship 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 well known elsewhere as in this county and court.

BILL OF
RIGHTS

ing escaped capture. Ordinarily it would be next to impossible to
maintain the mob spirit in such circumstances. But two factors entered
the success of Sheriff Wann in protecting his prisoners. The first
was the angry citizens without must have known that the Sheriff was in
fact. The second is the growth of anti-lynching sentiment in Alabama.
The mob are more reasonable and tractable than they used to be, because
of the policy of public officials, especially Governors, and the
top of newspapers, for many years to condemn mob action. Alabama
citizens generally have been vigorous in their efforts to combat the mob
spirit.

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

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
in show that they are willing to let the law have its way.

.....

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

In support of said petition for change of venue, defendant offered
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.
When these defendants to court to trial today I did call this
National Guard unit to accompany the prisoners in court, although I did
not 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
prisoners 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 country. I deemed it necessary
not only to have the protection of the Sheriff's force but the National
Guard.

GRAND EXAMINATION

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

BILL OF
EXAMINATION

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?

Defendant objected to the question on the ground that it is leading;
on the further ground that it calls for a mental operation of the witness;
on the further ground that it calls for a conclusion of the witness;
on the further ground that it calls for an unauthorized conclusion of the
witness; on the further ground that it calls for incompetent, irrelevant
and immaterial testimony. The court overruled the objection, and to this
ruling of the court defendant duly and lawfully reserved an exception.

The witness answered: A Yes, sir.

The witness testified further: It was not on the grounds of the
charge that I acted in having the guards called that it was on my
instinct I acted on the outside. I have not heard anything of substance
from the newspaper in question that has caused my feeling of my duty
being a guard. It is my duty, as Sheriff of the county, that the
prisoners be not any higher law than in my official position. I do
not feel any more sentiment in this county than I usually express in the
State. I think the defendants could have as fair trial here as they
could in any other county in Alabama. That statement was the proper
test of this county. I think the defendants could have a fair trial
anywhere in this State in Jackson County. That is my opinion.
I have heard no threats whatever in the way of the prisoners being
brought to the trial. It is the sentiment of the county, and my
duty, that we have a fair and impartial trial.

REPLIES TO OBJECTIONS

I have charge here today not to bring the crowd that I have
called here, and there is a great feeling against this court here, and
we that want to bring them to trial I did not have the chance to do so
without a crowd here today. I know there are lots of guns here and
around the houses, the school and church. They are afraid of the
crowd the court here at the present time. They do not object to 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 directed the crowd
at around the house. 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

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 nice men who perpetrated these frightful deeds and a normal, kind-hearted man who guards his little family and toils through the day, going home to loved ones at night with a song in his heart.

How is it possible that in the vesture of man can exist souls like those mine, while others in the vesture of man can dream such beauty as Shakespeare dreamt, or can paint as old England, or sing as Burns, or play as Beethoven? The bonnets of the fields do not differ among their own kind as do men, the one either blessed or cursed with imagination.

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

The State urges the Alabama Grand Jury to return speedy indictments. We still have charges ahead in the land, it seems. Let us have the satisfaction of knowing that at least we have action above the justice of charges.

THE VIRGINIAN ADAMS AVENUE
(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 looked to respect before they had occasion to test his mettle. Otherwise, what 100 Jackson County citizens might have spent the jail at Scottsboro did cost the mine or twelve negroes who were charged with criminal assault upon two white girls. But with mine deputies and one volunteer standing by his side, the sheriff went with the imprisoned men without that he would fight before surrendering the prisoners. They stood around waiting for them, say the dispatches--when the weather turned cold unexpectedly and to be comfortable they dispersed and went to their homes.

The circumstances were peculiarly trying. Some of the negroes confessed that 12 of them attacked two white girls, two of the negroes

ing escaped capture. Ordinarily it would be next to impossible to maintain the mob spirit in such circumstances. But two factors entered into the success of Sheriff Wann in protecting his prisoners. The first was that the angry citizens without must have known that the Sheriff was in control. The second is the growth of anti-lynching sentiment in Alabama. Negroes are more reasonable and tractable than they used to be, because it has been the policy of public officials, especially Governors, and the lay of newspapers, for many years to condemn mob action. Alabama citizens generally have been vigorous in their efforts to control the mob spirit.

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

The courts are acting promptly in arranging for a grand jury to investigate the crime.

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

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FRANK S. BARTON
The Solicitor for the State propounded to the witness the following

BILL OF
EXHIBITION

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?

Defendant objected to the question on the ground that it is leading; on the further ground that it calls for a mental operation of the witness; on the further ground that it calls for a conclusion of the witness; on the further ground that it calls for an unauthorized conclusion of the witness; on the further ground that it calls for incompetent, irrelevant and immaterial testimony. The court overruled the objection, and to this ruling of the court defendant duly and legally reserved an exception.

The witness answered: A Yes, sir.

The witness testified further: It was more on the grounds of the charge that I acted in having the guards called than it was on any sentiment I heard on the outside. I have not heard anything as intimated from the newspaper in question that has aroused my 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.

RE-CROSS 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 forth 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 Bolivar. 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.

THE WITNESS, having been duly sworn, testified as follows:

RE-CROSS 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. The companies accompanied these defendants to this court. Several days ago I had a picked group of twenty-five enlisted men and two officers from two of my companies to bring these defendants over for arraignment. I received the call from the State Adjutant General at Montgomery at nine o'clock P.M., on the evening that the attack occurred in the afternoon. On every occasion I have been in Wetmore I have found a crowd of people gathered around, and at the present time I have issued orders to my men not to let any come in the court house or court house grounds with arms. That situation exists right now, and has existed not only today but under orders of the court on every appearance of the defendants. My units of the National Guard have protected these men and have been with them on every see 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, in 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 Wetmore 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.

BILL OF
RIGHTS

me. Somebody took my clothes off; this defendant had something to do with that; he sat on my overalls after they were taken off; that was after he had had intercourse with me, that he sat down on my overalls. The overalls were then off of me and were about a foot or a foot and a half from me at that time. After I had gotten off of the gondola car, when I came to myself, I was sitting at a store and the Doctor was there and I left there and came to the jail. The store at which I was when I came to myself is at Paint Rock, Alabama, in this county. I came to the jail at Scottsboro:

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

GROSS EXAMINATION

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

I was standing up there in the corner. Ruby Bates and I were standing up there in the corner looking at them.

I did not ask the boys whether any of them were out with the knives these negroes had. All the colored boys had knives, and those knives were spread. I did not examine the knives to see whether they were long-bladed knives or not, but I saw the knives. I did not say that everyone of the negroes had knives; I said I saw knives on them and it looked like pretty well all of them had knives. They had two pistols. These two that had pistols also had knives, because one of them held a knife on me. He put the pistol in his pocket or did something with it after he threw me down in the car. I was very much excited at the time. Six of them had intercourse with me. I know which one had intercourse with me first; I know the second one that had intercourse with me. None of the boys had intercourse with me twice. I have made no statement to the newspaper men or to the National Guardsmen or others that some of the men had intercourse with me two or three times; I have not made such a statement. They wanted to, but I did not say they did it; I said they wanted to and they would have if the train had not stopped, I guess. There were twelve of these boys and only six had intercourse with me. I did have intercourse with six of them, and six with the other girl.

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

Counsel for defendant asked the question:

Q Are you divorced?

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

The witness (continuing): I left Huntsville on Tuesday, the day before I came back. The other young lady in this case with me left Huntsville with me. We left on a freight train and rode to Chattanooga. We got off of the train there when it stopped. I could not tell you the name of the place where it stopped, but it was there pretty close to the water tank; it was right there in the Chattanooga yards. I was in overalls then. I was not in company with the white boys on the train coming to Chattanooga; we were by ourselves. There were no white boys in the car with us going to Chattanooga with us. I stayed all night in Chattanooga. I know where I stayed there; I stayed at Mr. Kelly Brechie's. I do not know how you spell her name; I do not write good and I have not asked her how it was spelled. I had known her about four years. I had known her in Huntsville. She had lived in Chattanooga a pretty good while. She lived on Seventh Street, but I do not know the number of her house. I did not notice whether Seventh Street runs East and West or North or South. I did not pay any attention to that; it was pretty close to town, the business section; it was four or five blocks off the business streets. I walked to her home. I did not know the house when I saw it. A boy there showed us where the house was. I do not know who the boy was. We met him on the street, on the sidewalk in Chattanooga; I did not know the boy; I butted into him and asked him where she lived, and he happened to know her. He said he had lived there all his life. He did not take us to where she lived, but showed us there. He did not talk with us or accompany us any part of the way. He told us to go on down that street and when I got to the fourth house to go in. All I know is that it was on Seventh Street; it was not a storehouse, but was close in to the town section. The mill is not out in the country. I do not know the name of the mill there; that is a mill where I applied for work. I applied for work at two of them. They call one of them the factory mill. Seventh Street is out close to the factory mill. The factory plants are not a mile or more from the mill house, I do not reckon; I have never measured the distance. I applied for work at two places. I left Chattanooga the next morning when the freight train pulled out.

This woman with whom I stayed went to the mill with me. The white boys were on the train when I got on. I had never seen any of them before that time. I had not seen any on the train the day before when I went up there. I told you we went by ourselves. I think that I had

seen two of the negroes who came into the gondola before that time, but I did not know them. I did not scream or raise my voice or draw my knife when I saw these negroes coming over with open knives and pistols; I fought with them, I tussled with one of them, with the one sitting right there (indicating), and he smacked me. It took three of them to get my clothes off, and they just paired off and six of them had intercourse with me and six with the other girl. I do not know anything about this section around Paint Rock or this place through here, but the train was pretty close to Paint Rock when the last one got through making intercourse. I was going from Chattanooga to my home at Huntsville; I did not have any other place to go. I have worked in the mills at Huntsville for eleven years. I live at Huntsville; my mother lives there. I have known the other girl about two years. She has worked in the mill a little over a year.

Counsel for defendant asked the question:

Q Did you ever practice prostitution?

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

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

Counsel for defendant asked the question:

Q Never did?

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

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

RE-DIRECT EXAMINATION

I went to Chattanooga looking for work. One of these white boys was in that gondola car when the train got to Paint Rock. I knew which one that was; it was the Miller boy. The other six white boys that were on the train when it left Tennessee were knocked off by the negroes. They were knocked off about five or ten minutes after the train left Tennessee; I could not say the exact place it was. When the negroes had intercourse with me, there was only one white boy on the gondola with me. I saw the whole thing. The negroes got these white boys off the train.

BILL OF
EXCEPTIONS.

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

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

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

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

I do not know the second negro that came over into the car; I could not tell exactly which was the second one. I stated that they told the white boys to "unload". I was in a high state of excitement, and was not paying any particular attention to what was going on with anybody else. I was buglocking after myself. I do not know all of the boys that were having intercourse with Victoria Price. I could not be sure about who was the first one that had intercourse with her; that was happening to me at the same time. I would not undertake to say who was the first one that had intercourse and second and third and fourth and fifth and sixth of the boys that had intercourse with Victoria Price; I could not say that. My attention was fully taken up with what was happening to me. There were

twelve negroes there all together. There are nine of them here now. The other three got off the train between Woodville and Paint Rock somewhere. I do not know how they happened to leave the train; they just got off. I did not hear them say why they left the train. I could not be sure about the boys that had intercourse with Victoria Price.

I, E. E. BRIDGES, a witness for the State, being first duly sworn, testified:

DIRECT EXAMINATION

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

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

At the time of my first examination on the afternoon or evening, found their vaginas were loaded with male semen, and the young girl was probably a little more used than the other, the other not showing much. On the body were bruises on the lower part of the groin on each side of Ruby Bates, that is the young one, and there was a bruised spot toward the hips, or the lower part of the back, on the other girl, the older girl, a few scratches, small scratches on the hands and arms, and a bruise spot here (indicating) on the neck of one of them; I think that was Victoria Price, I will not be sure about that. On my first examination in the afternoon, they were not nervous or hysterical over it at all, they submitted readily to the examination and answered questions readily, and the next morning I went over their bodies again, from the waist up, looking for other bruises, and they were both peevish and crying and nervous about it.

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

CROSS EXAMINATION

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

Counsel for defendant asked the question:

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

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

The witness (continuing): I did not see any bleeding or tears in my examination, but saw a few minor bruises. The Bates girl had two blue places, one on each side of the vagina, low down in the groin, and her vagina was a bit red, more than normal, but no torn places on either one of them.

REDIRECT EXAMINATION

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

RECROSS EXAMINATION

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

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

DIRECT EXAMINATION

I was out at Paint Rock, along about two or three o'clock, when these negroes were taken off of the train. I am familiar with this railroad through this county. The territory along the right of way of

that railroad from Stevenson to Paint Rock is in Jackson County, Alabama. I do not know just exactly how far it is from Stevenson to Paint Rock; I imagine, I would say it is sixty or seventy miles, somewhere along there. All of that territory between there and Stevenson is in Jackson County.

I saw these negroes on that train. I saw the defendant over there getting off the train. When I saw him getting off of it, the train was at Paint Rock. I saw these girls, Victoria Price and Ruby Bates on that train. These negroes got off of the train right up close to the tender, next to the engine and coal car and the bulk of them were two cars behind the coal car. I did not see the girls in the car where the negroes were getting off. They were not in the car at that time. I saw the negroes come out of the car where the girls were. When I saw the girls, one of them had been brought up from the train unconscious, and they had her in a chair, with her head over that way (indicating) and her eyes closed. I did not know the names of the girls, but I was told it was Victoria Price. I saw the other girl one time, but was not close to her.

