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State of Alabama v. Patterson

(Morgan County)

November 27, 1933

Hon. W. W. Callahan, Judge

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E. P. KINGSEERY  
Official Reporter  
Huntsville, Alabama.

I  
STATE OF ALABAMA.

IN THE CIRCUIT COURT.

MORGAN COUNTY.

STATE OF ALABAMA - - - - - PROSECUTOR

vs.

No. 1977

HAYWOOD PATTERSON - - - - - DEFENDANT.

Tried Before Hon. W. W. Callahan and a jury, starting Nov.  
27th, 1933.

APPEARANCES:

FOR STATE.

Hon. Thos. E. Knight, Jr.  
Mr. Lawson.  
H. B. Bailey  
Wade Wright.

FOR DEFENDANT.

Hon. Samuel S. Leibowitz.  
Hon. Geo. W. Chamlee.  
Hon. Jos. R. Brodsky.

(Jury qualified and sworn)

VICTORIA PRICE, sworn as a witness for the State testified:

DIRECT EXAMINATION.

BY MR. BAILEY:

Q Your name is Mrs. Victoria Price?

A Yes sir.

Q Where do you live?

A Huntsville, Alabama.

Q On or about March 25th, 1931, where were you liv-

ing?

A Huntsville, Alabama.

Q On that date were you riding on a freight train traveling from Stevenson, Alabama toward Paint Rock, Alabama, in Jackson County?

A Yes sir.

Q What part of the train were you on at Stevenson, Alabama?

A On an oil tank, I got on an oil tank.

Q I will ask you if you did not get on a gondola or coal car on that train?

A Yes sir, when that train stopped there at Stevenson I got off the oil tank and got on the gondolier.

Q Was any one with you?

A Yes sir, Ruby Bates.

Q Did she get into the same gondola car with you or not?

A Yes sir.

Q What was in that gondola car, if anything, Mrs. Price?

A It has chert in it, is what they called it, little fine rock.

Q Something like gravel?

A Yes sir.

Q About how much of that material did it have in it?

A It lacked a foot and a half or two feet of being full.

Q That was a coal car?

A It was a gondolier.

Q It had no top on it?

A No sir.

Q In what part of the car did you get in?

A We climbed up the side next to where a box car was towards the caboose.

Q Was any one else there at that time except you and Ruby Bates?

A No sir.

Q Did you see this defendant there on that train on that occasion?

A Yes sir.

Q Where was he when you first saw him?

A Coming over into the gondolier.

Q From where?

A Towards the caboose.

Q Was there any one with him?

A Yes sir.

Q How many were with him, if you remember?

A The best I could count, there was twelve.

Q Twelve men were with that defendant there?

A Yes sir.

Q Tell the jury when you saw him, at the time you first saw him, what happened there?

COURT: At the very beginning what was the first thing that happened?

A We got into this gondolier, me and Ruby Bates, and



we was sitting in the end next to the caboose; we was sitting there talking, - well, before the train started seven boys got in the gondolier, and they had their feet towards us laying down on their stomachs, with their heads towards the engine, and me and Ruby Bates was sitting there talking, and we heard a racket over our head, and we looked up and saw them coming over.

Q Who was coming over?

A That defendant and the others.

Q What did you next see or hear?

A When they got over they fired a shot and said "All you white sons-of-bitches unload", and they knocked these boys in the head, about the head, and knocked them around on the side of the gondolier, and were running up and down the sides of the gondolier to keep the white boys from getting back on. They knocked them all off but one and that was Orville Hilley.

Q That is the only one left on the train?

A Yes sir.

Q Was the train running at that time?

A Yes sir.

Q From Stevenson to Paint Rock?

A Yes sir, coming from Stevenson to Paint Rock.

Q About what time of day was that, do you recall?

A It was somewhere about 12:30, or after one, I would not be positive about it.

Q What, if anything, did this defendant have in his hands as he came over into that gondola in which you were

riding?

A He had a gun.

Q You mean a pistol?

A Yes sir.

Q After the white boys were put off the train, what happened between you and this defendant, if anything?

A I started to jump off the gondolier -

MR. LEIBOWITZ: We move to strike that.

COURT: I sustain the motion. Just tell what was done.

A (Continued) One hit me on the head and dragged me back in the gondolier, jerked my pants down, jerked my belt loose, and my pants down, and threw me down on the chert, and one held a knife on my throat, and the other held my legs open -

Q Did this defendant have sexual intercourse with you?

A Yes sir.

Q Did his private parts penetrate your private parts?

A Yes sir.

Q Did the others have sexual intercourse with you at the same time and place that he did?

A Yes sir.

Q How ere you dressed on that occasion?

A I had on a girl's coat, a girl's hat, a waist, pair of over-alls and three dresses, and a pair of step-ins.



Q How did they tear your clothes?

A Pulled my britches off, and tore my step-ins apart.

Q Did they pull your step-ins off?

A No sir, they tore them apart.

Q I will ask you to examine these, Mrs. Price? (Hands article to witness)

A Yes sir, that's them.

Q That is the step-ins you had on on that occasion?

A Yes sir.

Q Those are the ones that they tore off of you, or tore apart on that occasion?

A Yes sir.

Q Did you have them in your possession, custody and control up until the time of the last trial here, when you testified the last time?

A Yes sir.

MR. BAILEY: We offer the step-ins in evidence.

Q Did you have a knife on that occasion?

A Yes sir.

Q What became of it?

A That defendant, Haywood Patterson taken it off of me.

Q I will ask you to examine this knife, please? (Hands knife to witness)

A Yes sir, that's it.

Q What became of that knife in the car, was it taken

from you there or not?

A Yes sir.

Q Who took it away from you?

A ~~Haywood Patterson is what they called him.~~

Q That is, the defendant there (indicating)

A Yes sir.

Q From that time, when did you next see that knife?

A In the court room at Scottsboro.

Q How many of these men that came over that car had sexual intercourse with you in that car at that time?

A Six.

Q Six of them?

A Yes sir.

Q What, if anything, did Haywood Patterson do, while the others were having sexual intercourse with you?

A He had a gun, and kept going around the side to keep the white boys off, except the time he held the knife to my throat.

Q When he was having intercourse with you, did any one hold a knife to your throat at that time?

MR. LEIBOWITZ: Don't lead the witness. I object to that. No ruling.

A Yes sir.

Q Did any one else have hold of you while they were having sexual intercourse with you?

A Yes sir, another one held my legs.

Q How many were holding you or had a knife on you?

A One of them was holding my legs, and another one had a knife at my throat.

Q After they had intercourse with you, Mrs. Price, what happened immediately after, in that car, what did they do?

A That defendant there, Haywood Patterson, he said that they was going to carry us north and make us their women, or else they was going to throw us in the river. That's all I remember.

Q Where did you get off that train?

A At Paint Rock.

Q Paint Rock, Alabama?

A Yes sir, that is what they called it.

Q The train stop at Paint Rock?

A No sir, they had it stopped there.

Q Was this defendant and the men that had intercourse with you in this gondola then?

A Yes sir. They was beginning to run up towards the engine then.

Q All of them?

A Yes sir.

MR. LEIBOWITZ: Please don't lead the witness. I am objecting to the prosecutor putting the words in the witness' mouth.

Q Did you get out of the car at Paint Rock?

A Yes sir, when the train stopped Ruby Bates was getting off, and I got on the side of the gondolier, and saw what was going on, I got my clothese fastened, and when I got down on the last step of the gondolier, I fell off and I didn't know anything until I come to myself in a store in paint rock.

Q Was Ruby Bates there?

A Yes sir, Ruby Bates was there.

Q Now, I believe I will ask you Mrs. Price, whether or not this man, this defendant, or the others at that time and on that occasion, has sexual intercourse with Ruby Bates?

A Yes sir, part of them had hold of Ruby Bates raping her, while they was raping me.

MR. LEIBOWITZ: I move to strike that out.

COURT: Stikre out what?

MR. LEIBOWITZ: Strike out the witness answer.

COURT: The motion is overruled.

MR. LEIBOWITZ: He reserve an exception.

Q Was Orville Gilley on that gondola when that occurred?

A Yes sir. He stayed in there in the gondolier. Part of the colored boys was holding their knives on him.

Q After you came to yourself at Scottsboro, where did you then go?

A Scottsboro.

Q Where did you go in Scottsboro?



A In the hospital room. They had two doctors there with me.

Q About what time was it when you got to Scottsboro?

A It was in about an hour and a half or two hours.

Q Mrs. Price, about how long was it after the train left Stevenson before these men came into that gravel car?

A About five or ten minutes, to the best of my knowledge.

CROSS EXAMINATION.

BY MR. LEIBOWITZ:

Q Mrs. Price, is it Miss. or Mrs?

A Mrs.

Q Are you married?

A I have been married.

Q How many times?

A Twice.

Q What was your husband's name?

A Henry Presley.

Q Spell it please?

A H-E-N-R-Y P-R-E-S-L-E-Y.

Q Were you divorced?

A Yes sir.

Q Did your husband divorce you?

MR. KNIGHT: We object to that.

COURT: You needn't go into that.

MR. LEIBOWITZ: We reserve an exception.

Q What was your next husband's name?

A Ennis McClendon.

Q When were you married to him and where?

A In the Huntsville court house, by Thomas W' Jones,  
Judge Jones.

Q When?

A I have forgotten the date that we were married.

Q When was that, how long ago?

A It has been three and a half years ago. We have  
been married right around four years.

Q Is your name McClendon, "Yes" or "No"?

A Well by law it is. I never went by any name of  
McClendon, and I never went in the name of Presley.

Q You never went in either name, McClendon or Pres-  
ley?

A No sir. I got a divorce at home to prove that I  
was married.

COURT: Just answer the questions that he asks you.

Q Are you divorced from Mr. McClendon?

COURT: You needn't answer that. The supreme  
court in this same case held that this same question  
was illegal. I will have to follow that.

MR. LEIBOWITZ: We except.

Q Is your mother's name Price?

A Yes sir.

Q You call yourself Mrs. Price?



A Yes sir.

Q You are not Mrs. Price, are you?

A No sir.

Q How old a lady are you?

A Well, I am 25.

Q So that in March, March 25, 1931, how old were you at that time?

COURT: The jury can figure that out. You needn't take any time with that.

Q How long have you lived in Huntsville?

A For the last past twelve years, and over.

Q Did you ever work for a coal company?

A No sir.

Q You or your people?

A No sir.

Q Are you acquainted with the DeBardelaben Company?

A No sir.

Q You never worked for the DeBardelaben Company?

A No sir, I never worked anywhere in my life except in the Margaret Mill, now the Fletcher Cotton Mill.

Q Before you lived in Huntsville?

A No sir, I was too small.

Q Before you lived in Huntsville, was your father connected with that company?

COURT: You are taking up time with matter that is wholly immaterial, Mr. Leibowitz.

MR. LEIBOWITZ: May I state what I expect to prove by that question?

COURT: I decline to permit it.

Q Now, on this date that you started at Huntsville, that was the day before this trouble, you started out for Chattanooga, didn't you, - you started out to go to Chattanooga, didn't you?

MR. KNIGHT: We object to that as irrelevant and immaterial.

COURT: I believe I'll let her answer that.

A What was the question?

Q You started from Huntsville to go to Chattanooga, didn't you?

A I left Huntsville to go to Chattanooga, hunting for work -

MR. LIEBOWITZ: I move to strike out "Hunting for work."

COURT: I sustain the motion. That is not evidence gentlemen.

Q You left here - left Huntsville March 24th?

A Yes sir.

Q Started out from Huntsville?

COURT: She has said she did, Mr. Leibowitz, why ask her twice.

Q You started off on the railroad, to go to Chattanooga-

ga by railroad?

A Yes sir.

Q By freight train?

A Yes sir.

Q Why did you hesitate each time when I asked you before answering?

MR. KNIGHT: I object to his arguing with the witness.  
Overruled.

Mr. LEIBOWITZ: Let it go.

Q Who did you get on that freight train with to go to Chattanooga?

A Ruby Bates.

Q Do you know Lester Carter?

A I wasn't acquainted with him at that time.

Q Did you ever know him at all at that time, did you know of the existence of Lester Carter on March 24, 1931?

A No.

Q Did you know a man by the name of Tiller at that time, Jack Tiller?

A Yes sir.

Q He was your boy friend?

A Kindly.

Q You were keeping company with him?

A Yes sir.

Q Tiller was a married man, was he not?

A Yes sir, but he wasn't living with his wife.

COURT: I think you have gone far enough on that.

Q Was this the first time you got on a freight train, March 24th, 1931?

COURT: You needn't answer that.

MR. LEIBOWITZ: We except.

Q When you got on that freight train with Ruby Bates, was there anybody else with you at the time?

A No sir, when I go on the freight there wasn't.

Q See anybody there about the place?

A Wasn't nobody with me but Ruby Bates.

Q Anybody on the train or on the ground?

A No sir.

Q Wherever it was that you got on the train was anybody that accompanied you on the train?

COURT: I don't like to interfere, but I can't allow the time of the court wasted on matters so immaterial. You musn't ask that question again.

MR. LEIBOWITZ: We reserve an exception.

Q Had you had sexual intercourse with any men the night before you left Huntsville?

COURT: Wait a minute -

MR. KNIGHT: The state objects to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: We except. May I state the reason for it?



COURT: No sir, at least I don't require it.

Q Did you have intercourse with any man the day before that?

MR. KNIGHT: The state objects.

THE COURT: I sustain the objection.

MR. LEIBOWITZ: We except. I propose now to apprise the court, not in the presence of the jury, so that the jury may not be affected by the purpose of the question, to state the purpose of the question.

THE COURT: I decline to do that. I think I know.

Q Did Ruby Bates, in your presence, the day before you left Huntsville have intercourse with -

MR. KNIGHT: That's not a proper question, and Mr. Leibowitz knows it.

COURT: Gentlemen, I am not going to have one word of side bar remarks. Let the question be asked and if you have any objection, address the court. I am not going to have any argument between counsel in this case.

Q Did Ruby Bates, have sexual intercourse, in your presence, with one Lester Carter the day before -

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: We except.

MR. LEIBOWITZ: I will state to the court when I get through with my question. I don't like to be interrupted.

COURT: And I'll make known to you when I rule too. Proceed if you want to ask another question.

Q I want to know if Ruby Bates had intercourse with LesterbCarter the day or night before you left Huntsville in and L. & N. yards, in a box car, or any other place in the railroad yards near Huntsville?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. LEIBOWITZ: Exception.

Q You say that when you got on this freight train at Huntsgille, you had on overalls?

A Yes sir.

Q And under the over-alls, three dresses, did you not?

A Yes sir.

Q And under she three dresses you had on, you had on some sort of shirt?

A No, I didn't say that. I said three dresses, a pair of step-ins, the three dresses was under my over-alls, a girl's coat and hat.

Q You have on a shirt underneath the overalls?

A Sure I had it on.

COURT: Wait a minute, don't argue with him.

Q You had on the overalls first, then the shirt, then



the overalls and then the dresses, and then the shirt, and then the step-ins.

A The shirt was on top of the overalls and dresses.

Q You had on the shirt on top of the dresses and overalls is that what you mean, how do you explain that?

A I had on a girl's coat; a girl's hat; I had on a pair of step-ins, three dresses, a pair of overalls and a shirt.

Q Over the over-alls?

MR. KNIGHT: I object to his arguing with the witness.

COURT: I sustain the objection.

Q I want to know how she had on the shirt on top of the overalls?

A I had my shirt on on top of the dresses; my shirt was between my dresses and the overalls.

Q What kind of a shirt was it, again, please?

A It was a blue one.

Q Shirt waist?

A It was a shirt, man's shirt.

Q Of course you had shoes and stockings on?

A Yes sir.

Q And a hat?

A Yes sir, I had on a girl's hat.

Q On top of these over-alls you had on a coat?

A Yes sir, a girl's coat.

Q Was it cold that day, the day you left Huntsville?

A Yes sir, pretty chilly.

Q Where were you bound for, what city?

A Chattanooga.

Q What times did you leave Huntsville to go to Chattanooga?

A I don't remember, I won't say. It is in my other statement though.

Q Did you see a car conductor here on the last trial by the name of Turner?

A I don't know him.

Q Was the train running along while you were waiting to catch it?

A You mean when we left Chattanooga?

A I am speaking about here in Huntsville?

A Yes sir, it stopped.

Q You got in a box car, I think you testified before?

A Yes sir.

Q Were there any men in that box car?

A I think there was a few at the lower end, and we got in the far end. We didn't speak to them.

Q I am asking you when you got in the box car, were there any men in there?

A The best I remember, -

Q Was there, "Yes" or "No".?

A I won't say for sure, because I want to tell the truth.

Q You rode in that box car until you got to Chatta-

nooga.?

A Yes sir.

Q You spoke to no men on the way?

A No sir.

Q You didn't speak to a man by the name of Lester  
Carter?

A No sir.

Q Tiller didn't see you off at the train in Hunts-  
ville?

A If he did, I didn't see him.

Q It was around evening when you got to Chattanooga,  
wasn't it?

A Getting towards dark.

Q Was it around six or seven o'clock?

A It was getting dusk.

Q The train pulled up to the station in Chattanooga?

A It pulled up in the yards and stopped.

Q Near the water-tank?

A I never paid any attention to that.

Q Had you ever been to Chattanooga before?

MR. KNIGHT: That is objected to. Sustained.

MR. LEIBOWITZ: We except.

Q When you got off the train, where did you go?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: We except.

Q Was Ruby Bates with you when you left the train?

A Yes sir.

Q How long did you stay there in the railroad yards until you went back on the return trip?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q Where did you go when you got off the train?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

COURT: That's twice you have asked that; don't let's have that any more.

Q For the purpose of putting it on the record, if your sustains an objection to it after it is put, I must be content, I want to put a leading question on the record, to preserve this defendant's right.

COURT: Go ahead and let's see what it is.

MR. LEIBOWITZ: I mean that I want to preserve this defendant's rights in putting the question.

THE COURT: You needn't worry about the defendant's rights.

Q Did you, Mrs. Price, after you left the train at Chattanooga, you and Ruby Bates, go with Lester Carter and Orville Gilley, go into a woodland known as the hoboes swamp?

COURT: That is far enough for me to know all I want to know, to know that the question is illegal.



I sustain the objection to it.

Mr. LEIBOWITZ: We respectfully except.

Q Did you that night, in Chattanooga, have intercourse with Orville Gilley?

MR. KNIGHT: We object to that.

COURT: I sustain the objection. You have that same question already raised, raised a half dozen times, and I don't see how referring to it again can do any good.

Q Where did you come from before you boarded the train to come back to Huntsville?

MR. KNIGHT: That is objected to. Sustained.

MR. LEIBOWITZ: We except.

Q Did you stay in a rooming house in Chattanooga kept by a woman names Callie Brochie, that night?

MR. KNIGHT: That is objected to. Sustained.

Q Where did you board the train that you claim you were attacked on?

A At the crossing there in Chattanooga.

Q Who did you board the train with?

A Ruby Bates.

Q Ruby Bates alone?

A Yes sir.

Q Were Lester Carter and Orville Gilley in your com-

pany at that time?

A They were not.

Q Had you known Lester Carter up to that time?

A No sir.

Q Never saw him before in your life that you know  
of?

A Yes sir, I had seen him; seen him around here in  
town.

Q What town?

A Huntsville, - but I didn't know who he was.

Q Had you ever seen Orville Gilley before you boarded  
the train back there in Chattanooga?

A Yes sir.

Q Where?

A At the depot in Chattanooga.

Q Before that?

A Yes sir.

Q Where?

A At the depot in Chattanooga.

Q Before that, do you mean just before you got on  
the train?

A No sir, when I got off the train.

Q Did you see him in Chattanooga after that?

A No sir.

Q Did you know him at that time?

A No.

Q Did you know him at that time?



A No.

Q Did you speak to him at all up until the time you were attacked?

A No sir.

Q On the gondola car?

A No sir.

Q Have anything to do with him?

A No sir, no way to do with him.

Q Can you tell us, please, about what time you got on that train in Chattanooga?

A No, I wouldn't be positive. I wouldn't say.

Q Was it in the morning, or what time was it?

A Well, it was somewhere from 11:00 to 12:30, I wouldn't be positive.

Q Were you ever convicted of any crime, Mrs. Price?

MR. KNIGHT: We object to that.

COURT: The objection is well taken in the form you have it.

MR. LEIBOWITZ: We except.

Q Have you ever been convicted of any crime and served a term in prison for it?

MR. KNIGHT: We object to that. Sustained.

Q Have you ever been convicted of any crime involving moral turpitude?

MR. KNIGHT: We object to that. Overruled.

A What is the question?

Q Have you ever been convicted of a crime involving moral turpitude and served time in jail?

A No sir.

MR. KNIGHT: We object to that.

COURT: I will permit her to answer if he has been convicted of crime involving moral turpitude.

WITNESS: I don't know what that is, Judge your honor.

Q May I ask her, have you ever been found guilty of any crime which involves the breaking of the moral law?

A I still don't know what you mean.

Q Have you ever been convicted of the crime of adultery?

MR. KNIGHT: We object. Sustained.

MR. LEIBOWITZ: Exception.

Q Have you ever served time in prison in Huntsville for a crime involving moral turpitude?

MR. KNIGHT: We object to that.

COURT: I believe she stated she didn't know what moral turpitude was.

WITNESS: I said, Judge your Honor, I don't know what it means.

MR. LEIBOWITZ: I thought you just said you did?

COURT: No, she didn't say that.

Q Have you ever been convicted of lewdness?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. LEIBOWITZ: We except.

Q Have you ever been convicted of being drunk?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: We except.

Q Have you ever been convicted of vagrancy and fornication?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: We except.

Q Did you ever stay with a negro names Letham (or Lethan) Carter?

THE COURT:; Mr. Leibowitz that question is palpably illegal. I might say that any lawyer ought to know that it is an illegal question, and wholly improper.

MR. LEIBOWITZ: I am surprised at the court's ruling because Judge Horton allowed.

THE COURT: Judge Horton isn't trying the case. I am trying it now. By that I don't mean to be discourteous to Judge Horton.

MR. LEIBOWITZ: Judge Horton permitted all these questions on the other trial?

COURT: That's entirely out of order, Mr. Leibowitz. I don't want any more of that. What dif-

ference does it make what Judge Horton did?

MR. LEIBOWITZ: Is your Honor asking me a question?

COURT: No, I am making the statement that it doesn't make any difference.

Q Did anybody help you, Mrs. Price, get on the oil tank car at Chattanooga, - did anybody assist you?

A You mean at Stevenson?

COURT: No, he said Chattanooga. He wants to know if anybody helped you on the oil tank car at Chattanooga?

A (Continued) No sir.

Q Did you have any money at the time?

A No sir.

Q Wasn't you absolutely broke?

A I was when I went up.

Q Did you get any money from anybody in Chattanooga?

A Yes sir, there was \$1.50 -

COURT: What has that got to do with the case. When the time comes you can show me it is material, you can ask her.

MR. LEIBOWITZ: Will your Honor permit me to call her back?

THE COURT: Whoever you have developed a state of facts that makes that material, I will allow you to call her back to the stand.



Q Was any person on the oil tank car when you got on in Chattanooga?

A Yes sir.

Q Who?

A There was seven white boys. I didn't know them.

Q They got on the oil tank car?

A Yes sir.

Q The oil tank car was a good ways back from the engine?

A Yes sir, it was back towards the caboose.

Q Next the caboose?

A Yes sir.

Q The oil tank car was hooked up to the caboose?

A I said back towards the caboose.

Q Was it a good ways back from the engine?

A A pretty good piece, yes sir.

Q About the middle of the train?

A No, no.

Q Nearer the engine than the caboose?

A No, nearer the caboose than the engine.

Q Were you standing up on the oil tank car, while the train was going out, or sitting?

A We was sitting on the end.

Q What end?

A The end next to the engine.

Q That would be the front end, wouldn't it?

A Yes sir.

Q You and Ruby Bates were sitting there, where were the boys?

A Scattered around on the tank car.

Q You mean colored boys?

A No sir, I said white boys.

MR. LEIBOWITZ: I don't mind at all but I think the witness should show some respect?

THE COURT: I heard what she said. I don't think she is disrespectful.

Q Did you talk to these boys on the oil tank car when it started out of Chattanooga?

A No.

Q You didn't say a word to them?

A We said, "Good morning" to them.

Q They said "Good morning" to you?

A Yes sir.

Q That's all?

A Yes sir.

Q Was it morning when you got out of Chattanooga?

A It was getting along toward dinner time.

Q You rode through a tunnel when came out of Chattanooga, didn't you?

A Yes sir.

Q (By the court) Do you remember whether you did or not?

A Yes sir.

Q Can you give us any idea whether this little white

car here (indicating car on miniature train set up in court room) is a fair sample or of the type car that you got on, did it look something like this?

A Well, it kindly resembles it, built up kindly like the one we was on.

Q You was on the front part of that oil car when you came out of Chattanooga, with Ruby Bates, did you say that?

A I said yes.

Q You say that there were white boys scattered along this oil car?

A Yes sir.

Q Did you have any trouble at all on that ride from Chattanooga to Stevenson, - was there any between the white boys and the colored boys?

A I don't know anything about that.

Q You didn't hear of it?

A No sir.

Q Did any colored boys pass along this car between Chattanooga and Stevenson?

A No sir, I never saw any.

Q Did the white boys all remain on the oil tank car until you got to Stevenson?

A Yes sir.

Q Did anybody get off at any of the stations that you passed?

A I don't know that.

Q I am only asking what you know, - why did you go

back from Chattanooga towards Huntsville, was there any particular reason?

STATE objected. Overruled.

A I was going back home to my mother.

Q Why?

A Because I wanted to go back home.

COURT: I don't see that that hurts anything or helps anything.

Q Had you been able to find work in Chattanooga?

A No sir.

Q You went there to get work?

COURT: She said she did, and that's enough.

Q Did you look for work in Chattanooga?

MR. KNIGHT: That is objected to. Sustained.

MR. LEIBOWITZ: We except.

Q Do you know a man names "Red" in Chattanooga?

A No sir.

Q Did you get a letter from "RED" from Huntsville, while you were in the Scottsboro jail?

A No sir.

Q Did you meet "Red" in Chattanooga?

A No sir.

Q So nothing happened between Chattanooga and Stevenson?

A Not as I know of.



Q Did the train stop on the way from Chattanooga to Stevenson?

A It stopped at the water tank at Stevenson. It never stopped from Chattanooga until it got to Stevenson.

Q Do you recall there were several tracks at Stevenson where they switch cars?

A I never paid any attention to that. I got off there.

Q That was towards the end of the train near the caboose, this oil tank car?

A It was back towards the caboose, yes sir.

Q You got off with Ruby Bates?

A Yes sir.

Q Did you see anybody else get off at Stevenson?

A Yes sir, these white boys got off.

Q Seven white boys?

A Well, I don't know.

Q You told us before there was seven white boys, didn't you?

COURT: Never mind what she told you. The jury will remember the evidence.

Q Were there seven white boys that got off at Stevenson?

A There was seven of them.

Q Did they get off on the same side of the train with you?

A Why sure.

Q That is the side nearest the engine station?

A Yes sir.

Q What did you do at Stevenson?

A We went up the side of the freight train looking for an empty box car; we couldn't find any, so we got in this gondolier.

Q The train had been switching at that time, on the tracks there?

A No sir, it hadn't been switching at all.

Q Wasn't they putting cars on the train?

A No sir.

Q Sure about that?

A Yes sir.

Q The train stopped there twenty or thirty minutes, didn't it?

A No sir, just long enough to get water.

Q Three or four minutes?

A Yes sir.

Q How many cars did you walk past to get to this gondola?

A I didn't count them.

Q About how many?

A I don't know, I wouldn't be positive.

Q Did you walk by a large number of cars?

A I walked by several up towards the engine.

Q How many gondola cars did you see?

A I seen a couple of them; I didn't count them.

Q Five or six or seven?

A Yes sir, somewhere along there.

Q This gondola car that you got in was next to a box car?

A Yes sir.

Q There were box cars on either end of the gondola's?

A The best I remember, there was.

Q Something like this (indicating miniature train)?

A Yes sir, I remember it was.

Q At either end of the string?

A Yes sir, the best I remember there was.

Q If you wanted to get out of one, why didn't you go to this box car nearest the engine?

COURT: I think that is arguing with the witness.

Q Was there any good reason you didn't get into a box car towards the tail end, that is a gondola there nearest the end of the train -

A I told you that we couldn't find an open box car.

Q I am not talking a box car, what I am asking you is there any good reason why you didn't get into the gondola car towards the caboose?

MR. KNIGHT: That is arguing with the witness. We object. Sustained.

MR. LEIBOWITZ: We except.

Q You did go and get into a gondola car towards the caboose, nearest the caboose, is that right?

A Yes sir, it was towards the caboose, but it was further on up towards the ~~engine~~ engine.

Q That would be like this box car (indicating)?

A That's not the kind of box car it was; it had a flat top.

Q The box car had a flat top?

A Sure did.

Q The gondola car was right next the box car though?

A The best of my recollection it was.

Q The best of your recollection it was?

A The best of my recollection it was next to the box car. It is in my other statement.

Q I am not interested in your other statements, - you have made a lot of statements haven't you?

THE COURT: Never mind that, go on with your questions.

Q Did you sit in the end of the gondola nearest towards the caboose, or the end nearest the engine?

A I told you I was sitting next to the box car.

Q I am asking you if you sat in the end nearest towards the caboose or nearest towards the engine?

A Towards the box car.

Q What would be towards the caboose?

A There was a foot and a half or two feet of chert in this gondola?

A I said that it lacked a foot and a half or two feet of being full.

Q If you stood up, the side of the car would reach up to about the calf of your leg, wouldn't it?



A No sir.

Q How tall are you?

COURT: Well, Mr. Leibowitz; she has told you that it was so near the top, how near the top it was and the jury know what a foot and a half or two feet is.

Q This chert, was it level or piled up in the center, in this gondola?

A I don't know; it was level where we was settin'.

Q Could you see over that gondola car?

A Yes sir, - the white boys got in.

Q Could you see everything in that gondola car, there was nothing to obstruct your view?

A Why sure, we could see over the gondola car.

Q As you sat there, you could see out over the gondola cars?

A Of course I could!t.

Q Did you sit down in that end of the car immediately after you got on it at Stevenson?

A Yes sir.

Q Anybody help you get in the car?

A No sir.

Q Ruby Bates get in there with you?

A Yes sir.

Q Did you find the boys in that car when you climbed into it, - the white boys?

A No sir.

Q Did you walk along the track with the white boys?

A No sir.

Q Did any of the white boys leave the tank car and precede you, or go before you towards the front of the train?

A No sir.

Q Did you see what the white boys were doing when you got off the oil tank car?

A No sir.

Q You were not paying them any mind at all?

A No sir.

Q Outside of seeing the young men, did you do any talking with them on the way from Chattanooga to Stevenson?

A No sir.

Q You were sitting right there on that chert, a foot and a half or two feet from the top of the car?

A Yes sir.

Q Were you leaning back against the gondola?

A Yes sir.

Q Your back right up against it?

A Yes sir.

Q Was the top of your body sticking up above the gondola?

A No sir.

Q The sides of the gondola hid you?

A Yes sir.

Q The chert was only a foot and a half or two feet from the top?

A Yes sir, where we was sitting down.

Q You couldn't see over the gondola could you?

A No sir.

Q Did you see the stations go by, and the houses?

A You could see the tops of them.

Q Your head stuck up over that gondola, didn't it?

A No.

Q (By the court) Was it up higher than the top edge of the side?

A Judge, your Honor, I told him I couldn't see except the tops of the buildings.

Q You know what a foot and a half is, don't you, I want to make sure you know, show us with your hands?

A I don't know.

Q You said that it lacked a foot and a half of being full?

A It looked to be that much to the best of my knowledge, of being full. (Indicating with hands)

Q That's about four and a half feet, Judge ?

COURT: The jury is seeing all this. It is for them to say. I am not passing on it.

Q When did you state was the first time you saw these colored boys?

A When that defendant there, and the rest of them came over the top.

Q You never knew what the word "defendant" meant before March 25, 1931, did you?

MR. KNIGHT: We object to that. Sustained.

Q How long a period of time was it, after the train left Stevenson, until these men came over the top?

A Well, either five or ten minutes. I wouldn't say and be positive. We was about three miles out from Stevenson, I guess.

Q Do you know anything about three miles of road?

A I said about ten or fifteen minutes.

Q Madam, I am asking you if you know anything about three miles of road?

COURT: Mr. Leibowitz, I want you to get all you ought to know from the witness, but don't stan up and argue with the witness; don't do that.

Q I am asking you whether or not you had in mind, or paid any attention to the mileage, as you were sitting in that gondola after leaving Stevenson?

A I don't know <sup>how</sup> fast the train was running. They said it was about three miles.

Q "They" saidmit, who said that?

MR. KNIGHT: We object to that. Sustained.

Q You don't know how long you had been riding after you left Stevenson when you saw these colored boys get into the car?

A I said five or ten minutes.

Q Were the same seven boys you saw on the oil tank car, the same seven boys that were in this very gondola with



with you and Ruby Bates, after the train left Stevenson, is that right?

A Yes sir.

Q Were there any other white passengers on this train besides these seven white boys?

A If there was, I didn't see them.

Q Did you see any negro boys on that train?

A. No sir, not until they come over the top of the box car.

Q Up until you reached Stevenson?

A No sir.

Q Did you see any colored boys while walking from the oil tank car at Stevenson, while the train was standing there, towards the gondola car where you finally got on?

A No sir, I did not.

Q Did you notice any colored boys, notice whether any negro boys were behind you, back towards the caboose, when you got off the train at Stevenson, to go to the gondola car that you finally got on?

A I didn't see any colored boys at all.

Q Did you or Ruby Bates say anything to each other before you got on that gondola, about any negro boys on that train?

A No sir, I didn't.

Q Did Ruby say anything to you?

A No sir, she didn't.

Q You were a healthy girl at that time, - you wasn't

ill at that time?

A No sir.

Q When you got in that gondola?

A No sir, I haven't been sickly in my life.

Q In good strong condition?

A Yes sir, until that time.

Q Did you have to wait some time at Stevenson before the train started again?

A No sir, they only taken water.

Q After you got into the gondola?

A No sir, I didn't more than climb up and get over the side and set down until we got started.

Q The boys got on after you did?

A Yes sir, at the other end.

Q Was the train moving?

A Yes sir, the train was moving slow.

Q They stay at the other end of the car?

A No sir, they were laying on their stomachs with their faces towards us.

Q Seven of them?

A I didn't know there was seven until we got to Paint Rock and got off.

Q How many boys do you recollect?

A I didn't count the, I know there was a bunch of white boys.

Q Their feet pointing towards you?

A Yes sir.

Q They paid no attention to you at all?

A No sir.

Q So far as you could tell, they were also hoboes on the train?

A I reckon they was.

Q They were lying on their stomachs?

A Yes sir.

Q These colored boys jumped over into the gondola car where you were riding?

A Yes sir, over our heads.

Q Did you have a snuff box with you that day?

A I wouldn't say positive.

Q You were using snuff at that time?

A No sir.

Q You never found your snuff box when you got to Scottsboro?

A I never looked for it.

Q You lost it on your trip?

A No sir.

Q Can you describe that snuff box?

A No sir.

Q Can you give the jury any idea or description of it?

A No sir.

Q How long had you had that snuff box?

A How do I know.

Q (By the court) Do you know?

A No sir, I don't.

Q Did you have a snuff box on this car, this gondola

car you say you were riding on, did you take a chew of snuff on the car?

A A chew of snuff on the car?

Q Take any of the snuff?

A No sir.

Q Did you have any snuff in your mouth while the claimed rape was going on?

A To the best of my recollection, I did.

Q Did you take that snuff you had in your mouth from a snuff box?

A No.

Q Where did you take it, back on the oil tank car?

A I took it before I left Chattanooga.

Q That you took in Chattanooga, did you take that out of a box?

A No sir.

Q Now, the train had picked up speed in the five or ten minutes after it left Stevenson?

A Yes sir.

Q Going pretty fast?

A Yes sir.

Q Have you any idea about what speed it was making?

A No sir.

Q Would you say it was going 35 to 40 miles an hour?

A No sir.

Q You swore that in the Scottsboro trial, didn't you?

A If I did, it was true.

Q You say you don't know anything about the speed,



but that if you swore at Scottsboro, that it was going 35 or 40 miles an hour it is true?

A I still say 35 miles.

Q Although you know nothing about speed, you say you said at Scottsboro it was going 35 miles an hour?

COURT: That is argument, Mr. Leibowitz.

Q How fast was this train going at the time it left Stevenson and picked up some speed, how fast would you say it was going?

A I don't know how fast, but in my judgment about 35 miles, I guess.

Q Had you ever ridden on a train to judge the speed?

A No sir.

Q Did anybody tell you it was going 35 or 40 miles an hour?

A No sir, they didn't tell me that; that was my judgment about it.

Q When these negroes jumped over did they all come together?

A They all came rushing over in there. I don't know whether they all jumped or not.

Q You say that this man jumped over your head?

A Yes sir.

Q Did they all jump one after another?

A I didn't say one after another.

Q Can you tell us how many landed in that car first?

A Twelve, to the best of my judgment.

Q Did you count them as they came over?

A No sir.

Q Are you positive there were twelve?

A Yes sir.

Q When did you count them?

A I said to the best of my knowledge.

Q When did you count them?

A After they was locked up.

Q Do you know what his gun was by the calibre?

A No sir.

Q You don't know the difference between a .45 or  
~~XXXXXX~~ .35, or .32, a .25 or .42 calibre gun, or pistol  
do you?

A I don't know one gun from the other.

Q Did you see a gun in the hands of any of these  
negroes?

A Yes sir, that defendant there had one.

Q How many guns did you see?

A Two.

Q Do you remember the calibre?

A I don't know one gun from the other. The best of  
my recollection one looked like a .45, what I heard them call  
a .45, I don't know, Judge, your Honor.

Q Your Honor, I am very, very tired..

COURT: I am feeling sorry for you.

MR. LEIBOWITZ: Will you bear with me a minute (be-  
gins to look in book)?

COURT: Can't you let associate counsel look for

you, and ask her something else while he is looking for it.

Q Did these boys make any noise, these colored boys, telling out loud, or hollering?

A Yes sir.

Q A lot of fuss was being made by the?

A Yes sir, they shot from the gondolier, and said "All you white sons-of-bitches unload".

Q Was there one shot or two fired?

A Two or three to the best of my knowledge.

Q When you answered Mr. Bailey's question you said one or two, now you say two or three -

COURT: Which do you say?

A I said two or three to the best of my knowledge.

Q Did you say before, "one or two" when the solicitor asked you?

COURT: You needn't take up time with that. What she said to the solicitor is for the jury; that's what the jury is here for.

Q Did the shooting occur before the negroes jumped into the gondola, or afterwards?

A While they were jumping over in there.

Q Did you see the guns actually fire the shots?

A I didn't look for them.

Q The shots were fired before the men got into the gondola, wasn't they?

A As I said, they were jumping into the gondola?

Q While they were in the air?

A I said they was jumping over into the gondola.

Q Did you see who fired?

A That defendant, Haywood Patterson, sittin'there.

Q I mean this defendant here on trial, did he fire  
a shot?

A Yes sir, he had a gun.

Q Did you see him fire a shot?

A Yes sir, he had a gun.

MR. LEIBOWITZ: We move to strike the answer. Sus-  
tained.

Q Did you see him actually fire a gun?

A Yes sir.

Q Did you see another man fire a gun, another shot  
was fired?

A I said there was two guns.

Q Did you see either gun fire a shot?

A I never paid attention to them.

Q Do you remember the color of these guns?

A No, I don't.

Q Or anything at all about these guns?

A I know they had two guns.

Q You don't know anything about these guns to de-  
scribe them?

A I don't know anything about guns.

Q Were they automatics, or revolvers, can you tell



this jury anything about them?

A I told you I didn't know one gun from another.

Q Was this firing towards these white men in this car, pointed towards them?

A No, they was jumping off, and what didn't jump off they knocked off.

Q These men started to jump off after the black men got into the car, and there had been some fighting?

A No, they didn't fight; they knocked the white boys off.

Q As soon as the black boys jumped in the car the white men began to get off?

A As soon as the negroes jumped in the gondolier, they begun knocking the white boys.

Q Did the white boys get up off their stomachs?

A Sure they got up.

Q All this crowd of white boys?

A Yes sir, they got up.

Q Did you get up?

A Yes sir.

Q Did Ruby Bates get up?

A Yes sir.

Q You were holding to the side of the car, wasn't you?

A I was holding to the side of the car. I started to jump off.

Q Did you hold on to the side of the car?

A Yes sir.

Q While you were holding on to the side of the car, the trouble was going on between the white men, and the black men, - the black men were putting the white men off the car?

A Yes sir.

Q There is what is known as a stirup on these cars, a sort of ladder, or step, where you get off and on?

A Yes sir.

Q As soon as you saw this trouble coming up, you put your leg over the side of the car to get off?

A Yes sir, attempting to get off.

Q Ruby Bates was right next to you?

A Yes sir.

Q Did you say to Ruby Bates, "Let's get off"?

A I said to Ruby Bates, "I rather be killed as to be in here with these negroes".

Q All this time this fighting was going on and they were putting off the white boys?

A Yes sir.

Q That took how many minutes?

A I can't tell you.

Q Give us some idea of how many minutes?

A Five or ten minutes.

Q All this time you were fixing to get off?

A Yes sir, until one of them grabbed me -

COURT: You keep arguing with the witness. You do more arguing than you ask questions. Ask her

something else.

Q Right after the negroes jumped into this car, you got up and said to Ruby Bates, "Come on, let us get off" or whatever words you used, and started to get off as fast as you could?

A We started to get off, - they turned around and said "We are not going to hurt you".

Q You started to get off as fast as you could, and wanted to get off as fast as you could?

A Sure.

Q You didn't want to delay a moment longer than you had to after you saw the negroes jump in there with guns and start scrapping with the white boys, am I right?

A Sure, I wanted to get off. I couldn't get off right at the time on account of them negroes -

Q During this ten minutes while the fight was going on, as you tell it, you were in one position still, with one leg over the car, and one leg inside the car?

A No sir, when they put the white boys off, - I was fixing to get off, and one of them grabbed me and pulled me back and asked me if I was going to "put out" and I said "I don't know what that is".

Q I haven't gotten up to that point yet, I haven't reached that point in your story yet, if I understood you, you told me that when the negroes jumped into that gondol car, and you got up and said to Ruby Bates, "Let's get off as quick as we can"?

A Yes sir.

Q You put your leg over the side of the gondola to get off?

A Yes sir.

Q There was nothing the matter with your other leg at that time, was there?

A I didn't put my leg over the gondola at the start.

Q When?

A I said when they knocked the white boys off.

Q What was there to prevent you from getting off, if you were in such a hurry to get off, what was to prevent getting your leg over?

A I done told you that these negroes run up and grabbed me and wouldn't let me get off.

Q They had their hands full with the white boys for ten minutes, putting them off, didn't they?

COURT: I can't see the propriety of that. Suppose she hadn't gotten off as quick as she could.

MR. LEIBOWITZ: Shall I answer you?

COURT: Yes, I would like to hear from you if you can show me the propriety of it.

MR. LEIBOWITZ: This witness has testified, as your Honor remembers, that when these negroes jumped into that car, she wanted to get off that car as soon as she could; that she put her leg over the gondola and started to get out, that is when she contends that ten minutes elapsed from that time



until all the white boys were put off the train, and now she say that after the white boys were put off, while she was there she was seized by one of these negroes, - do I have to say anything further, Judge?

COURT: I can see the importance of it.

MR. LEIBOWITZ: I want to know what she was doing during those minutes.

THE COURT: The trouble is she don't fasten herself down to minutes. I think we have gone over it enough to test her recollection thoroughly. If that won't test it, I don't know what would, but go ahead.

Q What were you doing from the time you got up to get off the gondola, until after the trouble was over with the white boys, what were you doing?

A Repeat that over, please.

Q I want to know what you were doing, you say twelve men came into the gondola, and started a fight with the white boys, and that you got up with Ruby Bates, and said "Let's get off", which you said was about five minutes, what were you doing during that five minutes?

COURT: Tell him all of it.

A We got to the edge of the gondola, and the negroes was running up and down the side/ keeping the white boys off -

Q What about the other side?

A I didn't want to get off on the other side because cross ties were laying along there.

Q On the side of the gondola, or on the side of the train?

A On the side of the railroad.

Q Were the cross-ties on the otherside, is that why you didn't get off on the other side?

COURT: I think you have asked that enough.

Q Did you testify you wanted to get off, even at the cost of your life, did you testify on the other trial that you would rather be killed getting off that train than remain on the train, - did you say that?

COURT: I am not going to take up time with that. Go on to something else.

Q Did you testify, Mrs. Price, back in Scottsboro, in the case of Weems and Norris, - I am reading from page 24, were you asked this question and did you make this answer -

COURT: Are you trying to find out what she said about she would rather get off and be killed?

MR. LEIBOWITZ: No sir, not right now.

Q Was this question asked you: "Do you know which one was the first one that got down into the car you were riding in?" do you remember that question?

A I won't be positive what I said in Scottsboro because that has been over two year ago.

MR. KNIGHT: She answered "Yes" to that question before.

COURT: Do you remember whether or not you made that statement?

WITNESS: I wouldn't be positive, Judge, your Honor, it has been too long.

MR. LEIBOWITZ; That was just to refresh her on what she said about the guns. I want to read one or two additional questions and answers.

Q Were you then asked this question: "Was it one of these defendants" and you answered, "Yes sir, that one sitting right over there, he had a gun?" and then this question "That one yonder, Charley Weems?" answer "Yes sir", question, "With a gun or pistol?" answer, "A pistol, a 45" - is that your testimony in the Scottsboro trial of Weems and Norris?

A I said to the best of my remembrance and knowledge.

Q Did you testify in the case of the State of Alabama against Patterson in Scottsboro?

A Yes sir, I testified against him.

Q Did you say there, as I am reading from page 4 of the record of the Patterson case at Scottsboro, was this question asked you: "What did you see this defendant do in that fight?" and did you answer "I seen him knock a boy in the head", question "What with?", answer, "A gun", question "A pistol?" answer, "A 38", did you say that in the Scottsboro trial?

A Sure I said he knocked him.

Q So that, at the time you gave your testimony in Scottsboro, - you stated here that you didn't know one gun from another, - you said it was a .38 and a .45?

A I said to the best of my knowledge.

Q You don't know one gun from another, and yet you said it was a .45?

A I said to the best of my knowledge it was a .45.

Q Did you finally get one leg over the gondola?

COURT: I think you have get enough of the leg over the gondola. Let's don't take up time on that; that is a waste of time. You have tested her recollection on that all that is possible.

MR. LEIBOWITZ: Exception.

Q Where were you standing when the first negro laid hands on you?

A Standing up in the gondola at the corner.

Q On the right or left side, facing the engine?

A On the left side.

Q On the side where the railroad ties were?

A No.

Q You were facing the engine on that car?

A Yes sir.

Q On the left side or the other side?

COURT: She said on the left side.

Q Was Ruby Bates with you?



A Yes sir.

Q Were you standing at that time, or sitting down, when any negro laid hands on you?

A I was standing with one foot over the gondola.

Q The left side as you faced the engine?

A Yes sir.

Q That is the side you didn't want to jump off on?

A It was the side I wanted to jump off on.

Q What stopped you from jumping off that side for the five or ten minutes when the fight was going on?

A These negroes running up the sides of the gondola.

Q What side?

A The left and right side both.

Q Was any particular negro standing right at the stirup or step you wanted to get off on?

A How could you get off there when they were running around there that way.

Q I am asking you, while you were trying to get off during this five or ten minutes, was any particular negro at the point where you wanted to get off, all the time?