CROSS EXAMINATION

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

BILL OF EXCEPTIONS

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

DIRECT EXAMINATION

I live at Stevenson. I recall the day it is said a freight train was taken off it. On that day, I observed a freight train pass while I was near the Southern Railroad track this side of Stevenson; I was at that time out about the coal chute, about a mile, or a mile and a half this side of Stevenson. It was twelve-thirty or one o'clock when I saw the freight train pass there; that was in the afternoon. As that train passed I saw them striking this way (indicating) and fighting; that was in a coal car, or a gondola car, they call it. The backs of the men who were striking were to me; I did not see but one doing that; that was over the

see either of them with a pistol. I did not have a pistol, and I did not see either one of them with one.

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

CRIME EXAMINATION

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

I got on the train in Chattanooga; I had started to Memphis. All four of us were going to Memphis. I know three of the negroes, Roy Wright and Gene Williams and Andy Wright, but did not know the other one. I did not ravish that girl; I did not go down in the gondola, but stayed up on the box car and went back on the flat car. I was up there by myself. I did not see Morris up there with me; he was not up there with me. I heard him testify that I ravished her, but I did not do it. I did not help beat him up down at the jail at dinner. There was a fellow already in jail, and he had a piece of iron and he took the piece of iron away from him. Morris had the piece of iron. I did not beat him up down there, nor did I help to do it. When I was sitting up on the box car, I guess Morris was down with the other crowd; I did not see him. I saw a lot of men down there, about eleven or twelve men down there, all colored. Twelve were down in there and I made the thirteenth, and I stayed up on the car. I did not go down in there. I saw all but three of these negroes ravish that girl. I do not know none of their names that ravished the girl; Weems was one; I saw him ravish her. The fellow back there (indicating), I saw him down there; I did not see him ravish her; I saw him down there. I don't know what they were doing.

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There were twelve down in the car and three of us up on top of the car. Wright, Eugene Williams and Andy Wright were on top of the car with the four left Chattanooga together and we stayed together. While the cars were down there in the car, we were sitting up on that box car. I did not know the names of the men down in the gondola. I did not say there was one down in the gondola where the girls were. I said there was about eleven or twelve in there with the girls, and three more sitting up on the top with me; that made four of us up there, and we had a flat car from the time we left Chattanooga. I did not hear the girls say. I saw one of them with a pistol. The one that had the pistol got up and got off right after we left Stevenson. He is the one I saw with the gun. I did not hear anybody shoot a gun while I was in there. I did not hear any guns fired all the way around.

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

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

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

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

When I saw the boys in there, I crawled up on top and looked over there. I did not see the girls in there; I did not tell you a while ago I saw them; I did not see any girls. I did not see any girls in there.

BILL OF EXHIBITIONS.

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

REVERSE EXAMINATION

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

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

DIRECT EXAMINATION

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

with the girls. The boys I left Chattanooga with were named Wood Patterson, Eugene Williams and Andy Wright.

CROSS EXAMINATION

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

The girls rode the oil car down to Stevenson and then got off that car and got in this gondola, and then we boys got on the car together. There were fourteen colored boys on the car together. I had seen the girls in the gondola. I did not tell the fourteen boys the girls were on the car; I did not tell them anything; I saw the girls myself. I do not know whether the other boys saw them, too. We met the other boys in Stevenson. We did not talk about the girls. I did not hear someone say, "Let's go down there." The way it was, these white boys, when we were laying back on the oil car, kept walking backward and forward across the car and liked to have knocked the defendant off. When we left out of Stevenson coming this way, we were on a cross-tie car; we had gotten off the oil car. This cross-tie car was about three cars from the gondola where the girls were in. We started on the cross-tie car from Stevenson. There were fourteen in the car when we started from Stevenson, all of us on the same car. There was nothing said about the girls being down in the gondola; we were talking about men. We knew that the men were down there, too. They had been passing by and we had a few little words. Wood Patterson, Eugene Williams, Andy Wright and I were on the oil car and the white boys kept walking backward and forward and liked to have knocked Wood Patterson off and Wood said, "How come you did not let me to move," and so the white man said, "What do you care?" and Wood said, "I care a lot, I don't want to be knocked off," and the white man said, "We will settle it when the train stops." It was the white boy that said that. He was on the train and he went up and got

BILL OF
RECEPTION

some more white boys and then the train stopped in Stevenson and they got off and went up in the gondola. The boys all got off and went up in the gondola. The white girls went up there with them, I guess, or they were up there. The negroes all got on a cross-tie car and stayed there. I was on the cross-tie car, all fourteen of us on the cross-tie car. The cross-tie car was not the next car to the gondola, but was three cars from it. We all got on the cross-tie car. After the train started off, the first one of the white men came over, the one that had on a big, black belt, and we were telling the other boys about it, that they were intending to put us off, that is that the white boys were intending to put us off, but we overpowered them and put them off; that occurred down in the gondola. We all made it up among ourselves to put them off; we made it up while we were over there on the cross-tie car, and after we all had made it up among ourselves to go over and put the white boys off, we all came along the cross-tie car and got over the box car and jumped down in the gondola. I did not put any of the white boys off, but the little boy and I saved the life of one of them. They were intending to put him off and every time his feet would hit, it would throw him in between the cars, and we took pity on him and told him we would let him alone, and they reached down and pulled him back up and he got on the gondola and Haywood, Eugene and Andy went back over the top and left the rest in there, and I was sitting up on the box car, together with Patterson. He and I were on one box car and Eugene and Andy on the other one. I was sitting there looking in on the gondola, but Andy, Haywood and Eugene were not. Haywood was sitting as far as that man (indicating) from me and the others were back on the other box car. Andy went down in the gondola when they were putting the men off; it was not at Paint Rock, but right after the train left Stevenson; that is not Andy Patterson sitting right there (indicating); his name is Haywood Patterson. We all went down in there when we went to put the men off. Patterson went down there with us; all four of us went down in there to put them off. I was in the gondola when I told them not to throw him off but to bring him back.

The long, tall, black fellow had the pistol. He is not here. I saw none of those here with a pistol. I saw five of these men here rape the girl. After we put the men off, we went back on the box car and I was sitting up on the box car holding to that wheel, looking down at ^{everyone} them. I did not tell the officers I saw Eugene rape her but me. I did not tell them that. I did not tell them that I saw the defendant rape her.

I did not see the defendant rape the Bates girl. I did not see him do anything except he just helped put off the men. He was putting them off because they kept stepping across him and talking about putting us off. I saw one knife down in there. That boy back there (indicating) had it, Eugene; he is the one that had the knife. I did not see him hold it on the throat of that girl. He did not have hold of her throat, because he was sitting up on the box car. I saw one down in the gondola, a little white-handle knife. Clarence Morris had that knife; I do not know where he got it; I do not know what he did with it. He had it the last time I know anything about it. I am sure the defendant did not do anything.

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

--ADJOURNED--

MORNING SESSION -- APRIL 8, 1931.

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

DIRECT EXAMINATION

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

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

BILL OF
EXHIBITION

know anything about him. I would not know him if I saw him. A box car was the next car to the gondola, and next behind that was a flat car and an oil tank. Cross-ties were on the flat car; it wasn't a gondola, just like the other one with cross-ties in it; it was a flat car, and the next was an oil tank. I did not go up and down that train up there in Chattanooga. I did not see this negro Montgomery at all anywhere; I do not know anything about where he was. I was down in the gondola; I went down there after we left Stevenson. I helped in the fight, still I never saw Montgomery down in there, and no negro that looks like him. When I got in the gondola, there were fourteen negroes with me in there. We did not make up to go down in there and run the white boys off. They were making it up themselves to beat us off. I know that because they said so. They said, when we left out of Chattanooga, they were going to put us off. I do not know which white boy said that, one of them out there, I think; I don't know which one out there it was. I could not describe the one that said that. He was a little boy; that was not while we were on the ground in Chattanooga, but after the train had left out of Chattanooga. When we were about fifteen miles out of Chattanooga, they said they they were going to put us off, and they kept running backward and forward across us and liked to have knocked me off and I asked him to ask me when he wanted by and I would get up and let him by, because it was an oil tank and it was all a fellow could do to sit down on there, and that is the time he asked me what was my part about it, what did I care about him running off, and he said he was going to put me off when the train stopped. They left us in the oil car, but I do not know where they went. When we made it up to go down and put them off, we went to the gondola, all fourteen of us; four went down there; some were already down there. We four then went down there. We had to come over the box car to get down in there; we had to come we came over the box car and jumped down in there. Those four were Eugene Williams, Andy Wright, Roy Wright and myself. I did not see anybody up on top of the car after I got in there; there was nobody up there. Not all of us were fighting in there; some were fighting; I was not fighting. I did not help to put the boys off. The boys were surrounded; I could not get a chance, but that is what I went down there for. I looked around in the gondola; I could not see over it, but I did not see any women in there. I was in the gondola when it got to Paint Rock, but I did not see any women in there. There

was no women in the gondola, and none there when I got to Paint Rock.

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

DIRECT EXAMINATION

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

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

CROSS EXAMINATION

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

TESTIMONY
OF GLEN
POWELL.

This defendant comes into court with the presumption of innocence in his favor, and that presumption remains with him throughout the trial of the case till the jury from the testimony is convinced of his guilt beyond a reasonable doubt. The indictment is no evidence against the defendant and is not to be so considered by you; it is only a method by which the defendant is brought to trial before you.

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

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

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

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

assault and battery.

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

If you are convinced of the defendant's guilt of rape, as charged in the indictment, this is the form of your verdict: "We, the jury, find the defendant guilty of rape, as charged in the indictment, and we give him punishment at death, or at imprisonment in the penitentiary for not less than ten, nor more than twenty years, as the law directs."

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

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

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

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

STATE OF ALABAMA)
vs) In the Circuit Court of
THOS PATTERSON) Jackson County. No. 2404.

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

COURT'S CHARGE.

PETITION FOR NEW TRIAL

2nd. For that while he was on trial the jury, who had in charge the cases of Clarence Morris and Charlie Weems came into the court room making their report the death penalty. That the jury in the defendants case were removed to the jury room some twenty feet from the bar and door closed, but the transom of said room partly open, which conditions permitted the hearing of any demonstration in the court room. That on the report of said jury, a most tremendous demonstration took place all over the court room by shouts and clapping of hands that could be heard for a hundred yards about the court room. That immediately the shouts were taken up in the court yard. That said applause of the Jury was so great that the court ordered the National Guards who were on duty to quell the demonstration, which was done, and the Jury only a short distance away as stated were bound to have heard all and probably influenced them in their verdict.

Roddy & Meedy.

Filed April 9, 1931.

C. A. Wann, Clerk Circuit Court.

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

STATE OF ALABAMA)	
vs.	:	IN THE CIRCUIT COURT OF
HAYWOOD PATTERSON,)	JACKSON COUNTY, ALABAMA.
Defendant.		

AMENDED MOTION

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

1.

Because the indictment was too vague and indefinite and stated no cause of action, and failed to put the defendant on notice of what he was

to answer, and the judgment ought to be arrested, and a new trial granted, because it was void and illegal.

II

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

III

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

IV

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

V

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

VI

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

AMENDED MOTION

fair and impartial trial that was accorded to white men.

VII

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

VIII

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

IX.

A new trial should be granted because the Court failed to declare a mistrial in the case of Haywood Patterson, because while his case was on trial, a jury in the case of Morris and Weems made its report to the court, and when the report of the jury was made, there was a demonstration in the court room by the clapping of hands and stamping of feet and hollering in approval of the verdict against Morris and Weems. Immediately thereafter the report passed from the court room to the streets that Morris and Weems had been convicted and thereupon there was a demonstration on the streets in the town of Scottsboro and men were hollering and yelling and this street demonstration pervaded the business section surrounding the court house square where the jurors and court officers and military officers were assembled. This demonstration was calculated to prejudice, and did prejudice, the mind of the jurors

who were sitting on the case trying Haywood Patterson, and it also prejudiced the jurors who were seen thereafter to try the five other defendants and made it impossible for any of the defendants to obtain an unbiased, impartial and unbiased jurors in their cases.

X.

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

XI.

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

XII.

A new trial should be granted because the constitutional rights of the defendants were violated in that Article 14, Section 1, of the Constitution of the United States, which provides, "No State shall make or enforce any law which shall abridge the privilege or immunity of citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws," and the rights of this defendant were violated under the Constitution for the following reasons:

(a) He was arrested and had no fair chance to employ counsel or to communicate with his family or friends;

(b) He was placed in a jail in a distant city from his home where his parents or kinsfolk were afraid to visit him on account of their fear of personal violence; (c) because he had no opportunity to employ counsel or make financial arrangements to pay an attorney to represent him;

(d) because there was not sufficient time between the time he was arrested and the time of his trial to prepare the case for trial; (e) because of racial prejudice prevailing in the county where the trial was held, he was denied a fair and impartial trial before an unbiased and an unbiased jury; (f) because while his case was on trial, a

verdict in another case reported convicting two defendants accused in the

same matter and there was a clapping of hands and hollering and a demonstration in the court room while the jury in this defendant's case was in an adjoining jury room; (g) Because there was a demonstration in the streets outside of the court house while this case was on trial, as a result of the conviction of Morris and Weems; (h) because of the ignorance of this defendant and his immature years, he did not know how to prepare for a trial, or how to get his witnesses to the court, and being a man of color and unacquainted and uneducated and ignorant of the law; (i) Because he had been threatened and intimidated and thought his life was in eminent peril, and he could not get in communication with his father or mother to employ him an attorney or to advise him about his rights until the case was called for trial and therefore the verdict returned by the jury and the judgment entered thereon are in violation of his constitutional constitutional rights of the due process of law clause of the Constitution of the United States, and a new trial should be granted.

XIII.

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

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

XIV

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

XV

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

XVI.

A new trial should be granted in this cause not only for the reasons stated in the foregoing motion for a new trial, but because when the defendant was arrested, it created such excitement and passion and rumors in the neighborhood where the trial was to be had as to make it impossible for him to get a fair and impartial trial and that he was denied a fair and impartial trial as contemplated by the due process clause in the Fourteenth Amendment to the Constitution of the United States, which provides, in part, "that no state shall make or enforce any law which abridges the privilege or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws."

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

XIX.

A new trial should be granted because of newly discovered evidence discovered since the trial in this case and which the defendant could not discover because he was in jail in the State of Alabama, and these witnesses were principally in the State of Tennessee, and this defendant, Mywood Patterson, had no chance to talk to his parents or friends and that he had no attorney hired to represent him and no one with money who was able to make a search for testimony and that he used all the diligence that he could but was utterly helpless and his parents lived in the State

LXVII.

A new trial should be granted, because the State had under arrest several boys who were on this train and one witness named Gilley was named on the indictment, and none of them were examined in this case, and if they would have supported the prosecuting witness Mrs. Price, the State naturally would have examined them, on the trial, and its failure to do so was error, and for this reason it throws suspicion on her testimony whereas the witness might have corroborated her. He did not do so, and no reason given for not examining him.

LXVIII.

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

G. E. Charles

Attorney for Patterson
Defendant.

EXHIBIT "A"

to motion for a new trial case State of Alabama vs. Raywood Patterson.

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

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

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

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

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

They were visitors of beetleg joints, saloons, bawdy houses and places of ill-fame and they practiced prostitution and smoked and drank and indulged in profanity and vulgar language.

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

Oliver Love

described and sworn to before me
May 2, 1931.

J. B. White
Notary Public, Hamilton County, Tenn.
Commission expires Jan. 29'35.

(Notarial impression seal of J. B. White here attached)

AFFIDAVIT
OF OLIVER
LOVE.

EXHIBIT "B"

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

McKinley Pitts

Subscribed and sworn to before me May 2, 1931.

J. B. White
NOTARY PUBLIC, HAMILTON COUNTY, TENN.

My commission expires Jan. 29, 1935.

(Notarial impression seal of J. B. White here attached)

EXHIBIT "C"

To motion for new trial, case of State of Alabama vs. Haywood Patterson. Affiant, Isaac Hinch, makes oath that he is 22 years old and resides at 2227 Sidney Street in Chattanooga, Tennessee, and that he was personally acquainted with Ruby Bates and that she had visited Chattanooga in 1930, and he had seen her a number of times. On one occasion she came to a dance that was being given at a house of a

colored family and three colored men were with her and they danced awhile and they had some liquor and they got in a car and went away and after while they came back and danced again and then went away again, and finally came back and associated with this colored crowd in and around the house for an hour or two and went off again with these three men and I don't know how long she was gone, but later in the night she came back and was drunk and I didn't want the police to arrest her so we called an ambulance and let the ambulance come and got her and take her away.

AFFIDAVIT
OF ISAAC
HINCH.

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

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

Isaac Hinch

Subscribed and sworn to before me
on this the 2nd day of May, 1931.

J. B. White

Notary Public, Hamilton County, Tenn.

My commission expires Jan. 29, 1935.

(Notarial impression seal of J. B. White attached)

EXHIBIT "D"

To motion for a new trial, case of State of Alabama vs. Haywood Patterson.

J. F. Hobby makes oath that he is a citizen of Chattanooga, Tennessee, and lives at 1929 Fort Street, which is in the factory district of Chattanooga, Tennessee, and that in the year 1929 and 1930 he knew Victoria Price and that he saw her in the neighborhood of his house in that section of the city on many occasions, and that in 1929 or more than a year ago, he retailed a little liquid refreshments and that Victoria Price would get liquor and get drunk, and he had a piano at his house and she would dance and put herself on the lowest terms that she could; that she was grossly immoral and danced in a vulgar fashion

AFFIDAVIT OF
J. F. HOBBY.

did not get sober, for him and the boy with him not to bother her, because I was afraid it might cause trouble, if they had anything to do with her.

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

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

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

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

Annis Linnam.

Subscribed and sworn to before me April 28, 1931.

J. B. White,
NOTARY PUBLIC, HAMILTON COUNTY, TENN.

My commission expires Jan. 29-1933.

(Impression notarial seal of J. B. White here attached)

EXHIBIT "F"

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

That he knew them in the year 1929 and in 1930 and that where he lives is a colored section, and nearly all the people are negroes, and these two girls were living at the house next door to where he lived and they

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lived there about one month in 1919, and while they were there, their conduct was very bad, in that they associated with colored men, and would use and swear and smoke cigarettes and they had a custom or habit of going out on a vacant lot about 100 yards wide and about two hundred feet long, and staying out with men until as late as four o'clock the next morning, and this lot is near the railway tracks and near several foundries that employ hundreds of negro men and these women were more familiar with negroes than they were with white men.

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

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

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

Affiant further states that he has seen these two girls come out of the houses of colored people before daylight in the morning when they were going to the shop and he has seen this at several houses where these girls would spend the night with negro men and then leave before dawn and return to their place of residence. He knows about them staying all night at Sewell's house, a colored man's residence, and a woman whose

AFFIDAVIT OF
ASBERRY CLAY

name he has forgotten but who has a girl called "Demp" and lived on Chestnut Street near 23rd Street.

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

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

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

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

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

She was a notorious prostitute in the neighborhood and her associations were with the lowest class of negroes in Chattanooga, Tennessee.

ASHBURY GLAY

Subscribed and sworn to before me April 29, 1931.

J. B. White
Notary Public, Hamilton County, Tenn.

My commission expires Jan. 29-1936.

(Notarial impression seal of J. B. White attached)

EXHIBIT "G"

petition for a new trial, case of State of Alabama v. Haywood Patterson.

Savannah Glay makes oath that she is the wife of Ashberry Glay, and on this day gives his affidavit in this case, and that she has seen the photographs of Victoria Price and Ruby Bates, and that she has known these girls for about ten years.

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

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

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

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

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

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

Savannah Glay

Subscribed and sworn to before me April 29, 1931.

J. B. White
Notary Public, Hamilton County, Tenn.

My commission expires Jan. 29 - 1936.

(Notarial impression seal attached here)

EXHIBIT "H"

petition for a new trial, case of State of Alabama vs. Haywood Patterson.

Willie Douglas makes oath that she is a citizen of Chattanooga and her brother William Douglas and Laura Douglas, her mother, live

AFFIDAVIT
OF SAVANNAH
GLAY.

at Scottsboro, Alabama. That he attaches hereto a photograph of these two girls taken from a newspaper which he identifies as being the two girls that were in Chattanooga in the latter part of the year 1929, and in the early part of the year 1930 and girls that he had seen on many occasions.

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

He further states that on many occasions he has met them on the streets and they would call him pet names or try to become familiar with him and notwithstanding the fact that he has in this way tried to avoid them on many occasions, they have tried to stop him and engage him in conversation on the streets and other places and to engage him in conversation in daytime and night time.

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

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

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

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

Silas Johnson

Subscribed and sworn to before me on this the 29th day of April, 1931.

J. B. White,

Notary Public, Hamilton County, Tenn.

My commission expires Jan. 29 - '36.

(Material impression seal attached)

EXHIBIT "_____"

to motion for a new trial in case State of Alabama vs. Raywood Patterson.

IN THE CIRCUIT COURT, JACKSON COUNTY, ALABAMA

Special Session 1951

STATE OF ALABAMA

vs.

CHARLEY WYCHE, AND
CLARENCE MORRIS, ALIAS
CLARENCE MORRIS.

NO. 2602.

APPEARANCES:

H. G. Bailey and Prester & Goodgrass, Attorneys for State.
Stephen W. Roddy and Nile Roddy..... Attorneys for Defendants.

This cause coming on to be heard was tried on this
the 6th day of April, 1951, 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. Raywood Patterson, et al., what says the State?

MR. BAILLY: We are ready if the Court please.

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

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

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

THE COURT: You can appear if you want to with the counsel I appoint,
but I would not appoint counsel if you are appearing for them, that is
the only thing I am interested in -- I 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

for 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
it to continue to help them if no counsel appears.

MR. RODDY: Then I don't appear then no counsel, but I do want to
appear and not be ruled out in this case.

THE COURT: Of course I would not do that --

MR. RODDY: I just appear here through the courtesy of Your Honor.

THE COURT: Of course I give you that right; will are you all
willing to assist?

MR. RODDY: Your Honor appointed us all and we have been proceeding
on 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 felt
a counsel from Chattanooga--

MR. RODDY: 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
deferred 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
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 legal 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
down here and employed, it would be a different thing, but I have not
attended 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
laws in Alabama, but I merely came down here as a friend of people who

CASE DISCLOSED
BY JUDGE AND
ATTORNEYS.

are interested and not as paid counsel, and certainly I haven't any money to pay them and nobody I am interested in had me to come down here has put up any fund of money to come down here and pay counsel. If they should do it I would be glad to turn it over 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 for it and not being familiar with the procedure in Alabama, and whatever might come from people who have spoken to me will go to those 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 as officer of the court trying to do your duty under your oath. That is what I was trying to find out from Mr. Reddy, 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. MOODY: 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. Reddy only appears as assistant that way, I think it is proper that I appoint members of the bar to represent them, I expect that is right. If Mr. Reddy will appear, I wouldn't of course, I would not appoint anybody. I don't see Mr. Reddy 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. Reddy in anything I can do about it under the circumstances.

THE COURT: All right, all the lawyers that will, of course, I would not appear a lawyer to appear if --

MR. MOODY: I am willing to do that for him as a member of the bar, I'll 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 say a word to say. When this case was up for arraignment, I met Mr. Reddy and had a talk with him and I gathered from Mr. Reddy that he would be employed in the case and he explained the situation to me that he was a member of the bar 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. Reddy would be employed as counsel and I was approached then to know if I was in a position to accept employment on the other side of the prosecution, and I thought under the circumstances I was. I am not trying to shirk any duty, I know my duty is whatever the Court says about these matters but I accept employment on the side of the State and have conferred with the attorney with reference to matters pertaining to the trial of the case. I think it is due the Court, I was not trying to shirk any duty here 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 be assisted with counsel for the State, thinking they had counsel, I accepted employment on this side, thinking of course they had counsel I would be relieved from that duty, and I have been conferring with the deputy solicitor about matters pertaining to the trial. I am ready to do whatever the Court thinks is the proper thing to do.

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

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

THE COURT: All right.

THE COURT: All right, now what says the defendant?

CASE DISCUSSED
WITH JUDGE
AND ATTORNEYS

Sheriff's force but the National Guard?

A Yes, sir.

THE COURT: Is that all?

MR. RODDY: That is all.

CROSS EXAMINATION

Examined by Mr. Proctor.

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

MR. RODDY: We object to the leading question.

THE COURT: He has a right to lead Mr. Roddy.

A Yes, sir.

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

A That is right.

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

A No, sir.

Q Is it your idea as sheriff of the county that the sentiment is 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 associating 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.

RE-DIRECT EXAMINATION

Examined by Mr. Roddy.

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

A Yes, sir.

Q And there is a great throng around this courthouse right now 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, Marshall and DeWalt.

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

A Yes, sir.

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

Q 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 the defendants at the present time?

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

Q You have five units of the state militia?

A Yes, sir.

MR. RODDY: That is all.

THE COURT: Anything else?

MR. RODDY: I might ask Major Starnes.

Major Joe Starnes, witness for defendants on their motion testified:

Examined by Mr. Roddy.

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

A I am.

RE-DIRECT EXAMINATION OF H.L. WALKER

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 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.

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 in 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 How soon did you bring them back?

A Brought them back and arrived here at 8:15 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. BONDY: That is all.

CROSS EXAMINATION

Called 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 relations 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 here, I will ask you if it is your judgment these defendants can take here in this county at this time a fair and impartial trial and a biased verdict?

A I think so.

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

A Absolutely none; a good deal of curiosity but not hostile

MR. THOMPSON: Mr. Riddick and Walter Sanders did not answer.

THE COURT: Have they been served?

CLERK: Yes, sir.

THE COURT: Do you want an attachment for those witnesses?

MR. MOODY: Yes, sir, we would like to get them here, if we cannot get them here then we would like to have a showing for them.

THE COURT: I expect everyone of them on a telephone call would come, Sheriff, at the noon hour. You call those witnesses and I expect they will come right on.

(COURT ADJOURNED FOR NOON RECESS)

THE COURT: All right, lets go ahead.

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

THE COURT: All right, go ahead as far as you can.

MR. MOODY: It will take me ten or fifteen minutes.

THE COURT: What says the defendants now, Mr. Moody?

MR. MOODY: We don't know, Your Honor please about our witnesses.

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

MR. MOODY: Yes, sir.

MR. BAILLY: Subject of course to legal objections.

THE COURT: All right, Sheriff, now call the jurors.

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

Defendants Charley Woods and Clarence Morris arraigned and plead not guilty.

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

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

CITY OF TENNESSEE)
COUNTY OF HAMILTON) ss.

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

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 2nd day of May, 1931.

T. W. Killough, Clerk.
By Margaret Orrell, S.C.

Impression seal "HAMILTON COUNTY COURT SEAL - TENNESSEE" here attached.

CITY OF TENNESSEE)
COUNTY OF HAMILTON)

CHATTANOOGA, TENN., May 2, 1931
COUNTY COURT ROOM

I, WILL CUMMINGS, sole and presiding Judge of the County Court of said County, certify that T. W. KILLOUGH, who gave the foregoing certificate, is now and was at the time of signing the same, Clerk of said Court, and that said Court is a Court of Record, and that his attestation is in due form, and his official acts, as such, are entitled to full faith and credit.

IN WITNESS my hand, this 2nd day of May 1931;

Will Cummings, Judge.