A Yes, there was two or three standing at each corner to keep them from getting off on the steps.

Q At all the four corners?

A To the best of my recollection.

Q How about these steps towards the box car, during any time couldn't you have climbed onto these steps between the gondola and the box car?

A No.

Q That would mean just a step, wouldn't it?

COURT: I think that's enough on that.

MR. LEIBOWITZ: Exception.

Q What is the very first thing that happened when anybody laid hands on you, according to your story, what is the very next thing that happened?

A Well, one of the boys grabbed me and jerked me back and hit me in the head with a gun.

Q Was it this defendant?

A I wouldn't say which one it was.

Q Were you hit in the back of the head?

A No.

Q Where?

A Right up here somewhere's over the eye. (Indicating).

Q Indicating the left side of the head, over the eye?

A Somewhere between my eye-brow and the top of my head.

Q He hit you with a gun?

A Yes sir.

Q Did he hit you with the butt end or the barrel of the gun?

A The but end.

Q Do you know what the butt end is, what is the butt end of a gun?

A The butt end is the handle of it where you hold it in your hand to shoot.

Q That's right, did you see in which hand he held it?

A To the best of my recollection he had it in his left hand when he hit me.

Q He was facing you wasn't he?

A He had his other hand back of me, pulling me.

Q Was he behind you when he hit you?

A No, kin'ly at my side.

Q What side, right or left?

A Kinder on my side this way (indicating), sorter angling kin'ly; I wouldn't be positive.

Q Which hand did he have on your back?

A He had the gun in his left hand; it must have been the right hand that he had on my back.

Q He was standing to the right of you, at his right?

A I didn't say exactly at the right. I said the best of my recollection it was the right; he was kin'ly angling; he wasn't standing right up on me.

Q You don't want to change that testimony in any way do you?

COURT: I decline to allow you to ask her such a foolish question.

Q Did he hit you a hard blow on the head with the butt end of that gun?

A No, not so hard.

Q Did it make you bleed?

A ~~A little bit, not so much.~~

Q It hurt you didn't it?

A A little bit; enough to addle me a little bit.

Q Did you take your handkerchief and start to wipe the blood off?

A No, it wasn't bleeding that much.

Q The skin was broken, wasn't it?

A Yes sir, a little bit.

Q Raise a little lump afterwards?

A A little.

Q Swollen any?

A Just a little bit.

Q That was this defendant, Haywood Patterson, he was the one that hit you?

A Yes sir.

Q It wasn't Charley Weems or Norris?

A To the best of my recollection it was Patterson.

Q Do you know that it was Patterson?

A To the best of my recollection it was.

Q You testified in the Norris case that it was Norris?

A Yes sir, Norris hit me too, Judge your Honor.

Q Who else hit you?

A I don't know.

Q Did some of the others hit you besides them, how many assaulted you besides raping you?

A Explain that over, please sir.

Q How many hit you besides Norris and Patterson, how many others hit you?

A I wouldn't be positive, they was all running



around there over me and Ruby.

Q How many hit you?

A I am positivethat he hit me once. That's the one.

(Indicating defendant)

Q I want to know specifically, if you can tell us, do you know how many hit you?

A I wouldn't be positive.

Q More than two?

A I wouldn't be positive; I wouldn't say.

Q Would you say that as many as twelve hit you?

A I didn't say that twelve hit you?

Q How many besides the two?

COURT: You have answered that enough.

MR. LEIBOWITZ: Exception

Q Where did the second man hit you with a gun?

A I didn't say that he hit me with a gun.

Q Where did he hit you?

A He hit me on the back.

Q What with?

A I don't know; punched me kinder.

Q Did you receive any other blows on the face outside the blow that Patterson hit you?

A Yes sir.

Q From who else?

A Practically all of them.

Q Where did they strike you?

A With a knife on my throat.

Q I am asking you about places on your face?

A That is on my face.

Q Who struck you a blow on the face besides Patterson?

A Practically all of them.

~~Q With their fists?~~

A With a knife on my throat, I said.

Q I am asking about face?

A That is on my face.

Q Besides the knife, who hit you on the face?

COURT: Do you know?

A No sir.

Q How many hit you in the face?

A I said I wouldn't be positive, because I don't know.

Q Was there more than one?

COURT: That will do. She has gone over that  
enough to satisfy anybody, looks to me like.

MR. LEIBOWITZ: Exception.

Q Were you standing when they hit you in the face?

A Part of the time.

Q Can you, by reason of that, tell us how many  
blows you were struck in the face or on the neck?

A I said I wouldn't be positive.

Q Whatever blows that were delivered in your face  
were heavy blows, were they not, either with some sort of  
instrument or a man's fist?

A Repeat that.

Q You were hit either with a gun, fist or something?

A I said I wouldn't be positive; I don't know.

Q Were you knocked down?

A I was picked up and thrown down.

Q Were you held over the gondola?

A Yes sir.

Q In order to throw you off?

A Yes sir.

Q Who wanted to throw you off?

A That defendant, Haywood Patterson.

Q He is the one that hit you with the gun?

A Yes sir.

Q He is the one that wanted to throw you off?

A Yes sir, he said he was going to throw me off.

Q You were on your feet when they were about to throw you off, wasn't you, you were standing up at that time?

A Kin'ly standing up, yes sir.

Q You said that one negro was standing to the right of you holding you with his right hand, and striking you with his left?

A No, I didn't say that.

Q Didn't you say that half a dozen times?

A I didn't say that he stricken me with his left hand. I said that he hit me over the eye.

Q Hit you with a gun that he had in his left hand, was it at that time that Patterson picked you up to throw you off the car?

A Yes sir, he picked me up to throw me off.

Q Was that the time, at this time that this man hold

ing you with his right hand, - was that the time that Patterson came along and picked you up to throw you off the car?

A He said that he was going to throw me off if I didn't "put out".

Q Was it at that time?

A Yes sir.

Q Where did Patterson go to get there?

A There in the gondolier.

Q Did he come along from the front?

A No, they was all hovered around us.

Q The white boys were running along up and down the train?

A One of them did get back on.

Q The other white boys were running up the train, you told Mr. Bailey?

A They did try and get back on.

Q While you were being assaulted, at that time?

A They said they tried to get back on, I never seen them.

Q You never saw anybody trying to get on?

A I saw one get back.

Q You never saw any of the others try to get back, did you?

A I seen one trying to get back, and he was knocked down.

Q That wasn't Gilley?

A No, Gilley got back on the gondolier.

Q Has the one that was trying to get back on, was that



when you were being assaulted, while you were being hit on the head with a gun, while one of the negroes was trying to throw you off the train, - was that the time that boy was running along there trying to get back on?

A I don't know where he went to. He was trying to get back.

Q Was that before you were hit in the head with a gun that you saw this boy trying to get back?

A Before I was hit on the head?

Q Yes, during this five or ten minutes?

A I wouldn't be positive whether it was afterwards or before.

Q Now the colored boy that pulled you by the coat after he hit you with the gun, you were standing still at that time, wasn't you?

A No.

Q What were you doing at that moment?

A Pushing them back, begging them to let us alone.

Q Was that the time you got one leg over the car?

COURT: Let's don't go into that again. I think the witness has answered that enough.

MR. LEIBOWITZ: Exception.

Q Patterson grabbed you by the feet and hung you out over the car?

A I said that he picked me up to throw me over.

Q Didn't you say that he held you by the feet and held you over the car?

A I probably did.

Q That happened?

A I wouldn't be positive what I said.

Q Didn't you testify that five different times on five different trials, "yes" or "no"?

COURT: Show her the writing if you want to ask her a question like that. I can't stop for you to look for it. You have three counsel to assist you, let them locate it, and you ask her something else.

Q At any time, did any other negro other than Patterson hold your body over the gondola, hold you over the side?

A Haywood Patterson had me over the gondola holding me.

Q Did any negro have hold of your legs while you were hanging from the gondola?

A No.

Q You are sure about that?

A I wouldn't be positive.

Q Did you say at that time "Let me go" I would rather die than stay in the gondola"?

A I resisted all I could.

Q That while you were hanging over the gondola with some negro holding your legs?

A While this negro had me in his arms over the gondola.

Q Now you say that no negro held you by your legs?

COURT: Mr. Leibowitz, you are just wasting time, in my judgment.

MR. LEIBOWITZ: Exception.

COURT: By going over the same thing over and over.

MR. LEIBOWITZ: Exception.

Q At that time you were thrown in the chert and Patterson held you?

A That was the time I was thrown down and raped.

Q That was the time you were thrown in the chert?

A Yes sir, I was ~~threw~~ thrown down there.

Q Did he have you in his arms when he threw you on the chert?

A I wouldn't say.

Q You were thrown down and he fell on the chert?

A Yes sir, he was pushing me down.

Q You fell on your back?

A Yes sir.

Q Strike your head against the chert?

A Sure.

Q Now, going back to whether anybody held you by the legs, I will ask you this, I am reading from page 25, in the Seabrook trial of Weems and Morris, - listen now please, did you testify as follows: "Q. I will ask you whether or not one of them put his hands on you?" - "A" Yes, sir, that one over there is the one that picked me up in his arms and

said he was going to throw me out of the gondola." "Q. Which one is that?" - "A. that one behind there, that is one with the gun, he got me by the leg and by the ankle and slung me back in the gondola and picked me up like he was going to throw me out" - did you testify that, just "Yes" or "No", please?

A I won't be positive whether I did or not. If I did that is true, because this has been nearly three years ago.

Q Did you testify on the last trial, in the Spring before Judge Horton, as follows: Question: "Was that the last or first thing, being struck on the head with the gun"? Answer: "No sir, one of them picked me up by the legs and the back of the overalls and held me over the gondola and said he was going to throw me over." Question: "That didn't scare you?" answer: "No sir, I had rather went over" -, that is on page 28 of the testimony taken before Judge Horton, in ~~the~~ case of Haywood Patterson?

COURT: Did you say that or not?

A Yes sir.

COURT: Did you say the things he read to you?

A Yes sir, I said them to the best of my recollection.

Q When he held you over the gondola, by your legs, your hands were down towards the track, wasn't they?

A I told you he had me in his arms.

Q You said that he held you by the legs?

COURT: That's enough of that, go on with something



else.

MR. LEIBOWITZ: Exception.

Q You screamed when they punched you in the back and struck you on the head?

A No, I was hollering for help.

Q You passed by houses along the road out of Stevenson, didn't you?

A How did I know when I was lying down -

Q Did you see any houses as you were sitting up there, going along, see any farm houses?

A How could I see any house?

COURT: Did you see any?

A No sir, Judge your Honor.

Q This was about what time of day -

COURT: You have asked her three times.

Q (Continued) When you left Stevenson?

A Judge, your Honor, I have answered that. I told him I didn't know and wouldn't be positive.

Q Did you have any lunch that day?

A No sir, except what was give me.

Q Where?

A When I left Chattanooga.

COURT: That's immaterial; you might just as well ask her what she had to eat here.

MR. LEIBOWITZ: Exception.

COURT: All right, go ahead.

Q Did Ruby Bates scream at that time?

A I didn't pay any attention to Ruby, I was trying to help myself.

Q Trying to get off that train, wasn't you?

A I would if he hadn't grabbed me.

Q You was trying to get off the train?

A Yes sir, if he hadn't grabbed me.

Q Grabbed you ten minutes after it started?

A I didn't say ten minutes.

COURT: She has testified about all that.

Q By the way, you say that Haywood Patterson raped you?

A Yes sir.

Q You say that he was the man that was trying to throw you off?

A Yes sir, he was trying to throw me off.

Q You claim that Haywood Patterson raped you, the very same man that, before he raped you, was trying to throw you off the train, get rid of you by getting you off the train, you want this jury to believe that?

COURT: That is arguing with the witness.

MR. LEIBOWITZ: All right, exception.

Q Now, on the last trial, lady, you testified before Judge Horton, about where you were struck on the head, do you remember that you did?

A I probably did.

Q Don't you remember telling Judge Horton about it?

A I told him I wasn't positive where I was hit.

Q (By the court) Do you remember testifying on the other trial about being hit on the head?

A Yes sir, I remember testifying about that.

Q When you testified before Judge Horton, I am reading from page 54, of the official minutes, didn't you tell Judge Horton that you were hit on the right side of the head?

A I didn't say which side.

Q (By the court) Do you remember whether you said on that trial that you were hit on the right side of the head?

A I didn't. I didn't say whether I was hit on the right side or left.

Q (By the court) He is trying to find out if you said on the other trial that you were hit on the right side of the head?

A No sir.

Q Didn't you tell Judge Horton that you were struck on the right side of the head?

A I probably did.

Q You did say you were struck between the eye brow and the top of your head?

A Yes sir.

Q Which side did you say, the right or left?

A I wouldn't say.

Q Let me read to you from your testimony before

Judge Horton, I will start on page 33 of the former trial so that it will be clear:

"Q. One of them smacked you in the head?

A ~~XXXXXXXX~~ With a gun, yes sir.

Q With the butt end of the gun?

A Yes sir.

Q On the side of the head?

A Yes sir.

Q Right on this side of the head with the butt end of a gun?

A Yes sir.

Q That started to bleed?

A Well, a little, not much.

COURT: Where were you hit?

A I would say between my eye-brow and my head up here (indicating)

COURT: The top of your head?

A Between the ~~my~~ eye-brow and the top of my head.

COURT: Between your right eye-brow?

A Yes sir.

COURT: And the top of your head?

A Yes sir!

COURT: Between these two points?

A Yes sir."

COURT: Do you remember whether you said that or not?

A No sir, I don't remember.



MR. LEIBOWITZ: May it be stipulated that I am reading correctly from the official minutes, or shall I have to bring Judge Horton here?

COURT: Judge Horton can't help you.

Q When you were thrown down in that gondola, where was Ruby Bates at that time?

A They was over on the other side.

Q You mean she was on the other side of the train?

A She was threw down on the side.

Q A group of negroes around her too?

A Yes sir.

Q Did you see her actually being thrown down?

A Yes sir.

Q All after being hit on the head and thrown down yourself?

A I wasn't unconscious.

Q Is that what you want this jury to believe?

COURT: Don't argue with the witness. Now, Mr. Leibowitz, do you insist on carrying on along that line?

MR. LEIBOWITZ: No sir.

COURT: Don't do it. Don't let's have any argument with the witness. I am trying this case on the legal evidence and I just can't put up with that sort of questioning.

Q How many, - pardon me Judge, Your Honor, - how many

negroes were around you at the time you were thrown on the chert? (chert)

A I don't know.

Q Standing over you?

A Sure they was over me.

Q You say there were six?

A There was six that raped me.

Q Were there six standing over you when you were finally thrown over?

A I wouldn't say.

Q Did you see these six negroes surrounding you?

A I said that six raped me.

Q Did you have on all of your clothes after you were struck on the head, after you were knocked down?

A No.

Q When were your clothes taken off?

A Well, my pants fell off me ~~xxxx~~ while I was standing, and when they throwed me down on the chert they pulled them off.

Q Your pants fell on the ear on the chert?

A They fell down to my feet.

Q How did you have them fastened up?

A With a belt.

Q What kind, of belt was that, a leather belt?

A I suppose it was.

Q You ought to know, I don't want any suppositions?

A Sure it was a leather belt.

Q Was it fastened tightly around your waist?

A I put it around me tight enough so that it would not let my ~~SKIN~~ pants fall off; sure I did.

Q Anybody unfasten your belt?

A Yes sir.

Q Who?

A One of the negroes.

Q You are sure of that?

A Yes sir.

Q Then your pants fell down?

A Yes sir.

Q Was that before you were hit or after?

A After.

Q That was after you got several blows in the face?

A I didn't say they were hard blows.

Q I am asking you whether or not it was after you were struck the blow on the head that the negro unfastened the buckle and your pants fell off?

A I told you that he hit me before he threw me down. I told you I was standing up when he hit me and unbuttoned my pants after that and they fell.

Q Was that the time that you were picked up and thrown over the gondola, or was it during that time they took your belt off and you landed on your back?

A How do I know?

Q (By the court) Do you know whether it was or not?

A No sir, I don't know.

Q Did you examine your back afterwards in the Scottsboro jail, to find out if your back was bleeding?

A How can I see to look at my back.

Q Did you look at your back afterwards in a mirror or something?

A No sir, the doctor looked at it.

Q Did you find any blood on your back?

A No sir.

Q Did you testify before Judge Horton on that point?

A I ain't answering your question yet. I said I didn't know whether there was any blood or not, but there was bruises on my back.

Q Did you scream out at any time while lying on the ground, on the chert?

A Sure I hollered until I couldn't holler, while I was lying there.

Q You were on your back from five to ten minutes after you left Stevenson until shortly before you reached Paint Rock, were you not?

A I don't know how long I was on my back.

Q How long were you on your feet, or in an upright position before you reached Paint Rock, five minutes?

A You mean was I off the chert?

Q Yes?

A I had done got up when the train stopped at Paint Rock. When I got to Paint Rock I got off.

Q Didn't you testify before Judge Horton that you had been up and for your clothes on you and all fixed for five minutes before the train pulled into Paint Rock?



A No sir.

Q Wasn't that your testimony last spring before Judge Horton?

A If it was I don't remember it.

Q If you so testified, was that true?

A I don't remember it if I testified that way.

Q If you did so testify was that the fact?

A I don't remember testifying to it.

Q Will you say that you did or didn't testify to that?

A If I did I don't remember it.

Q Did you testify the truth before Judge Horton?

COURT: That is entirely improper.

MR. LEIBOWITZ: Exception.

COURT: That is the very thing I have this jury here for.

Q Do you know how many stations you passed between Stevenson and Paint Rock?

A No sir.

Q The train slowed up at different times?

A No sir.

Q It kept a steady speed until it got to Paint Rock?

A Yes sir.

Q Do you know the speed of the train while this raping was going on?

COURT: He want to know whether or not, while they

were raping you, you know how fast the train was going?

A No sir, I don't know.

Q How fast was it going while they were raping you?

A I don't know, I imagine about 35 miles an hour.

Q You could tell by seeing the houses and trees go by you, how fast they were going?

A Kin'ly, that's my opinion about it.

Q That is how you judge the speed, because you could see the houses and trees go by?

COURT: How many times are you going to ask her that. That's enough.

Q Mrs. Price, the way the houses passed, and the trees passed you, is that how you judged how fast the train was going?

A I didn't say I see'd the tops of the trees.

Q Was it?

A I see's the tops of house.

Q Did you see the tops while you were lying in the chert?

A No, while I was sitting down.

Q When?

A In the Gondole.

Q That while you were being raped?

A No.

Q The Judge asked you if you could tell the speed of the train while you were being raped?

A I said I couldn't tell, but I imagine it was about 35 miles.

Q You couldn't tell the speed at all?

A I said I imagined it was that; that's what I said.

Q After the first man got on top of you, he just had intercourse with you once?

A To the best of my recollection it was.

Q Its not a question about your recollection, don't you remember?

A That's been too long ago to be positive.

Q You don't remember whether the first man had intercourse with you more than once?

A I don't. I want to tell the truth about it.

Q You have it, and you are going to stick to your statement?

COURT: That's improper.

Q After he had intercourse with you, did he get off?

A Yes sir.

Q After he had intercourse with you once, did he get off?

A Yes sir.

Q You had your over-alls pulled off, and your step-ins pulled apart?

A Yes sir.

Q You had on your coat?

A Yes sir.

Q Your dresses?

A Sure, yes sir.

Q (Part of your body was on your coat, as you were lying on your back?

A You mean my hips?

Q Yes.?

A Part of the time it was, and part of the time it wasn't.

Q Part of the time that the intercourse was going on your coat was under your hips?

A Yes sir.

Q That coat have a lining?

A Yes sir.

Q What kind?

A Something like satteen.

Q What color?

A Blue.

Q Something that white would show on?

A Yes sir.

Q You didn't get up off your back from the time they threw you down until you got nearly to Paint Rock, did you?

A Never got off my back?

Q From the time you say that you were attacked up until the time you reached Paint Rock, you were on your back all the time, wasn't you?

A No.

Q Did you get up at any time?

A No, sir I didn't get up.

Q Were you on your back all the time?



A No sir. A few minutes I was lying in Orville Gilley's lap, and he helped me to put my clothes on.

Q You were on your back all the time until you reached Paint Rock?

A Yes sir, from a little while after I left Stevenson.

Q From a little while after you left Stevenson until you got to Paint Rock?

A Yes sir, except while they was getting on.

Q You didn't change your position, you didn't get up from the place where they knocked you down at the end of the gondola, you were laying there while this raping was going on, all the while?

A They had me kin'ly cater-cornered across; they didn't have me straight.

Q You mean your legs were at an angle?

A Yes sir.

Q However you lay, angling or straight across, from the minute you were knocked down and a negro got on top of you, you continued to lie there, however it was that you lay?

A Yes sir, I laid on my back.

Q Until you got to Paint Rock?

A No, near Paint Rock.

Q Was it Gilley that pulled up your clothes?

A Yes sir, Gilley helped me pull up my clothes.

Q Did you make any mention, did you mention about Gilley putting on your clothes before Judge Horton?

A Yes sir, I told it.

Q You did?

A Yes sir.

Q You, of course, kept your legs together so that the negroes couldn't get to you?

A I tried my best to resist.

Q Did you cross your legs on top of each other?

A I tried to.

Q Look them, look your feet?

A I tried to.

Q One of the negroes pulled your legs apart with his hands?

A Yes sir.

Q And held them apart while another negro raped you?

A Well, another negro had a knife at my throat.

Q One held a knife at your throat and one held your legs, and while that was going on a third negro raped you?

A Yes sir.

Q While being raped, your legs were being held apart?

A Yes sir.

Q Who was the first negro that raped you?

A I wouldn't be positive.

Q Was it Patterson?

A No.

Q These negroes were wearing over-alls?

A I don't know.

Q Were any of them wearing over-alls?

A I don't know.

Q Were any of them wearing dark clothes?

A I wouldn't say what they had on.

Q Did any of them remove their trousers when they raped you?

A I wouldn't say.

Q Did you see the private parts of either one?

A I wouldn't say, as fast as one got up another fellow got on.

Q Very quickly, one after another?

A Yes sir.

Q Six of them had intercourse with you?

A Yes sir.

Q That intercourse started immediately after they knocked you down?

A Yes sir.

Q It didn't take more than two or three minutes for each man, did it?

A I don't know sir.

Q Do you know how long it takes a man to have intercourse with a woman, how long it took for six men to have intercourse?

A I don't know.

Q It didn't take an hour and a half, did it?

A I don't know.

Q No man had intercourse more than once?

A I don't know.

Q When you got to Paint Rock - by the way, did you see Gilley get off this gondola car, that is off from the

side, when the car left Stevenson?

A Explain that, please.

Q Did you see Gilley after the car left Stevenson?

A Yes sir.

Q Did you see him when he was fixing to get off the gondola after the car left Stevenson?

A When the negroes began to knock the white boys off, he got off, he hung on the stirup.

Q You didn't see that did you?

A Do which?

Q You didn't see that?

A No, I didn't. I know that he didn't get off for he come back on.

Q The ~~fitting~~ things you have been <sup>a lot of them</sup> telling us/that you have seen, you are just imagining the, aren't you, that is true, a lot of the things you have been telling us, you have been imagining, and you don't know of your own knowledge?

A I have been telling the truth.

Q I didn't ask you that - you didn't see Gilley hanging on any stirup did you? Will you answer that last question, please?

BY THE COURT: Did you see Gilley hanging on the stirup?

A I told him, Judge, Your Honor, nosir, twice.

Q Did you see him later in the gondola?

A Yes sir.

Q Did you see how he got back on the gondola?

A I senn him crawling over in the gondola.



Q Was that when the fight was going on?

A No sir, that was while the raping was going on.

Q What part of the gondola was he crawling into?

A The far end, next to the engine.

Q You were on this end (indicating on miniature train) on your back, being raped, and you claim that you saw Gilley coming over this side? (Indicating)

COURT: That's what she said. No need of going over that again.

Q Did you testify before Judge Horton last Spring as follows (page 56, Norris and Weems record), - will withdraw that. Your mind was more clear as to what happened, two years ago, than it is now, wasn't it?

A I don't know whether that question was asked me or not -

Q Do you remember more of what happened two years ago than you remember now, that is according to your story, do you?

A Sure there's things I don't remember now that happened two years ago.

Q I am going to read to you from your testimony two years ago, and ask you if you remember testifying to that in the Weems and Norris case, at Scottsboro?

"Q Do you know anything about where the train was when the last one of the six completed the intercourse with you?

A Yes sir, about five minutes before the train stop-

pped in Paint Rock; one of them negro boys had to make him get up.

Q. Did either one of these boys that ravished you have intercourse with you more than once?

A No.

Q Just once each?

A Yes sir."

Q Do you remember saying that on the other trial?

A Judge, Your Honor, I haven't said they rapd me twice.

Q (By the Judge) He is asking you whether or not he said that which he read to you, do you remember whether you said that or not?

A No sir, I don't remember it.

Q With reference to the blood on your back, were you asked these question and make these answers nefore Judge Horton?

MR. KNIGHT: I object to that effort to extend the cross examination; it's an effort to impeach her on an immaterial matter.

COURT: Let him ask it.

Q On page 64, of that record, was this question asked you and did you make the answer?

"Q When you got to the jail did you find any blood on your back?

A A little bit."

A No sir, I didn't; there was no blood on my back. If I did, I don't remember it.

COURT: I am giving notice now that we are going to work tomorrow night, and the next night, and the next night.

MR. LEIBOWITZ: I am asking for a subpoena for Judge Horton and Mr. Harlan; also for the official stenographer at Scottsboro, Mr. Hamlin Caldwell.

COURT: All right, the clerk will issue the subpoenas.

Q Now, as a result of this raping that you have testified about, did your private parts bleed?

A No, I don't reckon they did. If they did, I couldn't tell it.

Q Did you testify before that when you got back to the jail you examined your private parts and found your private parts were bleeding as a result of that forcible intercourse, did you say that?

A I don't think I did.

Q If you did say it, was it a fact?

COURT: No, no, you needn't answer that.

MR. LEIBOWITZ: Exception.

Q The first man that has intercourse with you, did he wet you?

A How could I tell.

Q The second one, did he wet you?

A Sure he wet me.

Q The first man wet you too?

A Sure.

Q As these six men had intercourse with you, you became more and more wet, didn't you?

A Sure.

Q Your private parts, and the clothes you were wearing, they became wet too?

COURT: Do you know whether that is true or not?

A Yes sir.

Q Your clothes became saturated with semen, did they not?

A Yes sir.

Q What clothes do you mean?

A It was on my coat, the lining of my coat.

Q What else?

A I don't remember, part of it was on my dress.

Q All three dresses, were they wet after this intercourse had been completed?

A I didn't say that it was on all three of them.

Q Was it on some of them?

A I said it might have been.

Q How about your step-ins?

A They were torn apart.

Q They were also wet?

A Yes sir.



Q Wet with the semen of the men?

A Yes sir.

Q Your shirt too?

A No sir, it didn't get down that low.

Q Was there also some blood on the step-ins?

A No sir.

MR. LEIBOWITZ: May we stop now, I can't continue, I am so tired.

COURT: I am very sorry, but we can't. I have been working all day, since 8:30 this morning.

MR. LEIBOWITZ: I am just putting on the record that my nerves are just worn out, and that I can't proceed further now, in justice to my client, with the cross examination of this witness. It is now 8:10 P. M.

COURT: You can make up your mind that we are going to have to go on with the cases, or we would never get through. I don't want to cut you off, but you have asked so many immaterial question, and taken up so much time. I am going to stop at 6:30 until tomorrow morning.

Q When these negroes stood up on that train were their bodies visible to people standing on the railroad?

A Yes sir, anybody along the railroad track could see them; could see them standing up in it. They could see me standing up in it.

MR. LEIBOWITZ: Judge, I am sorry but I can't go any further. I am sorry, and I don't mean to be discourteous. Mind and body can do only so much. My nervous system is all to pieces, and I have been on my feet here all day, Judge. I can't go on, I am tired.

COURT: I think tomorrow, I'll ask you to take a seat, and then you won't be so tired. You have been running up and down that train so much, you have about worn yourself out. Do you say that you are too sick to go on?

MR. LEIBOWITZ: I say that I am too tired to proceed.

THE COURT: Let's go on for fifteen minutes more.

Q About the blood from your private parts, did you testify in answer to questions before Judge Horton last Spring, (I am reading from pages 65-66, of the record of the trial last spring), - were these questions asked you, and did you answer them as follows:

"Q Were you bleeding from your private parts?

A A little bit."

did you say that?

COURT: Did you say that, do you remember whether you said that or not?

A No sir, I don't remember.

Q Did you bleed from your private parts?

COURT: You have already asked her that.

Q Then again (page 66 of same record) were you asked these questions, and make these answers:

"Q. Did that blood come out on your clothes?

A Yes sir.

Q Did the doctor see that, did you show it to the doctor?

A I reckon he did."

do you remember about that?

A I didn't have no such talk as that with any one.

Q When you got to Paint Rock, you were up in the car, able to stand on your feet, and pull up your overalls?

A I told you Orville Gilley pulled my overalls up.

Q While you were lying down?

A Yes sir.

Q Any negroes around you at that time?

A Yes sir.

Q Did anybody stop Gilley from putting your overalls on for you?

A Yes sir.

Q Who?

A Haywood Patterson; no, he said they were going to take us north and make us their women.

Q I am asking you a question, answer my question please, I asked you did anybody stop Gilley from putting your overalls on you, did anybody pull Gilley away?

A I told you Haywood Patterson.

Q He pulled Gilley away?

A Yes sir.

Q Did he knock Gilley on the head?

A No sir.

Q Did any of the other colored boys help Patterson pull Gilley away?

A No, not as I remember.

Q Gilley got away from Patterson and then put your overalls on for you?

A No, he asked them to let me alone. I was nearly dead anyway.

Q Then they let you alone?

A Yes sir.

Q Did he (Gilley) pull your overalls on while you were lying down?

A Yes sir.

Q Do you know where Gilley got the overalls?

A Haywood Patterson was sitting on them towards the front of the gondolier.

Q You could see way over to that place?

A Sure I could, I wasn't blind.

Q You were lying on your back?

A I was on my back, but my head could move.

Q What were these negroes doing that wasn't raping you?

A They were standing there looking on.

Q Around where the raping was going on?

A Yes sir, pretty close; about where Orville was before they let him come to me.



Q After the over-alls were pulled on what did you do - then what happened?

A I never no more than got on my overalls until the train stopped, got them on and my coat.

Q You mean fixed and belted up?

A Yes sir, fixed and belted up.

Q Did you see these men at Paint Rock, at the time the train got there, the sheriff's men, the posse?

A Ask that a little plainer, I can't understand you?

COURT: He wants to know if, before you got into Paint Rock, or pretty nearly to Paint Rock, did you see the men that met the train, before you got there?

A No sir, I was lying down until about five minutes before the train stopped.

Q Five minutes before the train got into Paint Rock, you got up?

A No sir.

Q You were, lying on your back in the train until the train actually stopped?

A Except I was kin'ly turned over a little bit.

Q On the chert?

A Yes sir, on the chert.

Q It was at Paint Rock when you got up?

A Yes sir, the train had stopped.

Q When you got up the train had stopped at Paint Rock,

is that the time that you first saw the men there?

A Say which?

COURT: The men that met the train?

A (Continued) Yes sir, that is the first I saw them when the train stopped.

Q Did you call out to the men?

A No sir.

Q They were white men?

A Sure they were.

Q At that time, when the train stopped, were the negroes that had been raping you girls still in the gondola?

A When the train stopped, the negroes began to run.

Q When the train stopped, were they still in the gondola?

A They was running -

Q You mean they were leaving the gondola?

A Running towards the engine, yes sir.

Q All of them left that car that you were in at Paint Rock and going towards the engine, or running towards the engine?

A Yes sir.

Q So that the twelve men, twelve or nine, got over into the next gondola?

A They was going over some cars.

Q From gondola to gondola?

A Yes sir.

Q They finally ran to where the came to a box car?

A I don't know; all I know/<sup>is they</sup>that/ran toward the en-

engine.

Q How many cars did they cross, according to your best recollection?

A I don't remember.

Q They did leave your car?

COURT: She has said that several times.

Q That left you and Ruby Bates and Orville?

A Yes sir.

Q Where did Orville go?

A He got out of the gondolier when the train stopped.

Q This gondola that you were in?

A Yes sir.

Q Did Ruby Bates get off first?

A Orville Gilley got off, and then Ruby Bates got off.

Q Then you got off?

A I fell off.

Q You fell off after you started to get off?

A Yes sir.

Q Did you start towards the engine on the ground -

A How is that?

Q Did you and Ruby Bates, you two, when you saw some white men, or the sheriff's ~~men~~ men, go towards the engine, and then turn around and start to run away from the white men?

A No sir, I did not.

Q Did you slip on that last rung of the stirup and

A Yes sir, my foot lost the stirup and I fell and didn't know any more then until I come to at the store.

Q Did you fall some distance from the step to the ground?

A I don't know how far it is from the stirup of the gondola to the ground.

Q You landed on your feet, didn't you?

A I don't know; I didn't come to myself until I was in the store in Paint Rock.

Q You don't remember being conscious at all on that road bed at Paint rock, you don't remember anything at all?

A After I fell I don't remember nothing until I come to myself in that store, at Paint Rock.

Q At the store in Paint Rock, did you talk to anybody?

A After I come to myself, I did.

Q Were you immediately carried in an automonile to Scottsboro?

A Yes sir, I was.

Q With Ruby Bates?

A Yes sir, to the hospital.

Q In a doctor's office?

A The doctor examined me in the hospital, the hospital room.

Q Did you talk to the doctor?

A Sure.

Q You remember Dr. Bridges, don't you?

A Yes sir.



Q And Dr. Lynch?

A Yes sir.

Q He wanted to examine you, didn't he, and didn't he ask you to undress?

A Yes sir.

Q Did you refuse to undress?

A No sir.

Q Did you refuse to follow the doctor's directions that he gave you?

A No sir.

Q Did you refuse to answer his questions?

A No sir.

Q Did you refuse to co-operate with him?

A No sir, I did not.

Q When you got into the doctor's office, did you have on the same clothes you had on when you got off the train at Paint Rock?

A No, I didn't have on my over-alls.

Q Where were the over-alls taken off you?

A I took them off at Scottsboro.

Q Where?

A In the hospital room.

Q Did you take them off in the presence of the doctor?

A No.

Q Did you have your coat on?

A Yes sir.

Q Dresses and the shirt?

A Yes sir.

Q And the step-ins?

A Yes sir.

Q Shoes, stockings and hat?

A No, I didn't have on no tie. You said tie, didn't you?

Q Shoes, stockings and hat?

COURT: Did you?

A Sure I had on my hat.

Q Your hat was knocked off, during this entire raping business?

A Yes sir.

Q Who handed you your hat?

A I got it myself.

Q Where?

A Out of the gondola?

Q Right beside you?

A Yes sir.

Q What about your snuff box, did you, lose that?

A I don't know whether I did or not. I never did look for it.

Q The last time you had it was in Chattanooga?

A Yes sir.

Q Did the doctor examine you?

A Yes sir.

Q Examine your clothes?

A No, I don't think he did; I am not positive whether

he did or not; I am not positive; I don't think he did.

Q In the doctors office, with all this semen on your clothes, - nobody had cleaned your clothese had they?

A Nothing had been done to them; they hadn't cleaned my clothes.

Q Your clothes were in the same condition as they were at Pains Rock?

A Except the overalls.

Q The over-alls had been cleaned?

A No, I left them at Scottsboro.

Q I don't know whether or not I asked you this question or not, if I did, the court will remember better than I do, were the examinations in the same room, - where the doctors examined you, - as the clothes you took off?

A I didn't take any off, not over at his office.

Q You mean the examination by the doctor was while you had your clothes on?

A The doctor examined all over me.

Q Did he examine you first while you had your clothes on?

A He examined my body. I had my clothes off then.

Q Did he look you over slightly when you had your clothes on before he gave you a thorough examination afterwards, just let's get that straight?

A The preliminary examination he gave me was in the hospital room.

Q Did you have your clothes on at any time when

Dr. Bridges examined you?

A I did when he took us over to his office.

Q Did you have your coat on?

A I don't remember whether I wore my coat to the doctor's office or not.

Q You had your dresses on that had some of that semen on, at that time?

A Yes sir, I had on my dress.

Q Your private parts were all wet with the semen that these negroes had been discharging all over your private parts?

A No, they wasn't wat.

Q Your legs wasn't all wet after the negroes had finished with you, all six of them?

A No.

Q Not a bit?

A Yes sir, a little bit.

Q Just a tiny little bit?

A I don't know for sure.

Q What part of your legs were wet wit this semen?

A Around my private parts.

Q In between the thighs?

A Yes sir.

Q Sticky wet, wasn't it?

A Kin'ly.

Q Wet enough so it could be seen?

A No sir. Ef course I had rubbed myself a little and urinated before I went to the doctor's office.



Q Some of it was still there?

A Yes, there was enough for him to tell it all right.

(At this point court recessed until 8:30 A. M. Nov. 28, 1953, at which time the cross-examination of Mrs. Victoria Price was resumed.)

Q Mrs. Price, in the doctor's office, that's where we were when we adjourned last night, did you have any marks on your face in addition to the cut you had above the eye-brow?

A Yes sir, I had a kinder scratch up over my eye.

Q Did you have any other marks on your face?

A Yes sir, on my throat.

Q What part of the throat?

A Right up there (indicating place on her throat).

Q In addition to the marks on your throat, did you also have some marks on your face?

A Yes sir, I had some bruised places on my face.

Q Just where?

A I can't exactly point them out, but scattered over my face, bruised places.

~~Q Were there many or few?~~

A There were a few, I wouldn't say how many?

Q Was your nose bruised too?

A Yes sir, kin'ly.

Q Was the skin scratched on your nose?

A No, just bruised.

Q Swollen?

A A little bit.

Q Swollen so that if you touched it, it hurt you?

A Yes sir.

Q Lips bleeding?

A No sir.

Q Swollen?

A A little bit.

Q So that any one looking at you could see it?

A Yes sir.

Q When you looked at yourself in a mirror later, did you see where your lips were bruised or swollen?

A Yes sir, on the inside they was bruised.

Q Could you see that they were bleeding?

A Yes sir, bleeding some on the inside.

Q Any cut inside of your cheek where you were punched or struck?

A No sir.

Q You got the bruises on your lips from the punches you got from the negroes?

A Yes sir, when I was trying to resist them.

Q They applied force to your face and gave you these bruises?

A Yes sir.

Q Now then, below the neck of your dress, about the upper part of your body, I mean, was that bruised any?

A Yes sir, I have four or five scratches on my right breast, or left, I forget which, one or the other, and I had spots all over my body.

Q Spots all over your body, how many?

A Several of them.

Q Was there any other place where you were bruised up, besides these bruises?

A Yes sir.

Q Bruises visible to the eye?

A Yes sir.

Q Was there any place where the skin was torn?

A No sir, not on my body, not as I seen.

Q Did you have any bruises on your abdomen?

A On my what?

COURT: On your stomach?

A Yes sir, I had a few to the best of my remembrance.

Q Large or small?

A Small.

Q Were they bruises that you could later see?

A Yes sir, they were.

Q Did you have any bruises on your legs too?

A Yes sir.

Q On the front part of your legs?

A Yes sir.

Q Any scratches or tears?

A I never paid any attention to that; might have been, I don't remember.

Q Have any bruises on your ankles, where they grabbed you by your feet?

A I wouldn't say.

Q Your ankles sore and swollen?

A Yes sir, they started to swell the next day.

Q Were they tender the next day when you went to the doctor's office?

A Yes sir.

Q When you went to the doctor's office the next day, when your ankles were touched, did they pain you?

A No, they didn't pain me.

Q Tender to the touch?

A Yes sir.

Q When you got to the Scottsboro jail, you remained in the yard of the jail or in front of the jail for a few minutes, did you not, while the negroes were being brought in?

A They got there about the same time I did.

Q Did the white boys get there before, at or about the same time?

A I don't know whether they did or not.

Q Did you see the white boys arrive at the jail?

A I didn't see them for a good bit.

Q Did you see them at all outside, before you entered the jail?

A No, I didn't see none but Orville Gilley.

Q When you arrived to the jail yard in the car with Ruby Bates, did you beckon to either one of the white boys, and did that white boy that you beckoned to, come over to your car?

A No sir, I did not.

Q Did you say to one of the white boys there in the jail yard, "I want you to tell that your are my brother"?



A No sir, I did not.

Q and did you say, "Because if you don't tell them that, we will all be arrested for crossing the state line"?

A No sir, I did not.

Q You didn't say anything of that kind?

A No sir, absolutely I did not.

Q Now, this ~~was~~ hospital that you were telling the judge and jury about yesterday - that in the jail?

A It ain't no main hospital.

Q It is in the jail?

A Yes sir, a hospital room.

Q When you got into this jail itself, you were taken very shortly afterwards into this hospital room, were you not?

A Yes sir, a little while afterwards.

Q There you found Dr. Bridges and Dr. Lynch?

A They come up after I was in the there.

Q By the way, when you were lying on chert in that gondola car, the back of your head came in contact with the chert, didn't it, I mean the head?

A What do you mean, was my hair on the chert?

Q Yes ~~XXXX~~?

A Part of the time it did.

Q In other words your hat was off?

A Yes sir, it was pushed off.

Q And the hair of your head came in contact with the chert?

A Yes sir, but my hair was long.

Q You had long hair?

A No, a shoulder bob.

Q The hair that you did have on the back of your head, came in contact with the chert?

A Yes sir, my hair protected my neck behind.

Q I am speaking of your hair, did your hair come in contact with the chert?

A Yes sir, it did.

Q That was fine chert, wasn't it?

A Kin'ly fine.

Q Different sizes, wasn't it?

A I never paid any attention to that.

Q When you walked over the chert, was it soft enough so that it would give way underneath your feet?

A No, not much.

Q Did you wash your head afterwards?

A Yes sir; I taken a bath in jail.

Q Did you wash your head?

COURT: She said she did, and took a bath.

Q Did you find any dust of the chert in your hair?

A Sure I did.

Q When you took your bath?

A Yes, I taken a bath, and my head was dirty.

Q Was that gray dust?

A I couldn't tell in the water, it was a shower bath.

Q The chert was gray in color, light gray, wasn't it?

A It was a light color, I wouldn't say gray.

Q You said one time yesterday, that your turned on the side while laying in the gondola, when you washed your face afterwards did you find on your face or a portion of it, that dust from the ~~xxxx~~ chert?

A I never -

Q Did you?

A I don't understand the question.

COURT: Read the question to her.

Reporter reads question to witness.

COURT: Just answer that question.

A I never paid any attention, judge, your honor.

Q Did you have any dust or any kind of dirt on your face when you later washed it?

A Yes sir, I had it on my face, kin'ly before I washed.

Q When you got into the hospital room, or the doctor's office, and the doctor made a complete examination of you, he examined your head, and your body, all over?

A Yes sir. No, I will take that back, he examined my body, and when I got to his office he examined the rest of me from the waist down. He examined me from the waist up in the hospital room, and when we got to his office he examined me again.

Q In the two examination he covered, once from the waist up and once from the waist down?

A Yes sir.

Q He did then examine your entire body in these two

times?

A Yes sir.

Q The first examination, did you point out to him the different parts of your body that had been injured on this train ride, did you point them out to him?

A Speak a little louder, please.

Q Did you point out to him the different parts of your body that has been injured?

COURT: Did you show him the places, show him the bruised places where you had been injured?

A Yes sir, I told him to examine my hips that I was hurting.

Q Did you show him the other portions you referred to in answers to my questions, that had been injured?

A He found them himself, except my hips, and I told him to examine my hips.

Q Did the doctor have a pad and pencil when he examined you?

MR. KNIGHT: We object to that. Sustained.

Q Did you see whether the doctor did any writing as to the result of his examination?

A No sir, I was lying down. I didn't pay any attention.

Q The different questions the doctor put to you, whatever they were, did you reply to them, - did you answer them?

A I answered the questions he asked me the best I knew



how.

Q All of them?

A Yes sir, the best I knew how.

Q When you got to the doctor's office, I suppose you were crying?

A When I got to the jail I was, not to the doctor's office.

Q Were you excited when you got to the doctor's office?

A No.

Q Absolutely quiet?

A Sure, I was quiet.

Q You were asked that same question on the last trial here before Judge Horton, whether you were crying when you got to the doctor's office?

A I don't remember it.

Q On page 65 of that record, wasn't you asked this question and make this answer:

"When you got to the doctor's office you were not crying in anyway?

A. To the best of my judgment I was crying."

did you testify that?

MR. KNIGHT: I object to that examination along this line, it's an effort to impeach her on a wholly immaterial point.

COURT: It looks that way, but I will give him the

benefit of it.

MR. LEIBOWITZ: I object to the court's remark,  
the court's statement.

COURT: Then don't do things like that.

MR. LEIBOWITZ: I want to preserve my rights on the  
record. Will you give me a blanket objection to  
the remarks of the court?

COURT: No, I won't do that.

MR. LEIBOWITZ: Then I object to it.

COURT: All right, and I'll give you an exception.  
Proceed.

Q Did you say that before Judge Horten last spring?

A I don't remember.

Q Which is a fact, - that you were crying or that you  
were not?

A To the best of my judgment I wasn't crying.

Q When did you see Mr. Bailey, the solicitor for  
the first time, this gentleman over there?

A At the court house.

Q When, after you got to the Scottsboro jail?

A There was several in there talking to me. I didn't  
know him at that time.

Q What is your best recollection as to when you  
first saw Mr. Bailey?

A The best of my recollection is, it was in the  
court house.

Q When, how long after you got to Scottsboro?

A I wouldn't say how long it was.

Q Was it the same day or the same night?

A No, no, it was a couple of days, maybe a week, to the best of my knowledge.

Q You didn't see Mr. Bailey for about a week after you got there?

A Yes sir, to the best of my judgment. I may have seen him before that.

Q Did you speak to Mr. Bailey the same day or night?

A I said I might have done it, but I didn't know him.

Q Did you speak to any solicitor?

A I don't know any one in Scottsboro.

Q Did you speak to the sheriff the same day you got there, sheriff Wann?

A Yes sir, I spoke to him.

Q Did you show him the places that you have described to the court and jury?

A No, I didn't show them to him. I think he seen them.

MR. LEIBOWITZ: We move to strike that last.

COURT: That last statement, gentlemen, is not evidence before you. Don't consider it.

Q. You attended the trials and were a witness in the cases at Scottsboro?

A Yes sir.

Q Did you undertake to exhibit in any trial, in any of the four trials at Scottsboro, any of the places you have

testified about?

MR. KNIGHT: We object to that. Sustained.

Q The wounds and the garments -

A I didn't show anything.

Q Wait a minute, please, was any of the garments showing any of the semen that you claim was put on them in this gondola car -

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: We reserve an exception.

Q Did you have with you in the Scottsboro court room, or have in your possession any of the garments that have been referred to as having semen on them?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q What happened to the coat after you got to the Scottsboro jail, who took charge of that?

A To the best of my recollection, Charles Simmons did, and took it to the laundry.

Q Charles whom?

A Charles Simmons.

Q Who is he?

A He is the sheriff there, one of the deputies.

Q Did you give him the coat?

A No sir.

Q Did you see him take your coat?



A He took mine and Ruby Bates and took them to the laundry.

Q Who took charge of your dresses?

A We did ourselves. We pulled them off and washed them.

Q Who took charge of your undergarments?

A I kept them.

Q Did you at any time while in Scottsboro show to any jury there any garment that you had worn on this occasion?

A My step-ins were shown in court.

MR. KNIGHT: I don't think that is proper, what was done in court, we object.