(seal "HAMILTON COUNTY COURT SEAL
TENNESSEE" herewith attached)

AFFIDAVIT
OF T. W.
KILLOUGH

AFFIDAVIT
OF JUDGE
CUMMINGS

STATE OF TENNESSEE)
HAMILTON COUNTY)

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

IN TESTIMONY WHEREOF, I have herewith set my hand and affixed the seal of said Court at office, in the City of Chattanooga, this 2nd day of May, 1931.

I. T. W. Killough, Clerk
BY HENRIETTA OFFICER, D. C.

(Seal "HAMILTON COUNTY COURT SEAL - TENNESSEE" here attached)

Filed May 6, 1931.

G. A. Wann, Clerk Circuit Court.

IN THE CIRCUIT COURT, JACKSON COUNTY, ALABAMA
Special Session 1931.

STATE OF ALABAMA

vs.

CHARLEY WHEAT, and
CLARENCE MORRIS, ALIAS
CLARENCE MORRIS.

EXHIBIT TO ANSWERED MOTION FOR A NEW TRIAL - SECTION 12, above.

APPEARANCES

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

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

The 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:

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THE COURT: All right, the first case Solicitor, is the case of State vs. Harwood Patterson, et al., what says the State?

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H. BAILEY: We are ready if the court please.

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

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

MR. RODDY: I would like to appear along with counsel that Your Honor has indicated you would appoint.

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

MR. RODDY: I would like to appear voluntarily with local counsel of the bar Your Honor appoints; an 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 arraiging the defendants and then of course I anticipated them to continue to help them if no counsel appears.

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

THE COURT: Of course I would not do that --

MR. RODDY: I just appear here through the courtesy of Your Honor.

THE COURT: Of course, I give you that right; well are you all willing to assist?

MR. RODDY: 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 --

CASE AGAIN
DISMISSED
BY JUDGE
AND ATTORNEYS

The petitioners, Claude Patterson, Ada Wright, and Mamie Williams, most respectfully show unto the court that Claude Patterson is the father of Raywood 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. Raywood 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 Raywood Patterson; and if a new trial is granted for him, the petitioners, Ada Wright and Mamie Williams desire that the case against their boys be appealed to the Supreme Court of the State of Alabama.

Claude Patterson shows unto the 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 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 to 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 Kelly

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CLAUDE
PATTERSON
ET AL.

and was informed that no one could see the defendants except upon written order of this Honorable Court and for them not to come to Montgomery, Alabama, with the expectation of seeing them without an order of this Honorable Court.

Petitioners are advised that important evidence, touching the merits of these defendants, has been discovered since the trial and it is urged for newly discovered evidence to be presented, under the laws of the State of Alabama, that the defendant must make an affidavit or show good cause why he did not have the evidence on the regular trial and as a meritorious reason for not producing it when he was tried before 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 part of March, 1931, and the first days of April, 1931, and were put on trial about the 5th, 7th, 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 under the laws of the State of Alabama that the parents of children ten to fifteen years of age, when in company with responsible and public 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 the 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 existed 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, Raywood Patterson, has to be brought to court when the motion for a new trial is heard, they would petition that that the hearing be had at Montgomery, Alabama, or at Kelly Prison, so that no risk of violence would be assumed and that they would attend the hearing in person when the motion for a new trial was heard.

Petitioners further show and represent that they are advised that there are new facts and newly discovered evidence, that has been learned

Read

PETITION
OF CLAUDE
PATTERSON,
ET AL.

Read

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 friend 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. V. Chandler, 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 frighten 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 Morris, 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.

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

Affiants further state 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 sending 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 Scottsboro, who claim to know Victoria Price and Ruby Bates and who say that they were women of bad character and reputation and unworthy of relief on their oath 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 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.

THE PETITIONERS 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 case 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 6, 1931, at Scottsboro, Alabama, be continued for thirty days, or for some reasonable time, and that it be heard at

PETITION
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sentiment and feeling which dominated the inhabitants of the county from which a jury was to be chosen, the jury's minds would be or become influenced against the defendant by the prevailing sentiment and feeling of hostility in said county, a change of venue to another and different county should have been granted by the court and the court's refusal to grant a change of venue was a denial to the defendant of his right under the Constitution of the United States, Amendment 14, Section 1, and the Constitution of the State of Alabama, Article 1, Section 6, and was an abuse of judicial discretion and constituted reversible error. A new trial should therefore be granted.

III.

A new trial should be granted in that the rights of the defendant under the Constitution of the United States, Amendment 14, Section 1, and under the Constitution of the State of Alabama, Article 1, Sec. 6, were violated for the following reasons: (a) Defendant, while under arrest, was not afforded nor did he have an opportunity to employ counsel to aid and advise him; (b) he had no opportunity to employ an attorney to represent him; (c) he had no opportunity or sufficient time in the interim period between his arrest and trial to prepare properly for the trial of the outcome of which his life and liberty depended; (d) he was in prison in a jail situated in a city far away from his home, where his parents and himself resided and he had no opportunity to communicate with them; his parents and himself, who, when they finally learned of his plight, dared not visit him for fear of personal violence from a hostile and excited populace; (e) due to race feeling and prejudice which prevailed in the county where the trial was held, he could not have and was denied a fair and impartial trial before an unbiased and unprejudiced jury; (f) immature in years and lacking the advantages of an education, he was too ignorant and did not know how to prepare for trial or how to obtain the attendance of his witnesses in court or how to obtain the services of an attorney and the financial means with which to pay for such services, and he was entirely unacquainted and ignorant of the rules and principles of law; (g) repeatedly threatened, intimidated and put in fear of death, he neither knew how nor could communicate with his father and mother to employ an attorney in his case and to advise him about his rights until the very day when the case was called for trial; (h) while the trial was on, the jury in his case was asked by the court to withdraw to an adjoining room, and the jury in another case, to-wit, State of

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Alabama vs. Brown and Harris, entered the court room and announced that they found the said defendants, Brown and Harris, guilty, and recommended the penalty of death to the sound of great applause, stamping of feet and jubilent shoutings from the spectators which crowded the court room and from those who filled the corridors of the court house, all of which the jury hearing the evidence in the trial of this defendant could not have heard, to the irreparable hurt of this defendant then on trial for his life; (i) continuously and throughout the trial, a crowd of people dominated by prejudice and hostility towards this defendant filled up the court room and by bearing and demeanor influenced the jury adversely to the defendants; (j) that while this defendant was on trial, a crowd of people to the number of about ten thousand gathered from among the inhabitants of the county where the trial was on and adjacent counties, with a band of music playing noisily, surrounded the court house and enacted demonstrations hostile to the defendant, and in a violent demonstration outside the court house greeted the announcement of the conviction of Brown and Harris, of all of which the jury could not but have known; (k) that the defendant was tried in a county where mob hostility towards him raged with such violence that the Sheriff of said county and the Governor of the State of Alabama deemed it necessary to call out a military force to protect this defendant against threatened lynching by the mob which assembled round the jail where he was held, and to guard him on the way from the jail to the court house and back, to and to surround and protect the court house during the trial against threatened mob violence to defendant and to guard him after the trial back to jail, all to prevent the threatened efforts repeatedly made to lynch the defendant from being carried out; (l) that the trial of the defendant, who, with either other negro boys, was charged with the crime of rape, alleged to have been committed against a white woman, was conducted under stress of great excitement, mob hostility, lust and vindictiveness, and at a time when these evil passions and race prejudice completely dominated the minds of the inhabitants of this county and adjacent counties and were further stimulated by the county's and adjacent counties' newspapers, which published in advance of and during the trial of the defendant the supposed details of the defendants' crime and their guilt in headlines and language which screamed with a lust born of hate and race prejudice

REGARD
ANSWERED
MOTION

and appealed to vicious and degrading lynch sentiment which they fanned in and fed to the people of this county and the adjacent counties, thereby making it impossible for this defendant, as well as the other defendants, to have the benefits of a fair and impartial trial, and rendering the verdict of the jury and the judgment entered thereon illegal and void; and for these reasons a new trial should be granted.

IV.

A new trial should be granted in that while the trial of this defendant was on, the jury hearing evidence in his case was asked by the court to withdraw to an adjoining room within thirty feet, more or less, of the court room, and the jury in the case of State of Alabama vs. Hays and Harris entered the court room and announced that they found these defendants guilty of the crime of rape and recommended the penalty of death. Through the spectators of the court room made a demonstration and with clapping of hands, stamping of feet, and noisy shouting manifested their approval of said verdict. At that time, the jury hearing evidence in the case of this defendant was in an adjoining room distant about thirty feet from the court room. In that adjoining room a truss was opened to the court room, thereby allowing the jury in the case of this defendant to hear everything which transpired in the court room. Outside the courtroom, the crowd which filled the corridors of the courthouse joined in a shouting chorus which swelled and reached out into the furthest ends of Scottsboro and in the business sections thereof, and the band of music struck up with a noisy vigor in manifestation of their approval of the verdict of the jury in the case of State of Alabama vs. Hays and Harris. This, too, the jury in the case of this defendant heard. This demonstration was calculated to and did prejudice the minds of the jurors who were trying this defendant, and was also calculated and did prejudice the minds of the jurors who soon thereafter were to try the five remaining defendants and made it impossible for any of the defendants to obtain an unprejudiced, impartial and unbiased jury in the trials of their cases. The failure of the court to declare a mistrial in the case of this defendant, upon the happening of the foregoing series of incidents, was reversible error and a new trial should therefore be granted.

V.

The court further erred in failing to continue the case of this defendant on his own motion when the jury in the case of State of Alabama vs. Hays and Harris reported its verdict and the demonstration in the court room ensued.

VI.

The court's refusal to grant the defendant a special jury or a special venire of jurors upon the demand therefor by defendant's counsel and the fact that the special venire already summoned a jury had been drawn to try Hays and Harris and which special venire was therefore familiar with the testimony concerning the crime alleged to have been committed by defendant, and further, when it was evident that the defendant could not have a fair and impartial trial by a jury selected from among the inhabitants of the county where the trial was held and at a time when the sheriff of the county and the Governor of the State of Alabama deemed it necessary to call in a military force to guard and protect the defendant against threatened mob violence and lynching, and to guard the courtroom, was a denial to this defendant of his rights under the Constitution of the United States, Amendment 14, Section 1, and the Constitution of the State of Alabama, Article 1, Section 6, and was in substance and violation of the jury law of the State of Alabama as provided by the Statutes of Alabama.

SHOULD ANSWER MOTION.

VII.

The court erred in not questioning and in failing to qualify the trial jurors as to race prejudice and as to whether or not they could, and would, in view of the fact that the defendant was a negro, and the complainant and prosecuting witness a white woman, give the defendant a fair, impartial and unprejudiced trial, and the court further erred in failing to call this fact to the attention of the jurors; and if it had appeared that any juror entertained a prejudice in regard to negroes or that any juror could not or would not, in view of the fact that the defendant was a negro and the complainant and prosecuting witness a white, give the defendant a fair, impartial and unprejudiced trial, such juror should have been disqualified and discharged from jury duty. The failure of the court in this respect was a denial of the defendant's rights under the Constitution of the United States, Amendment 14, Section 1. For this reason a new trial should be granted.

VIII.

The exclusion of negroes from the list of jurors from which the defendant's jury was drawn was a denial of the defendant's rights under the Constitution of the United States, Amendment 14, Section 1, and a new trial should be granted.

in the control of the State, were not produced as witnesses in court and were not permitted to testify, supports the inference that their testimony would not have benefited the prosecution but would have benefited the defendant, and moreover, would have exonerated the defendant.

XVIII.

A new trial should be granted in that the proof in the record of the trial establishes the following: that the train on which Victoria Price and Ruby Bates claim to have been riding had on it from fifteen to eighteen negro boys and seven white boys; that between the time of the fight alleged to have been had between the negro and white boys in the neighborhood of Stevenson, Alabama, and the time that this train reached Point Rock, Alabama, about forty or fifty minutes elapsed; that approximately from three to six of the negro boys had left the train between the time it left Stevenson, Alabama, and the time it reached Point Rock, Alabama; assuming, therefore, as it is claimed, without, however, conceding, that all this trouble occurred while this train was in Jackson County, Alabama, the time was too brief for everything to have happened as contended for and by Victoria Price and Ruby Bates; and that, furthermore, since some of the negro boys were not arrested, it is impossible for these girls to identify positively all the members of the crowd and to make such identification and proof beyond a reasonable doubt.

(Signed) G. V. Chandler,
Atty. for Deft.
Haywood Patterson.

Filed May 19, 1931
G. A. Wane, Clerk Circuit Court.

Thereupon, on the 19th day of May, 1931, the defendant filed in said cause, in support of his said motion for a new trial, the joint affidavit of Haywood Patterson, Clarence Morris, Charlie Weems, Gode Powell, Willie Robertson, Andy Wright, Glen Montgomery and Eugene Williams, which said affidavit is in words and figures as follows, to-wit:

AFFIDAVIT OF HAYWOOD PATTERSON, CLARENCE MORRIS, CHARLIE WEEMS, GODE POWELL, WILLIE ROBERTSON, ANDY WRIGHT, GLEN MONTGOMERY, AND EUGENE WILLIAMS.

IN THE CIRCUIT COURT, JACKSON COUNTY, ALABAMA.

STATE OF ALABAMA)	
vs.)	
HAYWOOD PATTERSON)	
CLARENCE MORRIS)	
CHARLIE WEEMS)	NO. 2802 and
GODE POWELL)	2804.
WILLIE ROBERTSON)	
ANDY WRIGHT)	
GLEN MONTGOMERY)	
EUGENE WILLIAMS)	

AFFIDAVIT OF
HAYWOOD
PATTERSON,
ET AL.

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 Wetumpka, Alabama.

Affiants further state that when the court was organized and their names called for trial, that they did not know who would be their counsel and that they had been in jail ever since they were arrested, on May 19, 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, relatives 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 Morris and Charlie Weems was tried on May 21 and prior to the trial that the Governor of the State of Alabama provided military forces with 107 men and officers with six or eight machine guns and rifles commonly used in military warfare to guard the courthouse and jail and to guard these defendants, prior and during 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 someone of the defendants and while these guards were on duty, the case against Clarence Morris and Charlie News was tried and there was 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 Morris and Charlie News case made its report imposing death penalty, and thereupon there was a demonstration in the courthouse by citizens clapping their hands and hallowing 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 square and along in front of the courthouse, making music for the entertainment of the crowds and at a time when the whole atmosphere was saturated with excitement and this demonstration was carried on in the presence and hearing of jurors who had to try the third case composed of Willie Robertson, Andy Wright, Glen Montgomery and Eugene Williams and the excitement which had been produced by the seriousness and enormity of the charge made against the defendants and aided to take 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 identify 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 demonstrations in co-operation with with the demonstration put on by the citizens in the streets and on the sidewalk following the verdict in the case against Clarence Morris and Charlie News. The jurors who were summoned in the cases next to be tried were exposed to these demonstrations and ~~many~~ 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 but be 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 general holiday was being taken by the Hosiery Mill band so that the most important time for the interests of these defendants, the 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 whether it was and whether this band was innocent and appeared as a mere amusement 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 interest 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 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 asserting that the proof of guilt was not 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 trial 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 counsel

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retained by them or anyone on their behalf authorized to make such retainers, nor was such counsel appointed by the court as trial counsel, according to the record of pages one to eight of the Wauns-Morris record annexed hereto and marked Exhibit 1, and made a part hereof, proves that so far as Mr. Raddy 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. Raddy was appointed for the purpose of arraignment only, and when Mr. Raddy 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. Raddy agreed to assist Mr. Raddy, who was never employed and who appeared only by the courtesy of the court, and the defendants were never asked, according to this report, 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 requests for defense, 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 overruled 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 none 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 disburse this hostile and enraged gathering and to require 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

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 the 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 against 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 Jaint Rock, Alabama, they did not leave the train because they were not guilty and had no will or intent 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 some time after 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 courthouse and on the streets of Scottsboro and to witness the parade of the hosiery mill band through the streets when Clarence Morris and

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Charlie Weeks were convicted and that there was no effort on the part of military authorities 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, overruled 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 to 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 a mob and confused and embarrassed through the trial by hostile words, threats and public demonstrations and the jury which they 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, when 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 rights to select or to

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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 and to 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 witnesses for the state and were not introduced by the state and no names given for not doing so and the names of one or more of them appear on the indictment.

- (Signed): Glen Montgomery
his
mark
- (Signed): Eugene X Williams
his
mark
- (Signed): Willie X Robertson
his
mark
- (Signed): Raywood Patterson
his
mark
- (Signed): Charlie X Weeks
his
mark
- (Signed): Andy X Wright
his
mark
- (Signed): Clarence X Morris
his
mark
- (Signed): Ozie X Powell
his
mark

Subscribed and sworn to before me on this 15th day of May, 1931.

(Signed): U. L. Houstess,
Notary Public.
My commission expires Feb. 27, 1935.

[SEAL]
Filed May 19, 1931
J. A. Wynn, Clerk Circuit Court.

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EXHIBIT NO. 1 TO AFFIDAVIT OF THE EIGHT DECEMBER -
STATE v. HAYWOOD PATTERSON, et al.

IN THE CIRCUIT COURT, JACKSON COUNTY, ALABAMA
SPECIAL SESSION, 1931.

STATE OF ALABAMA
vs.

NO. 2402.

CHARLEY WHEAT, AND
CLARENCE MORRIS, ALIAS
CLARENCE MORRIS.

APPEARANCES:

E. C. Bailey, and Frazier & Snodgrass, Attorneys for State.
Stephen V. Ruddy and Milo Ruddy, Attorneys for Defendants.

This cause coming on to be heard was tried
on this the 9th day of April, 1931, before his
Honor A. E. Buckins, 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 al. What says the State?

MR. BAILEY: We are ready if the court please.

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

THE COURT: I am not interested in that; the only thing I want to
know is whether or not you appear for these defendants.

MR. RUDDY: I would like to appear along with counsel that Your
Honor has indicated you would appoint.

THE COURT: You can appear if you want to with the counsel I
appoint, but I would not appoint counsel if you are appearing for them;
that is the only thing I am interested in -- I want to know if you
appear for them.

MR. RUDDY: I would like to appear voluntarily with local counsel
of the bar, Your Honor appoints; on account of friends that are interested

in the matter I was trying to get an expression from Mr. Ruddy.

MR. RUDDY: I think Mr. Parks is entirely right about it; if I was
employed here and employed it would be a different thing, but I have
prepared this case for trial and have only been called into it by
the court interested in these boys from Chattanooga. Now, they
did not give me an opportunity to prepare the case and I am not familiar
with the procedure in Alabama, but I merely came down here as a friend
of the court who are interested and not as paid counsel, and I certainly
won't say money to pay them and nobody I am interested in had me to
do that here has put up any fund of money to come down here and pay
me. If they should do it, I would be glad to turn it over to counsel
as I am sitting here at the solicitation of people who have become inter-
ested in this case without any payment of fee and without any preparation
of 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
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
be their business; 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 am going to discuss gentlemen about the matter and they understand the
justice 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
and it.

MR. PARKS: As far as I am individually concerned, if I represent
the 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.
As 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 as officer
of the court trying to do your duty under your oath; that is what I am
trying to find out from Mr. Ruddy, 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. RUDDY: 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. Reddy 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. Reddy will appear, I wouldn't, of course, I would not appoint anybody. I don't see, Mr. Reddy, 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. Reddy 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 arraignment, I met Mr. Reddy and had a talk with him, and I gathered from Mr. Reddy 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 recognized the principle involved, and the fact that I took it for granted that Mr. Reddy would be here as employed counsel, and I was approached then to know if I was in a position to accept employment on the other side of the prosecution, and I thought under the circumstances I was. I am not trying to shirk my duty and I know my duty is whatever the court says about these matters, but I did accept employment on the side of the State and 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

I am ready to do whatever the court thinks is the proper thing

THE COURT: I will leave that with the attorneys interested, except, because I know nothing about it.

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

THE COURT: All right.

THE COURT: All right, now what says the defendant?

MR. MOODY: Your Honor, please, we have a petition we wish to read at this time for a change of venue -- shall I pass it to Your Honor?

THE COURT: Have you more than one copy?

MR. MOODY: No, sir, I have just one copy.

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

THE COURT: All right.

MR. BAILEY: If the court please, we interpose an objection to the filing and consideration and hearing of this petition on the grounds that it comes too late. I think the statute provides that it must be done as soon as practicable and the State must have reasonable notice of it. It has been 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, and 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 a newspaper article, no affidavit attached, and no witness in support of it. 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. RAILBY: Then we move to strike it because the substance of it is setting out a mere conclusion; the proof even of a newspaper article alone is not sufficient; there is no affidavit attached in support of it. Now, Your Honor might permit me to offer testimony on it, but we move to strike it and to demur to it.

MR. RODDY: Your Honor, I might suggest that the petition does not only have conclusions, but it tells facts about troops being here, and Your Honor please, we offer the Sheriff at this time to show the reasons 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.

E. L. WANN, EXAMINED AS WITNESS ON DEFENDANTS' PETITION

EXAMINED BY MR. RODDY:

Q What is your name?

A E. 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 guards called than it was on any sentiment you heard on the outside?

A That is right.

Q You have not heard anything as intimated from the newspaper in articles 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 more than in any adjoining counties?

A No, sir.

Q Is it your judgment that the defendants could have a fair trial 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 of opinion from association among the population of this county,

TESTIMONY
OF E. L. WANN

CROSS-
EXAMINATION
OF E. L. WANN.

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.

REBIDING EXAMINATION

EXAMINED BY MR. ROBBY:

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

A Yes, sir.

Q And there is a great throng around 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?

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 500.

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 Starves, or five.

Q You have five units of the State militia?

A Yes, sir.

MR. ROBBY: That is all.

THE COURT: Anything else

MR. ROBBY: I might ask Major Starves.

MAJOR JIM STARVES

WITNESS FOR DEFENDANTS ON THEIR MOTION

EXAMINED

EXAMINED BY MR. ROBBY:

Q You are Major Starves, 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 The companies did.

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

A I had a picked group of 20 enlisted men and two officers from one 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 town of Jackson.

Q On every occasion you have been in Doctaboro, 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?

TESTIMONY
OF MAJOR
STARVES.

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.

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, in my recollection, March 21st.

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 Gatadon?

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 Gatadon?

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 Can you state how many trips here from Gatadon?

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 or 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 proper verdict?

A I think so.

Q Have you seen any demonstration, or attempted demonstration, against 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 no one we are not sure about.

THE COURT: Call the State's witnesses, Mr. Clark.

[Witnesses called by the Clerk for the State.]

CROSS-
EXAMINATION
OF MAJOR
STARRIS.

MR. HODDY: 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. HODDY: 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. BAILLY: The State is ready for trial.

THE COURT: Which one do you want to try first, Solicitor?

MR. BAILLY: Is there a severance demanded?

MR. HODDY: No, sir; we don't demand a severance.

THE COURT: Is severance demanded? Now, do you want to try them all?

MR. BAILLY: The State demands a severance and we will try under the first joint indictment, Clarence Morris, Charley Vesna and Ray Wright first.

MR. HODDY: 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. BAILLY: Ray Wright is, yes, sir.

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

MR. BAILLY: That is a matter with the court.

THE COURT: I understand, but that procedure will delay the procedure in the other cases.

MR. BAILLY: I would like to take up the question of his age first.

THE COURT: I think, if you can, you ought to proceed with the others.

MR. HODDY: We are willing to offer proof of the age of these two boys.

THE COURT: Understood but I don't want to take that up now. I want to proceed with the others.

MR. BAILLY: As long as his age is not presented to the court, we want to proceed.

MR. HODDY: Before these boys are placed on trial, we would like for Your Honor to pass on that.

THE COURT: I will pass on that, but we do not that possibly some night when we are not engaged up here with the jury; of course, that is

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... if it is raised, it comes up to be passed on here first.

MR. BAILLY: Then we will proceed as to the other two.

THE COURT: What are the names of the other two, Solicitor?

MR. BAILLY: Charley Vesna and Clarence Morris, alias Clarence

...
MR. HODDY: All right, call our witnesses.

(Witnesses called by the Clerk for the defendants)

MR. HODDY: We want our witnesses, if the court please, or know what we can get them.

THE COURT: Do you want an attachment for the ones that do not

...
MR. HODDY: Yes, sir.

THE COURT: I expect it would not be right to attach Mr. Amos; he is a very bad health and I don't expect I ought to give it as to him.

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

THE COURT: Have these witnesses been served?

CLERK: Yes, sir.

THE COURT: Who are the other two? I will give you a showing for Amos, of course. I know his condition. Who else besides Mr. Parrish did not answer?

MR. THOMPSON: Mr. Riddick and Walter Sanders did not answer.

THE COURT: Have they been served?

CLERK: Yes, sir.

THE COURT: Do you want an attachment for these witnesses?

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

THE COURT: I expect everyone of them on a telephone call would be. Sheriff, at the noon hour, you call these witnesses, and I expect they will come right on.

(COURT ADJOURNED FOR NOON RECESS.)

THE COURT: All right, let's go ahead.

MR. HODDY: Your Honor, we were talking with the defendants out here, and if Your Honor will grant me a few minutes' time, I might simplify some matters. I want to be of all the help I can with the court and everyone concerned, but there are some very material facts in the case; I have no motive in this world in appearing down here except to get the

absolute truth in this matter, and if Your Honor will indulge me a few minutes --

THE COURT: All right, go ahead as far as you can.

MR. HODDY: It will take me ten or fifteen minutes.

THE COURT: What says the defendants now, Mr. Hoddy?

MR. HODDY: We don't know, Your Honor please, about our witnesses.

THE COURT: What about the witnesses, Mr. Sheriff? All right, gentlemen, if we don't get the witnesses here, I will allow you a showing for them. Is that all right?

MR. HODDY: Yes, sir.

MR. BAILLY: Subject, of course, to legal objections.

THE COURT: All right, Sheriff, now call the jurors.

(Jurors called by the Sheriff and qualified by the court and a list made up containing the names of 75 qualified jurors from which to strike the jury.)

Defendants Charley Wynn and Clarence Harris arraigned and plead not guilty.

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

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

Filed May 19, 1931.

C. A. Wynn, Clerk Circuit Court.

On the 19th day of May, 1931, the defendant filed in this case, in support of his said motion for new trial, the separate and several affidavits of Roberta Fearn, Bertha Love, Willie Crutcher, Allen Crutcher, the joint affidavit of Henry Oakley, Susie Oakley, and Georgia Haley, and the affidavit of Perry Richs, which said affidavits are in words and figures as follows, to-wit:

AFFIDAVIT OF ROBERTA FEARN
IN THE CIRCUIT COURT OF JACKSON COUNTY, ALABAMA

STATE OF ALABAMA §§ No. 2402 and
vs. §§ 2404.
HAYWOOD PATTERSON, et als. §§§

The undersigned affiant makes oath in due form of law that she lives in the town of Huntsville, Alabama, and that she is personally acquainted with Victoria Price, alleged victim, in the cases of the State of Alabama vs. Haywood Patterson, and eight other boys recently tried in this Honorable Court at Huntsville, Alabama, and that Victoria Price formerly resided in a negro section of Huntsville right near where the affiant lived and that Victoria Price often talked to and with this affiant, and that Victoria Price was a girl of easy virtue, and that she lived and associated with colored people and lived among them.