COURT: I sustain the objection, that involves trying that over again. That part, what she did at the trial is excluded. Of course you may show that she showed it to somebody else.

MR. LEIBOWITZ: I respectfully except. May I propound this question, I wan't to obey your Honor's ruling, - dan't answer until his Honor has ruled.

Q At which trial was it that you exhibited your step-ins to the jury?

COURT: I just this moment ruled she couldn't answer that.

MR. LEIBOWITZ: She just this moment said that she showed them -

COURT: And I just ruled that it was improper.

MR. LEIBOWITZ: I am not going to engage in any argument -

COURT: That will do, proceed.

MR. LEIBOWITZ: I respectfully except.

COURT: Go ahead.

Q Did you a moment ago say that your step-ins were exhibited in court, did you say that a minute ago?

A Yes sir, they were shown in court.

Q Which trial was it that the step-ins were shown in court?

A It was the first trial at Scottsboro.

Q That was on the trial of Haywood Patterson?

A I don't know which one they was trying.

Q Do you recall, Mrs. Price, whether or not when you saw Ruby Bates, after you left the train at Paint Rock, did you observe any bruises or marks on the face of Ruby Bates?

A I didn'y pay any attention to her.

Q Not at that time?

A No sir, not at that time, I didn't.

Q When you got back to the jail at Scottsboro, after you were examined by the doctors, was she examined by the doctors, were you with her in jail, did you observe any bruises on her face?

A I had bruises on my face -

COURT: He wants to know if you notices any bruises on Ruby Bates?

A (Continued) No, I didn't notice any. If I did I don't remember it.

Q Was Ruby Bates crying in the doctors' office?

A No, not as I remember she wasn't.

Q Yesterday, did you see Attorney General Knight and speak to him?

A Sure, I spoke to General Knight yesterday.

Q Look this way, please -

A Yes sir, I spoke to him yesterday.

Q Was Orville Gilley with you?

A Yes sir.

Q Over in General Knight's apartment at the Cornelian Court?

A Yes sir, I am not lying -

MR. LEIBOWITZ: I move to strike that out.

COURT: Pay attention and just answer his questions.

Q When was it that you saw Orville Gilley since the Decatur trial here in the Spring, how long ago was it that you first saw him?

A I saw him occasionally, off and on, right after the trial was over.

Q After Judge Horton's trial?

A Yes sir.

Q When was it after that trial that you first saw him?

A I don't recall.

Q Was it a short time after, maybe I can refresh your

recollection, the last trial was here in April?

A It was a couple of weeks afterwards.

Q Where did you see him?

A At my home.

Q He came to your home?

A Yes sir.

Q That is in Huntsville?

A Yes sir.

Q Did he come there with anybody?

A No sir.

Q Do you know Mr. McClung, an investigator for Mr.

Knight?

A Who?

Q That short gentleman over there, Mr. Knight's assistant?

A No sir. I have seen him.

Q Did Gilley come at any time to, your home with that short gentleman?

A No sir.

Q He came all alone?

A No sir.

Q Did he stay several days in Huntsville?

A No sir, he didn't stay at my home.

Q Did you see him the day after that?

A No sir, I seen him one day.

Q Was that the only time that he came to your home?

A No sir, he came there several times.

Q Several times after the first time?



A Since the last trial was here.

Q The last trial before Judge Horton?

A Yes sir.

Q Did he at any time come to your home with anybody?

A No sir.

Q You saw him at your home half a dozen times?

A No sir.

Q Three or four times?

A No, a couple of times, two or three times.

Q Did you invite him to come again?

A Sure, when he left I would tell him to come back.

Q You and he wasn't friends or sweethearts in any way?

A No sir.

Q There was nothing between you and him, except that he would stop by and see you?

A No sir.

Q He would just come, drop in for a visit, - did you discuss with Gilley the different phases of the case, what happened, and so on?

A No.

Q You didn't say a word about it?

A I asked him why he didn't appear at the trial.

Q I am speaking about what happened on the trial?

A No sir, nothing like that were mentioned.

Q Not a single word about what happened on the trial?

A No.

Q When was it, that you, together with Mr. Gilley, were

together to see Mr. Knight before yesterday, on some other occasion?

A Repeat that over?

Q Were you, together with Gilley, to see Mr. Knight before yesterday, on some other occasion?

A Yes sir.

Q How many times?

A Me and Orville Gilley have been in Mr. Knight's company twice, and again yesterday.

Q When, before yesterday?

A I don't remember how long it has been.

Q A few days or weeks?

A It's been a couple of weeks.

Q What place was that, here in Decatur, or where was it, in Huntsville, or Montgomery, where was it?

A That I went with him?

BY THE COURT: Before this last time, with Gilley?

A (Continued) I seen him at Huntsville.

Q At your home?

A Yes sir, that's my home.

Q Gilley met him there at your home?

A No, I don't reckon Mr. Gilley was there.

Q Let's get this point straight, when Mr. Knight saw you and Gilley together was that in Huntsville?

A No.

Q Didn't you say that you saw Gilley in Huntsville when Mr. Knight was there?

A I saw Gilley in Huntsville. I didn't say him and Gilley was together.

Q Where did you and Gilley see Mr. Knight before yesterday?

A I don't know what's his name -

Q (Mr. Knight) Tell him the best you can remember?

Q Now just a moment please, don't interrupt -

A I answered him.

Q Now where was it that you saw Mr. Knight with Gilley before yesterday?

A To the best of my knowledge it was in the Tennessee Valley Bank Building, - in the court house in Huntsville.

Q Was that by appointment?

A No sir.

Q Who told you to go to the Tennessee Valley Bank Building, did anybody?

A I don't understand what you mean.

COURT: Wait a minute, he wants to know how you come to meet Mr. Knight at the courthouse in Huntsville, did somebody tell you to go up there.

A No sir.

COURT: How come you to go up there, that's what he wants to know, - what was the occasion of your going up there?

A I went up there with somebody. I don't remember who it was, that I went there with.

Q Mr. Taylor?

A No sir.

Q How did you come to go to this place where you met Mr. Knight, what brought you there, that is, when you saw Gilley there too?

A I won't be sure that I can tell you.

Q What brought you there?

A I went up in there.

Q Who told you to go there?

A Nobody.

Q Who told you Mr. Knight was going to be there?

A Nobody.

Q Who told you Gilley was going to be there?

A Nobody.

Q Had you ever been there before?

A Yes sir.

COURT: Was court going on when you went there?

WITNESS: Here?

COURT: No, at Huntsville?

WITNESS: I don't remember whether it was or not.

Q Was it understood that you were to meet Mr. Knight?

A I was up there to see somebody, I don't remember who it was.

Q As far as Mr. Knight is concerned, it was just an understanding you were to meet him there?

A Probably it was.

Q When you were expecting to see him there, did he tell you that he would have Gilley there, did he send you



word, or was it just a happen so that you were there?

A I am not positive how come me there. I wouldn't say how come me there.

COURT: I think you have spent enough time on that.

Q I guess I have. Outside of these two times, did you see Mr. Knight and Gilley at all?

A No sir.

Q When did you see Mr. Knight and Mr. Gilley by accident in the Tennessee Valley Bank Building?

A I said courthouse.

Q Did you and Mr. Knight and Gilley sit down some place in that building and talk about the facts of the case?

A I don't remember what we talked about, now.

Q Did you talk about anything?

COURT: If you desire to lay a predicate, you are at liberty to do so, but going just as random like that, I don't think that is the proper way to get at it.

MR. LEIBOWITZ: Very well, your Honor, we except.

Q I want to know if the facts of the case were discussed in your presence by Gilley?

A I didn't hear him.

Q Did he speak, in your presence, to Mr. Knight, up there?

A Yes sir.

Q About the case?

A No, not in my presence.

Q Did you receive any mail from Mr. Knight telling you to be at the court house?

A No sir, I did not.

Q Did Mr. Knight send ay messenger instructing you to go to this place?

COURT: I think that's all useless.

MR. LEIBOWITZ: Exception.

Q Have you been in Montgomery, Mrs. Price?

A No sir, never in my life.

Q At any time, did Gilley tell the story that related to the facts as you claim them, in your presence?

A I haven't heard him if he did.

Q Did you talk to Gilley in the jail at Scottsboro?

A I would speak to him.

Q Did you talk about the case to him?

A No.

Q Didn't you tell Gilley that if he didn't take the stand and say that he saw you being raped that the solicitor would not use him as a witness, - did you say that to Gilley?

A No, I did not.

Q Did you say to Gilley that you would have him removed from the stand if he didn't tell the story as you wanted it told?

A No sir.

Q You know that Gilley didn't testify on the first trial of Patterson, - you were there wasn't you?

A I don't remember whether he testified or not.

Q Is that your best answer?

A That is my best answer?

Q Do you mean that?

COURT: That is wholly improper, Mr. Leibowitz, and you know it is.

MR. LEIBOWITZ: We reserve an exception.

Q I want to ask you a couple of more questions, then we will be finished, have you talked to any newspaper men about this case, have you talked to any of them and told your story to any newspaper man since this happened?

A No.

Q Not a one?

A No.

Q Did you testify before Judge Horton that you spoke to the newspaper men?

A Yes sir, I have spoken to them.

Q That's what I asked you, did you speak to them about the case?

A No sir.

Q Telling them the story as to what you claim happened?

A No.

MR. LEIBOWITZ: Mr. Ramsey, please.

MR. KNIGHT: What is the purpose of all this. I want the witnesses under the rule.

COURT: I am not going to allow him to ask any questions of that witness. What do you want to know, MR. Leibowitz?

MR. LEIBOWITZ: I want her to look at this man and tell us whether she ever saw that man before.

COURT: I'll allow you to do that.

(A colored man comes into the court room).

MR. LEIBOWITZ: What's your name?

A. Dallas Ramsey.

Q Did you ever see this man before?

A No sir, I never in my life ever seen that man.

Q By the way, I don't know whether I have asked you this question or not, I am going to ask you again, while you were in the Scottsboro jail, did you receive any letters that you read, read out to Lester Carter, from a man in Chattanooga that you knew, by the name of "Red"?

A No sir, I did not.

Q While you were in jail at Scottsboro, did you mend any clothes for the white boys?

A No.

MR. KNIGHT: We object to that. I don't care though.

COURT: Do you object to it?

MR. KNIGHT: Well, yes, I object to it.

COURT: I overrule the objection. We have inquired



into everything but that; let's have that too.

MR. LEIBOWITZ: We will withdraw the question.

REDIRECT EXAMINATION.

MR. BAILEY:

Q Do you go by the name, and only by the name of Victoria Price in Huntsville and Community?

A Yes sir.

Q Did you go by that name, and were you known by that name in 1931?

A Yes sir.

Q That is in Huntsville and in the community surrounding Huntsville?

A Yes sir.

RECROSS EXAMINATION

BY MR. LEIBOWITZ:

A Can you give any reason why, you, a married woman, married to two men at different times, should refuse to bear the name of your husbands, - let me put the question so you will understand it: Can you give these twelve men any good reason why, as a lawfully married woman, married twice, should refuse, in each instance, to bear the name of your lawful husbands, right in the very town where you lived, - can you give any good reason for that?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

W. H. HILL, sworn for the State, testified:

DIRECT EXAMINATION

MR. BAILEY:

Q In March 1931, were you the depot agent for the Southern Railroad at Paint Rock, Alabama?

A Yes sir.

Q Do you recall the time that a freight train stopped there and some negroes were taken off of it?

A Yes sir.

Q About what time of day did that train reach Paint Rock?

A Between one and two o'clock.

Q Were you there at the station when the train pulled up?

A Yes sir.

Q Did the train stop there?

A Yes sir.

Q That was a freight train, was it?

A Yes sir.

Q Did you see some negroes on that train?

A Yes sir.

Q When you first saw them, where were they, on what part of the train were they?

A They were on a coal car, six or eight car lengths from the engine.

Q Is that a gondola car, was that car the kind of a car, according to your notion, known as a gondola car?

A It was what we call a chatt car.

Q Where were these boys on that car when you saw them, what part of the car?

A Around the edges of the car.

Q What were they doing?

A They were making efforts to get off. The car was about two third full and you could see their heads up over the sides of the car; some of them were attempting to get off as they passed the depot.

Q Did you see any of them get out of the car when the train stopped:

MR. LEIBOWITZ: We object to that as leading.

COURT: Overruled.

A Yes sir, I saw them climb out when the train stopped.

Q Where did they go, in what direction?

A There was a crowd around them that took charge of them. The officers.

Q Did any of them get out of the car, jump off the car before it stopped?

A I didn't see any of them jump off until the car stopped.

Q Did you see any women about that car, or near that car, any white women?

A When the car came to a stand-still I was near the depot, and I ran down that way, and by the time I got there,

they had the girls off of the car.

MR. LEIBOWITZ: I move to strike out "by the time I got there they had the girls ~~XXXXXXXXXXXX~~ off the car" as being a conclusion of Mr. Hill's.

(No ruling)

COURT: Where were the girls when you first saw them?

WITNESS: Right at the ladder that is at the side of the car, on the ground.

Q How many girls were there, how many did you see.

A Two.

Q Would you know them if you saw them now?

A Yes sir.

Q You have seen her here, Mrs. Price?

A Yes sir.

Q Mrs. Price was one of them?

A Yes sir, she was one of them.

Q What was her condition, her appearance, when you first saw her there at the side of the car?

A She appeared to be in a faint; the other girl was supporting her.

Q What became of her, where did they go?

A The last time I saw them they had passed across the track towards a shade tree, and saw them carrying Victoria up in town in a chair.

Q What was her appearance when you saw her in the



chair?

A Still apparently in a faint.

MR. LEIBOWITZ: We move to strike that out.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

Q Did you hear these women, either one or both, make any complaint as to their treatment on that train?

MR. LEIBOWITZ: I object to that. Overruled.

MR. LEIBOWITZ: Exception.

A Yes sir.

Q Which one was that?

A Ruby Bates.

Q Did you hear Mrs. Price say any thing about it?

A No sir.

Q Were you up at the store and hear ~~EM~~ them do any talking, did you go up to them at the shade tree?

A It was right when they got off the car.

Q Did you go to the shade tree where they were seated?

A No sir, I didn't go there.

CROSS EXAMINATION.

MR. LEIBOWITZ:

Q I am going to show you some photographs, and ask you if particularly with reference to this photograph, if that is a true and correct representation of the railroad just

before you come around the bend, as you come into the station at Paint Rock, coming from Stevenson towards Paint Rock?

A Yes sir.

Q That is just before you run into the station?

A Before you reach the station, yes sir.

Q If you look closely here can you see the station through the telegraph poles?

A That is the station in there.

MR. LEIBOWITZ: We offer this in evidence as Exhibit 1 to the testimony of Mr. Hill.

(Marked as above stated)

Q Now as you come around the bend, - may I pass this to the jury (does so), is that correct, or not?

A Yes sir, that's right. That's a correct picture.

(This was marked Exhibit "2" to the testimony of Mr. Hill).

Q As you get still nearer the station is that a true picture of what you see there?

A Yes sir, that is not the same depot though as it was when this occurred. The station though is in the same place.

COURT: Do I understand you to say that the tracks and everything is the same, but that the depot as shown there is not the same as was there at the time of this occurrence?

WITNESS: Yes sir.

COURT: But it is on the same place?

WITNESS: Yes sir.

MR. LEIBOWITZ: We offer this picture as Exhibit No. 3, to the testimony of Mr. Hill.

(Photograph is so marked".

Q Is this still another picture, showing a closer view?

A Yes sir, that's a true picture from the station to the coal chute.

Q And the water tank there?

A Yes sir.

MR. LEIBOWITZ: We offer this as Exhibit 4 to Mr. Hill's testimony. (Photograph is so marked).

Q This last picture that I have in my hand, is a picture looking in the opposite direction, from Paint Rock towards Stevenson, is that a true picture of the surrounding territory?

A Yes sir.

MR. LEIBOWITZ: We offer this as Exhibit No. 5 to Mr. Hill's testimony. Photograph is so marked).

Q Mr. Hill have you yourself ever been on a freight train over that portion of the road?

A Yes sir.

Q You have ridden many times up and down the road in your years of experience as a railroad man?

A Yes sir.

Q I suppose, Mr. Hill you have been connected with the railroad for a good many years?

A Yes sir.

Q Down there at Paint Rock?

A All my life.

Q You are familiar with the operation of railroads and different cars, and all that kind of business?

A I have worked there all my life.

Q Have you ever ridden on one of these gondola cars?

A I don't remember ever riding a gondola.

Q Have you ridden on freight cars?

A On freight trains, in the caboose and on the engine.

I never did ride in the freight cars.

Q Never roughed it on the train?

A No sir.

Q You have seen all kinds of trains come around that curve into your home station?

A Yes sir.

Q Is this a pretty good representation of gondola cars on the railroad (Indicating miniature train)?

A Yes sir.

Q I have been pointing to one of the gondola's on the miniature train, - is that a pretty good representation of a box car?

A Yes sir, pretty good.

Q Is this kind of car (indicating another car on



minature train) called a coal car, or hopper, or what?

A It look like a hopper car.

Q Used for coal?

A Yes sir, there are two kinds of coal cars.

MR. LEIBOWITZ: Is there any dispute about this minature train being a fairly good representation of the cars in the train in question?

MR. KNIGHT: None whatsoever. There is one thing I would like to have cleared in my mind though is this, did the gondolas which were on the train more nearly resemble this tupe of car, or the type which Mr. Leibowitz pointed out. I would like to know, Mr. Hill whether the gondolas you spk of having seen the girls get out of more nearly resembled this car of the hopper type, or these? (Indicating several gondolas together)

WITNESS: They resembled this.

MR. KNIGHT: This series of eight cars right here. (Indicating the several gondolas together).

WITNESS: Yes sir.

Q You indicated the red cars?

A Yes sir.

Q You come around that curve there coming into Paint Rock?

A Yes sir.

Q How far from the station can you see the train approach?

A A quarter of a mile.

Q A quarter of a mile before the curve?

A No, I mean a quarter around the curve.

Q Can you see through the trees around the country side?

A Not among the trees there.

Q Can you see the train before it even reaches the curve?

A No sir, but you can see it as it turns the curve.

Q (By the court) Do I understand you to say that you can't see the train, when standing at the depot, until it comes around a part of the curve, is that right?

A Yes sir.

Q Does the engineer blow his whistle when he comes around that point coming into Paint Rock?

A Yes sir.

Q He is required by the rules of the road to do that?

A Yes sir.

Q Did the engineer of this train blow his whistle as he came around that curve?

A I don't remember hearing the whistle blow.

Q It is an invariable rule, isn't it?

A That is the rule, yes sir.

Q Now, when the train hits the curve, does it start to slow down to roll into Paint Rock station?

A Usually it begins slowing down at the curve.

Q Each one of these cars is about forty feet in

length, isn't it, - each one of the box cars and the coal cars are all about the same length?

A Thirty-six to forty feet.

Q In between these cars, the space where the coupling is, is about three or four feet?

A Hardly that much.

Q Two feet?

A Something like that; it depends on the cars.

Q Then, have you made any allowance for these little platforms, is that in addition to the 36 to 40 feet?

COURT: Are there any platforms?

WITNESS: No sir.

Q There are platforms on these oil tank cars, aren't there?

A On the ~~oil tanks~~ <sup>oil tanks</sup>, there is.

Q From where your station was, up to here, to the water tank, is what distance?

A Something like 200 feet, probably a little more.

Q In other words, if the train stopped directly at the water tank, the engine stopped at the water tank?

A The engine don't stop at the water tank.

Q Where does it stop?

A At the coal chute.

Q How far is the coal chute from the station?

A The water tank is something like 200 feet, and the coal chute is something like 200 feet beyond that, I guess somewhere about 400 feet to the coal chute going west?

Q (By the court) The coal chute is on this side of paint rock?

A Yes sir.

Q (By the court) West of the depot, is that right?

A Yes sir.

Q (By the court) That curve is east of the depot?

A Yes sir.

Q (And the coal chute is 400 feet west of the depot?)

A Yes sir.

Q As it was on the day this happened?

A Yes sir.

Q That would leave a space if would it not for approximately eight cars, wouldn't it?

COURT: Suppose we let the jury figure that out. He told you how far it was down there, and how long each car is.

Q When you stood there at the door of your station, and the train came to a stop, were you standing about where the eighth car in that train was back from the engine, figuring the engine as two cars, and its tender, is that where the train was?

COURT: What is your recollection about it?

A You mean where the car stopped with the negroes?

COURT: No, you said the engine stopped at the coal chute, and he wants to know how many cars it was down to where you were standing at the door, up to that engine, have



you any idea?

A There was twelve or fourteen cars between the depot and the coal chute.

Q The twelve or fourteen cars would bring the six or seven gondolas right at the door of your station, wouldn't it, look at this train, this is the official make up of the train according to the railroad conductor's testimony?

A One coal car was six or eight cars from the engine.

Q Here's what I am trying to get at, you said you stood in the doorway of your station on this day as this train came to a stop, you said a moment ago you were standing about the 14th car from the engine, that would put that opposite you, is that right?

A Yes sir.

Q Looking at this model here, is it not so, and doesn't it refresh your memory, that the car that was right opposite your station was the fourth or fifth gondola in that series of gondolas?

COURT: Count from the end to where that yellow car is.

A I didn't count the gondolas in the train.

Q I didn't ask you that, Mr. Hill.

COURT: Do you know, and can you answer that question.

A I don't know what car was opposite the station. I don't know that.

Q When the train came to a stop did you leave the

train and start towards the coal chute?

A I did.

Q How much distance did you travel towards the coal chute?

A About even with the water tank.

Q That is, about 200 feet?

A Yes sir.

Q There was only about 200 feet then, between you and the coal chute, - you said that was 400 feet from the station?

A Where I stopped there, yes sir.

Q So this car that the women were standing near, and where these negroes got off, was about 200 feet from that coal chute?

A Something like that.

Q Between 200 and 350 feet?

A Something like that.

Q Would you say that it was three or four cars from the engine that you saw these negroes get off this car, figuring, as you said, 200 to 250 feet, taking into consideration the engine and tender, -do you understand my question? If I don't make plain, I will try to.

A I didn't understand your question.

Q Let me make it very plain, the water tank is 200 feet from the coal chute?

A Approximately.

Q The coal chute was 400 feet from the station?

A Approximately.

Q You say that you left the station door and ran down about two hundred feet?

A Yes sir.

Q That would leave about 200 feet more from where you stopped to the coal chute?

A Yes sir.

Q The engine stopped at the coal chute?

A It did.

Q After allowing space for the engine and tender, am I right in saying that that 200 feet would be consumed or used up by the occupation of two, three or four cars at the most, I believe you stated that it was the third or fourth car from the engine that you saw these negroes?

A My recollection is that it was more than three or four cars. I am not sure about that.

Q Well, how many cars was it?

A Something like six cars, I think, but I am not sure about that.

COURT: Do you know the length of the engine?

A No sir, I don't know the exact length.

Q The coal is taken into what?

A The tender.

Q That is back of the engine, isn't it?

A Yes sir.

Q Let me ask you this question, I don't want to prolong this too long, I want to ask you this: Isn't it

afact that this train, made up here on this board, if that engine stopped at the coal chute, this gondola car, this one right here (indicating) would be way past your station towards Stevenson, - in other words it wouldn't pass your station, - look at this (indicating) and see if you can answer, figure the length of the cars, and the distance between the coal chute and your station, - just figure it out?

A It would make that pretty close to the station.

Q You have got fifteen cars here, enclusive of the engine, and each one about 40 feet long?

COURT: That is argumentative, the whole business.

Q Now, Mr. Hill, I want you to tell us what the railroad stations are between Stevenson and Paint Rock, name them, please, after you pull out of Stevenson, what are the stations?

A ~~HELIXE~~ Fackler, Hollywood, Scottsboro, Larkinsville, Limrock, Woodville and then Paint Rock.

Q Are you acquainted with the different station masters all along the line?

A Yes sir.

Q Are these stations open between the hours of twelve and three o'clock?

A Yes sir, they are open usually from eight to five.

Q Somebody is in attendance all the time, or supposed to be?

A Yes sir, supposed to be.



Q You are acquainted, during the years that you have been in this business, you know who the various station agents are supposed to be?

A Yes sir.

Q One man at each station, or more?

A Scottsboro has two.

Q Tell us about the others?

A The others just have one man.

Q Are records kept at the various stations of the passage of trains?

A Only at the ~~telegraph~~ <sup>telegraph</sup> offices. Some of these stations are not ~~telegraph~~ <sup>telegraph</sup> offices.

Q Which ones have ~~telegraph~~ <sup>telegraph</sup> or telegraph offices?

A Hollywood, Scottsboro and Larkinsville.

Q Now, at these offices, the man at such offices, he looks out and notes the passage of trains, does he not?

A Yes sir.

Q Do you recall that this was a bright, sun-shiny day in the early spring?

A It was a fair day, I think.

Q Do you know whether or not crowds congregate around these stations along the line?

A Sometimes they do.

Q If you were riding from Stevenson down to Paint Rock, you are bound to find some men around some of these stations, as the train passes by?

A With a passenger train you would.. That was a through

freight, and you wouldn't likely find many gathered around the stations.

Q Do you recall about what time it was that that train arrived at Paint Rock, is there anyway to tell?

A I have the exact minute at the office. I haven't got it here, but it was around 1:50, I think, or 2:00 o'clock when it reached Paint Rock.

Q Do you know when that train left Stevenson?

A We could tell from the records, yes sir.

Q How many miles is it between Paint Rock and Stevenson?

A 38.

Q How long does it usually take a through freight train, after it leaves Stevenson, to get to Paint Rock?

A From an hour to an hour and ten minutes.

Q Do you know Mr. Turner that was the conductor on this train?

A Yes sir.

Q Do you know him well?

A I have known him several years.

Q Do you know a negro man named Percy Ricks, who was the fireman?

A I have probably seen him, but I don't know him by name.

Q He was a negro, the fireman?

A I don't remember seeing him on that day.

Q Was there any crew on that train that you knew be-

sides the fireman, the engineer and conductor, was there a brakeman on the train?

A Yes sir, I remember the brakeman.

Q (By the court) Do you remember who it was?

A Roscoe Allen was the brakeman.

Q Is he here in court?

A Yes sir, he is here, I saw him this morning.

Q In the jury room?

A Yes sir.

Q Did you see Mr. Turner at the station?

A I may have seen him as he passed; I don't remember seeing him, in particular.

Q You have seen persons unconscious, have you not, a person in a faint that falls to the ground?

A Yes sir.

Q Will you tell us please, how Ruby Bates had her arms on Victoria Price?

A Under her arms.

Q You are right sure of that?

A Yes sir, I am sure of it.

Q You didn't see Victoria Price lying on the ground at any time, did you?

A No sir.

Q You didn't see her in any faint on her back? on the ground?

COURT: He has said that he didn't.

Q Ruby Bates, was she a thinner girl than Victoria

Price, much slenderer?

A I don't recall that she was. In fact I had never seen them before that day.

Q You saw the faces of these girls, did you not?

A Yes, I saw them.

Q Did you notice any marks or cuts on the face of Victoria Price?

A No sir, I didn't notice. I didn't examine her any. I was no closer to her than I am to you.

Q May I step forward like this, - did you notice any bruises on her face?

A No sir.

Q No cuts or wounds on her forehead?

A No sir, I didn't see any.

Q No blood on her at all?

A I didn't see any blood.

Q Her face wasn't smeared up with dust?

A Yes sir, coal dust; some kind of dust on her face.

Q You have seen coal dust, I suppose?

A Yes sir.

Q Did you see any blood coming from her lips?

A No sir.

Q No swollen lips or anything of that kind?

A I didn't examine her.

Q You didn't see any?

A I didn't notice any.



Q Did she have on a coat?

A She had on over-alls.

Q She didn't have on a coat, did she?

A I don't think she did. They were dressed in over-alls, at least.

Q Both girls had on overalls?

A Yes sir.

Q But no coats?

A I wouldn't be positive about the coats.

Q At least, you didn't see any coats?

A I didn't notice any coats.

Q You didn't notice any coats with fur on them?

A No sir.

COURT: He has said he didn't notice that particular situation.

Q Did you see all of these negroes get off that car?

A No sir, I couldn't say that I saw them all get off.

Q See some of them get off that car?

A Yes sir.

Q Did you see that while you were running from the station towards the coal chute?

A Yes sir.

Q Did any get off at the time they came by your station?

A Some were on the tops of the cars -

Q Which cars?

A The chat car they were in.

Q Didn't some fellow pull them off, even before the train stopped at the coal chute?

A If they did, I didn't see it.

Q The train was going very slow when it passed your station?

A Not so slow, but it had slacked up though.

Q Were there men with guns around there?

A Yes sir.

Q Fifty or sixty?

A Yes sir.

Q Men were line up clear up to the curve wasn't they?

A They were past the depot - yes sir.

Q Right along on both sides of the track?

A Yes, they were scattered along on each side.

Q Some of them with revolvers?

A I don't recall what kind of guns they had; most of them had guns, a good many of them.

Q Did you see the train actually come around the curve?

A Yes sir.

Q As the train hove into view around that curve while you were at your station, did you observe any of these negroes on any part of that train, stamping to get off the train?

A I didn't see any negroes except on that one car.

Q Did you see any scattering off that one?

A They were on top of the car as if they were in an

effort to get off.

Q Did you see any actually jump off before they got to the station?

A I did not.

Q Did you see anybody jump off the train until the train came to a stop?

COURT: He has said that he didn't, so why pursue that.

Q Did you walk along this train later looking at the box cars on the train, on both sides?

A No sir, the train pulled out quickly. It only stayed there five minutes.

Q Did you see any negroes on top of the box cars?

A No sir.

Q I want to ask you this question for the purpose of refreshing your recollection, the last time, when you testified before Judge Horton, I am going to read you two questions and answers, at page 216 of the record of the last trial:

"Q. You claim all the negroes got off that car?

A The ones that were arrested got off.

Q All of them off that one car?

A Yes sir."

do you remember testify that before Judge Horton?

A Yes sir, I think that is what I said.

Q Is that the fact?

A I think that is what I said.

Q That is, all of the negroes that were arrested at Paint Rock got off that one car, as you testified before Judge Horton?

A As far as I know they did. If any got off any other car I didn't see it.

Q By the way, Mr. Hill, you never testified at any of the trials at Scottsboro?

A No sir.

Q You didn't become a witness in this case until last Spring before Judge Horton, - that is the first time you testified?

A I was not a witness at Scottsboro.

REDIRECT EXAMINATION.

Q You are acquainted with the territory that is traversed by the Southern Railroad between Steverson and Paint Rock?

A Yes sir.

Q Is all of that territory in Jackson County, Ala.?

A Every bit of it.

Q You testified, as I recall, on your direct examination, that these girls that you saw there, that the first time you saw them, they were standing on the ground by the side of the car?

A Yes sir.

Q Was that the same car that you saw these negroes on when the train came to a stop?

A Yes sir.



Q Before this train arrived at Paint Rock on that day, had you received an order to stop that train at Paint Rock?

A No order to stop the train. The train was due to stop there.

Q Did you receive a telephone call relative to that train before that train stopped there?

MR. LEIBOWITZ: We object to that. Sustained.

Q Is it customary for crowds of men to meet freight trains at Paint Rock with guns?

MR. LEIBOWITZ: We object to that. Sustained.

REDIRECT EXAMINATION.

Q Did you ever see ladies that were faking a faint?

MR. KNIGHT: Objected to. Sustained.

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TOM TAYLOR ROUSSEAU, sworn for the State, testified:

DIRECT EXAMINATION.

Q Your name is Tom Taylor Rousseau?

A Yes sir.

Q Where do you live?

A Paint Rock.

Q Were you living there in March, 1931?

A Yes sir.

Q Were you down there at the depot at Paint Rock, Alabama, on March 25th, 1931, when a freight train stopped there?

A Yes sir.

Q Did you see any negroes on or about that freight train when it pulled up?

A Yes sir.

Q Where were they?

A The first I saw of them they were getting out of this gondola car as the train pulled into Paint Rock.

Q Did you see this negro Haywood Patterson with these negroes that got out of this gondola car?

A Where was he?

A I think he was getting out of the gondola car.

Q How many did you see there?

A We took off nine. I don't think any of them got away.

MR. LEIBOWITZ: We move to strike the last statement.

COURT: Sustain that motion. That is not evidence, gentlemen.

Q Did you see any women there?

A No sir, I didn't see any women at the time.

Q Did you see any women later?

A Yes sir.

Q Where were they?

A Down outside the car, on the depot platform on the gravel.

Q How many women did you see?

A TEN Two.

Q White women?

A Yes sir.

Q What was her general appearance?

A When I seen them a couple of men had her in a chair and she was unconscious, I reckon. I guess I was close enough to her head to lean over he face.

MR. LEIBOWITZ: We move to strike out that she was unconscious.

COURT: He said she appeared to be unconscious. Overrule the objection.

MR. LEIBOWITZ: We except.

Q Did you hear these women, either one or both of them make any complaint about what happened on the freight train?

MR. LEIBOWITZ: We object to that. Overruled.

MR. LEIBOWITZ: Exception.

A No sir, I didn't hear them say anything at all.

Q Do you know where these women went to, or were carried to?

A They carried her up into the street by that little path that goes up into Paint Rock, up there in front of one of the stores is the last time I saw them.

Q What did you do with the negroes there?

A We held them until the law come there with a truck

and we loaded them on.

CROSS EXAMINATION

BY MR. LEIBOWITZ:

Q Now the gondola that you refer to that you saw some negroes on, these negroes were they in a gondola car east of the station or west of the station?

A South of the station. The tracks runs north and south there; it makes a curve there and runs north and south.

Q The train was coming from Stevenson towards Paint Rock?

A Yes sir.

Q Now the gondola car that you refer to on which you said you saw some negroes, was that gondola car passed by the station, or was it a gondola car that had not reached the station?

A When I first saw them?

Q Yes?

Q When I first saw them they had not reached the station.

Q After the train stopped over at the coal chute, - the engine stopped at the coal chute didn't it?

A Yes sir.

Q The train was standing still then, when you saw the negroes then, in the gondola car, was that gondola car past the station, or had not arrived at the station?

A I don't know about it after it stopped, because



this crowd was trying to get off, and I ran towards the coal chute.

Q Were you standing at the coal chute?

A No sir.

Q Tell us how far back from the coal chute you were?

A I don't know how far, I was somewhere between the depot and the coal chute.

Q Can you give us some idea in this room, we want to get that as near as we can?

A I can't tell you anything about that.

Q Do you know whether the water tank is located?

A Yes sir, I was above the water tank.

Q Somewhere in between the water tank and the coal chute?

A Yes sir.

Q The coal chute was about 200 feet from the water tank?

A Yes sir.

Q And the coal chute was about 400 feet from the station?

A Yes sir.

Q You were anywhere from a hundred feet up from the engine?

A Yes sir.

Q From where you were standing how far was the nearest gondola, how many feet away from you, after the train came to a stop?

A I don't know. I didn't pay any attention to that.

After we took them off, we left the railroad tracks.

Q Which side of the train were you on, facing the train, - assuming that you were standing looking down towards the caboose, on which side were you standing, on the right or left side of that train, looking towards Stevenson?

A I was on the left side looking towards Stevenson. I was on the east side of the train, the way the track runs there.

Q On the left side looking towards the caboose?

A I was looking towards the engine. I would be on the left side facing Huntsville, - XM and the right side facing Stevenson.

Q All of the negroes get off on the side?

A Some got off on one side, and some on the other.

Q How many got off on the left?

A Three or four got off on the side I was on.

Q You couldn't see on the right side of the train, the train blocked your view?

A I don't know anything about what happened on the other side.

Q All you can testify is that three or four of the negroes got off on the side you were on?

A Yes sir.

Q That's all you know about it?

A Yes sir.

Q What you saw is all you know?

A That's all I know anything about.

Q Mr. Rousseau, you testified that you never saw any women until you saw two women sitting on the platform on the side of the road?

A Yes sir, they were right there at the car.

Q That is the first time you saw them?

A Yes sir.

Q I want to read you some questions and answers that you made at Scottsboro, - you were a witness there?

A Yes sir.

Q You testified in each of the four trials?

A Yes sir.

Q These men were tried in different batches in Scottsboro?

A Yes sir.

Q I am going to call your attention to your testimony that you gave on the trial of the five negroes, Powell, Robertson, Wright, Montgomery and Williams, reading from page 31, of that record as follows:

"Q Did you see some women there?

A Yes sir.

Q Where were they when you first saw them?

A They were in the back end of the same car.

Q Did you see them when they were in the car?

A The women?

Q Yes?

A Yes sir."

do you remember stating that in Scottsboro when you testified?

A No sir, not that way.

MR. LEIBOWITZ: We are finished with this witness.

LUTHER MORRIS, sworn for the state, testified:

DIRECT EXAMINATION.

Q Where did you live about March 25, 1931?

A A mile and a half west of Stevenson.

Q In Jackson County?

A Yes sir.

Q West of Stevenson, that is going from Stevenson towards Paint Rock?

A Yes sir.

Q Did you live near the railroad track of the Southern Railway?

A Yes sir.

Q How far did you live?

A Well, I own a house on each side of the railroad, also a barn about 400 yards from where I live.

Q Were you out near the Railroad Track along there about one o'clock that day?

A No sir, I was out in the barn lofe.

Q You mean on the second floor?

A Yes sir.

Q How far is that barn from the railroad tracks?

A I never measured the distance from the railroad fence, from the right of way fence it is about fifty feet.

Q Did you see a freight train pass there going in the



direction of Paint Rock?

A Yes sir.

Q About what time of day was it that you observed it?

A Between twelve and one o'clock.

Q You were in the barn loft at the time it passed?

A Yes sir.

Q Did you see anybody on that train?

A Yes sir.

Q Whereabouts were they?

A They were on a gondola car.

Q Tell the jury what you saw, if you saw anything, - what you saw happen there in that car as the train passed?

A I looked out, and it looked to me like there was between seven and eight negroes, and five or six white boys, and these negroes were putting the white boys off, or rather knocked or threwed them off.

MR. LEIBOWITZ: We move to exclude that statement.

COURT: Did you see them while they were doing it?

WITNESS: Yes sir, absolutely.

COURT: Motion to exclude is overruled.

MR. LEIBOWITZ: We except.

Q Did you see any girls in that car?

A Yes sir, two.

Q Whereabouts in the car were they?

A They were in the bottom or close to the bottom; I could only see their heads.

Q How far could you see up and down that railroad track?

A I could see west, the way the train was traveling, a mile towards Paint Rock.

Q After the train passed, did you see any of the white boys along the right of way?

A Yes sir.

Q How many?

A Three.

Q How did they appear, Mr. Witness?

A They was all bruised up, when they jumped off.

Q Did you see them jump off?

A Yes sir, the negroes made them jump off.

Q Had the train passed your barn when they jumped off?

A One of them jumped off even with the crossing.

Q Was the crossing beyond your barn?

A Right even with the house; from the crossing to the barn is angling and is about 140 feet, around 140 feet.

Q Where did you see the others jump off?

A Down there at the switch of the storage track.

COURT: East or west of your barn.

WITNESS: West.

Q After they jumped off in what direction did they go?

A They went back towards Stevenson, wanting help.

COURT: "Wanting help" gentlemen, is not evidence.

Q They went back towards Stevenson?

A Yes sir.

Q How far were they from Stevenson?

A A mile and a half from the crossing right near my barn there.

Q How many did you see go towards Stevenson?

A Three, but I understood there was more.

Q Did you see any bruises or blood on them?

A Yes sir, absolutely.

Q Whereabouts was it there?

A Right at the crossing there, there was a block where the ~~xxx~~ sewer is through the drain, and there was some blood that stayed there at least sixty days.

Q Did you see any blood on them?

A Yes sir, absolutely.

Q Whereabouts on them was the blood?

A On the heads. Only two of them I seen blood on.

#### CROSS EXAMINATION

BY MR. LEIBOWITZ:

Q Mr. Morris, with his Honor, Judge Callahan's permission, I am going to show you this photograph, - looking at the barn on that photograph, state whether that is your barn?

A Absolutely, yes sir.

Q Do you see this crossing on this photograph on

that railroad track?

A Yes sir.

Q Is that (pointing at object on the right hand side of the picture), was that the - do you see that car on that track?

A Yes sir.

Q That is the track nearest your barn?

A Yes sir.

Q Is that the type of car that is known as a gondola car?

A No sir.

Q What do you call that car?

A I don't know exactly what you call this car here.

Q I show you another picture, and ask you what type of car is shown on that picture, is that a gondola?

A That is not a gondola.

Q What type of car do you call that?

A I don't know.

Q I will show you this, and ask you if that is a type of gondola car or the one next to it?

A No sir.

Q I show you this picture and ask you if that isn't a type of gondola car that you see there?

A No sir.

Q What type of car is it?

A I am no railroader. -

Q Do you know what a gondola is?



A Yes sir.

Q That the only type of car that you know anything about?

A I know a gondola, yes sir.

Q Do you know the name of any other car?

A I know box cars, refrigerator cars, and such as that.

Q You tell this jury you can't tell the type of car shown on this photograph - this car right on this picture, just opposite your barn, is it higher than the sides, higher than that or lower than that?

A I can't say as to that.

Q That is a window you have up there in your barn?

A No, it is a door.

Q A sort of opening there, isn't it?

A Yes sir.

Q Does this show how you could look out that opening?

A No sir.

Q Will you swear that isn't an exact view that you get on the outside?

A No sir, this picture was the barn.

Q Isn't that the view you get of it, the opening in your barn?

A No sir.

Q Looking out of there, you look towards Paint Rock?

A Yes sir.

Q Is that the view you get when you look out towards Paint Rock, - aren't these the woods that you get a view of outside of your barn?

A You can get a little better view than looking into the woods.

Q Is that a correct view, or a portion of the view, that is shown in that picture, looking out through that opening in your barn, these very woods shown on that picture you see there, and the track, and the telephone pole and every thing?

A No sir.

Q Mr. Morris, I am going to show you this photograph and ask you if that isn't a more general view of the railroad track than you got when you looked out of your barn you speak of, towards Paint Rock, showing more territory than is shown on this picture?

COURT: Does that give the general appearance of that territory right there, when you look from the barn?

MR. KNIGHT: Supposing you were in your window looking towards Paint Rock?

WITNESS: Well, that is a little better than the one I looked at.

Q Is that a true picture?

A No, that ain't a true picture. I don't understand the picture; all I understand is what I could see from the

barn.

Q Look at the picture and say if that is a true picture?

A I can't tell much about pictures.

Q Is there an embankment on the railroad track down here?

A A very small one, yes sir.

Q Is that a very small one in that picture?

A That is a small one, six or eight feet.

Q I am asking you to look at the picture and tell the court if that is a fair picture of your barn and the railroad track?

A This has the appearance of a very good picture.

Q Is that the way the railroad track was with reference to your barn?

A Yes sir.

Q Leaving the car out of consideration?

A Yes sir.

Q I will now ask you if that is not another view of the same thing, forgetting about the car?

A Yes sir, about the same thing

Q And that too?

A About the same thing, yes sir.

MR. LEIBOWITZ: We now offer in evidence these pictures, and ask that they be identified as exhibits Nos. 8, 9 and 10 to defendant's testimony. (No objection. Photographs were identified

by the reporter as above stated.)

Q On this picture here, you can't see the opening in the barn on this picture, can you?

(Witness puts on glasses)

Q Now, look at this picture, and tell us whether or not the opening you were looking through wasn't on the other side of the barn, and can't be see here?

A The opening is right down here, you don't have that. Right here is the hall of the barn we drive in at, and at the back end, the rear end of the barn there is a door facing the west.

Q That is where you were looking out of?

A Yes sir, an absolutely plain view.

MR. LEIBOWITZ: We move to strike out "an absolutely plain view.

(No ruling)

Q What were you doing in that barn at that time?

A I was up there repairing the loft; repairing the barn, driving nails and repairing.

Q What were you doing?

A Nailing planks on the floor of the barn loft.

Q Putting down a new floor?

A No sir, on top of the first story.

Q Were you putting down a floor?

A I was laying new boards.

Q On the floor?



A No sir, in the barn loft, that is the first story.

Q On the side of the building?

A No, laying them down on the sills.

Q You were nailing boards down?

A Yes sir.

Q On your hands and knees or stooped over?

A No sir, I was stooped down, stooped over, not  
down.

Q Were you wearing glasses?

A No sir, my eye-sight ain't bad.

MR. LEIBOWITZ: Wait a minute. I move your Honor to  
strike that out.

COURT: Of course that's not evidence; the jury  
knows it, and everybody knows it. Go on.

Q You wear glasses to read with?

A Yes sir.

Q When you sit by your fireside to read?

A I have got good hearing -

Q I asked about your vision -

COURT: Can you see well?

WITNESS: I can see a long distance, but not to  
read.

Q Is your trouble nearsightedness, or vice-versa?

COURT: I imagine this witness wouldn't know what  
you mean. Get down to something he can under-

stand.

Q When did you go to wearing lasses?

A About two years ago.

Q Before this happened?

A Yes sir.

Q How long before it happened?

A About two years.

Q A year before this happened?

A Two years ago is when I commenced wearing glasses.

COURT: He wants to know if you were wearing glasses at the time of this occurrence?

WITNESS: No sir.

COURT: Has you been wearing them?

WITNESS: No sir.

COURT: You commenced after that?

WITNESS: Yes sir.

Q How soon after this happened before you started wearing glasses?

COURT: I think that is taking up time for nothing. You can have an exception and go on to something else.

Q Did you get glasses because you couldn't see well?

A I was running a saw mill -

COURT: Mr. Morris, what he wants to know is, if

your eyes got bad soon after this happened so that you had to get -

WITNESS: That was enough to make anybody -

COURT: Don't answer so quick please, just pay attention to the question.

Q (Read by reporter) Mr. Morris what we want to know is if your eyes got bad soon after this happened so that you had to get glasses?

A Yes sir, I have done told him that.

Q So that you couldn't see a long distance without glasses?

A Yes, I can see at a distance.

Q I am asking you, the reason why you got glasses was because you had trouble seeing any distance, right after this thing happened?

A I can see for a distance, and could see for a distance at the time this happened.

COURT: Did you use your glasses for reading and looking at things close?

WITNESS: I use glasses for reading or something like that is all

COURT: That looks like enough on the glasses.

Q This train was coming at you, - by the way were you looking out when you heard the train?

A I heard the train and I heard a racket, screaming and hollering.

Q When you heard the train, did you pay any attention to the train coming along the track?

A Yes sir, I always stop and look out at a train.

Q How many years have you lived there?

A Since, 1914.

Q Every time a freight train passes, do you stop and look at it?

A If I am on the road I do.

Q Watch the whole train pass?

A Yes sir.

Q You drop everything and watch the train?

COURT: That is overdoing the thing, go on to something else.

Q This train was coming at you, towards you?

A Yes sir.

Q You saw the engine?

A Yes sir.

Q It was a very long train, wasn't it?

A No sir.

Q About ten cars in it?

A No, there was over ten, I think. It looked to me to be about eighteen or twenty, or twenty-five and maybe more.

Q It wasn't a long train that has forty-five cars?

A I don't know how many cars it had.

Q You saw the engine when it passed by?

A Yes sir.

Q When the engine got by, did you see any negroes in



that car -

A Yes sir.

COURT: At the time you saw the engine?

WITNESS: No sir.

Q Could you see any negroes on the train when the tender was passing your barn?

A No sir.

Q How about the first two or three cars?

A I didn't count the cars; it was very close to the engine. May have been four or five cars, or maybe more than that.

Q May have been - was it a hundred?

A No, the train didn't have a hundred.

Q If you can, tell us definitely how many cars passed your barn at the time you saw them?

A I didn't count them.

COURT: Have you any idea how many there were?

WITNESS: Between the gondola and the engine?

COURT: How many cars had passed you, if you know, before you saw these parties you claim to have seen on there?