She had the reputation of being a common prostitute, and she told the affiant that she was going to make a trip in last year from Huntsville and she may have gone to Chattanooga, as she said last year she was going on a trip and it only takes about three hours for the train to run from Chattanooga from Huntsville, as affiant is advised.

Affiant saw Ruby Bates with Victoria Price on different occasions and Ruby Bates had a reputation of being a prostitute, and she lives now in a place that is called an exclusive negro section in Huntsville, Alabama, and the girls have been in and about these colored neighborhoods from time to time for two or three years, and they are about twenty years old, as affiant understands. They associate and visit with negroes freely.

(Signed): Roberta Fearn.

Subscribed and sworn to before me, May 18, 1931.

(Signed): Lewis C. Goleon,

Notary Public.

Huntsville, County of Madison, Alabama

My commission expires May 1, 1935.

Filed May 19, 1931

C. A. Wynn, Clerk, Circuit Court.

AFFIDAVIT OF BERTHA LOWE
IN JACKSON COUNTY CIRCUIT COURT - No.

STATE OF ALABAMA |
 |
vs. | No. 2402.
MAYWOOD PATTERSON, et als. |

The undersigned affiant makes oath that she lives in the Town of Huntsville, Alabama, and that she has seen Ruby Bates and Victoria Price, the alleged prosecuting witnesses against the nine negro boys at Scottsboro, Alabama, and that these two girls live in Huntsville, Alabama, a portion of the time and that she has seen them in Huntsville on various occasions, in negro section of Huntsville, and that Ruby Bates is staying now in a negro section living in a row of negro houses and associates with negroes almost exclusively in the row where she lives and that she associates with Victoria White who, as affiant is told, formerly lived in a negro section of Huntsville near where Ruby Bates now lives, and that these two girls appear to be about twenty or twenty one years old, and they have been in these negro sections perhaps off and on for nearly three years, and at times affiant would see them often and again she would not see them for a month or longer.

She heard they visited Chattanooga, but she never knew them in Chattanooga, but she knew them in Huntsville, as that is where she saw them, in negro section of the City of Huntsville, and they were reputed to be prostitutes.

(Signed): Bertha Lowe.

Subscribed and sworn to before me, May 12, 1931.

(Signed) Lewis G. Gelson,

Notary Public.

(S E A L)

County of

State of Alabama.

My commission expires on the 1st day of
May, 1936.

Filed May 19, 1931.

C. A. Wann, Clerk Circuit Court.

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AFFIDAVIT OF WILLIE CRATCHER
IN THE CIRCUIT COURT OF JACKSON COUNTY, ALA.

STATE OF ALABAMA |
 |
vs. | No. 2402 and
MAYWOOD PATTERSON, et als. | 2404.

The undersigned affiant makes oath in due form of law that she resides in the Town of Huntsville, Alabama, and that she is personally acquainted with Victoria Price, alleged victim, in the case of the State of Alabama vs. Maywood Patterson, and eight other persons recently tried in this Honorable Court at Huntsville, Alabama, and that Victoria Price formerly resided in a negro section of Huntsville not far from where this affiant lived, and that Victoria Price often called in and with this affiant and that Victoria Price was a girl of my acquaintance, and that she visited and associated with colored people and lived among them.

She had the reputation of being a common prostitute, and she told affiant that she was going to make a trip in last year from Huntsville and she may have gone to Chattanooga, as she said last year she was going on a trip and it only takes about three hours for the train from Chattanooga from Huntsville, as affiant is advised.

Affiant saw Ruby Bates with Victoria Price on different occasions and Ruby Bates had a reputation of being a prostitute, and she lived in what is called an exclusive negro section in Huntsville, Alabama, and these girls have been in and about these colored neighborhoods from time to time for two or three years, and they are about twenty years old, as she understands. They associate and visit with negroes freely.

(Signed): Willie Cratcher.

Subscribed and sworn to before me, May 16, 1931.

(Signed): Lewis G. Gelson,

Notary Public.

(S E A L)

Huntsville, County of Madison, Alabama

My Commission expires May 1, 1935.

Filed May 19, 1931

C. A. Wann, Clerk Circuit Court.

AFFIDAVIT
OF WILLIE
CRATCHER.

AFFIDAVIT OF ALLEN CRUTCHER
IN THE CIRCUIT COURT OF JACKSON COUNTY, ALA.

STATE OF ALABAMA |
 |
vs. | No. 2402 and
 | 2404.
HAYWOOD PATTERSON, et als. |

The undersigned affiant makes oath in due form of law that she resides in the Town of Huntsville, Alabama, and that she is personally acquainted with Victoria Price, alleged victim, in the cases of the State of Alabama vs. Haywood Patterson, and eight other boys recently tried in this Honorable Court at Huntsville, Alabama, and that Victoria Price formerly resided in a negro section of Huntsville right near where this affiant lived, and that Victoria Price often talked to and with this affiant, and that Victoria Price was a girl of easy virtue, and that she visited and associated with colored people and lived among them.

She had the reputation of being a common prostitute, and she told affiant that she was going to make a trip in last year from Huntsville, and she may have gone to Chattanooga, as she said last year she was going on a trip and it only takes about three hours for the train to run to Chattanooga from Huntsville, as affiant so advised.

Affiant saw Ruby Bates with Victoria Price on different occasions and Ruby Bates had a reputation of being a prostitute, and she lives now in what is called an exclusive negro section in Huntsville, Alabama, and these girls have been in and about those colored neighborhoods from time to time for two or three years, and they are about twenty years old, as she understands. They associate and visit with negroes freely.

(Signed): Allen Crutcher.

Subscribed and sworn to before me, May 12, 1931.

(Signed): Lewis C. Nelson,

Notary Public.

Huntsville, County of Madison, Ala.

May 1, 1933.

Filed May 19, 1931.

G. A. Wann, Clerk Circuit Court.

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AFFIDAVIT OF HENRY COKLEY, SUSIE COKLEY AND
GEORGIA HALEY
IN THE CIRCUIT COURT OF JACKSON COUNTY, ALABAMA.

STATE OF ALABAMA |
 |
vs. | No.
HAYWOOD PATTERSON and |
EUGENE WILLIAMS, et al. |
Defendants. |

CITY OF GEORGIA,
CITY OF.....

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Georgia Haley, Henry Cokley and Susie Cokley, citizens of Georgia, make oath in due form of law that they are personally acquainted with Eugene Williams and his mother, Mamie Williams, of Chattanooga, Tennessee, and that Mamie Williams was married at Rossville, Georgia, near Chattanooga, Tennessee, on April 9, 1916, and that Eugene Williams, her son, was born on December 6, 1917.

These affiants further state that they heard about a boy and Eugene Williams being in trouble in Scottsboro, Alabama, but his age was reported as being 19 years old, and that they did not think it was Eugene Williams of Chattanooga, Tennessee, son of Mamie Williams, and for that reason they did not send an affidavit about his age earlier than this time, and that this is the first they heard that it was Mamie Williams' son and a grandson of Georgia Haley and a nephew of Henry Cokley and his wife, Susie Cokley.

We were living at Chattanooga, Tennessee, just across the state line from Rossville, Georgia, when Mamie Williams was married and we were living with her at the time Eugene Williams was born and we are positive about his age and the date of his birth, as set out in the foregoing affidavit.

(Signed) Henry Cokley

(Signed) Susie Cokley.

(Signed) her
Georgia X Haley
mark

Subscribed and sworn to before me on this the 4th day of
May, 1931, at Bremen, Georgia.

(Signed): B. G. Smith, Clerk,
Superior Court,
Madison County, Ga.

(S R A L)
Filed May 19, 1931,
G. A. Wann, Clerk Circuit Court.

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CHAMBERS OF JUDGE,
SUPERIOR COURTS, TALLAPOOSA
CIRCUIT,
J. R. HUTCHINSON, JUDGE,
DOUGLASVILLE, GEORGIA.

At Chambers,
Douglasville, Ga., May 6, 1931.

I do hereby certify that the signature of S. C. Smith,
Clerk of the Superior Court of Haralson County, Georgia, is his
genuine signature to the attached four pages of typewritten pages.

(Signed) J. R. Hutchinson,
Judge S. C., Haralson Co. Ga.

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AFFIDAVIT OF PERCY RICKS

JACKSON COUNTY CIRCUIT COURT STATE OF
ALABAMA

STATE OF ALABAMA)
vs.)
RAYWOOD PATTERSON)
RUGGER WILLIAMS)
OSIE POWELL)
WILLIE ROBERTSON)
ANDY WRIGHT)
CLARENCE HORNIS)
CHARLIE WHEAT)
OSIE MONTGOMERY)

No. 2402, 2404
and 2406.

PERCY RICKS makes oath that he was on the train that the above
named defendants were riding from Chattanooga to Paint Rock, Alabama, on
the day that defendants were arrested at Paint Rock, Ala.

That when the train got to Stevenson, that he saw the two white
girls, Victoria Price and Ruby Williams, get into a freight box car,
while this train was standing at Stevenson, and that he saw them when
the train approached Stevenson, Ala. going towards Scottsboro, and that
when this train reached Stevenson, one of them had on overalls and the

other one had on a dress, and that he saw them get on the train and they
got into a freight box car.

Later he saw them get out of this box car when the train pulled
out on the Southern track at Stevenson he saw them get back into the
box car, and they were in it when he last saw them until they got to
Paint Rock, and at Paint Rock and at Paint Rock and they were on the
train running along the train and the second girl was following the
first one and looked like they were trying to get away from the train
and the officers stopped them.

There was a number of officers there armed and that affiant
saw them getting some of the boys out of box cars and some on top of
the train, and scattered all along the length of the train.

He saw the car called the gondola in which the girls claimed
to be riding and it was nearly full of crushed rock called "Ghattie"
and loaded within about two feet of the top of the car.

He saw one of these girls a week before this trouble and she
was riding from Stevenson to Huntsville on a freight train.

He further states that the train was running about thirty-five
miles an hour, from Stevenson to Paint Rock, and that the time was
not too clear.

Affiant further states that he is not related to any of the
defendants and does not know any of them except that he saw them when
they were arrested and that he furnishes this information by counsel
to the defendants in order that the truth might be known as far as
stated in the foregoing affidavit.

(Signed): Percy Ricks.

Subscribed and sworn to before me, on this the 16th day of May, 1931.

(Signed) Geo. W. Charles,

Notary Public.

Hamilton County, Tenn.

Filed May 19, 1931

G. A. Vann, Clerk Circuit Court.

AFFIDAVIT
OF PERCY
RICKS.

Thereupon the defendant offered the following testimony in support of said motion:

MAJOR JIM SPARKS, a witness for Defendant, testified:

DIRECT EXAMINATION

I was in the court room. There was considerable demonstration in the court room when the jury rendered their verdict, by yelling and clapping of hands in the court room here. I know where the jury in the case of this defendant was at that time; it was in the jury room to my left. I heard some shouting on the outside of the court room.

CROSS EXAMINATION

That the jury was trying the case of this defendant was in the jury room at that time, and the door was closed. I did not say that there was a tremendous outburst of applause; I said there was considerable applause, and later on I heard some shouting out in the yard, some hollowing; that is all I heard. The shouting was not in the courthouse, and the main part of the building was between the shouting and the room in which the jury was located; that shouting I heard was on the outside of the courthouse, on the North side of the courthouse here, and the jury that had the case of this defendant was in the Southwest side of the courthouse.

REDIRECT EXAMINATION

There were a number that shouted in the court room here, and some clapping of hands.

CAPTAIN ROLAND FRISCH, a witness for Defendant, testified:

DIRECT EXAMINATION

At the time the report of the jury in the Norris and Weems cases was handed in here, the jury in the case of the defendant was in the jury room. Just after the applause in the court room, I was in there and noticed that the screen over the door from the court room to the jury room was partly opened. My attention was called to it by just the jury in the room there was about thirty feet, I guess, from the applause.

CROSS EXAMINATION

There was nothing I know of to indicate that the jury knew

understood what the applause was about. The door was closed between the jury room and the court room at the time of the applause. I do not know and could not say that the jury knew what the applause occurred about. There is a brick wall between the two rooms, with the exception of the door there.

The hearing of said motion as last amended was continued by the court from time to time until the 25th day of June, 1931, at which time the following proceedings thereon were had:

L. S. HIKINS, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

My name is L. S. Hikins. I live ten miles north of Scottsboro on Little Red Creek. I was a member of the jury before when five defendants were tried. I don't remember their names. I was on July 1, 1931. I was not in the court house when the jury reported in the Lloyd Patterson case. I was not in the court house when they reported in the Weems and Norris case. I don't know where I was, only I guess I was up at Davis' store. That was the second day of the trial of these negroes when the jury reported. That was when the first case was tried. I heard someone out on the street holler "Whoopee," but I didn't pay any attention. When I walked out I asked what the fuss was, and they said the jury had reported. That didn't have any bearing on my decision. I did hear a fuss, but that didn't have any influence on me. I cannot say about a brass band playing on the streets of Scottsboro within a few minutes after the jury reported. If I heard a brass band that afternoon after the jury reported, I don't know it. I didn't see one the next day. I heard a band some time after that. I don't remember what day it was. I couldn't say about that. I heard a band some time but I didn't pay any attention. I was leaving town at the time. I cannot say whether it was the day the jury reported in that case. I gave it no consideration.

I read the Scottsboro papers about the attack on these girls. I believe I read the Chattanooga papers. I think these papers said these girls, or some of them, had confessed their guilt.

When I was examined as a juror, I was asked questions as to whether or not I held racial prejudice. I don't remember just what the question was about. I was asked if I held any racial prejudice, and my

TESTIMONY
OF L. S.
HIKINS.

answer was no; I couldn't say positively who asked that question. There is a hosiery mill band in Scottsboro. I couldn't tell you how many men are members of that band. I have seen them on parade a time or two. I couldn't tell you how many members in that band. I have seen them at a show here. I have not seen them recently. I live twelve miles from the court house by road. I had not been to Scottsboro previous to the day I was on the jury; that was the first day I had been here since it came up. That was Monday, I believe. I was not put on the jury the first day I got here. I was put on Jury No. 3. That was the jury that tried the five defendants. I was in Davis' store when the jury reported in the Morris and Weems case. I was not in the court house. Davis' store is something like a half block from the court house. The hosiery mill is three or four blocks from the court house. I couldn't say what time of the day the Morris and Weems jury reported. I didn't pay any attention to the time of the day. It was in the latter part of the afternoon. I didn't pay any attention to the hour.

I have no idea how many people were around the court house at that time; there were several here, a pretty good sized crowd. The military authorities were guarding the court house in Scottsboro at the time I was sitting on the jury. They had machine guns. I suppose the reason for that was to keep down mob violence; that is what I presume it was for. However, I saw no indication of mob violence. There were something over one hundred armed men here in all, including the machine gun crew. They were guarding the court house yard and keeping the crowd off of the court house grounds. They also had them inside of the court house, upstairs. I don't know whether they searched the people to see if they were armed. They didn't search me. I couldn't say about them searching others. I did not hear either one of the other trials. I was sitting on the jury part of the time when the fourth trial was going on. I was sitting on the jury where they tried the men and the jury disagreed. I did not try that case. I was on number three, where they tried five of them together. Jury No. 3 had the other case at that time. I didn't hear the fourth case. They were on this other case.

I saw several heavily armed soldiers in the court house, three or four, I couldn't say how many, as well as out in the street, during the progress of these trials.

W. G. MARTIN, a witness for the defendant, having been duly sworn, testified as follows:

DETECT REEXAMINATION

My name is W. G. Martin. I live out on Sand Mountain. I was one of the jurors that tried five of the negro boys charged with the murder of the Haywood Patterson case, I should say that I was down at the drug store. I suppose the Weems and Morris case, the first case tried, is the one you were speaking of. I do not recall that time the jury reported. I couldn't say about what time it was. It was in the afternoon, I think. I am not sure. I suppose it was after report was made that I heard some noise. I just heard them hollering. I don't know as I heard any clapping of hands. I heard some hollering. They were hollering around here on the square, seemingly, near the court house. I think the court house is within the square. There were several people around the court house at the time. I wouldn't say there were several thousand people around here. I don't know how many there was. Around the square is where I heard the hollering. I did not hear a brass band playing within a few minutes after the jury reported. I think it was that evening I heard the brass band playing. I wouldn't say positively. Anyway, I heard one playing. I don't know whether that was the hosiery mill band. I was here in the court house at the time. There were several units of the State Militia around the court house during the progress of the trial of these negroes. I don't know how many armed soldiers there were here. I think there were eight machine guns around here. There were some boxes of tear bombs sitting around. I suppose there were soldiers in the court house. They were in the court room when I was in here. After I heard that demonstration, I served on the jury in one case where five of the negroes were tried.

CROSS-EXAMINATION

When I heard this demonstration about which I spoke, I was down at Payne's drug store. I heard some hollering. I heard a band; that is what I thought it was. When the band was playing, I taken it was after court had adjourned and the soldiers were ready to go home; at the time I was in the court room, when it first began. I was not up here immediately after the rendition of the verdict. I am not sure just what time it was when the band was playing here on the square. I know it was after the court adjourned. They were playing on the south side of the square.

TESTIMONY
OF W. G.
MARTIN.

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The playing of the band or the hollering did not in the least influence me in my verdict. I did not know for what purpose, or what cause, or why they were hollering. When it began, me and Mr. H. H. Hennegan were standing there talking. I don't know what the hollering was about. When I heard the band playing, I didn't know what that was about.

RE-DIRECT EXAMINATION

Later, I heard first one and another state what the hollering was about. They said they began hollering when the verdict was rendered. You can ask the court about what the verdict was. The man I was talking to said his information was that they had returned a verdict. I later found out what the hollering was about. That is what gave rise to it because the verdict was returned. I learned what the verdict was. I found out what they said about it. When I went on the jury and tried the five, I knew what this demonstration was about in the other case. Somebody had already told me but I don't know everything people tell me. When I went on the jury that tried the five negroes, case No. 3, I understood what the people had said about it. They said a verdict had been rendered. I was down on the corner at Payne's drug store when I heard that noise. I don't know how far that is from the court house. I didn't measure it. It is a short ways down to the corner. I cannot tell you how far it is. I don't know how many people I heard hollering there were several. I don't know whether I heard hollering up in the court house. The first time I seen the band on the street was just before sundown. I think it was the same afternoon I heard the hollering. I do not know what that band was playing.

RE-CROSS EXAMINATION

During the time of the trial, I did not see a demonstration about a truck with a big wheel and tire. I don't know what that was. I did not see that truck pulling a big tire around the square.

L. R. JONES, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

My name is L. R. Jones. I live about three miles from Bridgeport. I was on the jury that tried one or more of the nine negroes convicted of rape. I was on the third jury, the one that tried five of the negroes. I was not in the court house when the jury

announced its verdict in the first case tried. I was at home, or on my way home. I had left the court room and left Scottsboro. I didn't see any demonstration of any sort.

J. M. BARNES, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live at Bridgeport. I was on one of the juries that tried one or more of the nine negroes convicted of rape here some time ago. I was on the third jury. That was the jury that tried five of them. I don't know where I was when the jury reported in the first case, the case and Morris case, but I was somewhere between Scottsboro and Bridgeport, or at Bridgeport. I did not hear any demonstration after the jury reported. I was not in Scottsboro.

TESTIMONY
OF J. M. BARNES

WILLIE J. WELLS, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live four miles above Paint Rock. I was on the jury that tried five of the negroes convicted of rape in this court house. I was in Scottsboro when the first jury reported, in the Weems and Morris case. I did not hear any sort of demonstration, any noise, immediately after the jury reported. I never paid any attention to any hollering. I wouldn't tell you where I was. I heard a band playing. I couldn't tell you what time it was I heard a band playing. I don't remember whether it was in the afternoon. I didn't have any time-piece, and don't remember what time it was.

TESTIMONY
OF WILLIE
J. WELLS

I was not at Paint Rock when these men were arrested. I guess I was at home; I don't know. I live four miles, back up the river from Paint Rock. I heard about this trouble. I just talked with people like I always do about such as that. I never heard no big lot of talk. Nobody in my neighborhood came to Scottsboro. I live in a farming section. I have never been on a jury before. I remember the questions that were asked me before they put me on the jury.

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

Q What did they ask you to qualify to as a juror?

The State objected to the question, the court sustained the objection and to this ruling of the court movant duly and legally reserved an exception.

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

Q Were you asked whether or not you held racial prejudice?

The State objected to the question, the court sustained the objection and to this ruling of the court movant duly and legally reserved an exception.

RICHARD KILL, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live in Saint Paul Valley. I was on the jury that tried some negroes convicted here. I was on the one that tried five of them. At the time the jury in the first case reported, I was in town somewhere. I was outside of the court house, somewhere on the street. I don't know what time of day that jury reported. It was in the evening some time. I heard some noise, hollering. I didn't pay any attention to it. I just heard hollering, coming up the street. There were several people around the court house at the time. I don't know whether the National Guard was all around the court house and inside as well; I was not in the court house. I was not back up here that evening. Later, when I came in the court room, I saw National Guardsmen in the court room. They had machine guns and other arms around the court house. I don't know for what purpose they had the arms. I did not hear a brass band playing after the jury reported.

Nobody told me what that hollering was about. I never did learn what it was about. I have heard them talking since what it was about. I heard that some time the next week. I do not know what the population of Scottsboro is.

CROSS EXAMINATION

I said I never heard a band playing until the next week after the trial.

ROY WILSON, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live in Saint Paul Valley, about thirty miles from here. I was on the jury that tried some of those negroes convicted of rape. I was on the one that tried five of them. I had gone home that evening when the jury reported this case. I was outside of Scottsboro. I did not see any demonstration. I had left Scottsboro before the jury reported.

I don't know as I heard about the demonstration the next morning. I heard about the verdict. I don't know as anybody told me what happened when the verdict was reported in the court house. I have not since then all about it. I don't know whether I heard about the tapping of heads and hollering or not. I went home and was not here. I don't remember whether it was the next day, or the next day, when I was on the next jury, the one I tried.

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

Q Do you remember whether or not when you were examined -- as you were examined as a juror, did they ask you whether or not you held racial prejudice?

The State objected to the question, the court sustained the objection and to this ruling of the court movant duly and legally reserved an exception.

W. G. SCOGIN, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live on Sand Mountain. I was on the jury that tried some of those negroes. I was on the third jury, the one that tried five of them. When the jury reported in the first one of these cases, I was across from the sidewalk over there, towards the court house. I asked some man I met over there and he told me the jury had reported in that case. I heard a lot of noise, hollering and shouts; several hollered. There were several around the court house. I do not mean several hundred but a good many people gathered around the court house. I don't know how long that demonstration, that hollering, lasted a minute. I don't

TESTIMONY
OF ROY
WILSON

TESTIMONY
OF W. G.
SCOGIN.

think there was a brass band on the street a few minutes later that day. That afternoon I did not hear a brass band parading around on the streets and playing. I could have been day before that - I don't remember what day it was - it was about one o'clock this brass band was playing out there, somewhere a little after one o'clock. It was the next day, I think after the jury reported. I am pretty positive it was the next evening after this first jury reported, because we were summoned to be here at one o'clock, and we were in the court room when this happened. I saw National Guardsmen in the court room and about the court house.

When this happened, I was on the street between here and the sidewalk over there. I don't know how many men I heard hollering down there. Then I came on to the court house, out in the yard. I had been in the court house that day. The crowd in the court house was about the same as the crowd in the court house now, I guess. I have no idea how many men are in the court house now. It looks like there are all that can be seated and a good many standing up. There are several standing around the walls.

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

Q How many would you say down this side of the court room are standing up?

The State objected to the question on the ground that it called for immaterial and irrelevant testimony. The court sustained the objection, and to this ruling of the court movant duly and legally reserved an exception.

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

Q When you were qualified as a juror, were you asked as to whether or not you held racial prejudice?

The State objected to the question, the court sustained the objection and to this ruling of the court movant duly and legally reserved an exception.

CROSS EXAMINATION

There were not very many people in the court house yard at that time. There were several gathered around, but not a great crowd. It was late in the evening.

D. E. HOLIGRAY, a witness for movant, having been duly sworn, testified as follows:

CROSS EXAMINATION

I live on Sand Mountain. I was on the jury that tried some of these negroes. I was on the one that tried five. I was down town and the jury reported in the first one of these cases. I was pretty close to Payne's drug store. That is right across the street from the court house. I heard hollering after the first jury reported. I did not hear a brass band playing within a few minutes after it reported. I left town in a few minutes after that. When I heard that hollering, I heard someone say the jury had reported, and I walked on. I didn't pay any attention to it. They did not tell me about it personally. I just heard people talking. They didn't say that was the reason for this demonstration. I just heard them yelling. It was generally understood by everybody that that was the reason for it.

I think it was the next day after that I sat on the jury. I couldn't say because I am not sure where the soldiers were that were passing the court house, at the time of this demonstration.

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

Q When you were put on the jury in the court house the next day to try the five, were you asked the question whether or not you entertained racial prejudice?

The State objected to the question, the court sustained the objection, and to this ruling of the court movant duly and legally reserved an exception.

CROSS EXAMINATION

I was on the third jury. I was about town while the other two were tried. I was about the court house and heard people talking about the Ford agency putting on a demonstration of cars during the trial and had a talking machine on wheels, on a truck or something like that. I heard the organ. I heard them going around. The Judge called us back at one o'clock. While I was in the trial, I heard the organ and learned the fact that it was the Ford agency playing the organ. I heard they had different kinds of Ford cars going around.

RE-DIRECT EXAMINATION

I didn't see that. I was in the court room.

Counsel for movant thereupon propounded to the witness the following questions:

Q Before you went on the jury, did anybody tell you what these negroes were going to be tried for?

The State objected to the question, the court sustained the objection, and to this ruling of the court movant duly and legally reserved an exception.

W. L. ALLEN, a witness for movant having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live at Clales. I was on the jury that tried some of these negroes charged with rape. I was on the third jury, the one that tried the first of them. I was not in court here when the jury reported the first case tried. I was outside of the City of Scottsboro. We were crowded and I left town. I did not hear any demonstration of violence. Later on I heard a little something about there having been a demonstration. I heard that when I came to town the next morning. I didn't hear any of it myself. I was out of town. I heard a little about the demonstration, but not much said about it.

I did not hear anyone of the other trials. When they tried the first case, I was up in the country. I left here when they crowded the jury that went on the first case. I left here and went up to my aunt's, seven or eight miles away. I went home the next night. I was not here when they started the case of Haywood Patterson. We were dismissed and I left town and went home that night.

Counsel for movant thereupon propounded to the witness the following questions:

Q When you were qualified as a juror, were you questioned on the subject of whether or not you entertained racial prejudice?

The State objected to the question, the court sustained the objection, and to this ruling of the court movant duly and legally reserved an exception.

CROSS EXAMINATION

I am not a minister of the Gospel.