WITNESS: I didn't figure over two or three, but of course I didn't count them/

Q I am going to ask you to be good enough to look at this miniature train here, if these two or three cars behind the engine passed by, let's say the train was going this way,

was it then you say that you saw the negroes on the car they were in?

A I hard the racket -

Q Iam not asking you what you heard -

A Just as soon as the train passed my barn I could lean over and stick my head out, and could see what was taking place-

COURT: Watch his questions please; he doesn't want the whole history now.

Q The train was making a noise chugging along?

A Yes sir.

Q The box cars and the other cars rattled along, the train rattled and made a clacking noise?

A Yes sir.

Q Was it after two or three cars had passed your barn when you first saw the negroes, where they were, - "yes" or "no"?

A Well, I don't believe it was over two.

Q Was it at that time that you observed the negroes?

A Yes sir.

Q Am I correct in saying, Mr. Morris, - please pay attention, - that at that time the negroes were at least seven hundred feet away when you claim that you saw them, in other words, one, two, three, four five, six -

COURT: Why count the cars?

Q (Continued) Thirteen or fourteen cars away?

A I didn't count the cars and can't tell you.

Q They were seven or eight hundred feet away wasn't they?

A I can't tell you about that.

Q Could you even tell that they were negroes?

A Yes sir.

Q Seven or eight hundred feet away?

COURT: He said they were negroes.

Q As a matter of fact Mr. Dobbins, are not the tops of gondola cars, as they pass by your barn in a train, higher than the opening in the barn through which you were looking - isn't that a fact that all you could see was the side of the gondola cars, because the side of the car was higher than the level of your barn?

A I could see the scrimmage going on. I saw the negroes.

COURT: First take up the first section of that question, was the top of the gondola car which you speak of higher or lower than your eyes at the point where you observed it?

WITNESS: No sir, it was just about elevated with the railroad.

Q I don't think you understand the question, I want to find out how high the gondola car was, the top of it from the level of your eyes, wherever they were, when you were

looking at the train?

COURT: Have you any idea about that?

WITNESS: You mean the gondola car?

Q Yes, the top edge of it there?

A I was elevated/

Q You could see the top of the gondola car from where you were when it was passing?

A Yes sir.

Q Was it higher or lower than the floor on which you were standing?

A I can't answer that.

Q How near the floor of that barn was your face as you were fixing these planks when you were looking out?

COURT: When you were looking out were you standing straight up?

WITNESS: Yes sir, I was standing straight up.

Q How tall are you?

A Five feet, ten inches.

Q As you stood straight up, was your eyes higher than the top of the gondola, or lower?

A Yes sir.

Q There was some box cars that obstructed your view until the gondola started to pass by, you were looking down the track here, and the first thing to pass was box cars, and they had to pass you before you could see what was in the gondola?



A I don't understand you.

COURT: Listen, suppose you were down this way, and the train was coming this way (indicating), he wants to know whether or not these cars, any box cars, coming along there obstructed your view into the gondola car.

WITNESS: No sir, not on the storage track there wasn't.

Q These girls you saw were lying in the gondola, inside the gondola?

A How was that?

Q I thought you said the girls you saw were lying in the gondola?

A No sir, absolutely not.

Q What were the girls doing in the gondola - sitting down?

A No sir, they were standing up fixing to get off -

Q Didn't you say that you saw two girls in the bottom of the car? Isn't that what you said a few moments ago?

A No sir.

COURT: Don't go over that again. The jury knows what he said.

MR. LEIBOWITZ: We except.

Q You say they were dressed in overalls?

A Yes sir.

Q Were they wearing shirts?

A I can't tell you about that. All I saw was they were dressed in overalls.

Q Overalls with bibs in front, you know what I mean - straps?

A I don't know about that.

Q Did both have on the same kind of overalls?

A I can't tell you that, the train was traveling too fast.

Q Were they blue overalls?

A I can't say as to that. I saw they had on overalls.

Q That is all they had on, - overalls, as far as you could see?

A As far as I could see and know.

Q They didn't have any fur on them?

A I didn't pay any attention to that.

Q You didn't see any fur?

COURT: Don't take up time trying to find out about furs on the overalls.

MR. LEIBOWITZ: We except to the court's ruling.

Q Now, did you see any coats, womens' coats with fur on them?

A No sir, I didn't pay any attention to that.

Q You just glanced the women?

A I got a glance enough to know what was taking place.

Q I am asking you what you saw?

COURT: He said that the train went by very fast. You might argue that to the jury. I think it would be proper argument that he only got a glimpse of them. Don't take up time asking that after he has described the whole surroundings.

Q Did you get just a fleeting glimpse of them?

COURT: That is the very thing I told you we was through with.

MR. LEIBOWITZ: We xcept to the court's ruling.

Q How many feet did that car travel before you lost sight of it?

A Well, about half mile.

Q You mean towards you?

A No, from me.

Q You sat there looking through that opening all the time?

A No sir.

Q Did you go there to the opening?

A Yes sir, I looked out there.

Q Was there an opening in the barn there (indicating on picture)?

A Yes sir.

Q Look at these box cars behind these gondolas, could you see through the box cars?

A I wasn't looking until the box cars passed.

~~Q Could you see in the gondolas what was happening~~

after the car passed your barn?

A It all happened so quick

COURT: Let me ask you a question. How far from the railroad track was your barn?

A Well, from the right of way fence, it ain't over 50 feet.

COURT: How far from the railroad tracks, in your judgment?

A Angling across from the crossing, - well straight I don't believe it is over one hundred feet. I haven't measured it, but that is my judgment.

Q Now, when you saw these women in the car, were they on the rear end of the car?

A They were on the sides.

Q Left side or right side?

A Right side, traveling west.

Q Right side facing the engine, that is towards Paint Rock?

A Yes sir.

Q Would you say about the middle of the car when you saw them?

A On both ends of the car.

Q One woman on one end and one on the other?

A They were falling out like that.

Q I want to know if they were on one end of the car, one woman on the end towards the caboose and one on the end towards the engine, was one on each end of the car?



A They got out from both ends of the car.

Q Who did?

A The white boys.

Q I am asking about the women?

A Well, the women was on the rear end towards Stevenson; the train was traveling west.

Q Were they facing you at the time?

A Facing me?

Q Were they ~~xxx~~ at the rear end of the car looking out towards your barn?

A I can't tell you which way they was looking; they was in the rear end of the car.

Q One right next to the other?

A Yes sir.

Q Were they up along the side of the car?

A Right close to the side at the end. I would call it at the end.

Q You could see their faces?

A Yes sir.

Q Did you see any hats on these women?

A I didn't notice that. I just noticed they had on overalls and was women.

Q How can you tell they were women?

A I think I can tell a lady from a man or a negro.

Q What was there about those two figures that makes you know they were women?

A I done answered that question.

COURT: Answer it again.

WITNESS: It is very easy to tell. I could see they was women.

Q Did you see that they had long hair?

A No sir, bobbed hair.

Q Did you see any hats?

A I didn't notice.

COURT: That's enough of that.

MR. LEIBOWITZ: No, your Honor, I want to -

COURT: Your are mistaken. That is enough of that; go on to something else.

MR. LEIBOWITZ: We except.

Q Did you see any negroes take hold of these women?

A Yes sir.

Q See them take their overalls off?

A No sir.

Q What was the vert first thing you saw the negroes do to these ~~WOMEN~~ women?

A I first saw them when they knocked the white boys off, and these two white girls tried to get off and the negroes grabbed them and snaked them to the bottom of the car.

Q Did you see either of the white girls get their leg over the side of the car?.

A They looked like they was doing all they could to get off.

Q You came here to say, and are prepared to say that these women -

COURT: That's enough. It's my business to see that the witness is treated with respect, and that is disrespectful. Don't say that any more.

MR. LEIBOWITZ: I am trying to be respectful. I didn't do any thing.

COURT: We'll, go on, or something will be done.

MR. LEIBOWITZ: I will go on.

COURT: That's enough. Do you desire to ask this witness any further questions?

Q How high in that gondola were these women, how high above the car did their heads protrude?

A I can't tell you that. When they was trying to get out of the car they was in plain view.

MR. LEIBOWITZ: We move to strike that.

COURT: Gentlemen that answer was not responsive and is not evidence and is not to be considered by you. Read the last question to him.

Q (Read by reporter) How high in the gondola were these women, how high above the car did their heads protrude?

A Three feet.

Q That is the only view you got, was a view of their heads, and that part that showed?

A No sir, not when they was fixing to jump out.

Q Tell us what they did, did they put their foot over the side of the car?

A They was fixing to jump out -

COURT: Listen, Mr. Witness, tell what they were doing that made you believe they were trying to get out?

WITNESS: Well, I just figured -

COURT: Not what you figured?

WITNESS: I saw a bunch of negroes -

COURT: Tell what they were doing that made you reach the conclusion they were trying to get out?

WITNESS: Well, that's all I could tell you; that was my opinion.

Q Your hearing was good on that day, was it?

A How is that?

COURT: Could you hear well on that occasion?

WITNESS: Yes sir.

Q You heard screams, did you not?

A I don't understand you.

COURT: Did you hear any screams?

WITNESS: Yes sir.

Q Did you hear any shouts?

A No sir.

Q Do you have a telephone in your place?

A No sir, I have no telephone.

Q How close is your house to the nearest telephone?

A Mile and a half.

Q Did you stay in your barn after the train passed?

A I got out of the barn and went on up to the boys.



The boys was up on the railroad crossing. The boys called on me for help.

Q You went to where the boys were, is that right?

A Yes sir. They was calling for a telephone.

Q You went to where the boys were that got off the train?

A Yes sir.

Q When the boys passed on, where did you go?

A I went directly home and stayed there the rest of the day.

Q You didn't go to any telephone?

A No sir.

COURT: He said he stayed at home; therefore he did not go.

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LEE ADMAS, sworn for the State, testified:

DIRECT EXAMINATION.

Q Your name is Lee Adams?

A Yes sir.

Q On March 25th, 1931, where did you live?

A Stevenson.

Q Did you live in town or out near there?

A About a mile and a half east of Stevenson, but my farm is west of Stevenson.

Q Were you down near the track of the Southern Railroad between Stevenson and Paint Rock, on March 25th, 1931?

A Yes sir.

Q Did you see a freight train pass there at that time?

A Yes sir.

Q How far were you from the railroad?

A About half a quarter.

Q What were you doing?

A Hauling cross-ties, sitting on a load of cross-ties.

Q You mean on a wagon?

A Yes sir.

Q Which way was that freight train traveling?

A It was coming from Stevenson going towards Scottsboro.

Q That in the direction of Paint Rock?

A Yes sir.

Q Did you see anybody on that train as it passed?

A Yes sir, I saw several people.

Q White or colored?

A Well, some of them <sup>I can't say</sup> -/some of them was colored folks because some of them had their faces to me and some had their backs to me.

Q What part of the train were they on?

A They was on a flat car - a gondola car.

Q What did you see them doing?

A They was scuffling. There was a man standing with his back towards the west side of the car and a man came up in front of him like, and struck this way (indicating), and there was somebody standing right there at them that picked him up and threw him out of the car.

COURT: Outside to the ground?

WITNESS: Out over the car.

Q Do you know what became of that individual?

A He went out of my sight, and as he went out of my sight I saw somebody strike down that way (indicating) in the car.

Q Was it a white man or colored man that was doing the striking?

A Well, he had his back to me and I couldn't tell.

Q How many did you see get off that train?

A I saw them throw two off.

Q Did you see anything of these two after the train passed?

A Yes sir, I got on up to the railroad, and as I got up to the railroad, where the dirt road intersects the railroad, I saw two men coming back up the railroad going towards Stevenson.

Q White men?

A Yes sir.

Q What was their condition?

A The blood was running down over their faces; they were bare-headed, and one had a handkerchief that was red, I don't know what it was red with, but the handkerchief looked to me like it was wet with blood.

Q Did you get close to them?

A Pretty close to them.

Q About how close?

A About thirty/ steps; they was going back that way in a fast walk. I never spoke to them and they didn't speak to me.

Q They were about how far from Stevenson at that time?

A About a mile this way. They were taking their sleeve and wiping their heads this way (indicating). The blood was running down on one of them's shirt, and he was wiping the blood off with his sleeve, this way(indicating).

CROSS EXAMINATION.

MR. LEIBOWITZ:

Q You were a quarter of a mile away when the train passed?

A I was half a quarter when this striking took place.

Q You didn't say that on the other trial did you?

A Yes sir.

Q You have testified five times in these cases, haven't you, and this is the first time you said you were half a quarter, you testified before it was a quarter of a mile didn't you?

A I was about half a quarter when this striking was going on.

Q How far were you from the track when the train passed and you were sitting on a load of cross-ties?

A I said I was half a quarter when the striking was going on.

Q I am asking you how far you were away when you were sitting on the load of cross-ties?



A I was about half a quarter when I was sitting on the load of cross-ties. I drove the wagon on up to the railroad. I was still sitting on my cross-ties.

Q Had you been on that load of cross-ties from the time you first saw the train until you drove up to the crossing?

A Yes sir, still on it.

Q You were on the load of cross-ties?

A Yes sir.

Q Until the train passed?

A Yes sir.

Q Did you testify before Judge Horton as follows:

"Q. How were you located with reference to the train were you on the ground, or even with the train, or above it or how?

A. I was sitting on a load of cross-ties and when the train come out of the cut I was something like level with the train.

Q. How far away from the train were you when it passed?

A. I was just about a quarter.

Q. Quarter? (And I asked) Quarter of a mile?

A. Yes sir.

Did you say that before Judge Horton last Spring, answer that "Yes" or "No"?

A I told just the truth about it.

COURT: Do you remember whether you said what he

read to you?

WITNESS: I told him half a quarter.

COURT: Did you say that, do you remember whether or not you said what he has just read to you?

WITNESS: No sir, I don't remember.

Q Q Can you distinguish a negro from a white man a quarter of a mile?

A Yes sir, if they had their faces to me, I could.

Q At a quarter of a mile?

A Why yes. Half quarter is what I said.

Q Just answer my question please, tell me if you can tell the difference between a white man and a negro a quarter of a mile away?

A If they have their face to me I can.

Q Did you see any women on this train?

A I saw a lot of folks.

Q (By the court) Could you tell whether or not there were any women on the train?

A I don't know whether there was any women folks or not, the train passed by me running about 30 miles an hour.

Q Did you hear any shots fired?

A No sir, I never heard no shots.

MR. LEIBOWITZ: That's all.

TOM DOBBINS, sworn for the state, testified as follows:

DIRECT EXAMINATION.

MR. LEIBOWITZ: Is Ory Dobbins here?

WITNESS: If he is here I don't know nothing about it; he hasn't been subpoenaed.

BY MR. BAILEY:

Q Your name is Tom Dobbins?

A Yes sir.

Q Where were you living in March, 1931?

A On this side of Stevenson.

Q On the right of way of the Southern Railroad?

A Yes sir.

Q How far this side of Stevenson do you live?

A About two miles.

Q How far from the railroad track?

A About fifty feet from the railroad.

Q You live west of where Mr. Luther Morris lived?

A Yes sir.

Q On March 25, 1931, were you around near your home near the Southern Railroad tracks?

A Certainly.

Q On March 25th, 1931, did you see a freight train come along the railroad track near your home?

A Yes sir.

Q What time of day was it?

A Between twelve and one o'clock.

Q Which way was it going?

A Going west, towards Paint Rock.

Q Did you see anybody on that train?

A I seen a lots of people in a gondola car; one of them gons as it went by there.

Q Were they white or colored?

A They was mixed up.

Q What were they doing?

A They was scuffling around in there as they passed my house, I think it was.

COURT: Not what you think.

Q Tell the jury what you saw happening?

A They was scuffling like somebody fighting in the train as it went by my house.

Q Some white and some colored?

A Yes sir, white and colored.

Q How far did you observe that, for how long a distance?

A Something like a hundred yards.

Q Did you see anybody get off that train?

A No sir, I didn't see anybody get off there.

#### CROSS EXAMINATION

BY MR LEIBOWITZ:

Q Do you know Ory Dobbins?

A Yes sir, he is my son.

Q Was he standing out near this railroad track while this train was passing by?



A He was standing out in my yard in front of the house.

Q Was he where he could see the train pass by?

A Yes sir.

Q Is he living, is your son living?

A He was when I left home.

Q Mr. Dobbins, this son of yours is not confined to the house, and his physical condition is such that if he is subpoenaed, he could be brought here for the prosecution, if it needs him, - he is in condition to come?

A I reckon he is.

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SAM MITCHELL, sworn for the State, testified:

DIRECT EXAMINATION

MR. BAILEY:

Q Along in March, 1931, where did you live?

A I lived this side of Stevenson.

Q Were you out there at Mr. Dobbins place on the 25th of March, 1931, when a freight train passed by there going towards Paint Rock?

A Yes sir.

Q Did you see anybody on that train?

A Yes sir.

Q Whereabouts on the train were the people that you saw?

A They was on a coal car, a half-gon, I think they call it.

Q Were they white people and colored people?

A Seems to me like they was both kinds.

Q What were they doing?

A Seems to me like they was wrestlin' - we see'd them wrestlin', 'peared like.

Q Did you see them doing anything else other than wrestling?

A No sir, that's all I seen; the train was going by pretty fast.

Q Did you see anybody get off that train there?

A No sir.

Q Doyou know where Mr. Luther Morris lived at that time?

A Yes sir.

Q Where you were, was that east or west of where he lived?

A West.

Q Do you know where Mr. Lee Adams farm is?

A Yes sir.

Q Were you east or west from him?

A Yes sir.

Q That train was going towards Paint Rock?

A Yes sir.

Q What time of day was that?

A It was about one o'clock, we was going back to our plowing.

Q You had had your dinner?

A Yes sir.

## CROSS EXAMINATION.

MR. LEIBOWITZ:

Q How many miles out of Stevenson is that?

A About two and a quarter miles.

Q You say you know where Mr. Morris lived, is that place nearer to Stevenson than you were?

A Yes sir.

Q Mr. Adams' farm was nearer to Stevenson than where you were?

A Yes sir.

Q Did you see some negroes in some box cars below the place where this scuffling was going on?

A We was right at the railroad and the train was going so fast -

Q What I am asking you about is this, they were in some gondola car, what I am after trying to find out is this, did you see a bunch of negro boys in the door-ways of some of the box cars while the scuffling was going on?

COURT: Did you see any in the doorways of box cars?

A Yes sir, I seen some in some of them.

Q What were these negroes in the box cars doing, while the negroes and the whites were scuffling there in that gondola?

COURT: Did you see them doing any thing?

A The was settin' down in the door, some of them.

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Q Feet hanging down?

A Yes sir.

Q How many did you see, could you see sitting in these box cars?

A I can't tell you. I never had no thoughts about any thing coming up.

Q What is your best recollection about it; what is your best mind, was it a dozen or half a dozen?

A White folks, I just can't say.

Q There were more than four or five, - more than one?

A There was some in there, I can't say how many.

Q As the train passed by, did you see negroes all along the different parts of the train back towards the caboose?

A Yes sir, all up and down the train.

Q Was there some on the oil tank car at that time as the train passed by this place?

A I can't say for sure, they was all up and down the train. I didn't have in my mind to count them that was on the train.

Q Do you say definitely that there were negroes back of this box car on and around the oil tank car, and flat cars towards the caboose, at that time, - on the gondola, that is?

DO YOU UNDERSTAND THE QUESTION?

A I can't say. I am just telling what I know.

§ § - - - - -

W. E. BRANNUM, sworn for the State, testified:

DIRECT EXAMINATION.

Q This is Mr. W. E. Brannum?



A Yes sir.

Q Were you at the railroad station at Paint Rock, Ala. one day in March, 1931, when some folks were taken off of a freight train?

A Yes sir.

Q HMM Were you there when the train came in?

A Yes sir.

Q Did you see any colored folks on that train, any negroes?

A Yes sir.

Q Did you observe them before the train stopped, or after it stopped?

COURT: Did you see them before the train stopped?

A Yes sir.

Q Where did you see them at that time?

A Well it was something like a quarter, or half a quarter from the station towards Stevenson.

Q What part of the train were they on?

A They was something about, I believe, some six or eight cars back from the engine.

Q On what kind of car were they?

A When I first discovered them, they climbin' out of a gondola car, a coal car.

Q Was that towards the engine or towards the caboose?

A That was back towards the caboose - the coal car was back towards the engine.

Q That is a coal car they were climbing up on?

A Yes sir.

Q About how many of them were there?

A Well, I don't know. I never counted them until after we got them sorter lined up; there was nine of them then. I don't know how many more there were, whether there was any or not.

Q How many did you see get out of that gondola car before the train stopped?

A I can't say how many, for I didn't count them.

Q What is your best judgment about it?

A There looked to be some fifteen or sixteen of them climbin' up on the coal car.

Q Were all of them negroes?

A Yes sir, all that I saw were negroes.

Q After the train stopped, did you see any white women about there?

A As I was coming down the train where they captured them I saw one lady sink down at the end of the gondola, - she was climbin' down and sank down to the ground.

Q Was that the same car that you saw - that you just told us you saw these negroes get out of?

MR. LEIBOWITZ: That is too vital a question to be allowed. Overruled.

MR. LEIBOWITZ: We except.

Q Was it or not the same car that you saw the negroes get out of?

A Yes sir, it was the same gondola I saw the negroes get out of. That lady sunk down at the front end towards the engine.

Q Did you see what happened after she sank down?

A The next time I saw the lady, they had her in a wheel chair up in town.

Q How far from the station?

A Something like 150 to 200 yards.

Q Did you see another lady around there?

A I never saw her for a little bit.

Q How many did you see all told?

A Two.

Q Where did you see the other one?

A She was going 'long side the chair where they were carrying the the other lady.

Q What was their condition or appearance, how did these ladies appear to you, what was their condition?

A They seemed unnerved a little bit to me.

MR. LEIBOWITZ: We object to that and move to strike the answer.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

Q Did you see any dirt or dust on them, did they appear to be disheveled?

A I never paid any attention to them. They looked a little bit dirty, like one would be that had been on a hobo

trip.

Q How were they dressed?

A They had on calico dresses is all that I know.

Q Did you go up to where they took them?

A No sir, I didn't go up to the store. I went along the side walk; carried one negro up there.

Q How close did you get to the women?

A I was something like five or six steps as they passed by me.

Q What was the condition of the woman in the chair, how did she appear?

A She seemed like she was unnerved mightily, she was leaning over lifeless like to me like.

MR. LEIBOWITZ: That is objected to.

COURT: He says "apparently" - I overruled the objection.

(At this point recessed until 1:00 P. M. Upon the reconvening of court, the following transpired:)

Mr. Harold Harlan appeared in court in answer to subpoena, when Mr. Knight agreed that the transcript of the trial before Judge Horton, was a correct transcript of the testimony given on that trial, and Mr. Harlan was not examined. Thereupon, the state, through Mr. Knight agreed that the transcript of the Scottsboro trials were correct transcripts as furnished by the official reporter, and that counsel for defendant could



read excerpts from the testimony on each trial. The agreement on the part of the state being that the typewritten portion of both records were correct. Thereupon, cross-examination of the witness on the stand at adjournment was taken up.

CROSS EXAMINATION.

MR. LEIBOWITZ:

I want to ask you a few questions, when you got down to the railroad station at Paint Rock, was that before the train got there?

A Yes sir.

Q How long before the train got there?

A Something like fifteen minutes, maybe, ten minutes, - ten or fifteen minutes.

Q Now, there were fifty or sixty men around that station when the train pulled in?

A I would say fifty. I don't know how many there were; I never counted them.

Q Did you wait at the station until the train came in?

A I did, just across the railroad from the depot.

Q On the opposite side of the track?

A On the right hand side.

Q The train passed on down by you as you stood there?

A Yes sir.

Q Were you opposite the station at that time when the

train passed, or had you changed your position?

A I was a little opposite of it; I was south of the station. the railroad runs north and south there, and I was a little south of the station.

Q You were between the station, what I just asked you, at some point on that track in between the station and where the water tank would be?

A No, I was beyond the station from the water-tank.

Q You were in between these two points [indicating], somewhere along there?

A I don't understand the question.

COURT: You first said you was on the opposite side of KK the track from the depot?

WITNESS: Yes sir.

COURT: Did you remain on the opposite side of the tracks until the train stopped?

WITNESS: I did.

Q Did you then see who was on the engine when the train passed?

A No, I couldn't recognize who it was.

Q Was the engineer on that side as the train passed you?

A I couldn't say who it was, - I didn't pay any attention to who it was.

Q Did you see a negro fireman on the engine tender, or on the engine at the time the engine passed by?

A Who?

Q A negro fireman on the train?

A No, I didn't see him.

Q After the train passed you, did you go towards where the water tank is?

A I did.

Q Did you get to where the water tank is?

A Yes sir, I went a little further on down.

Q Between the water tank and the coal chute?

A Yes sir.

Q That is about 200 feet between the chute and the tank?

A Something like that.

Q How close to the coal chute did you get?

A I don't know.

Q In how many feet of it, do you know?

A I don't know how many feet; I never measured it; I don't know how many feet it was.

Q About 150 feet from the coal chute?

A Something like that, I guess.

Q Were you right there about 100 to 150 feet from that coal chute when you saw negroes climbing over from the gondola on the coal car, is that where you were standing?

A Say how?

Q (Re-read by reporter) Were you right there about 100 to 150 feet from that coal chute when you saw negroes climbing over from the gondola on the coal car, is that where you were standing?

A No.

Q Where were you standing?

A Where was I when I saw the negroes climb from the gondola?

Q Into the coal car?

A I was standing a little south of the depot.

Q The train was still going at that time?

A Yes sir, it was coming around the curve about a quarter or half a quarter south of me.

Q Was that when you saw the negroes climbing from the gondola into the coal car?

A Yes sir.

Q Did you see where the negroes were on the train when the train passed by you?

A They were still rustlin' around on this coal car.

Q Wrestling around with whom, white men?

A Rustlin' around on the coal car, seemed to be trying to get out of the gondola.

Q Who were they tussling with?

A With the coal, trying to move this out and make a "get away" I suppose.

Q Were there any negroes tussling with themselves?

A I never saw any.

Q That coal car right next to the goal car next to the gondola?

A Yes sir.

Q It was a different kind of car?



A Yes sir, it was a different kind of car.

Q Differently constructed car, different looking car?

A Yes sir, it looked different.

Q Will you look over this way, please, at this miniature train sitting on this track, do you see from where you sit, the green car between two box cars, can you see that?

A Yes sir.

Q Was that the kind of car they were trying to get on?

A No that resembles a little the gondolier.

Q Do you see any car on that track (indicating miniature train) that looks like the car the negroes were getting on?

A No, there ain't nothing in that that looks like the car they was trying to get on.

Q How many gondolas would you say were hooked up together?

A Hooked up what?

Q (By the court) How many gondola cars were joined together in any way?

A Wasn't but one.

Q Wasn't but one?

A One gondola.

Q How many on the whole train?

A I don't know how many.

Q How many gondolas passed you by?

A One gondola and one coal car; of course there was some box cars passing too.

Q That gondola and coal car had a box car on each

end, did they, they were in between the box cars?

A Well, there was a box car in front of the coal car and one at the back end of the gondola.

Q They were box cars?

A Yes sir.

Q Mr. Brannum, when you stopped up here 100 to 150 feet from the coal chute, did you face towards Stevenson, you were on the side of the track, that is the side nearest the station?

A My face wasn't towards Stevenson.

Q That is the coal chute up here (indicating)?

A Yes sir.

Q You were looking towards the caboose of the train, you being on the left or on the right side of the train?

A I would be on the right side of the train.

Q That would put you on the side nearest the station, wouldn't it?

A Which? The left side?

Q The side you were on?

A No, I was on the opposite side of the train.

Q Then you were on the left side of the train?

A No, on the right side of the train.

COURT: He is counting the train the way it is going. (Referring to miniature train.)

MR. LEIBOWITZ: That's right, Judge.

Q Are you positive, Mr. Brannum, I want to make

sure about it; are you positive that the gondola carrying these colored men, actually passed you, when you were standing opposite the station?

A No, the gondola wasn't varrying the; they were climbin' out and rasslin' over the top of the coal car.

Q That is the very next car?

A That is, the car in front of the coal car.

Q Are you positive, Mr. Brannum, that the coal car passed by you at the time when you were standing opposite the station as the train went by, or did the gondola, when the train stopped, was it some distance north, or towards Stevenson or the station?

A The gondola passed first.

Q I don't think I have made myself just plain, you were standing about opposite the station as the train came by?

A Yes sir.

Q The train finally comes to a stop?

A Yes sir.

Q When the train stopped, you were standing opposite the station, would you say that the gondola and coal car, either of them, had reached the station, - had they or not reached the station?

A Yes sir, they were noth of the station.

Q Hadn't reached the station?

A Yes sir, they had reached the station and went by.

Q That would be south, Mr. Brannum?

A No, it would be borth of the station.

Q It is south of Paint Rock coming towards Decatur?

A No, the train runs north going towards Decatur.

COURT: It's in evidence that there is a very abrupt curve right in there.

A (Continued) Somewhere about that depot there it changes its course, and the train runs north. I can tell you about that.

Q Let me put it this way, as I am speaking to you, just figure the station and the coal chute, - have that in mind, - was the gondola and coal car between the station and the coal chute when it stopped - when the train stopped?

A Yes sir, they was.

Q Was it somewhere between the water tank and the coal chute?

A Somewheres right about even with the water tank.

Q That would be about 200 feet from the coal chute?

A I can't say how many feet it was; I didn't measure it, but something like that.

Q That is the car near which you saw the woman, when you testified you saw one sink to the ground?

A Yes sir, the gondola and coal car.

Q The car that you saw the woman sink to the ground near, would you say that would be 100 or 150 feet from the coal chute?

A Something like that.. I can't say how many feet it was.

Q That is a fair estimate, Mr. Barnnum, the best you can give us, & that is a fair estimate, is it?



A Yes sir.

Q All right, I suppose these calico dresses that you saw these women dressed in we light calico?

A I never paid any attention to that and can't tell you that, but from my observation as I saw them, I thought they had on calico dresses. I could be mistaken, I never paid much attention to the women.

Q Did you remain on the right side of the train, or did you climb over some cars?

A I got in between some cars and crossed over by coming between them.

Q I mean while the train was stopped there, while you saw this woman sink to the ground, you were still on the right side of the train?

A Yes sir.

Q It was on the right side of the train that you saw one of these women sink to the ground?

A Yes sir, she was on the left side.

Q You were on the right side?

A Yes sir.

Q She was on the left?

A Yes sir.

Q Whatever you did see, you had to see in between these two cars, didn't you?

A Yes sir.

Q You couldn't see, over, across or under the cars?

A No, I could see in between.

Q Did both of these women have on dresses?

A I can't say.

Q That's what you said on direct examination?

A Both of them?

Q Had on dresses?

A I can't say whether it was a dress or what it was.  
I nevr took time to look.

Q Did you have any conversation with anybody since you left court at the noon recess?

A No sir.

Q Anybody speak to you about the case?

A No sir.

Q Anybody tell you to correct yourself, that the women wasn't wearing dresses?

A No sir.

Q Well, now, let's see - did you see a man named Turner, who was the conductor on that train?

A Turner?

Q Mr. Turner, the conductor?

A No sir, I didn't see him.

Q Did you see Mr. Hill?

A Yes sir, I saw him after we got the negroes up in town.

Q When the train was stopped there, did you see Mr. Hill there?

A I was on the other side.

Q (By the court) Do you remember that you saw him

there at the depot?

A Yes sir, he was down there at the depot.

Q Did you at any time walk down the track towards the back end of the train and examine any of the cars in that stretch of cars, you yourself?

A You mean back towards the way the train came from?

Q Yes?

A No.

Q Did you get any further than 100 to 150 feet away from the coal chute?

A I didn't get any nearer.

Q After you got to the cars somewhere along here [indicating], did you then cross in between these cars and get over on the other side?

A Yes sir.

Q Then you walked back to the station?

A No, I walked up in town.

Q Straight across the field there?

A Aint no field there.

Q Well, straight there?

A No, it ain't straight.

Q Did you get within three or four feet of these women?

A No, I don't think I got hardly that close. I might have been four or five, something like that. I don't know how man.

Q Did you see some blood on the faces of these women, - were either of their faces bloody?

A No, I can't say I saw their faces bloody.

Q Was there any bruised places on their faces, or any  
out places?

A No, I didn't examine that close. I didn't pay  
that close attention to them; I didn't pay enough attention  
to see what was on them.

Q Could you see anything about their faces as you  
looked at them?

A I never paid no attention. I wasn't close enough.

Q You mean you wasn't close enough in four or five  
feet of them?

A No, I couldn't tell; they was going along and I  
was wtaching the negroes; I just happened to glance around  
and saw them carrying this woman by.

Q There was a lot of confusion there, a lot of  
excitement?

A Some little excitement, but not much.

COURT: Any further questions for this witness?

Q Of course Mr. Brannum didn't see anybody rape  
anybody?

COURT: Of course not, the train guard hadn't gotten  
there.

(Witness was instructed to return Thursday morning  
at 8:30).

ORVILLE GILLEY, sworn for the State, testified:

DIRECT EXAMINATION.

Q Your name is Orville Gilley?

A Yes sir.



Q Where do you live?

A Albertville, Alabama.

Q Did you live there in March, 1931?

A Yes sir.

Q Where have you been during the past 30 days, <sup>back</sup>~~from~~  
from now?

A I have been down here, at Montgomery and at my home in Albertville.

Q You spent a portion of that time in Albertville?

A Yes sir.

Q And a portion of it in Montgomery?

A Yes sir.

Q Were you with Mr. Knight in Montgomery?

A Yes sir.

Q You went to see him while you were there?

A Yes sir.

Q How long have you been in Albertville immediately preceding today?

A You mean since I left Albertville?

Q Yes?

A I left Albertville a week ago today and came to Decatur.

Q Were you on a freight train that traveled through Jackson County, between Stevenson and Paint Rock, Alabama, in March, 1931?

A Yes sir, I was.

Q Were you on that train when it reached Stevenson,

Alabama?

A I was.

Q Was there anybody with you on that train?

A Several were on the train.

Q White folks or colored folks?

A On the oil tank where I was riding there were two girls and six other white boys.

Q The girls were Victoria Price and Ruby Bates?

A Yes sir. We got off the oil tank car at Stevenson.

Q When you got off the oil tank car where did you go?

A We went up and got in a gondola; got off the oil tank and got in a gondola.

Q Who went with you?

A The two girls and the white boys.

Q Along with you?

A Yes sir.

Q Did anybody else get in there with you at that time?

A No sir.

Q Was anybody else in that gondola when you got in in there with your companions?

A No sir, we all got in about the same time.

Q What was in that gondola car?

A It was loaded with chert; fine gravel; I was told that it was chert.

A It was fine gravel?

A Yes sir.

Q About how long was it after you got in the gondola before the train started away from Stevenson?

A About five minutes, possibly.

Q After the train started, did you see anything of this defendant, Haywood Patterson about that gondola?

A This colored boy over here (indicating)?

Q Yes?

A Yes sir, he came over the top of the train, and some other colored boys were with him; they came over the train and got in the gondola after the train started and was about three miles below Stevenson.

Q Did you see anything in his hand as he came over?

A Yes sir.

Q What was it?

A A pistol.

Q About how many came over with him?

A I didn't count them at that time, when I did count them there were nine, later when I counted them.

Q As you saw them coming over in what part of the car were you in?

A I wasn't exactly in the end. I was a little ways from the end.

Q Were you next to the end they were coming from or away from it?

A Away from it a little ways.

Q Where were the other white boys?

A They were around me.

Q Where were the white girls?

A On the other side from me. I wasn't in the end, I was down towards middle ways, midway from them a little.

Q Were you in the end towards engine or towards the caboose?

A We was in the end towards the caboose, a little closer to the end towards the caboose than the other end.

Q The girls were in what end?

A Across from me on the side of the train, down a little ways, not very much.

Q Was anything said by any of these negroes as they came over into the gondola car?

A They started into it, and when they first got in they said "All you white sons of bitches unload."

Q Do you know which one said that?

A Yes sir.

Q Which one?

A It wasn't that one; it was another one.

Q Do you know which one got into the car first?

A I can't say which one came first; they were in front, this one with the other one.

Q Did they come in all at once, or one right after another?

A They came in all right, I can't tell you whether they came one after another or not.

Q Didn't you hear by one say anything at that time?

A Yes sir.

Q He said "All you white sons of bitches unload"?



A Yes sir.

Q Then what happened?

A The other boys jumped off.

Q What other boys?

A The other white boys on the train, they started battling around there.

Q After that time in the car, state when you saw - what happened?

A The white boys started to get off. They knocked a couple in the head, - they started to hump off, and then they got the girls there and attacked them.

Q What did you see this defendant do, over there, Haywood?

A I saw the defendant over there go to both girls; he had intercourse with both girls.

Q He had sexual intercourse with both?

A Yes sir.

Q I will ask you whether or not any of them were holding the girls?

MR. LEIBOWITZ: We object to that. Sustained.

Q Tell us what was done, as you saw it?

A Some were holding the girls, and some had a knife to their necks, some were holding their legs open; they were all around the girls at the time the raping was going on; some times some would be raping and some holding - they would be holding them while others were having sexual intercourse

with the girls.

Q What did you hear any of them say while that was going on, if you heard anything?

A When I left the end of the car I was sitting in and got up to where the girls was - I didn't go to where the girls was until towards the last, and when I got up there I ~~xx~~ saw they were about to kill one of the girls; her eyes was bulging out and she was gasping, and I says to this boy that had the gun, "Why don't you make them quit, he is going to kill her" and he looked over and seen it, and told the boy that was on her then to get off'n her, - he says "You are killing that girl, you have all done what you want" - you want me to tell what he said?

Q Yes, tell it?

A Well, he says, "You have all done fucked, if any of the rest of you boys cut these girls again, there will be some niggers jumping off". That was after he had been to both the girls.

Q Do you know which one first put his hands on either one of these girls?

A No sir.

Q How were the girls dressed?

A They had on overalls and some dresses; I don't exactly how many dresses; they had on at least one dress, and may have had on two or three dresses. I can't say exactly. They also had on a coat or cloak or something or other, I can't say exactly what it was.

Q While they were laying on that chert, slack, or whatever it was, did they have the clothes of these girls up?

A Yes sir, they had them up, and their overalls were pulled down.

Q Did you see who pulled their overalls down?

A No sir, I saw at first they were around the girls, I couldn't tell exactly what they did; they run into the girls and grabbed them and threw them down there, and in all the excitement there, I couldn't see which one did it.

Q You remained there at one side of the car?

A I was at the other end, - well this end. I was at the side before they got through.

Q Did you have any struggle or tussle with any one on the car?

A Yes, they tried to get me to jump off -

COURT: What did they do or say?

A (Continued) This one said "If you don't jump off I will shoot you". One of the negroes, one of the colored boys he come up, and took hold of me, - he's the one that said "All you white sons of bitches unload" - then I got loose from him. This defendant is the man that said, "If you don't jump off I'll shoot you".

Q Did you see morethan one pistol?

A I did not.

Q That was in the hands of this defendant?

A Yes sir.

Q How many knives did you see?

A I can't say exactly how many; three or four of them had knives in their hands.

Q Have them open?

A Yes sir.

Q Where did the train stop?

A Paint Rock.

Q When the train stopped at Paint Rock were these colored boys in the same gondola?

A Yes sir. When the train stopped they scattered out up and down the train. I got off there.

Q Did the girls get off there too?

A Yes sir, they got off at Paint Rock.

Q Were they in the gondola car with the negroes when the train stopped at Paint Rock?

A When the train started to slow down at Paint Rock they scattered up and down the train. I got off on the left hand side.

Q Away from the depot?

A On the left hand side of the train.

Q Looking towards the engine?

A Towards the engine, yes sir.

Q Did anybody get off on that side that you saw, and of these negroes, at the same time you did?

A No sir.

Q Where did you next see the girls?

A The next I saw the girls was at Paint Rock, - no not Paint Rock, but Scottsboro. That was at Paint Rock and



I saw the girls next at Scottsboro.

Q (By the court) What he is trying to find out is did you see the girls at Paint Rock after they got off the train, - did you see them at Paint Rock?

A After they got off the train?

Q (By the court) Yes, did you see them after they got off the train?

A Yes sir.

Q Where were they when you next saw them?

A Up there at a store I will say about a block from where the train was.

Q After these boys that you said had sexual intercourse with these girls, do you know how long after they finished these acts before the train got to Paint Rock?

A I don't know exactly how long; they had been through approximately fifteen minutes, I reckon.

Q Did they have their clothes back on and their overalls up?

A Yes sir, I helped Victoria pull her overalls up.

Q Did you hear any conversation that these negroes had, - did you hear them say anything about the women, after the intercourse was over?

A Talking to one another?

Q Yes?

A No sir, I did not.

## CROSS EXAMINATION

MR. LEIBOWITZ:

Q You have been a hobo for about ten years?

A No sir.

Q Just farmed?

A No sir.

Q What has been your business for the past two years?

A Entertainer.

Q Entertain who?

A Anybody I could, any place I could, on the street.

Q You mean in the hobo swamps too?

A No sir.

Q Have you ever been in a hobo swamp?

A I have been in one or two.

Q When you are away from home, that is the place you usually sleep in a hobo swamp?

A No sir.

Q Did you board this train at Chattanooga?

A Yes sir.

Q What were you doing in Chattanooga, were you employed there?

A No sir.

Q Tell us with whom you had regular employment on March 25, 1931?

A I didn't have any regular employment.

Q What do you do?

A I haven't any regular employment; I am an enter-

tainer. I recite poetry.

Q For pay?

A I recite poetry.

Q Do you charge for that?

A I recite poetry and take up a collection after I finish.

Q Where do you recite poetry?

A Hotel lobbies, restaurants, out on the streets, any place.

Q You also recite poetry in hobo swamps?

A No sir.

Q How long have you been engaged in the business of reciting poetry?

A Entertaining?

A The question is how long have you been engaged in reciting poetry?

A Around seven years.

Q How old are you now?

A Twenty-one.

Q I suppose this business of reciting poetry has taken you all over the country?

A I have been all over the United States and recited, yes sir.

Q I suppose that you do most of your riding on the rails on freights?

A Yes sir, most of it.

Q In fact, all of it?

A I wouldn't say all of it, but most of it.

Q You haven't been riding any freights since you see Attorney General Knight, have you?

A Yes sir.

Q You have been riding on trains with tickets that you paid for too, haven't you?

A I have been riding freights too. I haven't rode any tickets since I see Mr. Knight.

Q Rode the same way, hobbing on freights?

A Yes sir, and I caught a couple or three rides on the highway too. Some place maybe I couldn't get a train and I would flag a ride, "hitch-hike" - you know what that is?

Q Yes. Now, Gilley, leet's see, can you name one single hotel in the state of Alabama that you went into the lobby and recited poetry for pay?

A No sir.

Q Have you ever been in the City of Birmingham?

A Yes sir.

Q On business?

A I have been in the City of Birmingham.

Q On business?

A Just passing through. I have recited poetry in Birmingham out of the street.

Q How about Montgomery, have you ever recited poetry in any of the hotels in Montgomery?

A No sir.



Q Can you name the lobby of one hotel in the south in which you have recited poetry, and after reciting poetry took up a collection, - in the south? "Yes" or "No"? Can you?

A I don't remember the names of all the hotels I have recited poetry in the south; I can't remember the names of the hotels.

Q You are well acquainted in the south?

A I don't know as I am so well acquainted in the south, but I have recited poetry in the hotels in the south, but I don't remember the name.

Q Can you give us the name of any hotel, so we can send checkers to the hotel?

MR. KNIGHT: We object to that. Sustained.

Q Have you ever been in the state of New York?

A Yes sir, I have been in New York.

Q Did you recite poetry in any of the hotels in New York, and can you give us the name of such hotel?

A I have recited poetry in New York, but I can't give the names of any hotels that I would go into the lobby and recite. Sometimes I would recite poetry on the streets and some fellow would ask me to come in the lobby, and I would go in. I would be on my way and didn't pay any attention to the name of the hotel.

Q Can you give us the name of any hotel in this broad wide land, give us the name of any hotel that you

recited poetry in, - I don't mean hobes' hotels, I mean regular hotels?

A No sir.

COURT: Now, let's quit the hotel business and get on to something else.

Q Do you remember where you slept in Chattanooga the night before you got on this freight?

A Yes sir.

Q Where?

A In a box car.

Q You mean the Hobos' jungle in Chattanooga, and not a car, don't you?

A I know where the jungle is.

Q In Chattanooga, Tennessee?

A Yes sir.

Q As a matter of fac, didn't you sleep in that jungle that night?

A No sir, I did not.

Q Do you know where the Central of Georgia Railroad tracks there in Chattanooga, where they meet the tracks of the Southern?

A Yes sir.

Q Was that the place you met a man named Lester Carter the day before you started for Huntsville?

A Yes sir, across the track.

Q Was that about six or seven o'clock in the even-

ing?

A It was good dusk, getting dusk, it might have been that late or later.

Q You had never seen Lester Carter before that?

A No sir.

Q You asked him for a match?

A No sir.

Q You were walking along the track and he was coming along, and you asked him for a match?

A I was standing across the track, and he came along and asked me for a match.

Q Did you strike up an acquaintance with him at that particular place?

A When he got across the track, I did.

Q Tell us how you happened up on him?

A He walked up and started talking to me.

Q That is, Lester Carter?

A Yes sir.

Q Was there with Lester Carter at that time?

A Yes sir.

Q Who?

A Two girls come across 'long side of him; they were supposed to be with him.

Q What were the girls' names?

A Victoria Price and Ruby Bates.

Q That was the night before you started back from Chattanooga towards Huntsville?

A It was the night before the trouble happened on

that train.

Q You saw Victoria Price and Ruby Bates and Lester Carter in the freight yards at Chattanooga, did you go somewhere with them?

A No sir.

Q Did you go to the Hobos' jungle with them?

MR. KNIGHT: That is objected to. Sustained.

MR. LEIBOWITZ: Will you let me tell your honor what I would like to prove by the witness by this question.

COURT: I adhere to my ruling, I ~~can~~ can imagine what you want to prove.

MR. LEIBOWITZ: We reserve an exception.

Q After you saw Ruby Bates, Victoria Price and Lester Carter the night before in the railroad yards, when was the next time you saw them?

A The next morning about 8:30.

Q Did you see them at all after that until the next morning:

A They were crossing the track when I saw them.

Q (By the court) You have already told about meeting them at that crossing?

A Yes sir.

Q (By the court) When did you next see them?

A That's what I was fixing to tell you. They were pretty hungry; they had just got in, and I went down to a



restaurant and for some sandwiches and coffee.

Q For whom?

A The girls.

Q And for Lester Carter?

A Him and I eat a sandwich and drunk some coffee.

Q Was that restaurant up on Rossville Boulevard?

A I can't say about that.

Q When you left the restaurant you carried some food?

A I carried some sandwiches and a bottle of coffee for them; that wasn't in the jungle.

Q When you went off did you and Lester Carter both go, and carry that food back to the girls?

A We did.

Q Did Lester Carter go with you?

A Yes sir. I give them the sandwiches and coffee and then I went to town.

Q Do you remember what name the girls called him when they talked to Lester Carter?

A I didn't hear them call him anything. I didn't hear him addressed. When we met he asked me what my name was, and said that his name was Lester Carter.

Q Where did you leave the girls waiting for you when you went off to get the food?

A Across the track where I first met them.

Q Lester Carter came up with the girls, and you

went and brought back food?

A Yes sir.

Q Did you talk some there?

A I gave them the sandwiches and left for town.

Q You left Lester Carter with them?

A I left them standing there.

Q With the girls?

A Yes sir.

Q Did you stay in town that night?

A I slept in a box car. I come back to the railroad and found a box car and slept in that.

Q Were you gone for some time, when you went to town, were you away for some time?

A No sir, not so long.

Q After you went to town and after you left Lester Carter with the two girls -

COURT: I think you have gone far enough on that. Let's stop there, - take an exception and go on with something else.

MR. LEIBOWITZ: Have Ramsey come out.

COURT: What do you want him for?

MR. LEIBOWITZ: I want Ramsey brought out for the purpose of identification.

COURT: Anything else?

MR. LEIBOWITZ: No sir.

COURT: You may have Ramsey brought out.

(Colored man comes into the court room).

Q Look at this man, Gilley (Witness looks at colored man) now, the next question is this, did you see that colored man in the jungles of Chattanooga during the night or early morning, before you left from Chattanooga to come back to Huntsville, while you were in company with Ruby Bates, there in the jungle, sitting there side by side?

MR. KNIGHT: We object to that.

COURT: Sustained. That is not evidence. I have ruled on that at least half a dozen times.

MR. KNIGHT: I think that the should here be instructed that the manner in which the defendant's counsel puts the question to the witness is no evidence whatsoever in this case.

COURT: They can be the judges of the manner.

MR. KNIGHT: He keeps repeating questions that the court has ruled as illegal questions.

COURT: I think the repeating of them was improper. (To Mr. Leibowitz) You have your point presented, and your keep on ~~repeating~~ asking the questions does not add anything to it, as a matter of law; that is what you are trying to do, raise and present a law point and I think you have done that enough.

Q What time did you get up in the morning, you say you slept in a box car?

A I judge about seven thirty.

Q What did you do from that time on?

A I went out and bummed a house to get my breakfast, a private house.

Q Without paying?

A Yes sir, I was out of funds at that time. I spent my money getting the girls something to eat the night before.

Q Did you recite poetry for the lady that gave you your breakfast?

COURT: No, No, stop that. I don't like poetry anyhow.

Q Do you know what a grand jury is?

COURT: I guess most people do. Don't waste time on things like that.

MR. LEIBOWITZ: Exception.

Q Do you remember testifying before the grand jury in this case?

A Yes sir, at Scottsboro.

Q Do you remember what you told the grand-jury?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: We except.

Q Did you testify before that grand jury that there was no raping of any girl in that car, did you testify that before the grand jury?



MR. KNIGHT: We object to that. Overruled.

Q (By the court) Did you tell the grand jury there wasn't any raping in that car in this case?

A No sir.

Q Did you testify in Patterson's case in Scottsboro?

A I don't know what case I testified in.

Q You didn't testify in the second case that was tried, did you?

A To tell you the truth, I don't know which case it was.

Q You didn't testify in the first case that was tried, did you?

A No sir.

Q Were you in court when any of these cases were tried at Scottsboro?

A I was in the witness room.

Q In the Scottsboro court?

A In the witness room, yes sir.

Q You were on speaking terms with these girls when you saw them again the following morning?

A The following morning?

COURT: He has gotten away from Scottsboro now and has gone back to Chattanooga, he is asking you about them when you saw them the next morning?

A Yes, sir was on speaking terms with them.

Q After you had something to eat in Chattanooga next morning where did you go?

COURT: I don't see the need of going any further into that.

MR. LEIBOWITZ: Exception.

Q Can you account for ~~xxxx~~ what you did between that time and the time you boarded the train that morning?

COURT: You have asked enough about that matter.

Q What time did you see the women the next morning?

A I suppose about 8:30.

Q Where were they when you saw them at 8:30?

A Down near the track.

Q In the swamps?

A No sir, up above the water tank.

Q Did you talk to them?

A Yes sir.

Q Was Lester Carter with them?

A He come up about the same time I did; I don't know whether he had been with them or not.

Q He was right there near the women when you saw them?

A Yes sir.

Q Did you see the direction from which Carter or the women came?

A I saw the direction Carter was coming from when I saw him; he was coming across the track, and they were on this side of the track.

Q That place is about two miles from the depot in

Chattanooga?

A Something around there. I don't know whether it was that far or not.

Q Do you remember a pole yard, there in that yard?

A No sir.

Q Telephone or telegraph poles?

A No sir, I do not.

Q Did you stay in company of these girls from 8:30 on, with Lester Carter?

A No sir.

Q Did you leave them again?

A Yes sir.

Q Where did you go?

A I walked up to some house there and got them some sandwiches.

Q Did you bring the sandwiches back to Carter and the girls?

A Yes sir.

Q Did they take the sandwiches?

A Yes sir.

Q What happened then?

A The train pulled out, and we boarded it, to get out of Chattanooga.

Q What time did the train pull out?

A I don't know; it was due out at 10:30, but it was late.

Q Did you spend two hours or two and a half hours in company with the two girls and Laster Carter?

A No sir, not all of it, but practically most of it.

Q When the train came along, did you intend to come to Huntsville?

A I was going to Memphis.

Q Carter going with you?

A No sir, they were going to Huntsville they said. He said that he was going to Huntsville, and that is what the two girls said.

Q Did you see any lady or woman come into the railroad yards with either of these two girls, named Callie Brochie?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q Did you meet any white boys that morning?

A There was some on the oil tank car.

Q Did you know these boys before they got on the train, did you know the boys at the time you saw them?

A I didn't see them in the railroad yards; they got on the oil tank after I did.

Q Did you know these boys?

A No sir.

Q They got on the same oil tank car with you?

A Yes sir.



Q When you, the two girls and Lester Carter got on?

A Yes sir.

Q You and Carter and the two girls were in one party?

A The two girls were on the end of the tank, I was on one side and Carter was on the other side.

Q The four of you were together?

A We were all around, kin'ly together, not exactly so.

Q Look over here please, and speak out so we can hear, the two girls were together right here (indicating on miniature train) together on this end of the oil tank car?

A One of the girls was about here (indicating), one of them about here (indicating), I was along here (indicating) and Lester Carter was about here (indicating).

Q You have testified that the girls were on the end of the car nearest the engine?

A Yes sir.

Q You were standing right close to them on the right hand side of the train?

A Yes sir.

Q And Carter was on the other, or left hand side of the train?

A Yes sir.

Q The other boys were where towards the end of the oil tank car?

A Colored boys and white boys were on the oil tank.

Q Towards the other end of it?

A I will show you. Some were on this side and some were on that side (indicating on miniature).

Q Were you talking to this girl, holding her so that she wouldn't fall?

A I was holding so that I wouldn't fall.

Q Were you holding Ruby or Victoria?

A No, I was holding to keep on the tank.

Q (Court) You say that you were holding on to keep from falling off?

A Yes sir.

Q While you were there did any negro boys come by on that car?

A Yes sir, one or two passed by us one time.

Q Was there some dispute there about some of the white boys stepping on the negro boy's hands?

A I don't know of any such.

Q Were there any other oil tank cars further down on the same train?

A No, I couldn't say about that.

Q No negroes on this particular tank car you were on?

A I saw one pass, he come by me.

Q Come by on the oil tank car?

A Yes sir.

Q He went down towards the end of the train?

A Yes sir, between Stevenson and Chattanooga.

Q When the train stopped at Stevenson, was there any trouble between the white boys and colored boys, before the train stopped at Stevenson?

A I don't now of any.

Q Do you know the Gladwell brothers?

A Yes sir, I knew them, that's the name they gave.

Q Was there a boy by the name of Coleman Freeman?

A Yes sir.

Q Then there was a boy named Ferguson?

A I don't remember one giving his name as that.

Q Was there one by the name of Gleason, John Gleason?

A Yes sir.

Q Of course in the hoboa jungle they have different names, did you know these boys by any other names than these?

A They gave a monicker; the Georgia Chicken; the Carolina Kid, - they gave these monickers, - that is what we call a monicker.

Q Was there one there called Carolina Slim?

A They called me that.

Q Isn't it a fact, Mr. Gilley, that in between Chattanooga and Stevenson, the train was going up grade, and slowing down, and at that time, some of the white boys got off and picked up some rocks along the road bed, and that they threw them at the car in which the negro boys were riding, several cars behind where the oil tank was?

A I didn't see anything to that effect, no sir.

Q What caused the trouble between the whites and the blacks?

A The first I knew of it was when this boy came in the gondola and said "All you white sons of bitches unload". That is the first I knew of it.

Q Before you got to Stevenson, there was no trouble between the white boys and the negroes?

A I didn't see any.

Q You say that these white boys were sitting on the oil tank car?

A They were on the oil tank car, yes sir.

Q Were there any other white boys on the train other than the boys on the oil tank car?

A I don't know of any one.

Q Was there any switching in the yards at Stevenson, did the train switch around any?

A I didn't notice any.

Q You got off, didn't you?

A I got off the oil tank and went up and got in the gondola.

Q Did you help the girls off?

A No sir.

Q You got off with them?

A I got off before they did, looking for an empty box car, but I didn't find one.

Q Did you state that it might be well to get into an empty box car?

A I was going to get into an empty box car myself.



Q Did you say anything to the girls about getting into an empty box car?

A No sir, I was going to Memphis, and was looking out for myself.

Q How long did you stop at Stevenson?

A I judge we were there about ~~five~~<sup>ten</sup> minutes.

Q Then the girls went to the gondola car after the ten minutes were up - did you and the young ladies go and get into the gondola car after the ten minutes were up, just before the train started?

A I went up and got in the gondola before the train started.

Q Did the girls get into the same gondola with you?

A They got into the gondola, - yes sir.

Q Six other white boys also got in the gondola?

A Yes sir.

Q You just sat there in a bunch?

A I kinder stretched out a little -

Q On your stomach, kinder; <sup>^</sup>I got as comfortable as I could.

Q Before that had you ever been in Victoria Price's home?

A No sir.

Q Have you been to her home since then?

A Yes sir.

Q How long ago?

A It was around about the 7th or 8th of August,

somewhere along there.

Q (By the court) This year, you mean?

A Yes sir, last August.

Q Had you corresponded with Victoria during your trips?

A No sir.

Q Had she written to you asking you to come to her house?

A No sir. If she did, I never received the mail.

Q You have no regular post office address?

A Except at home.

Q You were at home on rare occasions?

A I didn't go home many times in that period, no sir.

Q Had you been to see Mr. Knight before you went to see Victoria?

A Mr. Knight?

Q Just answer that "Yes" or "No", please?

A Mr. Knight came to see me.

Q Had Mr. Knight seen you before you went to see Victoria?

A Yes sir.

Q Have you ever talked with Mr. Knight before you went to Huntsville?

A It was at Huntsville that I talked with Mr. Knight.

Q You notified Mr. Knight that you were going to be in Huntsville in August of this year?

COURT: That's enough on that.

Q What brought you back to Huntsville?

A I came back to Huntsville to try and find out when this next trial was going to be.

Q You came back purposely to be a witness?

A Yes sir, I came back to be a witness.

Q Came from the State of California, didn't you?

A Yes sir.

Q Did you come back in company with somebody?

A There were people on the freights that I rode; I don't know exactly whether you would call that some one.

Q Was anybody connected with Mr. Knight's office on those freights?

A If there was, I didn't find it out.

Q Had you received any message from Mr. Knight, in California, to come back?

A No sir.

Q You came back alone?

A Yes sir.

Q Are you acquainted with that gentleman sitting next to Mr. Knight, Mr. McClung?

A I have been knowing him - yesterday was Monday wasn't it - since a week ago today.

Q That is the first time you ever met him?

A Yes sir, the first time I ever met him.

Q You have a suit, an entire suit, is that the suit the state bought for you?

A The state hasn't bought any.

Q You got the money from them?

A No sir.

Q Did you get any money from Mr. Knight?

A Mr. Knight gave me \$3.00 with which I bought these slippers; these shoes I have on. That's all he gave me.

Q How about Mr. Lawson?

A Mr. Lawson gave me 15¢ once to get something to eat.

Q They have been feeding you since that time?

A The state has been feeding me, but it hasn't given me any money.

Q Have you been sending home any money to your mother?

A Yes sir, Mr. Knight has sent a little to my mother; he has sent her a little while I am engaged in this case.

Q You just voluntarily agreed to act as a witness?

A (No answer).

Q Did you run across any of these other boys while you were traveling around?

A Yes, I ran across Carter.

Q Where?

A In San Francisco, Cal, I recognized him.

Q You could recognize him again couldn't you?



A I would try it. People could have their faces lifted and things like that.

Q People could have their faces lifted, - repeat that again please?

COURT: No, no; you repeated what he said and now you want him to repeat it.

Q Did you do any talking to these girls as the train started out of Chattanooga?

A No sir.

Q You knew that you were crossing the state line ~~into~~ from Tennessee?

A We came from Tennessee into Georgia, and from Georgia into Alabama.

Q You crossed two state lines?

A Yes sir.

Q Was there any particular reason why you didn't talk to these women while you were on this car?

A Nothing in particular.

Q It wasn't because you didn't want to get caught with them crossing two state lines, violating the Mann Act?

A I don't know; they was on the tank. I couldn't keep anybody off the tank.

Q I am speaking of the gondola now, when you got to Stevenson, you got into a gondola, that these colored boys afterwards got on?

A Yes sir.

Q Are you sure that it wasn't in the fourth or fifth gondola, as you see on this miniature train, that this fighting took place?

A I am sure that it wasn't in either the fourth or third.

Q You see a string of gondolas there in that miniature train?

A Yes sir.

Q There were a string of gondolas' on that train?

A Yes sir.

Q Seven or eight?

A There was a string.

Q Will you swear that the fight between the black boys and the white boys, didn't occur in the middle of the string of gondolas, represented by this string on this train - isn't that where it happened? (Indicating somewhere about the middle of the gondolas on miniature)?

COURT: Young men, walk over there and put your hand on the gondola where you say the trouble occurred, where these colored boys got on, put your hand on the one over there that you say represents the gondola?

A I will the best I can remember.

COURT: That's all right, do that.

A I am not exactly sure which one of these it was in, but I am sure it was one or the other of these cars here. (Indicating two gondola cars next to box car nearest the en-

gine.)

Q Did you see Victoria Price use a snuff box?

A Did she have a snuff box?

Q Yes?

A I can't say that I did see her use a snuff box.

Q Did you see her use any snuff, chew any snuff?

COURT: "Dip" is the word you will have to use.

A No sir.

Q Did you see Victoria Price with snuff, or a snuff box?

A I got her a box of snuff when I went to get the sandwiches; I got her a box of snuff; she said she didn't have any.

Q Do you know whether or not Victoria Price lost her snuff box in the car where you say that she was ~~xxxx~~ between Stevenson and Paint Rock.

Q No sir, I don't know that.

Q Did you give the girl any money?

A No sir, I did not.

Q You didn't have any to give her, did you?

COURT: I reckon that's enough on that.

Q Did the girls tell you on your wayback from Chattancega that morning, that they were broke and had no money?

MR. KNIGHT: We object to that! Sustained.

MR. LEIBOWITZ: We except.

Q Outside of what you got for the girls by going to houses to get food, did the girls/~~xxx~~<sup>buy</sup> any food from that from Chattanooga to Paint Rock?

A Did they buy any food?

Q Yes? With any money that they had, if they had any?

A No, they did not.

Q How many blows in the face did you see Victoria Price get?

A I can't say.

Q She got some blows in the face, didn't she?

A I didn't see any hit her.

Q You didn't see anybody hit her?

A No sir.

Q Did you see Ruby Bates struck by any of the negroes?

A No sir, I didn't see any one hit her; I saw them throw them down in the gravel.

Q When they got off at Paint Rock, did you see the faces of Victoria and Ruby?

A At Paint Rock, slightly.

Q Did you ride with them in the same automobile?

A No sir.

Q Did you later see them at the Scottsboro jail?

A I did.



Q Do you know of your own knowledge why the locked up these girls in the Scottsboro jail?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q You were one of the boys that was in this scrag with these negro boys?

A I was one of the boys that was in the car when they came over.

Q Let me ask you this, isn't it a fact that you and Ruby Bates, Victoria Price and Lester Carter were in one of the front gondolas near the engine and that the fight actually took place between the white boys and the colored boys in a car next to the car in which you were, and while that was going on, you left the place where Ruby and Victoria were, - you and Carter left the gondola, and got into the gondola where the fighting was taking place and took part in the fight?

A No sir, that is not a fact.

Q And Isn't it a fact that while the fight was going on, you hung on the side of the gondola car, and the car was going very fast, and one of the negro boys pulled you back and saved your life?

A No sir, that is not true.

Q You say that you saw a lot of raping going on in that car?

A Yes sir, I saw them colored boys rape the girls.

Q Did you leave that car at any time and go back to the caboose and give warning that two white women were being raped?

A No sir.

Q How many different stations did you pass on the way to Paint Rock?

A I can't say.

Q Several, five or six, wasn't there?

A I can't say.

Q Did you see the stations as you passed them?

A No sir.

Q You could see over the side of the car where you were standing?

A Yes sir, if I was standing.

Q Were you standing?

A I was sitting down at the end, and during the time I got up and got over to the other end.

Q Did you, at the time you were sitting in this gondola car, were you able to see over the side of this gondola car?

A No sir.

Q Was your head over the top of the side of the gondola car?

A It was just about even.

Q When you sat up, did you see any railroad stations along that road?

A When I sat up, going along there?

Q Yes?

A No sir.

Q What other end were you on, you said you went to the front end?

A I was on the rear end and went to the front end; I was in the end towards the engine and went up towards the caboose.

Q Was there anybody in the car adjoining the car that the fight was taking place in?

A In the joining car? The negroes come through that car.

Q After the fight was over, and while the raping was going on, was anybody in the joining car, next to the gondola you were on, in which you say the raping was being done?

A Not as I remember.

Q Was the joining car to the one where the raping was going on towards the caboose, another gondola?

A Joining car?

Q Maybe I didn't make myself plain, you said this was taking place in the first or second gondola nearest the engine, was anybody in the 3rd car, or the fourth car, or the fifth, or sixth, anybody that you could see when you got up and stood up?

A I didn't see anybody when I stood up.

Q Did you, at any time, Orville, leave that gondola for the purpose of going towards the caboose in order to

give notice to the conductor that two white women were being raped by a bunch of negroes?

A Did I leave the car?

Q Yes?

A No sir, I did not.

Q Did any negro, after you got back into the car, attempt to kill you or shoot you, or strike you?

A After I got back into the car?

Q Yes?

A I didn't leave the car.

Q Didn't you get off on the side of the car and hang over?

A Yes sir, kinder over the side. I didn't need any help to get back.

Q You never left that car?

A No sir, I never left the car.

Q Did you see one of the white boys run toward the engine, attempting to jump off the car?

A I didn't see him when he ran along.

Q Did you see any white boy get off that train at Paint Rock?

A Yes sir.

Q What was his name?

A Gleason.

Q Do you recall from what part of the train that Gleason got off at Paint Rock, was it near the engine?

A I didn't see him get off; I saw him after he got



off.

Q He did get off at Paint Rock?

A Yes sir.

Q When he left you did he go towards the caboose  
or engine?

A When he left the car I was in?

Q Yes.

A I didn't see him leave.

Q You do know that he was on the train?

A He was in the gondola, but I don't know when he  
left; I didn't personally see him leave.

Q Was Gleason a witness in the Scottsboro cases, or  
do you know?

A I don't know.

Q At any time while this raping was going on, did  
you ever make any attempt to notify any engineer, or any  
official of that train what was going on in this gondola  
car?

A No sir.

Q When Gleason left that gondola, while this trouble  
was going on, did Gleason have a chance to go either forward  
to the engineer or towards the caboose in order to give the  
alarm?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q Did Gleason go to Scottsboro with you?

A Yes sir.

Q And with the girls?

A Gleason and I and the negroes were in the same truck.

Q Do you remember when you got to the jail in Scottsboro that Victoria Price arrived there in an automobile?

A I don't know how she arrived; she and Ruby Bates was there; she was getting out of a car.

Q Did she motion for you to come to her?

A I don't remember.

Q Did you go and speak to her, and did she tell you to say that you were her brother?

A No sir.

Q What did she say to you?

A I don't remember if she said anything to me right then.

Q You don't remember one way or the other?

A She didn't tell me to say that I was her brother; I am sure of that.

Q How many shots were fired by this negro that had the gun?

A I didn't hear any shots fired.

Q You were on the very same car with Victoria Price?

A I was in the gondola, yes sir.

Q Did you see any negro hit Victoria Price on the head with any gun?

A No sir.

Q Did you see Victoria Price in the jail?

A Yes sir.

Q You saw her every day, you were in close contact with her; they were in the run around, and you were in the cage?

A Yes sir.

Q Did you talk to her about the case in the jail?

A No sir.

Q Did she tell you that if you didn't testify the way she wanted you to, that you would be locked up for vagrancy?

A No sir.

Q Or would be locked up for violating the Mann Act for crossing the state lines?

A No sir.

Q I want you to know if your story is, you were sitting there in the gondola car, with nine or twelve negroes raping two white women, if you want us to understand that these negroes let you remain on that car while this raping was going on, with you as a witness to this raping?

COURT: You needn't answer that question. That probably could be used as an argument when you argue the case to the jury.

Q You were friendly with Victoria in the jail wasn't you?

A Yes sir.

Q She washed some clothes for you?

A She did wash my shirt, yes sir.

Q Now, you have become friendly with her and want to help her out in the things she wants to do?

A What do you mean by that?

Q Don't you know what I mean?

A No sir.

Q Did you see Odell Gladwell talk to Victoria Price at the time she arrived at the Scottsboro jail, just as she was getting out of the car?

A I don't remember.

Q Did Victoria read some letters to you that she had received from a man in Chattanooga named "Red"?

A No sir, she did not.

Q Let me ask you this, and I will let you go, how many times have you gone over this story that you have told here on the witness stand today, with how many people have you talked about it?

A I have talked with Attorney General Knight.

Q With Victoria Price?

A No sir, I haven't talked with her about the case.

Q How many times were you to her house?

A Over in Huntsville?

Q Yessir?

A I have been there three times.

Q Just to visit her?

A Just for a few minutes at a time. I just stopped



by to see how she was getting along, and how her mother was getting along.

Q That is since this case was started in 1931?

A That was this past summer.

Q This summer, you have been there three times?

A Yes sir.

Q The last time was about two weeks ago, wasn't it?

A The last time was in August.

Q Wasn't you there about a week or ten days ago?

A No sir, I was not.

Q In the courthouse?

A I was in the courthouse, yes sir.

Q How long ago, about?

A Two weeks ago tomorrow I was in the court house in Huntsville.

Q Was Victoria Price there with Mr. Knight?

A No sir.

Q Victoria Price wasn't there at all?

A I didn't see her.

Q You lived in Huntsville at that time?

A No sir.

Q When Mr. Knight found you there?

A The time I seen Mr. Knight?

Q Yes?

A No sir.

Q How did you get to Huntsville?

A I came through Decatur to go to Huntsville.

Q Who told you to go to Huntsville?

A No sir, no one.

Q Did you meet Mr. Knight there by accident?

A No sir.

Q Met him by appointment in Huntsville?

A Yes sir.

Q At any time were you and Victoria Price together  
in the courthouse in Huntsville, - at any time?

A In the court house?

Q Yes?

A No sir.

Q Or anywhere else?

A Yes sir.

Q At Victoria Price's house?

A With Victoria and Mr. Knight at her house?

Q Yes?

A No sir.

Q At any other place?

A Yes sir.

Q In Huntsville?

A Yes sir, I was at a place in Huntsville.

Q Where?

A At Mr. Douglass Taylor's office.

Q With Victoria Price?

A She was there.

Q And saw Mr. Knight?

A Yes sir.

Q Anybody else, like Mr. Bailey, for instance?

MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: We reserve an exception.

Q When you get all finished with this business, how much do you expect to get out of it, how much?

A I don't expect one penny out of it.

Q You just expect to continue on reciting your story?

COURT: Stand aside. (Witness left the stand).

MR. KNIGHT: If the court <sup>this witness</sup> please, just came to state's counsel and stated -

MR. LEIBOWITZ: I object to what he stated.

COURT: If there is anything he wants to explain, all right.

MR. KNIGHT: That is what we understand that he wants to do.

THE COURT: All right. (Witness Gilley returns to stand)

RE\*DIRECT EXAMINATION

MR. KNIGHT:

Q In your statement, Mr. Gilley, relative to the location of the car where this fight occurred in, I don't know whether or not at the time, you had in mind, when you pointed out that car, which end this engine was on?

A At that time, I figured that it was on that end.  
(Indicating end away from engine).

MR. LEIBOWITZ: Are you going to permit this, Judge Callahan?

COURT: I have permitted it.

MR. LEIBOWITZ: I respectfully except, and I want the record to show -

COURT: The record will show.

MR. LEIBOWITZ: ~~JUDGE~~ Judge, I want the record to show that during the entire time this witness was on the stand, as he sat on the witness stand, the whole miniature train was in plain view. If you will permit the record to show that, I will appreciate it.

COURT: Let it show anything you want to.

Q Will you point out to the court and jury which cars you meant?

A I was thinking the engine was on this end (indicating); this train that we was on had on a caboose -

Q Just get down, please, and point out the cars where the fight was going on?

A It was these two, or rather one or the other of these two (Indicating two cars on string of gondolas nearest rear end of train). I was figuring that the engine was on this end of the train when I answered before. I was turned around as to the place where the engine was.



## RE-CROSS EXAMINATION

MR. LEIBOWITZ:

Q When you got off the stand did you speak to anybody?

A About this?

Q Yes, did you speak to anybody about it?

A Yes sir, I spoke to Mr. Knight and told him there was something I wanted to explain.

Q I asked you about the engine part and the caboose part, didn't I?

A Yes sir.

Q And you just thought about this as you walked out through the door?

A Yes sir, I thought of it before I walked through the door. I wasn't sure of it. I just wanted to explain it. I am not up on the law as you are. I wanted to know if I could have a chance to explain it; I wanted to find out.

Q Did you think that was important in this case when you were sitting on the witness stand?

A When I was on the witness stand?

Q Yes, <sup>you</sup> I thought it was important?

A Yes sir, I thought it was.

Q While you were on the stand you didn't correct it at all?

A I didn't know whether I would have a chance or not; that is what I wanted to find out.

Q When did you find out that you had made a mistake about the engine?

A A little after I got back from over there -

Q (By the court) You mean after you had pointed out some cars, while you were still being examined?

A Yes sir, a little while afterwards.

Q Which was it, in the first or second car?

A I wouldn't be positive about that. It is between those two cars there (indicating), I don't know which one, whether it was this one here (indicating) or this one here. (Indicating).

Q There was nobody between you and the engine at all, you could see that engine couldn't you?

A Yes sir.

Q Anybody could see - I mean you could see that engine when you made the first statement that it was the first or second car of that string nearest the engine?

A Yes sir, I could see it.  
That's all, you may stand aside.

MR. KNIGHT: The State of Alabama rests.

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R. S. TURNER, sworn for the defendant, testified as follows:

DIRECT EXAMINATION.

Q Your name is Mr. R. S. Turner?

A Yes sir.

Q Were you the conductor on this train that was stopped at Paint Rock on the 25th of March, 1931?

A Yes sir.

Q That train ran from Stevenson to Paint Rock?

A It ran from Chattanooga to Sheffield.

Q Have with you the official record, the official make up of that train when it left Stevenson?

A Yes sir.

Q For the benefit of the court and jury, tell the make up of that train, what cars, and tell us if what you see here of these cars and engine is a correct reproduction of that train?

A We had two box cars next to the engine, then this coal car -

Q That is a coal car there?

A Yes sir; then we had three box cars, then we picked up one at Stevenson, and four out of Stevenson -

Q You made a pick up with that train?

A We cut off other cars and come in and picked up one car, picked up a car of cement for Corinth.

Q Did you have some switching to do that day?

A Yes sir.

Q You had four box cars in here when you left Stevenson?

A Yes sir.

Q Then there were eight gondolas?

A Yes sir, chat cars.

Q Is that a fair representation of the chat cars?

A Yes sir, on down to the box car.

Q After the chat cars, did you have three box cars after that?

COURT: Is that a record that you make yourself that you are fixing to refresh yourself from?

WITNESS: Yes sir.

A I can tell you, that's right, three box cars, then a tank car, and then a flat car with lumber.

Q And of course a lot more cars behind that?

A Yes sir.

Q Tell us how many cars were behind that?

A 21 cars behind that, 22 with the caboose.

Q After the flat car of lumber, you had 22 cars including the caboose, and 21 without it?

A Yes sir.

Q Among these 21 cars were there any box cars?

A Yes sir, box cars and tank cars.

Q Any chat cars behind this lumber car?

A No sir, the chat cars was all up in front.

Q Any coal cars?

A No sir; tank cars and box cars; wasn't any coal cars at all.

Q Mr. Turner, can you tell us from your records which of these box cars were loaded, and which were unloaded, and this coal car next your engine?

A The box cars were loaded and the coal car was loaded with coal.

Q Were there any empties in that string?

A No, all that cars were all loaded either with merchandise or something else.



Q The doors were closed and sealed?

A Yes sir.

Q How about the box cars after the chat cars?

A After the chat cars, we had some empty box cars; here's an empty here, and then here's another one, a Rock Island way back here. They was the second and third cars from the caboose; there was just two empties back there.

Q Did you - do you remember that a crowd got off at Painy Rock?

A I heard somebody say what happened. I didn't see them get off.

Q Did you find on one of the string of cars, known as chat cars, eight of them in a string, did you find on one of this string of cars, a snuff box?

A Yes sir.

Q Which car was that in?

A It was in either the fourth or fifth of those chat cars. I found that snuff box as we was coming over the hill coming into Huntsville.

Q You mean it was the fourth or fifth car from the yellow box car you see there (indicating miniature train)?

A Yes sir.

Q That would be about the middle of these chat cars?

A Yes sir.

#### CROSS EXAMINATION

MR. KNIGHT:

Q Were all of these chat cars loaded, do you remember?

A Yes sir.

Q Loaded with chat?

A Yes sir.

Q Tell us what is chat?

A It is ground up rock.

Q How finely ground?

A Some of it is finer than others. Where they put it around platforms it is fine, and where they put it on the track it is now so fine.

Q Do you know what they were going to use the chat for that you were hauling?

A That I had that day was to go in the track.

Q In the gondola in which you found the snuff box, how much chat in that car?

A It wasn't so extra fine ground, not as fine as that they put around depots, some of it something like the little finger and some of it a little larger and some a little smaller.

Q Any great big lumps in there like your fist?

A No sir.

Q Do you remember what time your train left Chattanooga that day?

A It was about nine thirty or ten o'clock.

Q Do you remember what time you got to Stevenson?

A It was after twelve.

Q How long does it take to run from Stevenson to Paint Rock?

A About an hour and ten minutes.

Q Did you see these two girls on that train that day?

A No sir, I didn't know they was on there until we got to Paint Rock.

Q Did you find anything other than the snuff box?

A No sir, I never found anything but the snuff box.

Q I believe you testified you didn't see the girls at Paint Rock?

A Yes sir, I saw them on the south side of the train. I was on the north side. I got off to ask what was the matter.

Q Did you see them out under a tree?

A Yes sir, they was out under a tree. I met the sheriff at the depot and he told us not to move the train until he told us to.

Q You saw them out under a tree?

A Yes sir.

Q Just describe as near as you can or your recollection will permit, the condition of the girls when you saw them?

A Well, as I remember one of them was sitting down and the other one was lying down with her head in her lap.

REDIRECT EXAMINATION.

MR. LEIBOWITZ:

Q Mr. Turner, may I inquire, when you saw these girls at the chat car, at the side of the chat car, were they about the fourth or fifth car in the string of gon-

dolas?

A I didn't see them in the chat car at all?

Q At the side of the chat car?

A They was out under a tree when I saw them. I could see between these cars out under the tree, I didn't go there at all. The sheriff told us we could go and I gave the signal to leave.

Q May I ask what happened to the snuff box?

A I picked it up and looked at it, and then I threw it back down in the car; It didn't have anything in it. I opened it to see what was in it.

- - - - -

PERCY RICKS, sworn for the defendant, testified:

DIRECT EXAMINATION.)

MR. CHAMLEE:

Q Your name is Percy Ricks?

A Yes sir.

Q Where were you working in March, 1931?

A For the Southern Railway.

Q What position did you hold with the Southern Railway?

A Fireman.

Q Do you know Mr. Turner that was in here a few minutes ago?

A Yes sir.

Q Did you fire on the train on which he was the conductor?



A Yes sir.

Q You were on the train that day when this trouble was supposed to have happened?

A Yes sir.

Q When you left Chattanooga, tell us about the rate of speed you were making, whether or not you were running slow or fast?

A Well, the speed is limited to four miles an hour out of the yards, out of the yard limits, because of the Central of Georgia crossing; we stops there.

Q The Central of Georgia tracks intersect the Southern Railway Company's tracks in Chattanooga?

A Yes sir.

Q Is there a water tank there?

A Yes sir.

Q Do you know the place where it is called the hobos jungle?

A That's about the place.

Q Is there a pole yard there?

A Yes sir.

Q After you leave Chattanooga, towards Stevenson, tell us whether or not at any place this train runs slow?

A Well, it is slow until we get through the tunnel; it's just before we enter the tunnel that we begin to pick up a little speed.

Q Is that the tunnel, in Lookout Mountain?

A Yes sir.

Q This side of Chattanooga?

A Yes sir.

Q Coming on down to Paint Rock, were you operating the engine when you came into Paint Rock, were you operating the engine as fireman?

A I was firing.

Q Do you remember the train stopping at Paint Rock?

A Yes sir.

Q Where were you at that time, what part of the train?

A When the train stopped I was on top of the water tank.

Q That is the tender, down there?

A Yes sir.

Q Could you see down this train?

A Yes sir.

Q Could you see whether there was a row of gondolas down this train?

A Yes sir.

Q If you saw any women down there, where were they?

A About the center of these gondolas back there.

Q Did you see them get off on the ground?

A Yes sir.

Q What did they do when they first got on the ground?

A It seemed like they was excited, and started back towards the engine, and there was a posse of men coming around the engine meeting them, about that time another

crowd of people come up and they was surrounded.

Q Do you remember how they were dressed?

A They had on overalls - possibly one of them may have had on a dress. It seems to me like they had on overalls, but one of them may have had on a dress.

Q Do you remember where Mr. Turner found the snuff box, do you remember about that?

COURT: Did you see him find it?

WITNESS: No sir, I didn't see him.

COURT: He don't know anything about that.

Q When this grain stopped, did you see these colored boys that were arrested?

A Yes sir.

Q Where were they with reference to the rear of the gondola cars in the train?

A They were behind these gondolas; it seems that some were in a box car; I seen about two, as near as I can remember, get out of a box car where some men had guns, and some were around a tank car on that train.

Q I will ask you if that car (indicating) represents the tank car you had on the train?

A Yes sir, it looks like a tank, - it seems that a couple of men were on top, of the train; might have been that they were colored men on top of the train coming towards the engine; one of them got up that way; it seems that they were getting up about that coal car there; it seems they was going back down the cars towards where all these men was.

Q Where were the crowd of colored men arrested?

A They were behind these gondolas.

Q Do you know whether or not this train slowed up at any place between Stevenson and Paint Rock?

A Through Stevens gap is pretty slow, between Scottsboro and Paint Rock.

Q Were there many stations between Paint Rock and Stevenson, numerous stations, depots?

A Yes sir.

Q There were depot platforms at some of the places along this railroad?

A Yes sir.

Q Were people standing on the platforms to see the train pass close by?

A Yes sir.

Q Do you know whether or not between Scottsboro and Paint Rock, there are a number of houses fronting on this railroad, where people could see, - living up and down the railroad, could see the railroad below them?

A Yes sir, through Scottsboro there is some houses kinder on a fill there; there is a high grade there where they go through, along west of the depot there is houses along there.

CROSS EXAMINATION.

MR. KNIGHT:

Q Your name is Percy Rieks?

A Yes sir.



Q You were working at that time for the Southern Railroad?

A Yes sir.

Q How long have you been fireman?

A Fifteen years.

Q Percy, wasn't Mr. Edwards the engineer that day?

A Mr. Edwards, as near as I can come to my remembrance, I think Mr. Edwards the engineer on that day.

Q How long has Mr. Edwards been an engineer?

A He's an old engineer.

Q This water car here, this tender (indicating) does that resemble the tender on your engine?

A The tank is just behind the coal.

Q Was the engine you were firing constructed exactly like that?

A Not exactly like that. It is practically the same thing.

Q This back here (indicating) is considerably higher than this up here (indicating)

A No sir, it is about the same all the way back; they have a running board here that's a little above.

Q Where were you standing?

A I was standing on this running board.

Q On the water tank?

A Yes sir.

Q Did you go into the engine at any time between Stevenson and Paint Rock and sit down with the engineer,

Mr. Edwards?

A I was in the engine from Stevenson to Paint Rock?

Q All the way?

A Yes sir.

Q When did you first get out of the engine?

A Coming into Paint Rock?

A Yes sir.

Q How close to Paint Rock were you when you got out of the engine?

A Passing the depot at Paint Rock.

Q You got out of the engine then?

A Yes sir.

Q The train was still running then?

A Yes sir, it was coming to a stop, slowing down.

Q Was there any particular reason why you got out of the engine at that time?

A Yes sir, I went up on the top to pull down the spout.

Q Is it customary for you to go up there like that?

A Yes sir, so as to be there to pull down the spout the moment the engine comes to a stop.

Q How many cars were there on the train between you and the car back here (indicating) that you have said the boys were taken from?

A I never counted them.

Q Were these cars empty here (indicating)?

A Yes sir, there was some empties back there.

Q One of these three (indicating) were empty, were they?

A The empties these men were in seemed to be one or two cars between the coal cars, maybe a little further down, as near as I remember.

Q Do you call these coal cars?

A Gondolas. They were filled with chat.

Q Do you know what they were loaded with that day?

A Chat.

Q It was from this bunch of cars here (indicating) immediately next to the coal cars ~~ix~~ out of which you saw two of these boys come?

A Two got out of the box cars.

Q As a matter of fact don't you know that these cars were loaded, shut and the doors sealed?

A There was empties back there.

Q Was these the empties? (indicating)

A I am not sure from looking out over that train.

Q They wasn't getting out of the box cars that were loaded?

A No sir.

Q Did they get out of a box car before this tank car?

A It was somewhere back there near that tank car.

Q In front of the tank car or behind the tank car?

A It could have been in front, and it could have been behind. I am not sure which one it was; somewhere though

near that oil tank.

Q How many cars, as you remember, were behind this lumber car (indicating)?

A I don't remember that.

Q Was the empties pretty close to that or not?

A I don't remember.

Q Did you see all, of these colored men that were taken from this train come back from there?

A I don't know that I saw them all.

Q Where was this defendant at the time? (Haywood Patterson stands up).

A I don't remember.

Q Did he come out of a car up here (indicating) or from a car back here (indicating)?

A I don't remember where he got out. I wouldn't have known him if I had seen him.

Q Did you see any of them get out of the chert cars at all?

A I didn't see a man get off the chat cars. I saw a man come <sup>over</sup> ~~from~~ this car here (indicating), but it seems to me that it was a white man.

Q (By the court) Where was it that you saw this man come over this car for the first time?

A It was somewhere between that gondola, just before you get to this car (indicating).

Q You mean that green car?

A Yes sir.



Q On top of these box cars here (indicating) is what you told the Judge?

A Yes sir.

Q You can see down into these cars here (indicating gondolas) from the position in which you were standing?

A Yes sir.

Q There was nothing to interfere with your view of these chat cars, or these cars back here (indicating)?

A No sir.

Q You know Mr. Hill, the station agent at Paint Rock?

A No sir.

Q How often do you pass PaintnRoel?

A I pass there every day on my regular run.

Q You have passed there a number of years?

A Yes sir, I have done most of running by there.

Q And you don't know Mr. Hill?

A I just don't know Mr. Hill.

Q Was Mr. Hill with these girls down here along the chat cars?

A I don't know whether it was Mr. Hill. They were surrounded, I couldn't tell who it was.

Q The girls were surrounded by men?

A I saw the girls and some men; men on each side of the train.

Q The train runs pretty slow between Stevenson and Scottsboro, doesn't it?

A Between Paint Rock and Scottsboro, Stevens Gap

is about the slowest.

Q It slows down to about 10 or 15 miles an hour?

A Well around fifteen to twenty miles an hour; twenty miles with a train like we had, I judge around twenty miles.

Q You say that is the slowest it got down to between these two points?

A Yes sir.

Q Did it go slower than that at any other point that you know of?

A Yes sir, it is slower coming out of Chattanooga.

Q I mean on the run between Stevenson and Paint Rock?

A Yes sir, we have a slow order of four miles an hour at Coal Creek Bridge this side of Stevenson; after leaving Stevenson we have a slow order of four miles an hour.

Q Have you ever served as a brakeman on a train?

A I have done brakeman duty, I have never been employed as a brakeman.

Q You have had experience getting off and on trains, box cars and gondolas while the train was running?

A Yes sir.

Q I will ask you then, if it would be possible for a person, in your opinion, based upon your experience in getting on and off a train, if a person could get off of one end of a car, get down beside the track, pick up a rock, or rocks, and catch the same car, with the train going

twenty miles an hour?

MR. LEIBOWITZ: We object to that. there is nothing in the evidence about anybody getting any rocks.

MR. KNIGHT: I withdraw the question.

Q Can you tell me how many colored boys you saw get off, or taken off the train back of the chat cars, tell me how many you saw taken off?

A I don't know exactly, it seems to be a pretty good bunch, seven or eight, possibly more.

Q Pretty sure of that are you?

A I am pretty sure of that; there was a pretty good bunch back there.

Q You were watching over and above the chat cars a pretty good while, wasn't you?

A Yes sir.

Q How many were taken off up here? (Indicating)

A Only one up there that I saw.

Q Was that the defendant?

A I wouldn't know.

Q Have you ever seen all of these defendants?

A No sir, I have never seen them all.

Q You saw one taken off a car above the chat car?

A Yes sir.

Q One white man?

A One colored man came up there.

Q In your judgment, seven or eight more were taken off the cars below the chat cars?

A Yes sir.

Q I will ask you this: when the train came to a stop at Paint Rock, was the train on a straight track then, or was part of it around a curve?

A Sir?

Q There is a curve about a quarter of a mile from the station at Paint Rock?

A Yes sir.

Q Was the train on a straight line from where you stood after the train stopped?

A It was.

Q No part of the train was around the curve?

A No sir, not when it came to a stop.

REDIRECT EXAMINATION.

Q Suppose a man is on this train and wants to stop the car, a brakeman, how would he stop it, do you know whether he could stop it?

A Yes sir, he could cut the air.

Q Where would he cut the air, where is the air located?

A There between the cars.

Q How would he cut it?

A Get down between the cars; there is a ladder that goes down between the cars, if he wanted to cut it, he could go down the ladder and cut it.



Q Suppose that a hobo was riding here (indicating) and wanted to stop the train, was there anything that he could do to stop the train, or notify the engineer that he wanted to stop the train, get word to the engineer?

A Nothing more than cut the air, or he could do it with the brakes.

Q You mean the train brakes?

A Yes sir, he can do it by using them.

Q Take the chat cars, is there a brake on each chat car?

A Yes sir, he can slow it up by these brakes, by getting them tight enough.

Q That would notify the engineer this way (indicating) and the conductor that way (indicating)?

A Sir?

Q If a man put on the brakes would that notify the engineer and conductor?

A If he cuts the air it would.

Q What about tightening the brakes?

A No sir, that wouldn't notify nobody any more than they would notice the train slowing down for some cause; it might show that there was trouble if the brakes was put on back in the train.

Q If a man was in one of these gondolas and wanted to go to the engine there is nothing to prevent him, is there?

A No sir, nothing to prevent him from going to

the engine from the caboose.

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HAYWOOD PATTERSON, sworn for the defendant, testified:

DIRECT EXAMINATION.

MR. LEIBOWITZ:

Q Patterson, how old are you?

A Twenty.

Q This is the third time you are on trial for your life in this very case?

A Yes sir.

Q Once at Scottsboro right after this trouble happened?

A Yes sir.

Q And you were tried before Judge Horton last Spring?

A Yes sir.

Q Now, you appear the third time on the ~~same~~ same charge?

A Yes sir.

Q You were about seventeen or eighteen when this happened?

A Eighteen.

Q Your home is in Chattanooga?

A Yes sir.

Q How far away from the railroad did you live in Chattanooga?

A I guess about two miles and a half.

Q Did you and some other boys come down to the rail-

road on the morning of March 25, 1931?

A Yes sir.

Q Boarded a freight train?

A Yes sir.

Q Who were the boys with you?

A Roy Wright.

Q How old was Roy at that time?

A Twelve or thirteen.

Q Just a young boy?

A Yes sir.

Q How old were the other boys that were with you?

A Eugene Williams, was the other one, he was thirteen, to my remembrance. I didn't have no other, except Andy Wright.

MR. LEIBOWITZ: I want to show the make up of this party. I don't think there is any real question about their ages; if not, I won't pursue the matter further.

MR. KNIGHT: One was supposed to be thirteen and the other fourteen.

Q Who was the fourth boy?

A Andy Wright.

Q How old was he at that time?

A I don't quite remember.

Q About?

A I think he was about eighteen.

Q When you got on the train at Chattanooga, just what occurred, if ~~you~~ you remember?

A Got on at Chattanooga, you mean?

Q Yes?

A I got on an oil car.

Q Was there several oil cars on the train?

A Yes sir, to my remembrance, as far as I know they was.

Q Who got on that oil car, just you four?

A Just we four.

Q Was that towards the caboose?

A Yes sir.

Q Towards the end of the train?

A Yes sir.

Q Do you remember how you sat on that oil car, just what your position was?

A Yes sir. Do you mind me gettin' up and showing.

Q No. Use this one as a sample simply for the purpose of showing the jury how you were on the car?

A That was an oil car; wasn't no lumber car.

Q You want to show how you were sitting on there?

A Yes sir, I and Eugene Williams was sitting on the oil tank~~car~~? -

Q On the one nearest the caboose?

A Yes sir. I was here (indicating), Eugene was here (indicating) and the Wright boy was sittin' there on this lumber -

Q Where was the other Wright boy?

A



A Roy Wright was right here (indicating).

Q The Wright boys were on the lumber car, and you and Eugene Williams were on the oil tank?

A Yes sir.

Q Do you remember coming through the tunnel coming out of Chattanooga?

A Yes sir.

Q That is through Lookout Mountain?

A Yes sir.

Q Did anything happen at all while you were leaving Chattanooga, coming through the tunnel?

A Yes sir, just as after we got through the tunnel the train was going pretty slow, wasn't going fast, and some white boys crossed the oil tank car there.

Q Were the white boys coming from the front of the train or the front towards the rear of the train?

A Coming from the front of the train.

Q How many white boys were crossing over that oil tank car?

A To my remembrance, I think there was three or four.

Q Were these three or four white boys, the same white boys that you later saw in the Scottsboro jail?

A Yes sir, I remember seeing three or four white boys passing over the cars and the oil tank car.

Q What happened when they crossed over the oil tank car?

A One of the boys stepped on my hand and liked to have knocked me off the train. I didn't say anything the first time, so the second time when he come by and liked to knock me off the train -

Q That doesn't tell us anything, tell us what he did?

A When he passed by he brushed up against me.

Q Stepped on any part of your body?

A He stepped on my hand the first time.

Q Did you say anything to him?

A No sir.

Q Then he came back, you say?

A Yes sir.

Q Passed by you again?

A Yes sir.

Q What happened the second time?

A He come brushing by me and like to push me off the car. I caught hold of the side of the car to keep from falling off.

Q Did you say anything to him the second time?

A Yes sir.

Q What did you say, - hold up your head and talk so these men can hear you?

A The next time I told him if he wanted by to let me know and I would let him by, and he spoke up and asked me what I was doing on the car, - and I told him the next time he wanted by to let me know and I would let him by,

and he seemed to get mad, and we cussed each other for a while, - want me to tell what we said?

Q Yes, what did he say to you?

A He called me black son of bitches, and nigger son of bitches and such as that.

Q What did you say?

A I cussed him back.

Q What did you say to him?

A I called him mother-fuckers, son of bitches, and everything.

Q Was that just one boy you had trouble with?

A All the boys spoke up.

Q Do you know who that boy was, did you know his name, or later find out his name?

A Yes sir, I found out his name in Scottsboro, what they called his name.

Q Who was it?

A Lester Carter and the Gilley boy.

Q Were they the two boys that passed up and down the car?

A Yes sir, that was two of them.

Q One of those two you had trouble with?

A Yes sir.

Q You cursed each other out?

A Yes sir.

Q That was just after the train came out of the tunnel?

A Yes sir, the train was out of the tunnel.

Q What happened after that?

A The boys wasn't pleased over it; what we had said, and they went on further, and when the train slowed down they got rocks and chunked them back at we boys.

Q Got off the train towards the engine?

A Above the oil tank car.

Q How many got off the train?

A Two.

Q What made the train go slow, whenever they got off the cars to throw rocks?

A Sometimes when the train goes up a high grade it gets kinder slow, and the boys would get off.

Q Was it going slow enought so that a man could hop off and pick up rocks, throw the rocks, and then catch a car two or <sup>three</sup> cars down below?

A Yes sir.

Q A short distance behind where they would get off?

A Yes sir.

Q Would they catch the same car all the time?

A No sir, it was impossible for them to catch the same car; they would always catch it back two or three cars below where they got off.

Q Where were they throwing these rocks?

A Back there at us.

Q That made you all mad?

A Yes sir.

Q Then what happened, -the train got into Steven-

son?



A Yes sir.

Q Any more trouble personally, between you boys, after they threw the rocks?

A No sir. They was throwing the rocks. They never did come back, the just got off and got the rocks and got back on the car where they got off at the first beginning and then thowed the rocks back. They never did come back to our car.

Q Did you see any women on that train up to the time you got to Stevenson?

A No sir.

Q Had you noticed any women in the Chattanooga yards before you boarded the train?

A No sir.

Q What happened when you got to Stevenson between your four boys on the oil tank?

A We got off the train for a while and stood 'round until it started off, then we got back on.

Q The train stayed there a few minutes?

A Yes sir.

Q Then what happened?

A The train pulled out.

Q What car did you get on when the train left Stevenson?

A We got back on the same car we got off of.

Q The oil tank car?

A Yes sir.

Q What happened after that?

A When the train started them boys begun throwing more rocks.

Q Did the train slow up to about four miles an hour when it left Stevenson?

A I don't know how many miles it was making.

Q Just crawling along?

A Yes sir.

Q There was some creek there where they were repairing a bridge, wasn't there?

A Yes sir.

Q Was it around that place where the white boys got off again and threw rocks?

A Yes sir.

Q Tell us and His Honor, Judge Callahan, what happened after that, tell us what happened, - you will have to speak slowly and loud enough for these men to hear?

A After the boys got off and started throwing rocks some more colored boys come back over the top of the train.

Q Did they have the same complaint about some white boys throwing rocks at them?

A Yes sir, and we all decided that we would go up there and settle with these white boys.

Q What do you mean?

A We went up there to fight it out with the white boys.

Q How many boys were there in the crowd on and around that tank car when you all decided to go up and have it out with the white boys?

A I didn't count the boys, but there was at least ten or twelve, or thirteen.

Q Did you know any of these boys other than the Wright brothers and Eugene Williams?

A I knowed only the Wright brothers, and Eugene Williams.

Q These others were strangers to you?

A Yes sir.

Q When you decided to go over and fight it out what happened?

A All of us boys got together and got on top of the train and we went to, I think it was the third or fourth gondola where the boys was in.

Q Who was the first one, if you remember, that left the oil tank car that went over to the third or fourth gondola?

A I don't remember who was first.

Q Are you one of the men that went over the top of the box car?

A Yes sir.

Q Who went with you?

A All of us boys went along; there was two of them boys in ahead.

Q Two boys ahead of you?

A Yes sir.

Q You followed along?

A Yes sir.

Q The other colored boys were behind you?

A Yes sir.

Q You were all walking along on top of these cars until you got to the first gondola?

A Yes sir.

Q Was there a soul in the first gondola other than possibly the two colored boys that were ahead of you?

A I didn't see any thing but this chet; we all jumped over.

Q Was there any white person in that first gondola?

A I didn't see no person in there.

Q Where did you go after you got to the first gondola?

A We all crawled over the other cars.

Q And got on the second gondola?

A Yes sir.

Q Then from the second to the third?

A Yes sir.

Q When you were in the gondola cars could you see any of the white boys?

A Yes sir.

Q Where were these boys, what gondola car were they in?

A They was in the fourth car.

Q From where?



A From the box car.

Q That is, the box car towards the caboose?

A Yes sir.

Q That would be this car here (indicating on miniature train)?

A Yes sir.

Q How many white boys did you see in that chat car when you went over to fight with them?

A About five.

Q That is all when the fight first started?

A Yes sir.

Q Well, you were in this fourth gondola car when you started to fight with these five white boys, did you see any white boys come from any other part of the train?

A Yes sir.

Q Where from?

A They come from up that way.

Q From the next car?

A Yes sir.

Q The next chat car?

A Yes sir.

Q How many white boys come from that car?

A Couple of boys.

Q Who were those two boys that came into that chat car from the car that joined it?

A I didn't know them at the time. I know them now by seeing their name in the paper.

Q Who were they?

A That Gilley boy.

Q Was that him on the stand this afternoon?

A Yes sir.

Q He was one of the two boys?

A Yes sir.

Q Who was the second boy?

A That Carter fellow.

Q Did you look into the car next to where the fight was going on to see who else was in that car?

A No sir, I didn't pay any attention.

Q Did you pay any attention to see whether or not there were two women in that car?

A No sir, I didn't see any women in there.

Q There was some scuffling and scrimmage between the white boys and the colored boys?

A Yes sir.

Q Tell us about that, what happened between the white boys and the colored boys while the fight was going on?

A After they get through passing out some rocks, one had a piece of iron in his hand.

Q Who had the iron?

A I don't remember.

Q One of the white boys?

A Yes sir.

Q Then there was a general fray for a bit?

A Yes sir.

Q Do you remember any of the white boys being put off the train?

A Some of them jumped off themselves; I didn't see any one put them off.

Q Didn't see anybody strike anybody and put them off?

A No sir.

Q Did you have a gun in your hand?

A No sir.

Q Did you have a pistol or weapon of any kind?

A No sir.

Q At any time while you were on that train?

A No sir.

Q While the fight was going on what happened to the two other boys that came on the car?

A If I ain't mistake, all the boys got off the car 'scusin one boy, and he was in the car and some of these colored boys was tryin' to put him off. The train was pickin' up speed and I goes down there and tells them boys not to throw ~~through~~ this boy off because the train was going too fast.

Q That was Orville Gilley?

A Yes sir.

Q That boy that was on the stand this afternoon?

A Yes sir.

Q What did you do with that boy hanging over there with his life in danger?

A Me and the Wright boy we got there and helped to

pull him back on the car.

Q You pulled him up into the car?

A Yes sir.

Q Into the car where you all had been fighting?

A Yes sir.

Q What happened to the Carter boy, did he get off the train?

A Yes sir.

Q Was there another white boy besides Gilley that went over the train?

A Yes sir, I remember one runnin' up towards the engine.

Q Was that the Gladwell boy you later found at Paint Rock?

A Yes sir.

Q That one of the white boys that was later in jail at Scottsboro?

A I didn't know him, I seen all the boys.

Q Was he among these boys that you saw in Scottsboro?

A I would know him if I was to see him, I didn't know him by name.

Q After the boy was pulled up into the car, with the help of the Wright boy, what happened after that?

A We boys pulled him back up in there. The fight was all over then, and we went back to where we come from.

Q You and who else?



A The boys that was with me, us four.

Q Eugene Williams and the Wright boys went back to where you came from?

A Yes sir, the oil tank car.

Q What did you do when you got back to the oil tank car?

A Taken our seats.

Q The very same way you were riding before?

A Yes sir.

Q Did you rape any woman on that train?

A I haven't seen any woman. I seen some women at Paint Rock.

Q Did you see any woman at all up until the time you got to Paint Rock?

A No sir.

Q Have anything to do with any woman in any way?

A No sir.

Q Up to the moment you arrived at Paint Rock when you left the train?

A I never saw no woman until I was in Paint Rock.

Q Were you on that same car you had been riding on when you got to Paint Rock?

A Yes sir.

Q Were the same three boys still on that car, or about that car, when you got to Paint Rock?

A Yes sir.

Q What happened to the other colored boys, where

did they go?

A Some of them come back by us. I don't know where the rest of them went.

Q Did you pay any attention to any of the others?

A No sir, I didn't.

Q Who left that car where the fight was first, did your party leave first, or did some of the others leave first?

A We got back there before the rest of the boys did.

Q Were you the first or last to leave that car where the fight was?

A I don't remember.

Q Who took you off of this oil tank car at Paint Rock?

A I don't know; there was lots of people there.

Q With guns and revolvers?

A Shot guns, revolvers and pistols.

Q The four of you were taken off together?

A Yes sir.

Q The very party that started out together from Chattanooga?

A Yes sir.

Q You stayed together until you were taken off at Paint Rock?

A Yes sir.

Q What happened after you were taken off the train

at Paint Rock?

A They lined we boys up and leaded us up the road by the houses; I wasn't paying much attention; I'm tealing you the best I know how; after they got us up there, one of the boys asked them what they had us for, and one of them said for fighting; they taken us up there and taken our names; they taken we boys up there, marched us up a little road, through a road there; I didn't see any street, but there was some stores there; we boys stood up there near the road until some of them white fellows bought some rope from the store there and taken we boys and bound our hands together, and then put us on a truck and taken us to Scottsboro and put us in jail.

Q What kind of clothes did you have on?

A I had on a pair of brown trousers.

Q Was it a type of brown trousers that white would show against?

A Yes sir.

Q A white spot would show against them?

A Yes sir; it was a pair of brown trousers with white stripes.

Q Was there any signed on your trousers that were white that would indicate semen on your clothing, were there any spots like that on your pants?

A No sir.

Q What kind of clothing were the other boys wearing?

A The Wright boy had on a pair of dark trousers.

Q Any white signs on his pants?

A No sir.

Q How about Eugene Williams?

A Eugene Williams had on a pair of overalls with a pair of pants under them.

Q Any white stains, yellowish white stains on him?

A I didn't see any. I didn't see any on any one's pants at all.

Q Did anybody say, "Here, look at these negroes; they are stained up with this stuff"?

MR. KNIGHT: We object to that. Sustained.

Q You were carried to Scottsboro and put in jail?

A Yes sir, we went in a truck.

Q Did some man go over your clothes?

A Yes sir, they searched us.

Q Did they take from your clothes a closed knife - what was in your clothes - to start with, when you were in jail, did anybody ask ~~you~~ you to remove your clothes to keep as evidence?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. LEIBOWITZ: Exception.

Q Was any of your clothing that you were on that freight train ever/ produced before any jury, if you know, as evidence?



MR. KNIGHT: We object to that. Sustained.

MR. LEIBOWITZ: Exception.

Q Did three men that were on that train, three colored men, get off that train before it reached Paint Rock?

A Yes sir, I saw some get off.

Q How many?

A I think there was two.

Q Possibly three?

A To the best of my remembrance I think it was two or three.

Q Where did these men get off?

A Between Stevenson and Scottsboro, or Paint Rock.

Q As you rode on that oil tank car, did you pass several stations on the road, at least five or six of them until you got to Paint Rock?

A Yes sir.

Q Were there people at these stations, these various stations, people hanging around the stations?

A I seen people at some of the stations.

Q Some you did and some you didn't?

A Yes sir.

Q Did you hear any outcry on any part of that train, especially any outcry from anybody that rape was being committed on that train?

A No sir, I would have got off if I had heard any thing like that.

Q Did anybody at any of the stations as you went along give any warning to anybody that there was something wrong on the train?

A No sir, not to my knowing.

Q That was in broad daylight, about one o'clock?

A Yes sir.

Q Around lunch time?

A Yes sir.

Q You passed houses along the road?

A Yes sir.

Q Plenty of them?

A Yes sir.

Q Which town has the most houses along the road, are you familiar with Scottsboro?

A ~~Yes~~ No sir.

Q You passed through Scottsboro?

A Yes sir, I passed through Scottsboro.

Q Did you see people working along the railroad there, on the farms and in the fields?

A Yes sir.

Q Did you see anybody with any arms, any people apparently connected with the railroad, standing on the platform of any of the stations between Stevenson and Paint Rock as this train passed by?

A I seen quite a few people at the station at Scottsboro.

Q Right at the station?

A Yes sir.

Q Did anybody in that station do anything, so far as you know, with reference to that train?

A No sir.

Q Call out for help, or say "stop" or anything of that kind?

A No sir.

Q Now, when a man stood up in that fourth car with the chat in it, stand up, if you please, and show us on your leg, about where the top of that car would strike, if you stood up in that chat that was in there, - where the top of the car would strike on you?

A I can't give 'count of all of them; the one we had the fight in come along here, below the knee (indicating). That was the one we was in. I don't know about the rest of them.

Q The fourth one had chat in it for a foot or foot and a half of the top of the car?

A Yes sir.

Q Your body, of course, would be visible to anybody along that railroad?

A Yes sir.

#### CROSS EXAMINATION

MR. KNIGHT:

Q Your name is Haywood Patterson?

A That's right.

Q You have got only one name, and that is Haywood?

A Yes sir.

Q On March 25th, 1931, you were on this train between Chattanooga and Paint Rock?

A Yes sir.

Q You were going to Memphis?

A Yes sir.

Q What were you going to Memphis for?

A I was going there to look for a job.

Q How long had you been out of work?

A I just been out of work; I didn't have no job.

Q Did you ever have a job?

A Yes sir.

Q Whereabouts did you work?

A I worked at grocery stores around there in Chattanooga.

Q How long had you been out of work when you got on this freight train?

A I had been out of work, I guess about a month; maybe more.

Q Who were you working for the last place you worked?

A Ab Deitch, he's a jew.

Q How long did you work for him?

A About a year, maybe more.

Q I believe that you testified that you, Andry Wright, Roy Wright and Eugene Williams left Chattanooga together?

A Yes sir.

Q You were all going to Memphis?



A Yes sir.

Q You were all looking for work?

A Yes sir. These smaller boys was just along.

Q They ever been on trips with you before?

A No sir, that was the first trip.

Q Had you ever been on a freight train before?

A I been on freight train once before.

Q Did you go with these boys?

A No sir.

Q Did you know Clarence Norris and Charley Weems?

A No sir.

Q You knew them when you got on this trip?

A I knew them when I was put in jail with them.

Q You know them now?

A Yes sir.

Q And have known them for two and a half years?

A Yes sir.

Q Where was Clarence Norris and Charley Weems?

A I didn't know them at that time.

Q Wasn't they in that fight?

A I don't think Robertson was in the fight, Willie Robertson.

Q What about Clarence Norris?

A I think I remember seein' Weems in the fight.

Q Did you see Olen Montgomery?

A No sir. Eugene Williams was with me.

Q He was one of the younger ones?

A Yes sir.

Q You say that you had trouble with some white boys back here on the oil tank?

A Yes sir.

Q You had some trouble with the white boys back there and they cursed you?

A Yes sir.

Q I understood you to say that you cursed them back?

A Yes sir.

Q Who else was doing any cursing there?

A Andy, he cursed too.

Q Was Charley Weems in that crowd at that time?

A No sir.

Q Clarence Norris?

A No sir.

Q Roy cuss too?

A No sir.

Q Did Eugene cuss too?

A Not to my knowin'.

Q You all stayed back there a good while, I believe you testified and the trouble started after you left Stevenson?

MR. LEIBOWITZ: That isn't his testimony.

COURT: He is on cross examination.

A No sir, the trouble didn't start after we left Stevenson. It started directly after we left Chattanooga.

Q That was an argument about stepping on your hand?

A Yes sir.

Q They went on up towards the front part of the train?

A Yes sir.

Q This train (indicating miniature train) is arranged about like the train was, according to your recollection, on the day this trouble took place on the gondola car?

A I don't know exactly, so far as I know it was just about the same.

Q How long had you been out of Stevenson when you all left the tank car and decided to go up into the gondola car?

A It wasn't so long.

Q About how long?

A I didn't have the time, I don't know. I judge it was a couple of miles.

The reason that you left this oil tank car and came up here was the fact that they began throwing rocks at you?

A Yes sir.

Q Where did they start throwing rocks at you?

A They started throwing rocks after we was come out of the tunnel.

Q That isn't near Paint Rock?

A No sir, that's between Chattanooga and Stevenson.

Q Is that the time they were getting off the car and picking up rocks?

A Yes sir, after we left Chattanooga, and after we left Stevenson.

Q Tell me how many times they got down off the car and picked up rocks between Chattanooga and Stevenson?

A I didn't count the number of times.

Q Did they get off several times?

A I would say they got off at least twice.

Q Didn't they get the studd in the car?

A No sir.

Q They got down off the train and got the rocks?

A Yes sir.

Q You say that it was on the fourth or fifth car that the fight took place?

A Where the fight started was in the fourth car.

Q That is where you joined the white boys, was in the fourth car?

A Yes sir.

Q Where had these white boys been throwing rocks at you from?

A They got down off the car and got the rocks - after they left Stevenson.

Q After they left Stevenson, they would get down and get rocks?

A Yes sir.

Q When they would get down and get rocks and throw



them at you, were you still on the oil tank car?

A Yes sir.

Q Did they do that more than once?

A Yes sir, they kept it up, continually.

Q How many times did you see them do that?

A I didn't count. I know they throwed quite a few.

Q (By the court) If you remember how many times they got off and got back on, tell it?

A I couldn't count the number of times.

Q Did they do it more than twice?

A Yes sir.

Q More than three times?

A I don't know about more than three times.

Q Where were they on the train when they got off the first time between Stevenson and Paint Rock?

A They was in the chat car.

Q About middleways, or where?

A They was in the fourth car.

Q How fast was that train going, according to your best judgment?

A From Stevenson - when we left out Stevenson it was running very slow, - not so fast.

Q When they got down and picked up rocks, would they catch the same car, the first car, the second or third car from where they got off?

A Sometimes they would catch the gondola right back of them, then the second or third.

Q Don't you know that if they got off that car two or three times between Stevenson and Paint Rock and caught the car next to it back down here, they would have been on the oil tank with you?

MR. LEIBOWITZ: We object to that because his testimony was that the train was proceeding at four miles an hour after it left Stevenson.

COURT: I overrule the objection.

Q Is that true, or not?

A Not true.

Q Did they ever get back as far as this car (indicating) throwing rocks at you?

A Yes sir.

Q Did they get on top of the box cars and throw rocks at you?

A No sir, they didn't get up on top, they would throw over the box cars.

Q Plum over the box cars?

A They threw the stones over the box cars.

Q Where were they standing when they threw stones over the box cars?

A They would get in that car and throw them over.

Q They got off more than once, you say?

A Yes sir, they would get off the 4th car, and catch the car back of it.

Q You don't know how fast you were going, did you say one time the train passed a piece of ground under

construction?

A I don't know whether it was under construction or not.

Q That time when you say it was just going four miles an hour?

A I said that it was going very slow; I don't know how fast it was going.

Q They got tired of the rock throwing?

A Yes sir.

Q You went through this car (indicating) didn't you?

A Yes sir.

Q Into that car (indicating)?

A Yes sir.

Q Into the next car, and on into the fourth car?

A Yes sir.

Q Then you had a fight with the white boys?

A Yes sir.

Q Was Orville Gilley in that car?

A No sir, he wasn't in that car then.

Q Was he in the next car with the girls?

A I don't know whether there was any girls in there.

Q You were in the fourth car?

A Yes sir.

Q When did you get to the fourth car, how far were you from Stevenson when you got to the fourth car?

A I don't know.

Q How far did you say a while ago that you were

from Stevenson?

A I was taking a guess, I said I thought it was about two miles from Stevenson.

Q How long did that fight last, did you have much trouble in getting these white boys off?

A To tell you the truth, we didn't have any trouble at all.

Q Then you turned right around and come back and sit down on that tank car?

A Yes sir.

Q How long were you on that car?

A Which car?

Q The oil car?

A Nearly all the time. We got off at Stevenson the first time, and went back there again when the train started.

Q You were back on the oil tank car?

A Yes sir, until the fight started, and then we got up and went up and engaged in the fight, and after the fight was over we went back to the oil tank car.

Q You went eight cars forward to engage in that fight?

A I didn't count the cars; I don't know how many there was, I don't remember.

Q And the fight really started about the rock throwing?

A The whole thing didn't start with the rock



throwing; they passed down that oil car and nearly knocked us off.

Q Did you see Mr. Rousseau here this morning?

A I don't know him.

Q He testified in the case, didn't he?

A I don't know.

Q You saw the witnesses that took the stand?

A I have seen all the witnesses, yes sir.

Q Did any one of the witnesses that went on the stand this morning, take you off this place back here (Indicating)?

A To tell you the truth I was all excited; I didn't know what it was all about. I knew I had been engaged in fighting; there was so many people all around there I was excited.

Q I will ask you, Haywood, if you, when you was tried at Scottsboro, didn't make the statement that you saw all of the negro boys who went into that gondola rape the women, but three?

A I don't remember making a statement like that. I remember making a statement. I don't know anything of it; I was threatened with death or being killed if I didn't confess; they threatened me if I didn't tell.

Q Where did they tell you that?

A There at Scottsboro.

Q Were you in court when they told you that?

A In court and over at the jail. Even the National

Guard said they was going to kill us. I didn't have any friends and didn't know any one.

Q Did they make these threats to you in the court room?

A Yes sir, one of the fellows there in the court room, he spoken up and said "Give ~~the~~ all the niggers the electric chair; there's too many niggers in the world".

Q What do you say about going in the court room and saying that?

A I didn't get up there and say that.

Q You say they told you to do, it?

A They threatened me and said I did it; said I raped these women.

Q All that in the presence of the judge?

A All in the presence of the judge and the whole courthouse there. I was sitting in a chair; sitting up in the chair.

Q Do you say that the Judge heard what you are telling?

A Yes sir, he oughtnto have heard it; we boys heard it.

Q I will ask you if you were taken to jail in Gadsden?

A Yes sir.

Q The National Guard took you there?

A Yes sir.

Q They took you to jail there, where you were

confined?

A Where, you mean at Gadsden?

Q Yes, you were confined there with the other ones?

A Yes sir, they separated some of us boys, put some of us together, and some in another place.

Q How long did you stay in there?

A I don't remember, I think about two weeks, if I am not mistaken.

Q You boys were taken off the train at Paint Rock, and afterwards were confined in jail at Gadsden?

A No sir, they put some of the boys in there with me; I was down on the second floor of the jail, and the rest of the boys was on the top floor, all but three of the boys that was with me.

Q Who were they, Haywood?

A Andy Wright was one, Ozie Powell and Willie Roberson, they was the three boys with me in Gadsden.

Q You had the National Guard with you at that time?

A No sir, they wasn't there at that time.

Q Did they ever come to see you in jail?

A They come and took us back to Scottsboro.

Q Do you remember the commander of the National Guard, Mr. Starnes?

A I remember a fellow around there, they called Major Starnes.

Q I will ask you, if at Gadsden, in the jail there,

in the presence of persons, with whom you were confined, whose names I do not have at the present time, that you did not participate in the raping, but that you saw three of the boys that they had there do it?

A I never said that, because I couldn't say it. I never seen any girls on the train. How could I say that when I didn't see any girls on the train.

Q You testified in Scottsboro in your own behalf didn't you?

MR. LEIBOWITZ: I am going to object to any testimony in Scottsboro under the ruling of the United States Supreme Court that the entire trial was null and void.

THE COURT: I overrule your objection.

MR. LEIBOWITZ: We reserve an exception.

Q You testified in your own behalf on the trial at Scottsboro, didn't you?

A You mean I got up on the stand like I am now?

Q Yes?

A Yes sir, I got up there.

Q That was the trial against you?

A Yes sir, that was my first time in court.

Q Do you remember being asked this question: "Where did you first see these girls?" - do you remember being asked that question?

A Yes sir.

Q And didn't you reply to that question as fol-



lows: "I seen them after the train left out of Stevenson"?

A No sir, I told them I seen the girls at Paint Rock.

Q I will ask you if this question wasn't asked you: "The train was just leaving Stevenson"?

A I don't remember that.

Q And didn't you answer that question "Yes sir"?

A No sir.

Q And wasn't this question asked you: "What kind of car were they in"?

A No sir, I don't know as I was asked that question.

Q And if, in reply to that question you didn't say "In a gondola car"?

A No sir.

Q Were you not asked this question: "Where were you when you first saw them"?

A No sir.

Q And if you did not reply: "I was on top of a box car"?

A No sir, I don't remember that. I don't remember saying that.

Q And were you not asked this question: "Did you go down into this gondola car where the girls were"?

A I don't remember any one asking me that.

Q And did you not in answer to that question say: "No sir, I did not go down in there"?

A I don't remember that.

Q Let me ask you another question, Haywood, when

you were taken to Scottsboro from Paint Rock, did they tie you all together?

A No sir, they joined some two by two; two together and then one by one is my remembrance. I know I was tied.

Q Did you go together, all of you go from Paint Rock at the same time?

A Yes sir.

Q All in a car together?

A I don't know -

Q I mean did you all get to Scottsboro?

A Yes sir, we got there together.

Q You were all there at the same time and you were searched?

A Yes sir, and they searched us there after we was taken off at Paint Rock, and searched at Scottsboro also.

Q Were you searched for a knife?

A I don't know what they searched me for. I didn't even have a cigarette.

Q Did you see them take a knife off of Clarence Norris?

MR. LEIBOWITZ: We object to that.

Q I will ask you, Haywood, if you were not asked this question at Scottsboro: "How many did you see down there"?

A I don't remember that question.

Q And did you not answer: "A lot of men down there,

there was about eleven men down there, about eleven or twelve down there."

A No sir. I remember telling the people I didn't know anything about this mess. I don't remember saying that. I told them where I lived, I told them where I worked at, and I remember telling them about my father. I remember saying them things.

Q Were you or not asked the question as to whether or not they were white or colored, and did you not answer that they were colored?

A No sir, I don't remember that.

Q Were you not asked this question: "They were all down in there but you, then, eleven of them?"

A I don't remember about that.

Q And did you not answer: "Twelve of them down in there".

A I don't know about that.

MR. LEIBOWITZ: I respectfully object to these questions on the grounds stated heretofore.

COURT: The objection is overruled.

MR. LEIBOWITZ: We reserve an exception.

Q I will ask you, if you were not asked this question: "And you made the thirteenth?"

A I don't remember.

Q And did you not answer: "Yes sir."

A I don't remember saying that. I can tell you some

of the things, what I remember saying over in Scottsboro.

Q Your attorney will let you dod that properly, - were you asked this question at Scottsboro: "And you stayed on top of the car"?

A I don't know nothing about that.

Q And in answer to that you said "Yes sir".?

A No sir.

Q Were you not asked this question: "Did you see all of those negroes ravish that girl"?

A I wasn't asked nothing like that.

Q And did you not answer that question this way: "I seen them all but three"?

A No sir, I don't remember that.

Q And were you not asked this question at Scottsboro: "Name the ones you saw ravish that girl, and let them stand up when you call their names"? - do you remember that?

A No sir, that is just a frame up.

Q And didn't you answer that this way: "I don't know none of their names; Weems for one", - did you say that?

A I don't remember saying that.

Q Were you not asked this question: "That is one you saw ravish her"? - and didn't you answer "Yes sir". - do you remember that?

A I don't remember saying anything like that.

Q Do you remember being asked this question, and making the answer that I will read: "Name another one", that is the question, and did you not answer: "That fellow



back there, I seen him down there, I did not see him ravish her, I seen him down there, I don't know what they were doing", was that your answer?

A I don't know nothin' about that.

Q Were you also asked this question: "All right, they were all in the car and you stayed on top of the car?"

A I didn't no sir -

Q The question propounded to you was this: All right, they were all in the car and you stayed on top of the car?"

A No sir, I never said that.

COURT: They are asking you whether or not what he is reading to you is what you say now, but they are asking whether or not that question was asked you up at Scottsboro, and whether you made the answer that he reads. They are not asking you if that is a fact; they are trying to find out whether you were asked that on the other trial.

WITNESS: It is not so, Judge, I don't know.

Q I will ask you if you didn't answer that question this way: "Three of us was sitting on top of the car"?

A No sir, I don't remember.

Q Were you asked this question: "Who was on top of the car with you"?

A No sir, I wasn't asked that.

Q And didn't you, in reply to that question say: "Roy Bright and Eugene Williams and Andy Wright"?

A No sir, I didn't.

Q Wasn't you asked this question: "You three stayed up there", and did you not reply to that question: "We four left Chattanooga together and we stayed together", - do you remember that?

A We left Chattanooga together and we was together all the time.

Q I will ask you this, isn't it a fact that somebody in that car had a pistol?

A Yes sir, I seen one boy in the crowd that had a pistol. I don't know the boy. I never seen him again. If I am not mistaken he got off the train.

Q What I want to know, Haywood, is which one of the boys he hit with that pistol?

A I don't remember that.

Q He hit one of the white boys with the pistol?

A He hit more than one.

Q One of the colored boys?

A Yes sir, one of the colored boys had a pistol.

Q Do you know what calibre it was?

A No sir, I can't name the gun.

MR. KNIGHT: I want to introduce in evidence the questions and answers made at the Scottsboro trial, as I have read them to the witness, from pages 50, 51 and 52 of the record of the trial

of Haywood Patterson at Scottsboro

MR. LEIBOWITZ: Is it admitted that the defense and the prosecuting attorney correctly read the questions and answers from the record of the Scottsboro trial, and that the official record of the Scottsboro trial is correct?

MR. KNIGHT: Yes sir.

MR. LEIBOWITZ: That the questions and answers read by Mr. Knight were from the official record of the trial at Scottsboro?

MR. KNIGHT: Yes sir.

MR. LEIBOWITZ: I shall want to introduce in evidence the parts of the record, of the official record, that I read to the witness, in accordance with our agreement.

MR. KNIGHT: All right.

Q You were confined in Kilby Prison sometime back?

A Yes sir.

Q In the same portion of the prison that Charley Weems and Clarence Norris were confined?

A No sir, not exactly; you mean in the same department?

Q Yes?

A We was in separate cells.

Q Was Burgess Cross(?) confined in these cells

too?

A I don't know, there was two or three white fellows.

Q They was directly across from you?

A Not directly.

MR. LEIBOWITZ: I think that is evidence that ought to be submitted to the court before the questions are asked the witness. The same thing was gone into on the other trial and excluded by the court.

COURT: I imagine that he is fixing to lay a predicate.

MR. KNIGHT: Yes sir.

COURT: Go ahead.

Q Burgess Cross wasn't confined somewhere in that same room, across from you, if not directly across?

A No sir, he wasn't directly across from me. He was kinder this way (indicating). The cell I was in opened this way (indicating), and his cell door opened that way. (Indicating).

Q You could see him at times?

A I never could see him over once or twice.

Q You could see him come to the door?

A Yes sir.

Q You could hear him too?

A No sir, I didn't hear him unless he talked very loud.

Q But you could hear him?



A If he talked out, yes sir.

Q You did hear him at some time?

A The fact about it, <sup>he</sup> I never did any talking to any one there; not to my knowing.

Q If he had talked in a reasonable tone of voice you could have heard him?

MR. LEIBOWITZ: We object to that.

COURT: I haven't got anything yet to tell whether that is a legal question.

Q How far were you away from Burgess Cross?

MR. LEIBOWITZ: We object to that; no time has been fixed; it was after the Scottsboro trial wasn't it?

Q It was after the Scottsboro trial?

A You mean when I was in Kilby Prison?

Q Yes.

A Yes sir, that's right.

Q I will ask you whether or not you made a statement to Charlie Weems there at that place -

MR. LEIBOWITZ: I object to it unless the time is fixed more definitely.

COURT: Can you do that?

MR. KNIGHT: I can't at present. I would like to recall him for further cross-examination.

(At this point, court recessed until 7:15 P. M.)

(After assembly at 7:15 the Attorney General announced that he was ready to lay predicate)

HAYWOOD PATTERSON, recalled for further cross-examination.

CROSS-EXAMINATION-Continued.

MR. KNIGHT:

Q I will ask you if you were not in jail in Scottsboro, Alabama, the morning after this offense is alleged to have been committed?

A Yes sir, I was in jail there the next morning.

Q I will ask you if, the next morning, a newspaper man by the name of W. H. Harris did not come up and talk to you, Roy Eright and others, who were taken off the train, in your presence there -

MR. LEIBOWITZ: We object to that.

COURT: Overruled for the present.

A I don't know whether any newspaper men came up there or not. I don't know.

Q They had you all in one cell at that time?

A One or two cells; they had us all together at that time.

Q Some of the National Guard were 'round and about?

A Yes sir, the National Guard got there between 2:30 and 4:00 o'clock, that morning.

Q That is the next morning after you were carried up there to jail?

A Yes sir, next morning after I was in jail. I spent the night there.

Q (By the court) You were put in jail one evening?  
i

A Yes sir.

Q (By the court) This was the next morning you speak of?

A Yes sir.

Q I will ask you, Haywood, if Major Starnes didn't come up there that morning?

MR. LEIBOWITZ: I object to that. He has already answered that he didn't know Major Starnes.  
No ruling.

A I didn't know Major Starnes; I didn't know him at that time. I have heard his name called there.

Q Was there one there called Capt. Whitehead?

A I don't remember.

Q I will ask you if then and there at that time Roy Wright didn't point out Charley Weems -

MR. LEIBOWITZ: We object to what Roy Wright did.

COURT: I am not going to allow this defendant to be bound by anything Roy Wright said. I imagine there will be something else. Of course what Roy Wright said would not be admissible against this defendant.

Q Did Roy Wright point out Weems at that time?

MR. LEIBOWITZ: We are objecting to that.

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COURT: Overruled.

MR. LEIBOWITZ: Exception.

A I don't know what you mean by that.

Q Did he point out Weems, in answer to a question asked by Mr. Harris, and in which question Mr. Harris inquired of Roy Wright, what the different persons who had been taken off that train, did, at that time?

MR. LEIBOWITZ: We object to that.

COURT: Overruled for the present.

A No sir.

MR. LEIBOWITZ: We move to strike out the answer?

COURT: Overruled.

MR. LEIBOWITZ: Exception.

A (Continued) - I can't tell you what was said when he came upthere -

COURT: You wait a minute and pay attention to his question.

Q At the time that you were there, and in your presence, at the time Major Starners of the National Guard was in the jail, at Scottsboro, the morning after the alleged offense, I am asking you if Mr. Harris, who you say you don't remember -

MR. LEIBOWITZ: We object to that as being an



involved question.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

Q Did any person at that time, threaten you, or hold out any hope of reward to you, or offer you any inducement to make a statement of any kind?

MR. LEIBOWITZ: We object to that on the ground that it is incompetent, irrelevant and immaterial.

COURT: I overrule the objection. I think that question would, of course, have to be answered in order for him to show any statement at all.

MR. LEIBOWITZ: Exception.

A Yes sir.

Q I will ask you if Mr. Harris, in your presence, didn't ask Roy Wright, in substance, what part each of you had to do with this alleged offense?

MR. LEIBOWITZ: We object to that. Sustained.

Q I will ask you if at that time, Roy Wright did not say, in your presence, and in the presence of these gentlemen that were there, that you -

MR. LEIBOWITZ: We object to that at the present time on the same grounds as the other question.

MR. KNIGHT: I hadn't finish finished the question.

COURT: Go ahead with the question.

Q That you had a gun?

MR. LEIBOWITZ: I object to that.

COURT: That objection is well taken. Mr. Knight you must show, or undertake to show that any confession that was made was voluntary.

MR. KNIGHT: I am not sure whether I have done that.

THE COURT: You have already brought out proof that he was threatened. Are you going to ask if he made certain statements?

MR. KNIGHT: I am laying a predicate to impeach him. I haven't sought to introduce any statements.

COURT: You can't show any confession or any thing of the kind until you put in some more evidence. Your question to the witness about its being voluntary was wholly unnecessary.

MR. LEIBOWITZ: May I, to preserve my rights, move for a declaration of a mistrial?

COURT: Yes sir, and I overrule it.

~~MR. LEIBOWITZ:~~  
KNIGHT: I shall at a later time put another witness on the stand, and will ask the privilege of recalling the defendant later for the purpose of laying the predicate.

MR. LEIBOWITZ: He recalled him this time to lay

a predicate.

COURT: I will allow him to do it.

MR. LEIBOWITZ: You mean at some later time?

COURT: Yes sir.

REDIRECT EXAMINATION

MR. LEIBOWITZ:

Q Do you remember seeing the younger Wright boy in the jail with some National Guardsmen about him, with bayonets fixed on their guns?

A The National Guards didn't come in the cell; they come in the run 'round.

Q Do you remember the National Guard doing any thing to Roy Wright with a bayonet?

A Yes sir.

Q Tell the court and jury what was done?

A They taken him out of sight, our of we boys sight.

Q The National Guards came to the cell where the boys were and took young Roy Wright on out?

A Yes sir.

Q When you saw Roy Wright taken out of the cell were there any cuts on his face?

A No sir.

COURT: That before the trial up there?

MR. LEIBOWITZ: Yes sir.

Q When he came back into the cell describe to the

jury what his appearance was?

A He had a hole in his jaw, a small sized hole.

Q A piece of flesh outout of his jaw?

A Yes sir.

Q Describe to the jury what kind of cut it was and whether or not you could tell from the cut what shape instrument it was that made that cut, that cut that piece of flesh out of his jaw?

A Yes sir.

Q Can you tell with reasonable certainty?

A Yes sir, a little place cut there on his jaw.

Q Was that mark on his face for a long time after that?

A A long time after it was put there?

Q Yes?

A It is still on there now.

Q I am going to ask you, Haywood Patterson, if that mark on the boys face is not almost identical with the point of a bayonet?

A Yes sir.

Q The jury can see that now if the boy comes into the jury room?

A Yes sir.

Q I think you placed Roy Wright's age at about 13 years old at that time?

A It was 12 or 13.

Q Let us get down to some of the testimony on the trial Mr. Knight was asking you about, - I am reading from



page 54, were you asked this question, and did you make this answer, - listen carefully now, this is the same trial that Attorney General Knight was asking you about, - by the way the only trial you testified in at Scottsboro was your own trial?

A Yes sir.

Q Here's the question: "Did you see any negroes on top of either one of those girls?" - answer: "No sir, I didn't, I come back on top and sit down with the other boys". did you testify that way?

A Yes sir.

Q In Scottsboro?

A Yes sir, the best I remember.

Q And was that the fact?

A Yes sir.

COURT: Is that the same questions that were asked?

Mr. LEIBOWITZ: Yes sir, the very same testimony and from the same record.

Q Now, on page 56:

"Q. And you saw those girls?

A. No sir, I didn't see no girls.

Q. Didn't you tell me while ago you saw them?

A. No sir, I didn't see any girls in there.

Q. You never did see any girls in there?

A. No sir, not till we got to Paint Rock.

COURT: Was that question asked you by the Attorney General a while ago?

WITNESS: No sir.

MR. LEIBOWITZ: I am reading from the same record.

COURT: No sir, you can't do anything like that. It is the same trial, but it wasn't offered in evidence, it was simply identified, and he has asked certain questions from that record. You can inquire about those questions, but you are not authorized to go through that record and pick out something else, what he said about something else.

MR. LEIBOWITZ: Your Honor has ruled, and I don't care to argue about it. I simply ask your Honor, am I not right in saying that the witness has a right to offer other things which may explain away, - for the benefit of the jury - other statements made simultaneously with other statements?

COURT: You have have been all right if the record had been offered in evidence. Then you would have been correct, but as it is, it is not offered in evidence; it was only identified to the court as the official record of the other trial, what the witnesses said. It was necessary for them to read that in order to lay a predi-

cate. You can't get away from that bow by dealing with something else that was said in there.

MR. LEIBOWITZ: Your Honor, I say this with respect, and I think I am right about it. I think I have a right to show, your Honor, that when a witness is alleged to have made a contradictory statement against his interest, I have a right to show that simultaneously therewith he made another and different statement to his interest.

COURT: If the Attorney General wants to waive it, all right, but if it is put to me to pass on -

MR. KNIGHT: I am not waiving anything.

COURT: I am ruling that out according to the accepted fundamental rules of law.

MR. LEIBOWITZ: Shall we have that identified, even if your Honor strikes out what I have read.

COURT: You stated the page and mark the record when you read it, and that identifies it.

MR. LEIBOWITZ: It is conceded that what I did read was read from the official record, and that I correctly read the testimony of the defendant.

MR. KNIGHT: Certainly.

MR. LEIBOWITZ: Your Honor, that's all I want to say about this. I just want to get my exception to the court's ruling.

COURT: Very well.

Q Now, I ask you without reading the record, did you not testify in the Scottsboro trial, during the course of the trial, that you had not, at any time, seen any girls in the gondola car?

A No sir.

Q And that you didn't see any girls in that car until you got to Paint Rock?

A I didn't see no girls in now car; I seen them at Paint Rock.

Q You dâdn't understand me, I asked you if you didn't testify at the Scottsboro trial, where you were on the witness stand, when you were asked about that, did you say that you didn't see any girls in the car, and you didn't know they were there until you reached Paint Rock?

A Yes sir.

Q That was your testimony there, wasn't it?

A Yes sir.

Q Were you in a state of fear when you testified in Scottsboro?

A Yes sir.

Q Did you have your own lawyer then?

MR. KNIGHT: We object to that.

COURT: That objection is well taken.

Q Haywood, I will let you go when I ask you one or two other questions, and I want you to pay attention to it, - if you were on this car where this so-called raping



was taking place, with eight or nine or ten other negroes,-  
you know what the punishment for rape is, don't you?

A Yes sir.

Q If you were on that railroad car raping two  
white girls, with eight or nine or ten other negro boys,  
would you have permitted for one minute, the presence of a  
white boy witness on that car all through the raping, or  
would you have thrown him off the car, kept him off the  
car the same as you did the other white boys?

MR. KNIGHT: We object to that.

COURT: I sustain the objection. It is palpably  
illegal and improper.

DOCTOR R. R. BRIDGES, sworn on behalf of defendants, testi-  
fied:

DIRECT EXAMINATION

MR. LEIBOWITZ:

Q You are a duly licensed physician in the State  
of Alabama?

A Yes sir.

Q You have been practicing your profession for a  
good many years?

A Yes sir.

Q How many?

A Since 1913.

Q You testified on each of the trials at Scotts-  
boro?

A Yes sir.

Q

Q They had four different trials in which different batches of the defendants were tried?

A Yes sir.

Q You took the stand and testified in each of the four cases?

A Yes sir.

Q Each time you were subpoenaed by the State?

A Yes sir.

MR. KNIGHT: We object to that.

COURT: Sustained, and the answer excluded from the jury.

MR. LEIBOWITZ: May I note my exception, judge?

COURT: Yes sir.

Q You also testified last Spring before Judge Horton?

A Yes sir.

Q As a witness for the state?

COURT: That is the same identical thing you have asked twice. You have the legal advantage of your objection.

Q Were you subpoenaed by the state in this case?

COURT: Now, that is improper. I have ruled on that, this is the third time. That's enough.

MR. LEIBOWITZ: I except to the court's ruling

Q You made an examination of the woman, Victoria

Price, did you not?

A Yes sir.

Q About what time in the afternoon or evening of March 25, 1931, did you make the examination?

A Late in the afternoon, something about four o'clock, or after four.

Q Where was the first place that you saw Victoria Price?

A I was called to the jail.

Q Is there a room for examining people in the jail?

A They have a sort of hospital room; it had a bed in it

Q Is there a doctor's table there?

A No.

Q When she came into that room did she have her clothes on, did you tell her to remove her clothes?

A I refused to examine her there. I didn't tell her to remove her clothes.

Q You did see her with her clothes on?

A Yes sir.

Q Am I right in saying that the clothes consisted of overalls, some dresses, some undergarments, stockings, shoes, and possibly a hat?

A I don't remember what she had on.

Q She was fully clothed?

A Yes sir.

Q Now, when you first looked at her, even if

you didn't examine her as a medical man, I mean with the thoroughness you would use in your office, did you see any blood on her face?

A No.

Q Was there any blood on her forehead?

A No/

Q Was there anything about her appearance, about the appearance of her nose, to show you as a medical man that her nose was swollen?

A I don't remember it.

Q Any cuts on her nose?

A I think not.

Q By abrasions, that means a scratching off of the skin, is that right?

A Yes.

Q Did you find any cuts on her cheek?

A No.

Q Any marks on her cheeks?

A No.

Q Any lumps on her cheeks?

A I don't remember any.

Q Did you see any blood coming from her mouth?

A No.

Q Were her lips puffed up or swollen?

A I don't remember it.

Q You don't remember her exact condition, do you?

A No.



Q Did you speak to her in the place where you saw her?

A I don't remember whether I did or not.

Q Did you leave directions to have her taken to a place where you could make a more thorough examination?

A Yes sir.

Q Where was that place?

A My office.

Q Was she carried over to your office?

A Yes sir.

Q Where, I suppose, every medical man has a doctor's table?

A Yes sir.

Q Was she brought to your office with her clothes on?

A Yes sir.

Q Did she remove her clothes in there?

A We removed her overalls and step-ins.

Q Do you remember that she wore three dresses, several dresses, anyhow?

A I don't remember; she had on some dresses.

Q After the dresses were removed, did you examine her body?

A Not at that time.

Q A little later?

A Yes sir.

Q Did you examine her body a little later after

that?

A Yes.

Q Was she naked?

A Yes.

Q Was there any blood on her back?

A No.

Q Was there any blood coming out of her vagina?

A No.

Q Any blood at all?

A No sir.

Q The pubis is the hair in and about the private

parts of a woman?

A Yes.

Q When you examined the hair about her private parts, was the hair dry?

A That's the way I remember it.

Q Now, doctor, you found some scratches on her wrist, did you not?

A Yes sir.

Q Slight scratches?

A Yes, small.

Q Am I right in saying, doctor, if I may, that scratches that were made by a person coming in contact with freight trains, and things like that, would be large scratches?

A I think these were smaller than scratches you would get that way. These were small.

Q (By Mr. Knight) You couldn't tell where the

scratches came from, would you?

A No.

Q Did you find some , one or two blue marks in and around the pelvis?

A There were some blue marks in the small of the back.

Q About here (indicating)?

A Yes sir.

Q They were small affairs wasn't they?

A Yes sir, small.

Q Little small knot?

A Yes sir.

Q You couldn't tell what those small blue marks came from except that the body had come in contact with some ~~unidentified~~ object?

A That is correct, I don't know.

Q Was there any other place that you found any blue marks, or something of that kind?

A I think there were some scratches on her arm, on the fore arm of the left arm. This blue mark was down on the small of the back. I don't remember any other one. This was done in 1931, and I am liable to forget.

---

Q Dr. Bridges, did you examine the vagina of this girl?

A I did.

Q Was there any seminal fluid in the vaginal canal, I am not speaking of the vagina?

A On the walls of the vaginal canal.

Q

Q In the canal?

A It was on the walls of the canal.

Q Did you take a smear of the seminal fluid of the vagina?

A Yes sir, we took a smear the walls of the vagina; that is we took a small stick, hardly as large as a match, nine to ten inches long and wrapped cotton around the end of it and took this smear.

Q Something like children have on a lolly-pop?

A Yes.

Q You wound cotton around that?

A That's right.

Q You pushed that stick up into the private part in the vagina, did you push it up around the cervix?

A We did later.

Q Did you wipe around the cervix and then pull the stick out?

A Yes.

Q The cervix is the mouth of the womb in a woman?

A What we call the neck of the womb.

Q The womb itself is pear shaped?

A Yes; it hangs into the vaginal canal, that is with the small end hanging into the canal, yes.

Q At which end of that pear are two tubes called the fallopian tubes?

A At the upper end of the pear.

Q That describes in a general way the genitalia



organs of a woman?

A Yes.

Q The mouth of the womb, the opening that goes into the uterus of a female, that isn't pregnant and that isn't menstrating, would you say that was about the size of a pencil tip?

A It varies. I can't put an average size on that.

Q You are not a gynecologist?

A No.

Q A gynecologist - a specialist, - deals with the diseases of women?

A Diseases of the genetile organ.

Q Womens' troubles?

A Yes.

Q What you pulled from the inside with the swab of cotton from the walls of the canal, you later smeared that on a glass slide?

A Yes.

Q Then you put that glass slide under a microscope?

A Yes.

Q So that what was under it would be so magnified that you could see what you couldn't see with the naked eye?

A Yes. There is one thing we ought to mention here, and that is, in making this smear, we inserted an instrument and spread the walls of the vagina, and used a

head light, and took this smear from near the cervix.

Q That is a little round disk with small hole in the center?

A Yes sir.

Q Used by ordinary doctors?

A Yes sir.

Q After you removed this swab of cotton that you told us about, you put that on a slide and looked at it through a microscope?

A Yes sir.

Q So you could see what was on that slide?

A Yes sir.

Q Permit me to ask you one or two questions to make this clear, the discharge from the male is called semen?

A Yes sir.

Q It is a yellowish thick liquid?

A Yes, it is a whitish, heavy cream colored liquid.

Q That is just the liquid in which the spermatozoa lives?

A The sperm is always in this liquid.

Q This spermatozoa looks like a little tad-pole?

A Yes sir, very much like a tadpole.

Q When this spermatozoa is alive, is potent, it swims around in this liquid by means of these little tails?

A That's right.

Q When you got this smear and put it under the microscope, did you see the spermatozoa?

A Lots of them.

Q One drop of semen may contain a hundred thousand of this spermatozoa?

A Yes sir.

Q A, I correct in saying that one discharge of a male may contain millions of this spermatozoa?

A From three to six millions.

Q When you looked at this this spermatozoa under the microscope, that which you took from the vagina of Victoria Price, you saw a lot of these little tadpoles under the microscope?

A Yes sir.

Q You said before, when they are alive, they move around?

A Yes sir.

Q The spermatozoa from Victoria Price, how were they?

A They were non-motile.

Q That means they were not moving, or dead?

A They were not moving, I can't say they were dead.

Q That generally means though that they are dead?

A That is the way we usually considered them.

CROSS EXAMINATION

BY MR. KNIGHT:

Q You did find semen?

A Yes sir.

Q On the walls of the vaginal canal?

A Yes sir.

Q The one swab that you made, would you say that you extracted all of the semen?

A No, we wasn't trying to. That was made, as I said by direct reflection; we looked through our head light. We took from the walls of the vagina this secretion and brought it out and put it on the slide, and then we took another one straight back to the cervix. That is where we collected it from.

MR. LEIBOWITZ: I am sorry to interrupt you, but I would like to ask this witness one more question.

MR. KNIGHT: Very well.

#### REDIRECT EXAMINATION

MR. LEIBOWITZ:

Q I left one point uncovered, after a woman has intercourse, unless she goes to a bath room and take an internal bath with a syringe, and wash out this discharge, would not this discharge of the male that remains, stick up against the walls of the vagina for a long time?

A Lots of it is taken up by the \_\_\_\_\_; that is the soft part, and a lot of it falls out, I don't mean that it falls out in a lump.

Q What I am trying to get at is this, so far as the walls of the vagina is concerned, they are crumpled, what



do you call that?

A Porus.

Q The stuff in there, that sticks in there, stays in there longer, for some time, does it not, unless swabbed out or washed out, isn't that a fact?

A Yes.

Q If a woman is not clean about herself, she may have had intercourse for a day or two days before that, and you would still find portions of semen still in there?

A I don't know how long that would be. I can't find any record on that.

Q It varies, of course, am I right in saying that it would stay there many hours?

A I would answer that, that I don't know.

Q A gynecologist would know?

A I don't know whether he would or not.

RE-CROSS EXAMINATION.

BY MR. KNIGHT:

Q You testified that there was semen in the vaginal canal of Victoria Price?

A Yes, we found semen there.

Q You testified also, that it was non-motile, which you said, you couldn't say it was dead?

A I couldn't say that it was dead.

Q What was the condition of the vagina, was it congested or not?

A It was not so awfully congested, but not normal.

She had had had an operation or miscarriage or something about five and a half months before that, she told us, and she had a laceration, and with this condition that left the interior part of the vagina more open than it would have been in a normal woman.

Q If the vagina of a woman is more open than the vagina of a normal woman, the semen is not retained as long is it?

A It would have a better chance to fall out.

Q What about the condition of the vagina of Ruby Bates with regard to the test for acid, - I mean Victoria Price?

A We didn't make that test for acid. This would be merely an opinion of mine.

Q What is your opinion of that?

A My opinion would be that her vagina was acid.

Q Does an acid vagina retain the semen as long as a vagina that is not acid?

A It retains the semen just as long, but the sperm wouldn't live as long.

Q The sperm would live in an acid vagina wouldn't it?

A We have different opinions about that. That was asked me the other time.

Q You don't claim to be an expert on that?

A No sir.

Q I will ask you this question, did you see any

semen -

A Yes sir.

Q (Continued) On Victoria Price anywhere else other than in the vaginal canal?

A I don't know hardly whether I can answer that question.

Q I will frame it this way, - did you see anything that looked like semen?

MR. LEIBOWITZ: We object to that.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

A There was a spot on the leg of Mrs. Price with coal dust or dirt over it, that was very heavy.

Q Was it dry or not dry?

A My testimony last time was that it was hardly dry.

Q Doctor, after your examination of Victoria Price, in your opinion she had had sexual intercourse?

A Yes sir.

REDIRECT EXAMINATION

MR. LEIBOWITZ:

Q You can't tell this court and jury when that taken place, can you?

A No sir.

Q It may have been the night before?

A I don't know how long it had been.

Q It may have been the night before?

A I can't put hours and minutes on it.

Q It might have been any time before?

A Yes.

Q I am going to ask you one or two other questions, and would like to have you pay attention, as you have before, when a person is excited and unstrung, a doctor has a definite way of telling that, hasn't he?

A We can sort of see that, yes sir.

Q If a woman, I am going to use the vernacular, is just shamming excitement, she isn't really excited, and she is just putting on a show, doctor, can you tell when she is shamming?

A Not always, I am not able to.

Q I am figuring as a general proposition, can you tell?

A No, we have them that will throw spells, and a history to connect it up, and we can't tell at all.

~~Q~~ Q I am asking you now, did you take the pulse of this girl?

A Nothing only when she went of the table I read her pulse, and it was normal.

Q When a ~~man~~ person, especially a woman is excited and under great nervous strain, you can detect that in the breathing, can you not?

A When they are very nervous the breathing is very fast, as a rule.

Q Did you take her respiration count?

A I think they were both normal, is the way I remember it.



Q That spot that the attorney general referred to somewhere on the leg, you didn't examine to determine whether or not that was spermatozoa?

A No.

Q You can't tell now whether it was?

A No, it was purely an opinion.

Q You can't tell definitely what it was?

A No, it was just an opinion.

Q It might have been some grease or oil that was picked up, from riding on that train?

A I don't know what it was.

Q Outside of the vagina itself, on the walls of the vagina, you found no other definite evidence of any semen whatever you did you, on any other parts of the body?

A I didn't see anything but that spot. I don't know what that spot was.

#### RECROSS EXAMINATION

MR. KNIGHT:

Q About what time in the afternoon did you make this examination?

A After four o'clock.

Q I will ask you this question, from your examination of Victoria Price, the vaginal canal, in your opinion was the intercourse recent?

MR. LEIBOWITZ: We object to that -

COURT: Overruled.

MR. LEIBOWITZ: On the ground that the doctor has

already testified that he didn't know how long it had been.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

A I would say that it was recent, but I wouldn't put the hours and minutes on it. I couldn't do that.

REDIRECT EXAMINATION

MR. LEIBOWITZ:

Q Would you say it was a day or two days?

A I am not going to put one hour, six hours or any other time.

Q Or 20 hours?

A No sir.

Q Let me ask you this question, how much semen is discharged by the average you male person in one act of intercourse?

A I think about one to two teaspoons full.

Q Six would discharge from six to twelve?

A That would be my idea.

Q The younger the person and the more healthy, the more they would discharge?

A I would think so.

RECROSS EXAMINATION

MR. KNIGHT:

Q If six negroes deposited with her from six to twelve teaspoonsfull of semen, that doesn't mean, does it doctor, that the vaginal ~~manak~~ canal would contain all of

the semen, does it?

A No, not if it followed just as fast as it could be, the intercourse.

WILLIE ROBERSON, sworn for defendant, testified:

DIRECT EXAMINATION.

Q Are you one of the boys that was arrested at Paint Rock?

A Yes sir.

Q Where do you hail from?

A Atlanta.

Q The State of Georgia?

A Yes sir.

Q How old were you in ~~1931~~ 1931?

A Seventten.

Q Did you board a freight train in Chattanooga on the 25th of March, 1931?

A Yes sir.

Q Were you suffering with some disease that day?

A Yes sir.

Q Tell us what that was, please?

A It was "Sif" and gonorrhoea.

Q Syphilis and gonorrhoea?

A Yes sir.

Q Did you leave Atlanta to go somewhere in connection with the trouble that you had?

A Yes sir.

Q Where was you bound for?

~~XXXXXXXXXX~~

A Memphis.

Q What place in Memphis?

A The clinic.

Q Did you have a bad case of gonorrhoea?

A Yes sir.

Q Describe to the jury the size of your testicle?

A There was three big sores on them.

Q Did you have terrific pains with whatever it was you had?

A Yes sir.

Q Was it difficult for you to walk and move about?

A Yes sir.

Q Your privates badly swollen?

A Yes sir.

Q Did you carry them in a suspensory at all - do you know what a suspensory is?

A No sir, I have a stick -

Q You had a stick to walk with?

A Yes sir.

MR. KNIGHT: I am wondering just the actual purpose of this testimony at the present time.

MR. LEIBOWITZ: Shall I state it.

MR. KNIGHT: If he was on trial there wouldn't be any doubt in my mind but that would be proper evidence. I don't recall that Victoria Price testified as to his having intercourse with her on this occasion.



MR. LEIBOWITZ: May I state that there is testimony that the nine negroes were taken off the train at Paint Rock.

MR. KNIGHT: Yes, but all nine of them are not shown to have had intercourse with Victoria Price.

MR. LEIBOWITZ: There is also some testimony that ~~HE~~ this same man engaged in hand to hand fighting, and that they jumped over into the gondola car.

MR. KNIGHT: The objection is withdrawn.

Q When you got on the train at Chattanooga, did you have that stick with you?

A Yes sir.

Q Did you have to walk with a stick in order to get around?

A Yes sir.

Q Roberson, this was a long train wasn't it?

A Yes sir.

Q Just tell his Honor and the gentlemen of the jury what car you got into or boarded on that train?

A I got on an oil tank car.

Q Was that towards the caboose?

A Yes sir.

Q Did you sit on that oil car with anybody?

A No sir, I stayed in the oil car until we got to Stevenson and when I got to Stevenson I got off the oil car and got in a box car.

Q Was that box car near where the <sup>caboose</sup> ~~was~~ was?

A Yes sir.

Q Roberson did you stay in that box car until the train got down to Paint Rock?

A Yes sir.

Q Were you taken off that box car by one of the deputy sheriffs, one man?

A No sir, a whole lot of them come there around me.

Q Where were you when they came and got you?

A I was laying down in the box car, up in the corner like.

Q Was there somebody there with you?

A There was a white fellow sitting in the door?

Q What happened between you and the white fellow?

A When the men come and took me off, they asked the white man if he wanted to get off, and he said "No", he just wanted them niggers off.

Q What happened to your stick?

A They throwed it away.

Q After they took your stick away where did you go?

A Marched up in front of a store.

Q Did you have pain in walking to the store?

A Yes sir.

Q Was the pain great, a real big pain?

A It wasn't hurtin' so awful bad.

COURT: Let's don't take up too much time on that.

Q Did you have anything to do with any white woman

on that car?

A No sir.

Q Did you see any white women on the train until you got to Paint Rock?

A I sure didn't.

Q Did you have anything to do with, or rape anybody on that train?

A No sir.

Q Did you jump off of any box car across into another car and engage in any fight, in the condition you were in?

A No sir.

Q Did you know the defendant on trial until you landed in jail in Scottsboro?

A No sir.

Q Did you know Andy Wright, Roy Wright or Eugene Williams?

A No sir.

Q Did you see a boy on that train that you later found out was Ozie Powell?

A No sir. I didn't know any one.

Q You have been in jail ever since you were arrested?

A Yes sir.

CROSS EXAMINATION.

Q You say that you live in Atlanta, Georgia?

A Yes sir.

Q You left home to go to Memphis, Tennessee?

10  
A Yes sir.

Q Where did you strike up with these boys?

MR. LEIBOWITZ: We object to the form of the question.

Q Where did you strike up with Haywood Patterson, Charley Weems and the Wright boys?

MR. LEIBOWITZ: We object to that.

COURT: Overruled.

Q I ain't struck up with them.

Q Didn't you see all of these boys that were taken off the train at Paint Rock before they were taken off?

A No sir.

Q You didn't see them on the train at all?

A No sir.

Q Did you see any colored boys on the train?

A No sir.

Q You didn't see any colored boys at all?

A No sir, I was in too bad a fix at the time; I wasn't paying no attention.

Q When you got on the train at Chattanooga, what car did you get on?

A An oil car.

Q Do you know whether it was the oil car right there (Indicating car on miniature train)?

A I knows it was an oil car; I don't know about



that there.

Q Do you know what a gondola car is?

A I have seen one, yes sir.

Q You saw some cars on that train that matched these eight cars here (Indicating gondola cars on minature)?

A I seen some cars on that train, yes sir.

Q That ~~xxxx~~ somewhat resembled these eight cars?

A Yes sir.

Q How far back of that were you?

A I was in the 7th car from the 'boose.

Q When you got down to Stevenson, you also got off that car?

A I got off the oil car at Stevenson.

Q When you went on up to change, didn't you see some colored boys get on the train, as well as some white boys?

A No sir.

Q You didn't see any hoboes at all on the train?

A I didn't pay that much attention. I was after gettin' on there before the ~~xx~~ train started.

Q You say that you got back into one of the empty box cars?

A I got in a box car, yes sir.

Q Do you know where the box car was that you got in? can you show it on that train (Indicating)

A No sir, I can't point it out on that train.

Q Did you get out until you got over to Paint Rock?

A No sir.

Q Don't you know that you went up into this chert car and engaged in a row in there with these white boys?

A No sir.

Q Didn't anything like that happen?

A No sir.

Q While you were in the box car going on towards Paint Rock, was any one else in the car with you?

A There was a white fellow.

Q Did you know him at that time?

A No sir.

Q Have you seen him since?

A No sir.

Q Were you in the court room when this case was tried here in the Spring?

A Yes sir.

Q Did you ever see this white man any more?

A No sir, I haven't seen him no more since they took me off the train at Paint Rock.

Q When they took you off this fellow said that he didn't want off, he just wanted you colored boys off?

A He didn't say colored, he said he wanted all the niggers off the train.

Q Have you seen that man at court either here or at Scottsboro?

A What you mean?

Q The one that said that he wanted all the niggers

off the train?

A There was a bunch of them there.

Q Have you seen any of these men at any of these trials?

A No sir; I seen some men that was down there that come there from Scottsboro, one of the sheriffs.

Q The sheriff was present at the time?

A He said that he was sheriff.

Q That man that said that he was sheriff, was he present at the time the statement was made?

A Present at the time the statement was made?

Q Yes?

A He was there.

Q Have you seen any of these other men at this trial or at any of the other trials?

A No sir.

Q Did you testify at Scottsboro?

A Yes sir.

OZIE POWELL, sworn on behalf of the defendant, testified:

DIRECT EXAMINATION

MR. CHAMLEE:

Q Your name is Ozie Powell?

A Yes sir.

Q Ozie, were you on this train on March 25, 1931 coming out of Chattanooga that this trouble is alleged to have occurred on?

A Yes sir.

Q

Q Where were you going?

A Memphis.

Q Were you acquainted with any of these boys from Chattanooga?

A No sir.

Q Did you know any of the boys from Georgia?

A No sir.

Q Were you riding by yourself?

A Yes sir.

Q Suppose that this is the train (indicating miniature), this represents the engine, and here are some box cars, about where on that train were you riding?

A I was riding between a box car and a gondola.

Q Do you know where they claimed they had the fight on the car?

A Yes sir.

Q You were between that fight and the engine?

A Yes sir.

Q Did you see any part of it?

A Yes sir.

Q Come down here and show us where you were?

A I was right here between this box car and this box car and this gondola coal car, the fourth car from where they was fighting at. (Indicating place on train)

Q You were riding here at this place?

A Yes sir.

Q You were not in any car?



A No sir, I was in between two cars.

Q You say the fight was in the fourth car from you?

A Yes sir.

Q Did you have anything to do with the fight?

A No sir.

Q Did you have any part in the fight?

A No sir.

Q Do you know what the fight was about?

A No sir.

Q Did you see any women there?

A No sir.

Q When was the first time that you saw any women?

A When we got to Paint Rock.

Q Somebody arrested you at Paint Rock?

A Yes sir.

Q You were still on the train?

A Yes sir.

Q Did you have any meeting or argument with any of these boys that were traveling with them?

A No sir.

Q Where is your home?

A Yes sir.

Q You had gone from <sup>Atlanta to</sup> Chattanooga?

A Yes sir.

Q You intended to hobo a ride from Chattanooga to Memphis?

A Yes sir.

Q Did you hear any shooting on this train?

A No sir.

Q When the train stopped at Paint Rock, did anybody climb over your head and go towards the engine?

A No sir, I don't remember that.

Q You were the only colored boy between the gondola there and the engine, so far as you know?

A Yes sir.

#### CROSS EXAMINATION

MR. BAILEY:

Q While you were in between the gondola and the box car, did you see the boys come over the box car and go into the gondola?

A Yes sir, over my head.

Q White or colored boys?

A Colored boys.

Q After you saw them go into the gondola car, did you not look into it?

A No sir.

Q Didn't you look in there?

A No sir, I see'd them when the train would go around the curve.

Q They came right over your head?

A Yes sir.

Q How many was there?

A I didn't count them.

Q In your judgment or recollection, how many?

A Five or six or more.

Q What part of the gondola were you in, in front of these cars?

A I was in between the gondola and box car next to the engine.

Q Standing up or sitting down?

A Standing up.

Q Your head was up above the top of the gondola?

A ~~WAS~~ No sir.

Q How much did it lack?

A About three or four feet or more.

Q Pretty soon after you saw these colored boys go into that gondola, you saw these <sup>white</sup> ~~colored~~ boys jumping off the train?

A Yes sir.

Q How long after you saw them jump into that gondola before you saw the white boys jumping off?

A As soon as they got in there.

Q Did you hear any commotion in that car?

A No sir.

Q Did you hear anybody say anything after they jumped into the gondola?

A No sir.

Q You sorter climbed up on that gondola and looked in?

A No sir.

~~XXXXX~~

Q You testified in this trial in this court house at the last term?

A Yes sir.

Q I will ask you, if on that trial, counsel for defendant didn't ask you this question: "What happened when you got in there between the box car and the gondola car, tell the jury what you saw"? -

A I seen them fighting -

COURT: Let me explain to you. They are not asking you now what you saw, they are asking what you testified in this trial, they are asking you if you said that?

WITNESS: Yes sir.

COURT: What did you say?

WITNESS: I got in between the box car and the gondola and saw some boys come over- cross over my head.

Q I am asking you this, if you were not asked this question: "What happened when you got in there between the box car and the gondola car, tell the jury what you saw?" and didn't you answer: "I seen some boys crossing over my head and I didn't pay them any attention, and in about two or three minutes I climbed up to see what was the matter and I saw some boys hopping off the train, white boys" - you said that, didn't you?

A Yes sir.



Q And you were asked this question: "These boys that came over you were colored boys"? and you answered, "Yes sir" is that right?

A Yes sir.

Q And then the question: "Just point out where they came from, point out where you actually saw them go"? and didn't you answer: "I was down between this car and a gondola car (indicating) and some boys hopped off of this box car into this gondola car (indicating) and I climbed up on top to see what was the matter, and in the fourth car from me I saw some white boys" - you said that?

A Yes sir.

Q Then this question: "White boys and colored boys at that time" and you answered "Yes sir" - did you say that?

A Yes sir.

Q Then this question: "That is where the fight was going on?" and you answered "Yes sir", did you say that?

A Yes sir.

Q You saw that fight going on in that car?

A Yes sir, in the fourth car.

Q How long did you look?

A I didn't look at them any time; I just looked at them.

Q Did you see some girls, some white girls in there?

A No sir.

Q Did you see any when the train got to Paint  
Rock?

A Yes sir.

Q Where were they?

A Going down the railroad track; a crowd of men was around them.

OLEN MONTGOMERY, sworn for the ~~XXXXX~~ Defendant, testified:

DIRECT EXAMINATION.

MR. CHAMLEE:

Q This is Olen Montgomery?

A Yes sir.

Q Where were you living at the time you were arrested?

A Monroe, Georgia.

Q Where was you going on this occasion?

A Memphis.

Q Where did you get on this train where this trouble is said to have occurred?

A Chattanooga.

Q Why were you going to Memphis?

COURT: You can't ask your witness "why" he is doing anything.

Q Tell us whether or not your eyes are affected?

A Yes sir, one of them is out, and the other one is very weak.

Q I will ask you to tell us, if you were on this train that the trouble is alleged to have occurred on, what part of the train you were on?

A On an oil car.

Q Did you know anything about the women being on the train?

A No sir.

Q Do you remember seeing a string of cars like these gondolas (indicating miniature)?

A I remember seeing at least one that had cross-ties on it; I didn't pay any attention to that, not to the rest of them. I got on the oil tank.

Q Where were you on the tank car?

A Pretty close to the rear.

Q Do you know what they call the caboose?

A Yes sir.

Q Was that in the neighborhood or near the caboose?

A Yes sir.

Q What kind of car were you in?

A In an oil car.

Q Do you mean an oil tank car something like that (indicating on miniature)? - Can you see this?

A No sir, I can't tell the difference in them.

Q You can't tell the difference between one car from another?

A No sir, they are too small.

Q Can you tell us how many cars you were from the rear end of the train?

A No sir, I can't tell you how far it was from the front or the rear. I know it was more back to the rear than

to the front.

Q When you got on this oil tank car, did you leave it until you got to Paint Rock, Alabama?

A No sir.

Q Did you at any time leave that oil tank car to go over into a gondola car?

A No sir.

Q Did you engage in any fight?

A No sir.

Q Did you do any fighting?

A No sir.

Q Did you see any women at all?

A No sir.

Q Did you have anything to do with any woman?

A No sir.

Q Did you see any women when you got to Paint Rock?

A No sir, I didn't see anythen.

Q You were still on this train?

A Yes sir.

Q Did somebody arrest you there?

A Yes sir, some fellow come there and jerked me off. I was sittin' there, half asleep, and he come and jerked me off. I asked him what he was doing, and he told me to get off, and I climbed down and skinned my ankle on the end of the cross-tie.

Q They arrested you there?



A Yes sir, and carried me to a little store.

Q Where did they take you?

A They put ropes on us and carried us to Scottsboro.

Q How long have your eyes been in the condition you mentioned a while ago?

A I been near sighted all my life, and one eye been out for about eight years.

Q Did you know Haywood Patterson at that time?

A No sir.

Q Did you know any of these other boys?

A No sir.

#### CROSS EXAMINATION

MR. WRIGHT:

Q You had started to Memphis?

A Yes sir.

Q When did you leave home on this trip?

A I don't remember the day, what day I left. I know the day I left Chattanooga.

Q Do you remember how many days you had been on the road?

A Yes sir, but it wasn't as much as a week though.

Q It was some few days?

A Yes sir.

Q You say that when you got to Chattanooga, you just got on that oil tank car?

A Yes sir.

Q Did anybody sit with you as you came along?

A No sir, I seen the other boys walk side of the

car, the train was standing still.

Q You didn't know any of these other fellows?

A No sir.

Q Did you come in contact with any of them?

A No sir.

Q Did any of them sit around on the oil tank you were on?

A No sir, wasn't none of them there where I was at.

Q When you got to Stevenson did you charge cars?

A No sir. I saw one boy get off and go get cigarettes. I didn't speak to him.

Q You sat on that oil tank car all the way until you got to Paint Rock?

A Yes sir.

Q You never did see any woman on the cars at all?

A No sir.

ANDY WRIGHT, sworn on behalf of defendants, testified:

DIRECT EXAMINATION.

Q How old are you?

A I am 20 years old.

Q You were about seventeen when this trouble happened?

A Yes sir.

Q Seventeen past, or before?

A Seventeen, my birth day is in April.

Q This happened in March?

A Yes sir.

Q Did you have your little brother with you?

A Yes sir.

Q How old was he at the time?

A Thirteen.

Q As I understand it, Haywood Patterson, your little brother, Eugene Williams and you started on this freight train from Chattanooga?

A Yes sir.

Q How old was Eugene Williams?

A I don't know exactly, ~~thirteen~~ but he was about twelve or thirteen.

Q You have a sort of look on your face, is that a disfigurement, - you appear to be smiling all the time?

MR. KNIGHT: We object to that. Sustained.

Q You have a sister, Beatrix Maddos?

A Yes sir.

Q Is she here in the witness room?

A No sir.

Q You lived in Chattanooga when you started off on this train?

A Yes sir.

Q What time did you get on this train ~~in~~ at Chattanooga?

A About 10:55.

Q What kind of car did you get on?

A Oil tank.

Q Who with?

A Haywood Patterson, Eugene Williams and Roy Wright.

Q How were you sitting on that oil tank?

A Facing the engine.

Q Did anything happen on that oil tank?

A There was some white boys that passed backwards and forwards.

Q White boys, you say?

A Yes sir; one of them stepped on Haywood's hand, and kinder pushed him, and Haywood asked him to let him know when he wanted by, and he would give him room. He told him it would make no difference if he knocked him off.

Q Then what happened?

A They went on further, and then got off and got some stones and commenced throwing them at us.

Q The train going fast or slow when he hopped off the car to get the stones?

A It was going slow; it was going up grade.

Q That happened how many times?

A Two times.

Q After a while when the train got to Stevenson, did the train stop there?

A Yes sir.

Q What happened after you left Stevenson?

A The white boys got up and went to this gondola car, and went to throwing rocks back at us again. Some more boys come over the top and made complaint, and wanted us boys



to go with them and have it out with them white boys.

Q Were you all together on the oil tank?

A Yes sir.

Q Then you all decided to go over and fight it out with the white boys?

A Yes sir.

Q Are you one of the boys that went over to the gondola where the fight took place?

A Yes sir.

Q Step down here and show us what car you was on and where the car was that the fight took place on?

A I was sittin' down here (indicating car).

Q Indicating for the record somewhere on the oil tank car towards the caboose?

A Yes sir, - my brother was sittin on the flat car and Eugene Williams was sitting by him, and me and Haywood was sittin together, and when we decided we would go and fight it out, we climbed over these box cars (indicating), and climbed over three of the gondolas, and the fight taken place in the fourth gondola from this end. (Indicating 4th gondola from box car at rear).

Q You were one of the boys that was fighting in that gondola?

A I wasn't doing any fighting. I was in there.

Q There were more colored boys than there were white boys?

A Yes sir.

Q While that fight was going on, were there any white women in that car?

A No sir.

Q How many white boys were in the car when the fight started?

A Five.

Q Did any other white boys come in that car?

A Yes sir, two more.

Q Where did they come from?

A Up towards the engine.

Q There were some more gondolas towards the engine?

A Yes sir.

Q Do you know whether or not it was the next gondola they came from?

A No sir.

Q You just know they came from towards the engine?

A Yes sir.

Q Have you learned since that time who those two white boys were?

A I learned one of them.

Q Who was that?

A Orville Gille.

Q Do you know a boy named Lester Carter?

A Yes sir, I have heard talk of him.

Q You never saw him?

A No sir.

Q What happened while the fight was going on?

A When the fighting was going on, the white boys, they had some brick, or a piece of iron, and struck one of the colored boys, and one of them took a pistol by the barrel and hit them with the handle of the pistol; about that time two more white boys come over, and in the fight one of them run up towards the engine, and one started to get off, and some of the colored boys that was fightin' him was trying to make him get off, and Haywood said "Don't make that boy get off, he might get killed" the train was runnin' so fast - and Haywood went over and taken hold of him, and was holding him, and also I went and took hold of him, and we pulled him back up.

Q You and Haywood pulled him back up into the gondola?

A Yes sir.

Q You all let him stay in the gondola?

A After you pulled him back in the gondola, did you see where the Gilley boy went?

A No sir.

Q That was the finish of it?

A Yes sir.

Q Did you and the rest of the boys go back to the place where you came from?

A Yes sir, when the fight was over.

Q Where were you taken off the train at Paint Rock, from what car?

A The oil tank car.

Q The very same car that you started out from Chat-

tanooga on?

A Yes sir.

Q Did you see any girls in the gondola next to where the fight was going on?

A No sir.

Q Did you see any women at all until you got to Paint Rock?

A No sir.

Q Did you ever attack any woman on that train?

A No sir.

Q Did you permit a white boy to stand in that gondola car while you and the others were raping two white women?

A No sir.

#### CROSS EXAMINATION

Q You live in Chattanooga?

A Yes sir.

Q You knew Haywood Patterson at that time?

A Yes sir.

Q What other boys were along with you?

A Haywood Patterson, Eugene Williams, Roy Wright -

Q That is your brother?

A Yes sir. Them was all I knowed personally.

Q Had you ever seen any of the rest of them before?

A No sir.

Q Where had you all started?

A Memphis.

Q All four of you?

A Yes sir.



Q When you got on the train that morning, did you see any girls on the train in Chattanooga?

A No sir.

Q When you got on, you got on this tank car?

A Yes sir.

Q All four of you?

A No sir; two of them was on the flat and two on the oil tank.

Q You four were right close together?

A Yes sir, right facing each other.

Q Which two were on the oil tank?

A Me and Haywood.

Q Your brother and Eugene Williams were on the flat car?

A Yes sir.

Q Do you know which one of the white boys it was that came along and stepped on Haywood Patterson's hand?

A No sir.

Q At the time he stepped on his hands, did he have anything to say to him?

A Yes sir.

Q What did he say to him.

A He told him if he wanted to get by again to let him know and he would get up.

Q How long was it before this fellow came back?

A I don't know exactly how long it was.

Q The same fellow came back?

A No sir, he didn't come back, he went up further.

Q You mean to say that the fellow that stepped on Haywood's hand never came back by Haywood?

A No sir.

Q He didn't come back by there and try to push him off?

A He told him it didn't make no difference if he fell off.

Q All he said was what happened the first time?

A Yes sir.

Q Did you see this same fellow get off and get some rocks and throw them?

A The rocks was coming from over there.

Q You don't know who was throwing them?

A The white boys was over that way.

Q Was that the same white boy that stepped on Haywood's hand?

A Yes sir, he was in the gang.

Q Did they throw rocks from some point on the train or on the ground when they threw them back?

A On the train.

Q Did you see these boys when they got the rocks?

A They didn't get down - they would swing down.

Q Never would get off the train?

A Not until it got to Stevenson.

Q You mean to tell the jury that they picked up rocks by swinging down from the train and didn't jump down?

A Some jumped down, and some swung down.

Q You say that both of these things happened?

A Yes sir, sure.

Q How many were together at the time you say they were throwing rocks at you all?

✓ A Five.

Q Whereabouts on the trian were they standing, can you point out the place, and dhow us where they weré?

A The first gondola there, near that first car.

Q From where?

A The box car.

Q You could see them atnthe time?

A Yes sir.

Q They were down in the gondola?

A Yes sir.

Q Were some of them sitting down atbthat time?

A They was standing up then.

Q How long after that was it that all you colored boys got up and went to have it out?

A When we left iut of Stevenson.

Q Who was the first one that said anything about going over there?

A These other boys made a complaint, and we all made an agreement to go over there.

Q What do you mean by complaint?

A The other two boys.

Q What other two?

A Clarence Norris and Charley Weems.

Q Where did they come from?

A They come from the back.

Q That made how many of you all, about six or seven, wasn't it?

A I don't exactly remember.

Q Four of you boys were together?

A Yes sir.

Q And these other two came up?

A More than them seemed to come up.

Q Can you tell us where any of the rest of the boys came from, other than you six?

A I told you they come from the back.

Q Just two boys from the back?

A No sir, a crew of them.

Q How many were there at the time you all started up, towards the gondola car?

A I never counted them, and I can't tell you.

Q Can you tell us about how many?

A About eight or nine.

Q Do you know, did you know Ozie Powell?

A No sir.

Q Did you know Olen Montgomery?

A No sir.

Q Did you know Willie Roberson?

A No sir.

Q They were along wasn't they?

A Not in the fight.



Q That whole crowd went into the gondola car with you?

A No sir.

Q You mean there were you six, and some others that you didn't know?

A Yes sir.

Q When you got up there, where were they, were they gone from that first gondola car?

A When we got over there, they was in the fourth gondola then.

Q When you went in, all of you jumped over into the gondola car from the end of this box car?

A Into the first gondola, yes sir.

Q When you got into this gondola, what car were these boys in?

A We jumped off the box car in the first gondola, then we climbed into the second gondola, and climbed over into the third gondola, and walked on over and climbed over in the fourth gondola, and there is where the fight taken place.

Q When you got in the fourth gondola, did some of the colored boys have a pistol?

A When we got in there the white boys had a piece of iron, sticks and stones.

Q What was the first thing said by anybody when you got into that fourth gondola?

A We asked them why they wanted to throw the rocks at us.

Q Who said that?

A The colored boys, in fact all of us asked them.

Q Every one said that same thing?

A Yes sir.

Q You all spoke iut together, what answer did you get from the other side?

A They told us they didn't care nothin' about niggers, that we ought all to be deaad.

Q Do you know which one said that?

A I don't know eastly the one.

Q Have you seen the fellow that said that around any of these trials?

A No sir.

Q What was next said, did the white boys curse the negroes?

A Yes sir, the called us son of bitches, and black bastards.

Q What did the negroes say to that?

A They told them the same thing, and then the fight took place.

Q All that talking backwards and forward, from one side to the other, thatnall tookplace before any licks were ever struck, or any fighting at all took place?

A Yes sir.

Q Who was the first fellow that started the fight?

A The white boys.

Q Do you know who the first white boy struck?

A No sir.

Q You took no part in it?

A No sir.

Q What did Haywood do, did you notice what he was doing?

A He was trying to protect himself.

Q Charley Weems in the fight?

A Yes sir.

Q Who else was in the fight?

A Clarence and some more of the boys I didn't know.

Q You never did get into it?

A No sir.

Q Did any of the white boys get after you?

A They was entertainin' the rest.

Q Didn't you entertain anybody?

A No sir.

Q Did you stand still all the time, or did you move about?

A I was standing looking at my brother to see that he didn't get hurt.

Q Did you ever get hit during that whole time?

A No sir.

Q How long after that - how long was it going on before the pistol came into play?

A The pistol was there when the fight started.

Q Who had the pistol?

A I don't know; one of them had it; the one that had it got off. I don't know his name.

Q Did he get off before or after the white boys were

put off?

A After the white boys was put off.

Q How many white boys were put off?

A Five.

Q How long did it take you all to get the five white boys off?

A I don't know exactly.

Q After you got the five white boys off, then what happened?

A Haywood seen the boys trying to put this other boy off, and told the, not to put him off that the train was going too fast.

Q That is the one that you and Haywood pulled back on the train?

A Yes sir.

Q After you got him back on the train, then what happened?

A We left him there and went back to where we started from.

Q This fight occurred immediately after you got out of Stevenson?

A I don't understand you - yes sir, after we left Stevenson.

Q That fight didn't last so long, did it?

A No sir, not so long.

Q Can you give us any judgment as to how long that fight lasted?



A No sir.

Q Would you say that it was more than just a few minutes?

A I haven't no judgment about that.

Q When the fight was over what did the rest of the colored boys do?

A I think one of them went on over the oil tank car. Me, Haywood, Eugene Williams, Roy Wright and the rest of the boys climbed over into the third gondola and went back to the oil car.

Q Then you all stayed on this oil tank car until you got into Paint Rock?

A Yes sir.

Q At the time the officers and some other men came up, you were all still on the oil tank car?

A Yes sir.

Q How many were sitting on the oil tank car when the officers took you off?

A Me and Haywood.

Q Who else?

A That is all on the oil tank. My brother Roy and little Eugene Williams was sitting on the end of the cross-tie car.

Q Right there at you?

A Yes sir.

Q Who else was back there ~~sit~~ on those two cars, immediately near you, at the time you got to Paint Rock?

A No one, but us four.

Q Did you see the other boys taken off the train?

A No sir.

Q Did you see the officers bring any away from the direction of the train?

A Yes sir, I seen them bring some from the train. I didn't see them leave away from the train with them.

Q About what place, apparently, were they leaving at the time you saw them?

A They was close in by the store when I saw them.

Q You don't really know where any one was taken off the train except you four?

A That's all.

Q You say that you never did see any girls on the train?

A No sir.

Q When you were at Stevenson, you changed your place, didn't you?

A No sir.

Q You were still seated on the oil tank car?

A Yes sir.

Q Was there more than one tank car back of this set of cars (Indicating)?

A There was some towards the caboose. I seen one or two.

Q Do you remember whether or not there was more than one tank car back of these box cars?

A I seen one.

Q You have no judgment about that?

A No sir.

Q On these other tank cars that you may have seen back there, did you notice anybody on those tank cars?

A I didn't pay any attention.

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MR. LEIBOWITZ: In view of the testimony of Dr. Bridges showing the condition of the prosecutrix, I now propose to, produce evidence here, witnesses, to show just how she came to be in the condition the doctor described. In other words I want to produce -

COURT: I will take that up, in the ~~morning~~ morning. We are going to adjourn now.

(Court recessed until next morning at 8:30).

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LESTER CARTER, sworn for the defendant, testified:

DIRECT EXAMINATION.

MR. LEIBOWITZ:

Q This is Lester Carter?

A Yes sir.

Q How old are you?

A 22.

Q That would put you about 18, back in March,

1931?

A Yes sir.

Q Where was your home at that time?

A Knoxville, Tennessee.

Q You were born and raised in that part of the country?

A Yes sir.

Q Do you know a woman by the name of Victoria Price?

A Yes sir.

Q How long before March 25, 1931 when this freight train ride took place from Chattanooga towards Huntsville, how long before that date did you know her?

A Somewhere around fifty or sixty days.

Q Where was it that you met Victoria Price?

A In the City jail at Huntsville, Alabama.

Q Were you confined in the City jail?

A Yes sir.

Q Was she confined in the City jail?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. LEIBOWITZ: We except.

Q Was there a man named Jack Tiller that you knew too?

A Yes sir.

Q Where did you meet him?

A In the jail in Huntsville.

Q Wherever you met Victoria Price the first time, did you later see her occasionally or frequently?

A Yes sir.



Q Were you very friendly with her?

A Yes sir.

Q That was fifty or sixty days before this ride?

A Yes sir.

Q Did you know a girl named Ruby Bates?

A Yes sir.

Q How did you get to meet Ruby Bates?

A I got acquainted with her through the Price girl and during the time I was serving time in jail -

COURT: Never mind about the time you were in jail.

Q Did you and Victoria Price, Ruby Bates and Jack Tiller go out together?

A Yes sir -

MR. KNIGHT: We object to that.

COURT: Sustain the objection; that is not evidence. Mr. Witness you must not answer so quick. Whenever a question is asked and objected to, and the court holds that it is illegal, that puts it out of the case just as if it never happened.

MR. LEIBOWITZ: We except.

Q I want to know, - now don't answer this until the court says you may, - if the night before you left Huntsville before this train ride, whether or not you, Victoria Price, Ruby Bates and Jack Tiller, that is you with

Ruby Bates, and Jack Tiller with Victoria Price, in the presence of each other, did not have sexual intercourse -

COURT: That has been raised so often, Mr. Leibowitz; I have ruled on that very legal point a half dozen times, and there can't be anything in it except a vicious attempt to get something before the jury that I have ruled is improper.

MR. LEIBOWITZ: Your Honor, I won't press it further. I want to note an exception to the court's ruling, especially in view of the court's reference to counsel -

COURT: I am ruling according to the law as I understand it.

MR. LEIBOWITZ: I do this in justice to my client, in view of the court's characterization that defendant's counsel made a vicious attempt to force testimony into the record, I want to move for a mistrial.

COURT: I decline to do that. If that particular word is offensive to you, I will withdraw that. Gentlemen (to the jury) you will pay no attention to the expression "vicious attempt". Don't let that enter into your consideration or in your minds.

MR. LEIBOWITZ: We respectfully except.

Q Now, did you start out at Huntsville, with Victoria Price, - may I ask that question?

COURT: Yes sir.

A Yes sir.

Q Where did you go from immediately before you left Huntsville, from what part of town did you go?

MR. KNIGHT: We object to that.

MR. LEIBOWITZ: I want to show how they got to the station, what the arrangements were; that is in rebuttal of Victoria Price's testimony that she never saw this man in her life before the trip.

COURT: I will let that question be asked.

Q Tell us how it was you come to go to the station?

COURT: I wouldn't allow you to ask that, "How come them to go."

Q Did you have a conversation with Victoria Price with reference to leaving Huntsville, you and she and Ruby Bates, giving the details?

MR. KNIGHT: We object to that.

COURT: I am not going to allow him to go into details. I will let him show that he had a conversation, but I will not permit him to go into details. I will permit him to ask the witness whether he had any conversation with Victoria Price before they left Huntsville to go to Chattanooga. That covers the point.

MR. LEIBOWITZ: We reserve an exception to the court's limitation on the question.

WITNESS: Am I supposed to answer the question?

Q I want to know if you had some conversation, without going into the details of it at Huntsville, with Victoria Price, Ruby Bates, and also Jack Tiller, in company with them, relative to leaving Huntsville and going somewhere, did you have such a conversation?

A Yes sir.

Q When was that arrangement made, how long before you actually left?

A The day and night before.

Q Where was that arrangement made, what particular place?

A Around the railroad yards in Huntsville, up near the Lincoln Village.

Q Who was to go on that trip?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. LEIBOWITZ: We except.

Q Pursuant to that arrangement did you, on the following day, meet at the railroad yards in the City of Huntsville?

A Yes sir.

Q Who met there besides you and Victoria Price?

A Ruby Bates and Jack Tiller.

Q About what time was it?

A Somewhere in the afternoon.

Q What happened there, what occurred when you got to the railroad yards in Huntsville?



MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: Exception.

Q May I ask what happened with refence to geeting on the train at Huntsville?

A We decided for three of us to go along -

MR. KNIGHT: We object to that.

COURT: Objection sustained.

MR. LEIBOWITZ: Exception.

Q Who got on the train?

A Victoria Price, Ruby Bates and myself.

Q What happened to Jack Tiller?

MR. KNIGHT: We object to that.

COURT: Objection is sustained.

MR. LEIBOWITZ: Exception.

Q Did he get on the train?

MR. KNIGHT: We object to that.

COURT: Objection is sustained.

MR. LEIBOWITZ: Exception.

MR. KNIGHT: Wait a minute, we withdraw the objection as to whether Tiller got on the train.

MR. LEIBOWITZ: I don't care about it. Let it go.

Q What kind of car did you get on, you, Ruby Bates and Victoria Price?

A

A On the inside of a box car.

Q Did you talk to Victoria Price and Ruby Bates on the way from Huntsville to Chattanooga?

MR. KNIGHT: We object to that. Overruled.

A Very little.

Q What was it you said with reference to Jack Tiller?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

Q Who else was in that box car?

MR. KNIGHT: We object to that.

COURT; Sustain the objection.

MR. LEIBOWITZ: Exception.

Q Did you cross the state line of Alabama into Georgia and the state line into Tennessee?

COURT: That's unnecessary, we all judicially know they had to do that to get to Chattanooga.

Q Was anything said about crossing the state line, was any reason given by the prosecutrix, anything specifically said, or directly about that?

A Yes sir.

Q About these women crossing the state line, the two state lines with you, as to what the women should do in case you all were caught?

MR. KNIGHT: We object to that.

COURT: Overruled - wait a minute, I sustain the objection.

MR. LEIBOWITZ: Exception.

Q Well, whatever talk you had, you finally got to Chattanooga?

A Yes sir.

Q Do you recall how these women were dressed when you boarded the train?

A Yes sir.

Q Tell the jury, how they were dressed?

A They had on overall trousers, ladies hats, overcoats, ladies shoes and ladies hose.

Q What time of day did you get to Chattanooga?

A We arrive in Chattanooga about eight o'clock, around eight o'clock in the evening.

Q Did you leave the train?

A Yes sir.

Q In what part of Chattanooga did you leave the train?

A In the railroad yards there.

Q Where was it that you first saw Gilley?

A I met Orville Gilley leading away from these railroad yards, on a spur track.

Q Who was with you?

A Victoria Price and Ruby Bates.

Q The very same girls that were together with you on

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the train?

A Yes sir.

Q Where did you next see Gilley?

A I was with Gilley all the rest of the night.

Q Where did you next see Victoria Price and Ruby  
Bates?

A They was right there on the car then.

Q Where did you next see them after that?

MR. KNIGHT: We object to that.

COURT: The objection is well taken, sustained.

MR. LEIBOWITZ: We except.

Q May I ask him, if at any time he left Victoria Price, or whether they were together continuously, any objection to that question?

COURT: I don't know.

Q Were you with Ruby Bates and Victoria Price and Orville Gilley, were you together from the time you arrived in Chattanooga, except a few moments at a time, on up until the time when you got back on the train to come to Huntsville?

MR. KNIGHT: I am not objecting to that question.

A Sure I was with Gilley all of the time. I wasn't with these two girls all the time, me and the fellow Gilley were together all the time.

Q Listen Carter, let me make it plain to you, except for one or two occasions when you left either girl for a short while to go somewhere away from the Chattanooga yards,



where you arrived in these railroad yards that night, from then until the following morning, did you -

MR. KNIGHT: We object to that, we don't want that to go before the jury. I think I know what he is after.

COURT: Yes, and I imagine this jury will follow the instructions of the court. I told them not to pay any attention to anything that I ruled out.

MR. LEIBOWITZ: Shall I put the question?

COURT: Yes, if you want to.

Q Now, Carter, did you leave these girls at any time?

A Yes sir.

Q How many times?

A A couple of times.

Q Where was that?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. LEIBOWITZ: Exception.

Q The couple of times that you went away -

MR. KNIGHT: I object!

COURT: Don't interrupt until the puts the question.

Q Now the couple of times that you left, were you

gone for more than a few minutes each time?

A No sir.

Q Except for the few minutes that you were gone, were you continuously with Ruby Bates and Victoria Price, all through that night together, with the fellow Gilley right near the railroad yards in the City of Chattanooga and the Hobo Swamp there?

MR. KNIGHT: We object to that.

COURT: I sustain the objection. Gentlemen that is excluded and you will pay no attention to the question, or answer either, - I believe the witness did answer "Yes".

Q Were you with her continuously that night?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: Exception.

Q Did Gilley go and get food that night?

A Both of us together did.

Q When was that?

COURT: That's immaterial. I'll let him answer.

A It was in the evening and in the morning, for supper and breakfast.

Q Did you see Victoria Price and Ruby Bates when daylight came the following morning?

MR. KNIGHT: That is objected to.

COURT. Sustained.

MR. LEIBOWITZ: Exception.

Q How long after daylight did the train start out from Chattanooga back towards Huntsville?

A Near about noon time. It was after ten o'clock in the morning.

Q Where did you see Ruby Bates and Victoria Price just before you boarded the train, the train that you all got on?

A In the railroad yards in Chattanooga, Tenn.

Q Who was with you at the time?

A Orville Gilley, myself, Victoria Price and Ruby Bates. There was some other people along, but I didn't know the others; other people sitting on the back watching us board the freight train.

Q For the purpose of identification, now don't answer this if objected to until ruled on by the court, did you see any negroes, or did you have any encounter with any negroes during the time that you and Ruby Bates and Victoria Price and Orville Gilley were together at Chattanooga?

A Yes sir.

MR. KNIGHT: We object to that.

COURT: I don't recall any testimony of anybody about any difficulty in Chattanooga.

MR. LEIBOWITZ: I think the jury should be retired so that it may be heard only by the court; it has

reference to a consortion and cohabitation between negroes and whites.

COURT: You neddn't put that in at all.

MR. LEIBOWITZ: We reserve an exception.

Q Now, Carter, what car did you get on in leaving Chattanooga?

A In leaving Chattanooga, Tennessee to come to Huntsville, Alabama, we boarded the train on the back end of a box car, - an oil tank car.

Q Who boarded that train, or that car?

A Victoria Price, Ruby Bates and Gilley and myself.

Q Tell the jury in your own way what happened from the time you got on that train, speak up loud so they can hear?

A What happened?

Q Yes, tell what happened from the time you got on the train?

A We boarded this train and we rode there on this until the train train/comes out of the tunnel, and then we was able to get on top of this train -

Q On the top of the box cars, do you mean?

A Yes sir.

Q Who got on top of the box car?

A Orville Gilley, Myself, Victoria Price and Ruby Bates -

Q Go ahead?

A Then later there was a fight started on the train



with the throwing of stones or pieces of coal at one another, negro boys and white boys, and from that the train stopped at Stevenson, Alabama to take on coal or water or something.

Q At that time, were you still on top of this box car, when you got to Stevenson, or had you gotten off?

A When we arrived at Stevenson we got off.

Q Who got off?

A Victoria Price, Ruby Bates, Gilley and myself.

Q That is the party of the four of you?

A Yes sir.

Q When you got off the train then where did you go?

A We went down the train some few cars and got up on top of a gondola car, loaded with small magnesia stone, or something like that.

Q Do you remember a string of about eight gondola cars hooked up together along there?

A Yes sir, six, seven, eight or nine.

Q You have seen this train before (Referring to miniature train)?

A Yes sir, I don't know whether that is the same one or not.

Q You saw one that looked like it?

A Yes sir, something like it.

Q That is the engine over here; (indicating) this engine was headed from Stevenson to Huntsville?

A Yes sir.

Q You see some cars here, called gondola cars, eight in number, come down here, if the court will permit, and point out the vary car you got into with Ruby Bates, Victoria Price and Orville Gilley? Come down and put your hands on the car?

A I don't want to put my hands on any certain car. I want to ride the gondola car somewhere along here; there was gondola cars back of us.

Q What I am asking you Carter is this, were you in a gondola car toward the end of the string there, or was it some car in or about the middle, or center of the string?

A Some car about the center, I would think.

Q In your best judgment, Carter, can you give us the number of cars between the car you were in and the box cars on either end of the string?

A No sir.

Q Did anybody else get into that car besides you and Gilley and Victoria Price and Ruby Bates?

A No sir.

Q Did a single other person, white or colored, get into that gondola car besides you four, into that very gondola car?

MR. KNIGHT: I have an objection. I object to his leading the witness to the extent he is.

MR. LEIBOWITZ: I'll withdraw the question.

Q Who got into that car besides you four, if any

one?

A Not any one.

COURT: Was any one in there when you four got in?

WITNESS: No sir.

Q What happened after the train started, when you got into that gondola car, tell the jury?

A I will have to go back as the train came into Stevenson -

Q All right, go ahead and tell what happened then?

A Some of these white boys asked myself and Gilley would we help ~~us~~ crowd these negro boys off the train; they said if we had any man in us we would see that these negro boys were put off the train; so after the train left these white boys and negro boys got into a fight; they came up closer to the car in which we four was riding in.

Q The train started out of Stevenson?

A Yes sir.

Q You four were in that one car?

A Yes sir.

Q After the train started out of Stevenson the scrap started between the whites and the blacks?

A Yes sir.

Q Were any of the white boys in a gondola near where you were riding?

A Yes sir, they came closer.

Q You men the white boys?

A Yes sir.

Q How close to your car did they get?

A In talking distance.

Q Was that the next car that the white boys came to?

A Yes sir.

Q From which direction did they come from, from the direction of the engine or from the direction of the caboose?

A They came from the direction of the caboose.

Q When these boys came into the car next to the car you were riding in, tell the jury exactly what happened from that point on?

A Well, these boys were fighting. As these boys came up to this car close to where Orville and myself was, they asked us that we help them in the fight with the negro boys, and I started to join in the fight myself.

Q Did you leave the car that you were riding in, together with Victoria Price, Ruby Bates, Orville Gilley - did you leave that car to go somewhere else?

A No sir.

Q Did you get out of that car to engage in the fight?

A Yes sir.

Q What car did you go to to engage in the fight?

A The joining car.

Q The next one?



A Not in the car, but on the side of the car.

Q The joining car, was that towards the engine or the caboose?

A Towards the caboose.

Q That is the car the colored boys and the white boys were fighting in?

A Yes sir.

Q Who went with you from your car?

A I don't know who went with me; I was preparing to look out for myself.

Q What happened to Orville Gilley?

A I don't know what happened to Orville Gilley. I was on the back end of this gondola on which we were riding; I think I had one leg over the top on the side.

Q You didn't see whether he went into this fight with the colored boys, did you?

A No sir.

Q What happened to you?

A I jumped off the train.

Q Up until the time you jumped off the train, did anybody go into the same gondola car with Victoria Price, outside of you and the fellow Gilley?

A No sir, not in my best knowledge.

Q If it is testified here that Victoria Price, you, Ruby Bates, and several other white men were together in one gondola car leaving Stevenson, have you any knowledge of that happening?

A No sir, I wouldn't say that, -

MR. KNIGHT: That is rather leading, but let him answer it.

COURT: I have no occasion to say anything unless you object; sometimes though I do.

MR. KNIGHT: I am not going to object.

A (Continued) I would say us four were together.

Q When you left ~~XXXXXXXX~~ that train, where did you go?

A I walked back to Stevenson, Alabama.

Q Did you meet anybody else there at Stevenson?

A Yes sir.

Q Several of the other white boys were there?

A Yes sir, I walked back along with some of them.

Q Were any of these white boys have any wounds that you know of?

A Not that I know of.

Q That were treated any way in Stevenson?

A Not that I know of.

Q Were they treated by any doctor in the jail at Scottsboro?

A Not that I know of.

Q After you got to Stevenson, you left there to go some place?

A Yes sir.

Q How did you go? 1

A They taken us from Stevenson to Scottsboro.

Q "We", who is that?

A Myself and the other four boys.

Q There were five of you together at Stevenson?

A Yes sir.

Q Odell Gladwell, did he remain on the train?

A No sir.

Q EX Gleason, did he remain on the train?

A No sir, not as far as I know.

Q He didn't get to Stevenson, did he?

A No sir.

Q Gleason was one of the white boys in this fight?

A Yes sir.

Q The last you saw of him, he was on the train?

A Yes sir.

Q Where was the next place you saw Gleason?

A I seen Gleason at Scottsboro, Alabama.

Q When you got to Scottsboro, did you see Victoria

Price there?

A On the outside, yes sir.

Q Where was she when you first saw her at Scottsboro?

A Sitting in an automobile in the jail house yard at Scottsboro, Alabama.

Q Did you have any conversation with Victoria

Price then and there?

A No sir, I kept away from her.

Q You kept away from her, is that right?

A Yes sir.

Q Now, don't answer this question until the state has an opportunity to object - did you keep away from her by reason of some pre-arranged plan?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: We except.

Q Did anybody speak to Victoria Price, any of the white boys?

A Yes sir.

Q Who was that?

A Odell Gladwell, that is what he gave his name as in Seottsboro.

Q Did you see Victoria Price do anything?

A Yes sir, she motioned for myself, I think.

Q She motioned to you - in what way?

A With her hand.

Q As she sat in the automobile?

A Yes sir.

Q You paid no attention to it?

A I noticed her.

Q Did you go thereto where she was?

A No sir.

Q What happened after that?

A Odell Gladwell went over.

Q Did they engage in some conversation?



A Yes sir.

Q You were locked up in that jail, were you not, as a material witness in the case?

A Yes sir. I didn't know what I was locked up for.

Q Do you know whether or not there were any charges against you then?

A I don't know whether there was or not.

Q No charges were ever preferred against you in that court?

A No sir.

Q You were kept in that jail how long?

A Some eighteen days.

Q You were kept in that jail during all four of the trials in Scottsboro, - I mean except the time they took you out to go to court?

A Yes sir.

Q Were you ever called as a witness in any of the four cases in Scottsboro, - you were kept in the witness room?

A Yes sir.

Q Who was the prosecutor?

A I don't know sir.

Q Did you see that gentleman over there? (Indicating Mr. Bailey).

COURT: That's not legal.

MR. LEIBOWITZ: Exception.

Q While in jail did you see Orville Gilley?

A Yes sir.

Q Did you talk to him on many occasions?

A Yes sir.

Q Did you talk to him about the guilt or innocence of these negroes, - whether they were guilty or innocent?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: I think I laid a predicate for it. In order to save time, may I ask him now?

COURT: I reckon it would be an irregular proceeding without the predicate. I don't recall that any predicate was laid.

MR. LEIBOWITZ: I am under the impression that I did.

COURT: Well, go ahead.

Q You did have different talks with Gilley?

A Yes sir.

Q About this case?

A Well, no sir, not about these charges or these cases.

Q (Court: What do you mean about these cases?

A The charges they put against these defendants.

Q You didn't have such conversation?

COURT: He said that he didn't.

Q All right, you were finally released from this

jail?

A Yes sir.

Q They let you loose?

A Yes sir.

Q Later, did you see Gilley in some other place?

A Yes sir.

Q Where?

A I seen Orville in San Francisco.

Q Did you talk to him there in San Francisco about  
this case?

A Yes sir.

Q About the facts in the case, "Yes" or "No"?

A No sir.

Q About certain things that happened?

MR. KNIGHT: We object to that.

COURT: Sustain the objection, that is too leading, I think.

MR. LEIBOWITZ: Exception.

Q Did you see that boy Gleason in jail at Scottsboro?

A Yes sir.

Q Did you talk to him?

A Yes sir.

Q Did you hear what Victoria Price said to Odell Gladwell at the time Gladwell went over to the car, after she beckoned to you?

MR. KNIGHT: We object to that because not a

part of the res gestae, and no predicate was laid.

COURT: I don't recall any predicate.

MR. LEIBOWITZ: I think I can state positively that I asked Victoria Price if she didn't, in the court house yard at Scottsboro, motion to one of the boys and call him over to talk to her, and she said no, and I then asked her if she didn't tell that boy "You are to tell that you are my brother". I remember that positively.

Q Did you hear what she said to the Gladwell boy ~~M~~ while at the automobile?

A She asked him -

COURT: Was the predicate laid as to this boy?

MR. KNIGHT: Our objection goes to the form of the question.

WITNESS: I am here to tell what happened.

COURT: Never mind that. I sustain the objection.

MR. LEIBOWITZ: Exception. You are sustaining the objection as to what occurred between Gladwell and Victoria Price; is that because the predicate was not laid?

COURT: No, because you don't follow it.

Q Let me ask you this, now listen to this, did you see Odell Gladwell, one of the white boys, go over to the car in which Victoria Price was sitting, and did you hear Victoria Price say to Odell Gladwell, "One of you boys has



got to play like you are my brother; if you don't we will be arrested for hoboing" and Gladwell answered that it was O. K. with him, "I will be your brother"?

A Yes sir, that is right.

CROSS EXAMINATION

BY MR. KNIGHT:

Q When did you come to Decatur?

A I came here yesterday.

Q You got here yesterday?

A Yes sir.

Q From where did you come Mr. Carter?

A I came from Birmingham to Decatur, Alabama.

Q Where did you stay in Birmingham, Alabama?

MR. LEIBOWITZ: We object to that. What has that got to do with it.

COURT: I sustain the objection in the form it is in.

Q You were in Birmingham prior to coming to Decatur?

MR. LEIBOWITZ: I object to that. He said he came from Birmingham.

Q How long had you been in Birmingham, Alabama?

A For some few hours.

Q How many hours?

MR. LEIBOWITZ: We object to that; that is entirely immaterial.

COURT: I overrule the objection.

MR. LEIBOWITZ: Exception.

Q All right, how many hours?

COURT: Have you any idea?

A Mr. Knight, repeat the question, and if I am allowed to answer it, I will do so. If he ~~WANTS~~ wants to know how long I stayed in Birmingham, and it is not objected to, I will tell him.

COURT: That is what he asked you.

Q Can you tell me?

A It was all during the day yesterday.

Q What time did you get to Birmingham yesterday?

A I think it was 7:30.

Q Isn't that about the same time you got there the time before this?

MR. LEIBOWITZ: We object to that. Sustained.

Q Where did you come from to Birmingham?

A New York City.

Q When did you leave New York City?

MR. LEIBOWITZ: We object to that.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

A I left New York City Sunday night.

Q With whom did you come to Birmingham from New York City?

MR. LEIBOWITZ: We object to that as immaterial.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

A I came with my wife.

Q You are married now?

A Yes sir.

Q Did any one else come with you besides your wife from New York City?

A No sir.

Q Did you see Ruby Bates when you were in New York City?

A Yes sir.

Q When?

A It has been some five or six months ago.

Q Haven't you seen her in less than five or six months?

A No sir.

Q Have you seen her since you have been in Decatur, today?

A No sir.

Q Yesterday?

A No sir.

Q And when you people got on the train at Chattanooga, you got out on a box car when you got out of the tunnel, is that correct?

A Yes sir.

Q Then you got back down on the oil car, you and

Gilley, Victoria Price and Ruby Bates?

A No sir, I think we was on the back end of a box car.

Q You know the defendant, Haywood Patterson, do you not?

A Yes sir.

Q He was in that fight that day, was he not?

A I wouldn't say; I wouldn't want to say.

Q Did some of the white boys step on his hand back on an oil tank car that day?

A I wouldn't say; some of these boys told me that they did step on some negro's hand.

Q You said that you got on one of the gondola's, you haven't identified which car it was, can you identify which it was?

A I wouldn't say for sure.

Q Until you got to Stevenson?

A That was after we got to Stevenson that we changed cars to the gondola.

Q Did the fight take place in the gondola car nearest the engine from where you were, or nearest the caboose?

A Nearest the caboose.

Q How many negroes were there in that fight, I don't believe you have stated that?

A I wouldn't say for sure, but there was some, maybe twelve or fifteen negroes.

Q How long had the fight been in progress before



you started over into the car?

A The fight started as soon as we left Stevenson; this must have been two or three miles out from Stevenson.

Q That the fight began?

A No, it began before then; that is when I went over the car.

Q Did you get into the car where the fight was?

A No, I didn't get into the car. I got on the side of the car like; I was riding this car (indicating) and I got over the side of the car, that goes down this way (indicating) on this side.

Q Then you didn't actually get into that car at all?

A Not but just one foot, I was here with the girls.

Q What was your purpose of leaving this car to go over?

A I started to get in the fight to help those other white boys.

Q You didn't get into the fight, did you?

A No sir.

Q Why didn't you get in the fight?

A Because the negroes had us outnumbered.

Q Didn't you see that they were outnumbered before you started over in there?

A No.

Q How many were in there when you started over?

A You mean negro boys - I wouldn't say, there must have been six or eight.

Q Then nine more came into the car, got into the car while you were going from this car, starting to get into that fight?

A I wouldn't say for sure. I know that I seen the rest of the negroes on three or four cars back further, and I climbed off shortly after that.

Q At the time you could see all up and down here (indicating) going towards that car?

A I wouldn't say I could see all up and down. I seen some several negroes in cars back of this car, and I climbed off of this car.

Q I believe you stated that this was the car that the fighting took place on?

A I wouldn't say for sure.

Q You were in the car next adjoining the car in which the fighting took place?

A I was in one of the gondola cars near the middle.

Q I believe you stated that you were in this end of the car (indicating) and that Gilley was further back in the other end of the car, is that true?

A Gilley was sometimes in this end of the car (indicating), and sometimes in the other end. I think that Gilley when I left was back towards this end (indicating).

Q You were on this end? (Indicating).

A No sir, you have to be careful in leaving a train like that, a fellow has got to take his time; sometimes it takes 20 minutes to cross to the other; you have to get off this end (indicating) to save your legs, you know.

Q Naturally you looked where you stepped?

A Yes sir.

Q And was watching the other fellows also?

A The negro boys, yes sir.

Q You got a pretty good view of the white boys and the negroes fighting didn't you?

A Well, not exactly, I had to watch my step, and I couldn't tell exactly which one was which.

Q There was standing Victoria Price and Ruby Bates in the car which you left?

MR. LEIBOWITZ: We object to that.

COURT: I overrule the objection.

MR. LEIBOWITZ: We except.

A Yes sir.

Q Did you and Gilley talk about the fight any, about joining in the fight?

A I told them I would help them - no sir.

Q Those negroes were not in the end of the car, but were all over the car, were they not?

A I wouldn't say; they were all in bunches, and you couldn't tell how many were in a bunch.

Q (Court) Something I want to understand, was this

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fight going on between the white boys and the negroes while you went and got off the train?

A Yes sir.

Q After you got off the train, of course you don't know anything about what happened on the train?

A No sir.

Q Do you know whether or not any of these box cars on this train were empty or not?

A No sir.

Q You testified on direct examination that some rocks and coal were thrown?

A I said either rocks or pieces of coal.

Q Where did the white boys get these pieces of coal or rock?

A I think, Mr. Knight, they got some pieces of coal or stone off the ground along the road; after the train left out of the tunnel leaving Chattanooga it gets mighty slow, especially because this train is heavy; they would climb off one car and catch the next one back. Me and Orville sitting on the top where we was riding could see these boys do that.

Q From which car did they start from when they started to picking up these pieces of coal or stone?

A I wouldn't say for sure, but some several cars back from where we were riding.

Q Did you say they caught the next car back, say whether or not they caught the next car back?



A I wouldn't say right now which car they left or which car they would catch, whether it was the first or third. I know they did catch back on other cars.

Q How fast was the train going at that time?

A I wouldn't estimate the speed; it was going along very slow; any loaded train would have to go slow there, because that is an up-hill grade there.

Q Is that the only place they picked up rocks or pieces of coal?

A I don't know. I think they picked up some stones in Stevenson when we stopped there.

Q Did they get off the train any time after leaving Stevenson for rocks or stones?

A No sir, the train left out of Stevenson very fast.

Q Was not the defendant, Haywood Patterson, was he not the first negro to come over into the car where the white boys were?

A I wouldn't identify him; these boys looked small and looked young. I wouldn't say whether he was or not. I wouldn't want to identify any of the defendants; I don't want to say anything that I don't know for sure.

Q All the time they were coming, they came until fifteen got in?

A I wouldn't say how many; there was around twelve or fifteen.

Q How many white boys were there?

A There was five white boys in the back end of the

car they was in, Orvulle Gilley and myself still remained in the car with Victoria Price and Ruby Bates.

Q The five white boys were scattered out between two cars - where did the fight take place, in one car or two cars?

A They was fighting all over the train from the time they started throwing stones, and at different times before the train got to Stevenson, Alabama.

Q That took place all around the train to Stevenson, and after IXY leaving Stevensgn, it always stopped next to your car, the car which you were in, and didn't get into the car you were in?

A If they got in there, it happened after I got off and not while I was in there.

Q I will ask you Carter, you said that you were in Jail in Huntsville?

A Yes sir, I was in jail.

Q Were you in jail for stealing?

A No, I wouldn't say I was in jail for stealing.

Q What were you in jail for?

MR. LEIBOWITZ: We object to that. Sustained.

WITNESS answered anyway -

A I think it was vagrancy and hoboing.

Q Have you ever been convicted and taken a sentence for stealing?

MR. LEIBOWITZ: I object to that.

COURT: I think your question is too indefinite. I sustain the objection.

WITNESS: I am willing to answer the question if anybody thinks I am a thief.

Q Did you hear any one of these negroes that were engaged in the fighting with the white boys, say: "Unload you white sons of bitches"?

A No sir, I didn'r hear that spoken.

Q Did you see a pistol?

A No sir.

Q. In that fight, did you see any of the boys have a piece of iron?

A No sir.

Q You saw no pistol?

A No sir.

Q Now, tell me just exactly, when the fight was going on, - come down to this train and tell me exactly the whereabouts of the girls when the fight started?

A I wouldn't say for sure. This train is supposed to be the Scottsboro train?

Q Yes, whereabouts were the girls located?

A Somewhere in one of these gondolas near the middle here (indicating). These girls were riding in one of these gondolas (indicating); one of these middle gondola cars.

Q Pick out one of these gondola cars which you think they were in, and show me whereabouts they were in the car?

A Either one of these cars (indicating) or this fourth car; we first got up here in the end this way (indicating); we first sat there in that end and this fellow Orville Gilley was singing, and directly the girls got up and come back here (indicating).

Q Did you see any of the white boys thrown off this train, taking it for granted that the fight was in this car here (indicating)

A There wasn't any one throwed off the train that I seen.

Q Did they get them back here?

A Well, there was some of these boys on the ground when the rest of the train pulled by.

Q Were the negroes close to them at the time they got off?

A Yes sir, some of the negroes were close by.

Q Let's go up to this end now, you got on this end here to get off (Indicating left side of the car)?

A Yes sir.

Q You say that some of these boys got off on this side of the train? (Indicating right side).

A Yes sir, some of the boys got off the train.

Q While that was going on the negroes were close by, is that true?

A The negroes were close by, yes sir.

Q The girls were right here, I believe you testified, at that time?



A These girls were somewhere in that car (indicating).

Q As near as you can guess, tell me how many feet, as near as you can estimate, tell me how many feet there was between where you saw the white men get off on the opposite side of the train from you, and where the girls were?

A You tell me how long both cars are supposed to be and I can tell you?

Q 36 to 40 feet?

A I guess they were probably 36 to 40 feet from one another.

Q The length of a gondola car?

A Right.

Q You say from 36 to 40 feet from one another?

A I would estimate it that.

Q Can that be true, if the boys were right here, about where the boy got off, you say the girls were right about here? (Indicating).

A Didn't I say that these negro boys, when I saw them, seen them on that train, were near the center of the car?

Q I said "about" I take that to mean pretty close, when the men jumped off -

A These boys, four of them left the train.

Q Did you see any negroes in this end of the car when the fight was in progress?

A I wouldn't say it Mr. Knight.

Q Were most of them back in this end of the car?

(indicating)

A I wouldn't say exactly in the end/ I saw one, two or three negroes in that car in the center of the car. Looking over the top of these cars, your head is about level with the top and you can hardly tell exactly where the end of the car is, that is why I don't want to say for sure.

Q But, I believe you stated that you got onto this car before you jumped?

A From the car in which the girls were riding?

Q Yes, the car right here (indicating)?

A I crossed from one gondola on to the end of the other gondola and climbed off.

Q That was the car in which the fight was going on?

A Yes sir, I didn't cross over into this car; I crossed to the end.

Q Was the fight going on in the car to which you crossed over?

A Well, I wouldn't estimate this fight, or anything like that. To my mind it was going on, because these fellows begun to mix up together, and I estimated that there was a fight there, from what the white boys told me.

Q You had even estimated that there was going to be a fight for some little time before that?

A Yes sir, if these white boys backed up what they said, I know there was going to be a fight.

Q You knew there was going to be a fight, that they were in there fighting in that car, why did you jump off

your car onto this car for?

A I got off that car because I didn't want to be in this fight, for several different reasons.

Q Why did you leave the car in which the girls were in?

A Well, you know that on some of these cars the stir-ups are higher than the others, and on some of them they are lower stirups from which you can get off on the ground much better, and anybody will tell you it is safer to get on this end (indicating) and to get off at this end. (Indicating).

Q. Couldn't you have walked up to this end of the car and gotten off, without getting over onto the car in which the fight was going on?

A Yes sir.

Q You didn't do that?

A No sir.

Q Why?

A Because, as I just told you the stirup on this car was lower than the other.

Q I will ask you if you didn't previously testify here a while ago, that you got out of the car in which the girls were in, and started to get on the other car for the purpose of getting into the fight?

A If I had had a chance there I would have stayed on there.

COURT: I think you have gone far enough on that.

Q I will ask you if you testified in the case of

the State of Alabama against Haywood Patterson in Decatur last Spring?

A Yes sir.

Q I will ask you whether or not you were asked on that trial, - you will better understand it if I read two or three questions before this: ~~XXXXX~~ "Then what happened - was there anybody else along in those gondola cars? A. Yes sir.

Q. Who was in those other gondola cars? A. Some white boys.

Q. What car was that, to the rear or front? A. To the rear of the car we were in. Q. How many white boys? A. five."

now then, didn't ~~me~~ I ask you this question: "What happened after that?"

COURT: Do you remember that.

A No sir, I don't remember.

Q I will ask you if you didn't answer that question this way: "Two white boys come back and said they tramped on the negro boys and made them mad and they were going to have a fight and told us to help shove them off." Did you make that answer?

A Yes sir. I said at this time they had got mad.

Q Then, were you asked this question: "Did the ~~neg~~ negroes finally come over?" and did you answer: "Yes sir", and then this question: "And have a fight" and did you answer: "Yes sir"?

A Read that over again, please.

(Questions and answers are re-read to witness)

COURT: Do you remember that?



A They were fighting, yes sir.

COURT: That is not the question, not what you say now, the question is whether or not you remember those questions were asked you, and you made those answers on the other trial?

A I wouldn't say that it was.

Q I will ask you if this question was asked you; - "Tell us what you saw?" Do you remember that that question was asked you?

A No sir, Mr. Knight, I wouldn't say for sure.

Q Now, I will ask you if you didn't answer as follows: "I seen them fighting among themselves and I started to get in the fight myself; there was a negro made a motion to hit me, and I was on the side of the train where I had a chance to get off, and I climbed down where the couplings are, and got off."

A I did, and I said <sup>that</sup> /this time when the question was asked me.

Q Did you see any white boys at Stevenson?

A Yes sir.

Q How many were there?

A I think there were four.

Q Were some of them scarred up pretty badly, any of them bloody?

A I noticed where one of the boys was scratched, Odell Gladwell.

Q Wasn't any blood to amount to anything?

A I seen just a little blood, and a bruised place.

Q You didn't see any bloody clothing?

A No.

Q Did you go in Mr. Woodall's store up there at Stevenson?

A I wouldn't say for sure what store I went in.

Q Did you go in more than one store?

A I remember this; I remember I went in the depot to get a drink of water because I was thirsty from walking.

Q (By the court) Did you go in any store while there?

A I don't remember.

Q I will ask you how you got to Scottsboro from Stevenson?

A We went by automobile from Stevenson to Scottsboro.

Q Who took you to Scottsboro in an automobile?

A I don't know the people's names; it must have been some of the citizens.

Q I will ask you this question, are you sure that the negroes that were fighting in the car next to the car in which the girls were in, were 36 to 40 feet from the girls?

A I would estimate that it was somewhere around there.

Q You never crossed over from the car in which the girls were on to the car in which the fight was taking place, for the purpose of engaging in the fight, is that right?

MR. LEIBOWITZ We object to that. He has been all over that.

COURT: I think he has been over that. Sustained.

Q What do you do in New York?

MR. LEIBOWITZ: We object ~~to~~ that as immaterial, what difference does it make what he was doing at any place.

COURT: I'll overrule the objection.

MR. LEIBOWITZ: We except.

A What am I doing in New York?

Q Yes, what are you doing in New York?

A I am working/

Q Who have you been working for in New York?

A The guy I work for the people call him "Nick".

I call him "Nick"; he has got some funny name - I don't know what it is.

Q What sort of work do you do?

A Counter man at a restaurant.

Q How long did you work there, Lester?

MR. LEIBOWITZ: We object to that. Sustained.

Q How long did you stay in Birmingham yesterday - a few hours?

COURT: He has been over all that.

Q Did any one of the defendant's counsel meet you in Birmingham yesterday?

A No sir.

Q Did you come to Decatur with any of defendant's counsel, not lawyers, any person working for them?

A No sir.

Q You came to Decatur with your wife, I presume?

A And the fellow that drove the car.

Q What was the fellow's name that drove you up here?

MR. LEIBOWITZ: We object to that. I am sincere, I don't see what all that has to do with the case.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

Q I want to know the name of the man that drove you up here?

A Mr. Knight, I don't know; I called him Bob.

Q Had you known him for sometime?

A No sir.

Q You don't know his last name?

A No sir.

#### REDIRECT EXAMINATION

MR. LEIBOWITZ:

Q When you got into this car with these two girls and Orville, you went up and sat down in the car, at Stevenson?

A We sat down, yes sir.

Q I want you to understand the questions now?

A Yes sir.

Q After you sat down with the girls, did you sit



near or far, when you blew the ~~mmk~~ mouth organ, what did the other fellow do?

A I think he was singing, and the girls.

Q Was he reciting poetry?

A He did during the night.

Q Where?

MR. KNIGHT: We object to that.

COURT: Objection is sustained.

Mr. Leibowitz: Exception.

Q After you sat down, as testified, in the car with these three persons, did you move from that place?

A No sir, not then.

Q Did you move afterwards?

A Yes sir.

Q Where did you move to, after you sat down at the end of the car nearest the engine, what place did you go to from there?

A I went towards the back end of the car.

Q Did you walk or crawl along?

A I walked.

Q Who walked with you?

A Orville Gilley.

Q You two went to the other end of the car?

A Yes sir.

Q Did the two girls afterwards move over to the end of the car where you had moved to?

A Yes sir, they came down to that end of the car.

Mr. Leibowitz; I was blowing the harp and Gilley and these girls were singing.

Q What I want to know is, whatever car it was that you were in, after they left that end of the car, these two girls, and went towards the end of the car where you and Gilley were, were you all standing then, or sitting down, which way was it?

A We were all sitting down.

Q When you are standing up in one car, can you see over into the next car and see anybody sitting in that other car.

A No sir.

Q That is impossible, isn't it?

A Yes sir.

Q What I want to know is this, knowing the height of that gondola car, can you tell us whether anybody standing in that gondola car could see anybody sitting in the next gondola car next to it? "Yes or No"?

A Mr. Leibowitz, I can't answer that. If they were down in the car, now.

Q You mean to say that if you were standing in the car where the fighting was taking place, you could not see anybody sitting in the gondola in which you were riding, - that is what I have been asking you?

A No sir.

Q The answer is "No" - is that when you mean?

A Yes sir.

Q Did Victoria Price have a snuff box while you were

Mr. Leibowitz; I was blowing the harp and Gilley and these girls were singing.

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A No sir.

Q The answer is "No" - is that when you mean?

A Yes sir.

Q Did Victoria Price have a snuff box while you were

in her company?

A Yes sir, she had a snuff box.

Q Did you see her use that snuff box at any time on the road from Chattanooga to the place where you got off outside of Stevenson?

A I didn't see her use the box.

Q The snuff in the box?

A Yes sir, I seen her use snuff.

Q (Court) The car you were talking about somebody standing up in and not being able to see somebody sitting down in the other, I want to know if that car was loaded with any thing?

A You want to ask if it was a loaded car?

Q (Court) Yes sir.

A Yes sir.

Q Do you know how near the top it came up?

A No sir.

Q Do you know how high that chat was in that car?

A I wouldn't say for sure; it was about two or three feet from the top.

Q Can you see a person if they sit down?

A Not without raising up. They was lying down like.

Q I want you to tell the jury what position you your self, and these women were in in that car, riding along there, before the fight took place?

A We were lying down like, leaning on our elbows, until I heard them boys call, and then I got up.



Q Am I correct in saying that you were sprawled there in different positions on top of the chat, riding along there in as comfortable a position as you could have?

A Before the fight, yes sir.

Q You, these two women, and Orville Gilley?

A Right.

Q I want to ask you this, you said that chert was two or three feet from the top, if a person were in the position of these two girls, and this fellow Gilley, were lying there in the chert, could anybody in the next car see their forms lying there on that chert, or reclining of that chert, if standing on their feet?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: Exception.

(Witness answered anyway)

A Not if standing up on the bottom of the car.

RECROSS EXAMINATION

MR. KNIGHT:

Q You got on the car in which the fight was going on and then jumped off?

A I said I got on the side of the car.

Q You could see into that car?

A After I got up on the side.

Q Your head was about even with the top?

A Yes sir, before I got down on the stirrup.

Q You could look into the car after you stood up?

A After I stood up I could see over in the furthest end, but I wouldn't say I could see in the end nearest to me.

Q When you got her (indicating) on this car, you could then see over into the car where the fight was going on?

A I could see in the end furthest away from me, or maybe the middle of the car, but I wouldn't say I could see down in the end right next to me.

Q You could see the boys in the rear plainly, the colored boys in the car?

A I seen some negro boys.

Q What was that car loaded with?

A I wouldn't say what that car was loaded with. I think it was loaded with coal. I wouldn't say for sure what it was loaded with.

Q The car in which the fighting was taking place, how near the top was that loaded?

A I wouldn't say for sure, I didn't measure it.

Q You said a minute a two ~~minutes~~ ago that it was loaded within two or three feet of the top?

A That was the car I was in.

Q And you can't tell me how high this car was loaded?

A No, I wouldn't want to say, not while here on the witness stand, how high it was loaded.

Q You said a while ago that you all were reclining on your elbows, making yourselves as comfortable as possible,

the four of you?

A Yes sir.

Q Did you say in the fighting that the negro boys were reclining on their elbows when they fought?

A I just got through telling you that when the boys called for us, we got up and I could see some of the negroes and the white boys faces.

Q Were they lying down fighting or standing up fighting, what is what I want to know?

A They were standing up.

REDIRECT EXAMINATION

MR. CHAMLEE:

Q. At the railroad yards, where you left Chattanooga, when you got on the train, I want to ask you if you saw Dallas Ramsey?

A Not at the railroad yards, but over in the jungles -

MR. KNIGHT: We object to that, and move to exclude it.

COURT:THE OBJECTION is well taken; sustained.

Q I am asking you if you saw him near the place where you took the train?

A Yes sir.

Q Did you see E. L. Lewis about the same time?

A Yes sir.

Q They are two colored men?

A Yes sir.

Q Do you know whether Dallas Ramsey is here now, have you seen him?

A Yes sir.

Q Was Victoria Price with you at the time you saw these men?

MR. KNIGHT: That is objected to.

COURT: I sustain the objection. I don't see the materiality of it.

MR. CHAMLEE: We except.

DALLAS RAMSKY, sworn for the defendants, testified:

DIRECT EXAMINATION.

Q This is Dallas Ramsey?

A Yes sir.

Q Do you live in Chattanooga?

A Yes sir.

Q I will ask you if you have ever seen this boy, Carter, before today?

A Yes sir.

Q Do you remember in March 1931, when this trouble is said to have occurred on the freight train between Stevenson and Scottsboro?

A Yes sir.

Q On the morning of that same day, did you see Lester Carter, that is the boy that was here, the morning of the day, before that happened that afternoon?

A I saw him off at a distance. I didn't see him to



know him, also the girls.

Q Did you see Victoria Price?

A Yes sir.

Q On the morning of the time that this train left Chattanooga, how close did you live to where the Central of Georgia crosses the Southern Railroad in Chattanooga?

A I suppose about 300 yards.

Q Did you know E. L. Lewis?

A Yes sir.

Q He is dead now?

A Yes sir.

Q Did you see his dead body?

A Yes sir.

Q Were you and he together that morning?

A Yes sir.

Q Did he live there close to you?

A Yes sir.

Q Here is a picture of the railroad crossing, with a house on it, is the picture of the house, where E. L. Lewis lived at the time this trouble occurred?

A Yes sir, that's his house.

Q Did you live there close to that place?

A Yes sir.

Q I want to show you another picture, - we offer this picture.

MR. KNIGHT: Until something else is shown I want to interpose an objection to the introduction of the picture. I can't see the relevancy of it.

COURT: I sustain the objection.

MR. CHAMLEE: This is explanation of this man's testimony.

MR. KNIGHT: I can't tell you about that; when you ask a question I think is legal, I won't object to it.

COURT: Ask Carter to step back here a minute. I told you to be back here day after tomorrow. You be back here tomorrow morning, which is Thursday, at 8:30 o'clock.

MR. CHAMLEE: Let Mr. Carter step this way a minute, please -

Q Look at this man and say whether or not that is the man that you saw with the two girls at Chattanooga on the day of this alleged trouble?

A He seems to be the size. I wasn't right close to him. I mean't identify him.

Q Did either one of these ~~girl~~ girls talk to you in Chattanooga, before the train left Chattanooga?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. CHAMLEE: We reserve an exception.

Q State whether or not Victoria Price asked you what time the train would leave Chattanooga for Huntsville on that morning?

A Yes sir, she did.

Q

Q What did you say about the time the train left?

A Yes sir, I told her that about nine o'clock she could get a freight train out of Chattanooga.

Q Had you seen her before the time she asked you about the train?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. CHAMLEE: We except.

Q State whether or not the freight train stopped at or near this point of crossing with the Central of Georgia Railroad?

A Yes sir.

Q State whether or not many people who ride freight trains get on at that point?

A Yes sir, the freight train stops there going in and coming out, and they go there to board it.

Q State whether or not near this place there is woodlands?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. CHAMLEE: We except.

Q Was E. L. Lewis with you on that occasion?

A Yes sir.

Q Do you know whether or not he saw these girls and this boy?

A Yes sir.

Q Was he present when she was talking to you?

A Yes sir.

No Cross-Examination.

W. A. SULLIVAN, sworn for defendant, testified:

DIRECT EXAMINATION.

Q What is your full name, please?

A William Alexander Sullivan.

Q What is your business?

A Photographer.

Q Where is your residence?

A Decatur.

Q On what street in Decatur?

A Seventh Avenue, East.

Q How long have you lived in Decatur?

A Seventeen years.

Q Did you, at my request, last Spring, go to a barn of a man by the name of Luther Morris?

A Yes sir.

Q Where is that barn located?

A This side of Stevenson, ~~xxxx~~ on the Southern, near the Southern Railroad.

Q Did you go in company with Mr. Schwartzbart?

A Yes sir.

Q What kind of day was it?

A Well, it was cloudy, with some little rain during the afternoon.



Q Was it clear enough for you to see in all directions?

A Clear enough to see in all directions.

Q When you got to the bar, were things clear enough so that you could see around the site?

A Yes sir.

Q When you wear glasses, you have no trouble in seeing?

A No sir.

Q Can you see distances like any other normal man?

A Yes sir.

Q I gave you instructions of just what you were to make?

A Yes sir.

Q When you got up into that barn?

A Yes sir.

Q Is there a hall through that barn?

A Yes sir.

Q You spoke to some lady, Mrs. Morris, when you went up there, and got permission to go in there?

A Yes sir.

Q Did Mr. Schwartzbart go up into the loft with you?

A Yes sir.

Q Did you take anything with you?

A Yes sir, a camera.

Q A regular professional camera?

A Yes sir.

Q Did you have with you photographic supplies in the form of plates?

A Yes sir.

Q Tell the learned court, and the gentlemen of the jury sitting over there in the jury box, exactly what you did when you got up onto that hay loft, what you saw, what you could see, and what you ~~might~~ couldn't see?

COURT: I imagine he means with reference to the territory and the railroad there.

Q Let me ask you this, making it more simple, - there happened to be along that railroad there at that time, by accident, some freight cars?

A Yes, there happened to be some freight cars there.

Q Some cars that are similar to the cars shown on this miniature train of cars, called gondola cars?

A Yes sir.

Q Do some of these cars show on the photograph you later took?

A Yes sir.

Q Cars that just heppened to be there?

A Yes sir.

Q Tell us as best you can what view you could get from the opening in that barn?

MR. KNIGHT: We object to that.

COURT: If you are going to ask him what he could see with the natural eye with reference to this

track, that is all right, I'll let him state it.

Q Go ahead, Mr. Sullivan and tell us how you set up?

A We set up on this loft, - in this loft and looked out that opening.

Q On the floor of the loft?

A Yes sir.

Q When you set up on the floor of the loft up against that opening, was there anything across that opening?

A Yes sir, there was a 2 X 4 across the opening that strikes you somewhere about chest high.

Q You looked right at it?

A Yes sir.

Q Did you see any of these gondola cars on that railroad?

A Yes sir.

Q Tell us, as you looked there, was the top of the gondolas, the top side of it, higher than the level you were on?

A It was higher than the level ~~I was on~~ of the eye.

Q Did you take a picture, that demonstrates that clearly?

A I did.

Q Is this a true picture representation, (hands picture to witness), it is in evidence now?

A Yes sir, that is on the picture.

Q This picture, Mr. Sullivan, tell us, if you will, if that picture demonstrates clearly the view you got from the

level of the eye, out towards the railroad, pointing your eye toward the railroad, does that show exactly what your eye could see?

A We set the camera up nearly level with my eye, and this is the result.

Q That camera was on a tripod?

A Yes sir.

Q Was the height of that tripod just about where your eye was?

A Just as nearly as I could place it.

Q Was the purpose to show in the photographis form what your eyes could see, with then even?

A Yes sir.

Q Is that the result?

A Yes sir.

Q Is that a true result?

A Yes sir.

Q That demonstrates what you could see out of the window looking toward that track?

A Yes sir.

MR. LEIBOWITZ: The number of that is Exhibit No. 6, for identification.

Q (By the court) Do you know what kind of car that is in the picture?

A Yes sir, that is what the call a gondola car, I think, Judge.



MR. LEIBOWITZ: May I offer this picture in evidence. It is marked for identification, No. 6. No objection.

Picture is handed to jury for inspection.

Q There is a black mark on the bottom of this picture, is that the cross piece?

A Yes sir, that is the 2 X 4.

Q That is shown on the photograph?

A Yes sir.

Q Now, I show you this photograph, marked No. 7 for identification, and ask you if this is a correct view showing the embankment of the railroad, and a piece of the gondola car shown on the right hand side of the picture?

A Yes sir. This photograph was made with the camera sitting on the floor on the left.

Q And that is the view you got?

A That is the view.

Q Suppose a man was working on the floor nailing down boards or something, and looked out through the opening isn't that a fair representation of the view you would get through that opening?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. LEIBOWITZ: Exception.

Q (By the court) Do you know whether or not that gondola that appears on that picture, part of one there, was

the same height gondola as the one that went by there on of this trouble?

A No sir, I don't know anything about the ones that went by there on that day. I know nothing about that. In making this picture I set the camera down on the floor of the loft.

Q How high is it?

A I suppose the lens were about six or eight inches above the floor of the loft; that is the actual view you get from that.

Q When you set it on the floor the lens was up?

A Yes sir, six to eight inches above the floor when the camera was sitting on the floor.

MR. LEIBOWITZ: We offer this picture, identified as No. 7 in evidence. No objection.

Q Mr. Sullivan, I am going to show you defendant's exhibit "A" in evidence, and ask you to tell me what that view represents?

COURT: Did you take that picture?

WITNESS: Yes sir.

A This was made above the house and barn looking this way, showing the cars on the track and the barn, and showing the relation of one to the other.

Q Your tripod was on the ground?

A Yes sir, the tripod was on the ground, and the camera on top.

Q Level with the eye?

A No sir, I suppose the lens of the camera was about this high (indicating) - about four and a half feet.

Q What was the object in taking this picture?

A To show the relation of these cars and the barn.

Q And this is the result of the operation of that camera?

A Yes sir.

Q Is that a fair representation of what your eye could see if your eye were in the same position as the ~~lens~~ lens of your camera?

A Yes sir.

Q Does that show, and did you personally see whether or not the tops of those gondolas wasn't higher even than the roof of that barn?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. LEIBOWITZ: Exception.

Q What did your examination disclose with reference to the height of the gondola and the roof of that barn?

MR. KNIGHT: We object to that because it has not been shown that the gondolas are the same kind of gondolas that were on the track that day, or that there were any gondolas on this track at the time Mr. Morris looked from the loft of his barn; it has not been shown that the barn is in exactly the same condition that it was on that day; it has

not been shown that the witness had an opportunity of observing the track under the same conditions that Mr. Morris looked along the track and testified as to what he saw on that occasion.

COURT: I sustain the objection.

MR. LEIBOWITZ: We except.

Q Just how much of an embankment from the track down to this place where this barn is located, how deep is that depression?

A That would be a hard question to answer, as to how deep it is unless I had measured it and knew more about it than I do.

Q (By the court) Do you know what is the difference of the elevation of the ground where the barn is situated and where that car stands?

A No sir, I do not.

Q Is the ground between the barn and the base of that fill level?

A About so, it slopes slightly to the track.

Q (Court) And you don't know how high it is up to the top of that fill?

A I don't, no sir.

Q But the house is, - the barn sits lower than the railroad track?

A Yes sir.

Q What I want to know is, about how many feet it is lower than the railroad track, if you can tell us, - give



us your best judgment on that.?

A I should say in the neighborhood of eighteen feet the best I can judge from this photograph and from what I saw at the time.

Q I will ask you if the photograph refreshes your recollection about that?

A It does; that is the only way I have of refreshing my memory.

Q Is your recollection refreshed?

A Yes sir.

Q Testifying from your recollection as refreshed would you say that the depression is about eighteen feet?

A Yes sir.

Q How high is the floor of the loft from the ground?

A It is about eight feet.

Q How tall are you, Mr. Sullivan?

A Five feet, eight and a half inches.

Q Am I right in saying, if your eyes are approximately four feet and four or four and a half inches from the ground, that added to the eight feet would be thirteen feet, about?

A Yes sir.

Q Could you see over the top of the gondola car with your eyes thirteen or fourteen feet from the ground, where the barn stood?

A No sir.

*e*

MR. KNIGHT:

Q You made this picture, Mr. Sullivan, during the last trial in Decatur?

A Yes sir. These pictures were made on the 30th day of March, of this year.

Q You did see some box cars and some gondola cars on the track there at that time?

A Yes sir.

Q Rather cars that you call gondola cars?

A Yes sir, as I said what they call a gondola.

Q You know nothing with reference to the condition of the track as to having cars on it, on the occasion in question?

A No sir.

Q I will ask you about this picture, I believe it is the picture shown to be Exhibit "6", does that black mark there represent that 2 X 4?

A Yes sir.

Q How close were you to that when you took that picture?

A That lens was from 12 to 15 inches away from it.

Q The lens was?

A Yes sir, the lens was.

Q Where the lens was, was that a little above, or completely above and over that 2 X 4 when you took it?

A Yes sir.

Q How do you account for the fact that the 2 X 4 is

is shown?

A Because of the angle of the lens.

Q Is that ~~xxx~~ true sir, was the lens angling down?

A The view of the lens comes down here; the lens I was using on this has an angle of about 70 degrees for work.

Q This picture represents looking out of the barn towards Paint Rock?

A Yes sir.

Q Did you take any picture of the barn at the back end of it -

COURT: This No. 6, was that one of the pictures that was admitted.

MR. KNIGHT: Yes sir.

Q You were looking in that direction, that is towards