W. L. ALLEN, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live at Clales, Alabama. I was on the jury that tried five of these negroes charged with rape. That was the third jury. I was not in the City of Scottsboro when the jury reported in the first case. I left town as they crowded us and went out in the country about twelve miles. I came back to Scottsboro the next morning. At that time, I did not hear there had been a demonstration by yelling and hollering. I did not hear anything about that at all, neither did I hear anything about there being on the street a few minutes afterwards. The court was the heavily guarded inside and out by the National Guardsmen during the progress of these trials. Nobody said a word to me about the demonstration. I didn't talk to anybody at all.

Counsel for movant thereupon propounded to the witness the following questions:

Q When they examined you as a juror, were you asked the question whether or not you entertained racial prejudice?

The State objected to the question, the court sustained the objection, and to this ruling of the court movant duly and legally reserved an exception.

W. L. ALLEN, a witness for movant, having been duly sworn, testified as follows:

DIRECT EXAMINATION

I live at Stevenson, Alabama. I was on the jury which tried some of the negroes charged with rape. I was on the third jury, the one that tried five of them, I believe. When the jury in the first case of these cases reported, I was between here and Stevenson, or at Stevenson. I was outside of the city of Scottsboro. I did not hear the demonstration immediately following the report of the jury. I came back to Scottsboro the next morning. I did not hear discussion on the street, people talking about the demonstration that happened the day before. I never heard anything about it. I didn't hear anybody mention it at all. I suppose I was right on inside the court house. There was not a big crowd around the court house all during the progress of the trial. The crowd had been broken down. There were some people here. National Guardsmen were

TESTIMONY
OF W. L.
ALLEN.

armed and stationed inside and outside of the court house. I understood that the National Guard was at the court house to protect the negroes. I don't know what they were to protect them from and who; just said to protect the negroes. I never did hear the word "mob" suggested. They were just here for protection.

JAMES W. WILSON, a witness for the State, having been duly sworn, testified as follows:

DIRECT EXAMINATION

My name is John Wilson. I live in Scottsboro. I am a Ford dealer here. While the trial of these negroes was in progress here, the Ford people made a demonstration of cars. We had a Ford concern of commercial trucks displayed, different bodies. I think there were about twenty-eight trucks. They came on Tuesday. They brought some goods with them, had a graphophone with an amplifier on top, installed on a car. They had a par-tin horn in back. I think it was about five o'clock. That amplifier made music so it could be heard for several blocks. That had no connection in the world with this trial. The hearing will have come out at six o'clock in the afternoon and played for Guard Mount. The soldiers were putting on Guard Mount. That was about six o'clock. I don't know anything about the adjournment of court, but it was about six o'clock. They broke up our demonstration and I went over there. I didn't know until Monday that this Ford concern was coming.

CROSS EXAMINATION

I never did know when the jury reported in the first case. I was down here somewhere about the square at that time. I did not hear the yelling and hollering. I remember while we were down there on the corner, after we had our parade and was giving a little musical entertainment, someone came along and told about the jury reporting. I remember that, but I heard no yelling or anything to indicate that there was anything going on about the court house. There was a crowd, but most of the crowd was down there when we stopped. They were down there to see our demonstration. There was a crowd in town all day. There were more people in Scottsboro the first day than on Tuesday. I don't know how many were here the first day. There was a big crowd. I don't think there were ten thousand. I wouldn't think there were five thousand.

couldn't guess there was five thousand people at any one time on the street; I don't think so, but I don't know. The court house never was full. There was a crowd around the court house. There were National Guard officers around. I just remember while we were down there that evening -- I guess it was before the band concert at the Guard Mount -- someone came along and told me the jury had reported and told me what the verdict was.

The soldiers putting on Guard Mount and the band playing for us broke up our demonstration. I don't know why the soldiers were playing on Guard Mount. The band played while they were putting on Guard Mount. I don't know what piece they were playing. I had heard it before. I had been on Guard Mount before. I don't know any of the music. That music lasted thirty minutes or more. I think I stayed at home until I was late for supper.

RE-DIRECT EXAMINATION

I did not see any mountaineers coming along on mules, carrying any rifles. I didn't see any rifles except what the soldiers had. I did not see any of our citizens from this county coming in and bearing any kind of arms, guns or rifles. I did not see any of them come in on mules.

RE-CROSS EXAMINATION

I guess Ford cars have put the ox carts out of business, and killed the mules also.

RE-DIRECT EXAMINATION

Guard Mount by the militia is somewhat of a novelty to the average citizen. I suppose that was the only one they put on while here. In order to put on Guard Mount, it is necessary to have music.

On said date, the 5th day of June, 1931, the State filed in said cause, in rebuttal of the foregoing affidavits, filed by defendants, the joint affidavit of T. B. Reynolds, W. E. Wellman and J. V. Pealards, which said affidavit is in words and figures as follows, to-wit:

AFFIDAVIT OF T. B. REYNOLDS, W. M. WELLS AND J. V. FOLLANS
IN THE CIRCUIT COURT OF JACKSON COUNTY, ALA.

STATE OF ALABAMA)
 vs.) No. 2402 and 2403.
 HAYWOOD PATTERSON, et al.)

We, the undersigned, make oath in due form that we reside in the City of Huntsville, Alabama, and are Superintendent, Secretary and Treasurer, and Pay Master, respectively, and in the order in which our names are signed of The Margaret Mill of Huntsville, Alabama. We further certify that we personally knew Victoria Price, a white girl who was in the employ of this Mill during 1929 and 1930. This is the same Victoria Price who alleges that she and Ruby Bates were raped by some negroes on a freight train in Jackson County, Alabama, some time in the early part of this year.

We have this day examined the payroll records in our office and find that Victoria Price was in our constant employ during the months of October, November, December, 1929, and January, February, March and April 1930. The records show that she worked each week during the above months. We further certify that she was a good worker and her character seemed and in the mill was good, except that she possibly had a fight or two. We further certify that from our knowledge of her and opportunity to observe her over a long period of time, she was absolutely above having anything wrong to do with negroes.

The other girl, Ruby Bates who is said to have been raped at the same time and along with Victoria Price, came to our mill about six to eight months prior to the time they were said to have been raped, and she was quiet and reserved and had a splendid character, as far as we know. We never heard one thing against her.

(Signed): T. B. Reynolds
 STATE OF ALABAMA) (Signed): W. M. Wells
 JACKSON COUNTY) (Signed): J. V. Follans

AFFIANTS.

Sworn and subscribed to before methis the 5th day
 of June, 1931.

(S E A L) (Signed) Nellie A. Martin, Notary Public

Filed June 5, 1931.
 C. A. Wann, Clerk Circuit Court.

On June 5, 1931, the State filed in said case, in rebuttal of the foregoing affidavits filed by defendant, the affidavit of L. L. HAYNER, which said affidavit is in words and figures as follows, to-wit:

AFFIDAVIT OF L. L. HAYNER

IN THE CIRCUIT COURT, JACKSON COUNTY, ALABAMA

STATE OF ALABAMA)
 vs.)
 HAYWOOD PATTERSON, et al.)
 JACKSON COUNTY)

A F F I D A V I T

L. L. Hayner makes oath in due form and according to law as follows:

My name is L. L. Hayner. I was born at Hollywood, Jackson County, Alabama, and am 39 years old. For the last 17 years, or thereabouts, I have lived in Madison County, Alabama, and for about the last 2 years, I have lived in Huntsville. In August, 1928, I went to the home of Mrs. Emma Bates in Huntsville, Ala. to board and have been residing in her home since that time. She is the mother of Ruby Bates who together with Victoria Price, when I also know, was said to have been raped by some negroes in Jackson County some two or three months ago.

During all this time that I was at Mrs. Bates, I was either taking logs off of Monte Sano Mountain or working with the Allied Lumber Company and would return to Mrs. Bates every evening. During this time Ruby Bates stayed at home and kept house for her mother, who was working at the Lincoln Cotton Mills in Huntsville. I am absolutely certain that Ruby Bates did not leave home and go to Chattanooga, Tennessee, any time during 1929 or 1930.

Ruby Bates was a quiet, modest girl and much of the time while she was there, she would go to church and Sunday school and I never had any question of her character up until just a little while before her trouble, and that was after she had begun to associate with Victoria Price.

There are dozens if not hundreds of people in Huntsville who

AFFIDAVIT
 OF L. L.
 HAYNER

know that Ruby Bates did not live in Chattanooga, Tennessee.

(Signed): L. L. Hynes, Affiant.

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

(Signed): C. A. Wann,

Clerk, Circuit Court.

Filed June 6, 1931.

C. A. Wann, Clerk Circuit Court.

On said date, June 15, 1931, the State filed in said cause, in rebuttal of the affidavit filed by defendant, the affidavit of F. W. Campbell, which said affidavit is in words and figures as follows, to-wit:

AFFIDAVIT OF F. W. CAMPBELL

STATE OF ALABAMA
JACKSON COUNTY

IN THE CIRCUIT COURT OF SAID COUNTY.

STATE OF ALABAMA

vs.

HAYWOOD PATTERSON, et al.

F. W. Campbell, being duly sworn, deposes and states as follows:

I am a resident, citizen of Scottsboro, Jackson County, Alabama, and am at this time editor of the Jackson County Sentinel, a newspaper published at Scottsboro.

Some four weeks ago, I went to Chattanooga, Tennessee, in company with J. K. Thompson, County Solicitor of Jackson County, for the purpose of investigating some affidavits which had been made by some negroes in Chattanooga concerning the conduct and character of Victoria Price and Ruby Bates, women who were said to have been raped by some negroes in Jackson County.

We went to the office of Chief Detective Haskett and he placed at our disposal two of his men who went with us to the part of Chattanooga where these negroes lived. After considerable effort, we

located some of them, with the following results: We found Asberry and his wife, Savannah Clay, and Solicitor Thompson read to them the affidavits which they were said to have made. They both said that there was certain statements in the affidavits which they did not make and which they did not know were in there. Especially with reference to the women living with negro men. They denied that they had ever seen themselves in such a way. They also stated that they did not know those who procured the affidavits or statements from them that they were not certain as to whether the women they were talking about were the women as shown them in pictures taken from one of the Chattanooga papers. They further stated that they did not know the women they had seen as Victoria Price and Ruby Bates. Asberry Clay stated that he paid his dinner and seventy-five cents as payment for the affidavits which he made.

We then found Tom Landers whose affidavit we read to him and stated that at the time these girls were said to have been in Chattanooga, to-wit, the latter part of 29 and the early part of 1930, he was confined in the State Penitentiary of Tennessee. He also stated that he did not identify the women shown him in the newspaper clipping.

We then went to a white woman by the name of Mrs. Weston, who lived on the same street where these negroes said these white girls had lived and when they said the girls had lived with and Mrs. Weston emphatically stated that no such girls had ever lived with her.

We then went to the City Hall to Police Headquarters, where we talked with Mrs. Graft, Police Matron, who said that she had been recently in the service of the City for the last twenty years or more and was quite certain that no such girls as these two had been up before her charged with any offense and that if they had, she would have had a recollection of it.

On the other hand, the Police Records in Chattanooga do show that two of the Chattanooga negroes, to-wit, Haywood Patterson and Roy Asberry Wright have had Police Records and the Police authorities stated that they were very bad negroes and had given them quite a great deal of trouble.

Dated this the 15th day of June, 1931.

(Signed): F. W. Campbell, Affiant.

Sworn and subscribed to before me, this 13th day of June, 1901.

(Signed) G. A. Wynn,
Clerk of Circuit Court.

Filed June 6, 1901,

G. A. Wynn, Clerk Circuit Court.

The final hearing and disposition of said motion for new trial, as last amended, was continued by the court until June 22, 1901, at which time defendant offered in evidence, in support of his said motion, the following separate and several affidavits:

Affidavits of Oliver Love, McKinley Pitts, Isaac Hinch, J. P. Hobby, Annie Linsen, Asberry Clay, Thomas Clay, Willie Douglas, Ben Sanders and Uilas Johnson.

Joint affidavit of Raymond Patterson, Clarence Harris, Charles Wynn, Cole Powell, Willie Robinson, Andy Wright, also Montgomery and Wayne Williams; affidavits of Roberts Starr, Martha Low, Willie Crutcher, Allen Crutcher; joint affidavit of Henry Cutler, Sada Cutler and Joseph Smith, and affidavit of Jerry Hight. Said affidavits were admitted in evidence, and are heretofore fully set out in this bill of exceptions.

The State offered in evidence, in addition to the foregoing oral evidence offered in its behalf, in rebuttal of oral evidence and affidavits offered by defendant, the following separate and several affidavits:

Joint affidavit of T. E. Reynolds, V. H. Williams and J. V. Williams; affidavit of L. L. Hays and F. W. Campbell. Said affidavits were admitted in evidence, and are heretofore fully set out in this bill of exceptions.

The foregoing is all the evidence offered on the hearing of said motion to set aside the verdict and judgment founded thereon and to grant defendant a new trial.

On said June 22, 1901, after hearing and considering said motion, the court overruled the same, and refused to set aside the verdict of the jury and the judgment founded thereon and to grant the

defendant a new trial, and to this action of the court, defendant then and there reserved an exception.

The foregoing was presented to me, the Hon. A. E. Haskins, one of the Ninth Judicial Circuit of Alabama, the Judge presiding on the trial of said cause, by the defendant in said cause as a Bill of Exceptions of the trial and proceedings in said cause, on this the 17th day of September, 1901.

A. E. HASKINS
JUDGE.

The foregoing having been presented to me by the defendant in this cause, on the 17th day of September, 1901, within the time required by law, as a true and correct Bill of Exceptions of the trial and proceedings in said cause, the same is accordingly signed and filed of record as such by me, the Hon. A. E. Haskins, Judge of the Ninth Judicial Circuit of Alabama, the Judge presiding upon the trial of said cause, on this the 19th day of September, 1901.

A. E. HASKINS
JUDGE.

Filed Nov. 26, 1901

G. A. Wynn, Clerk Circuit Court.
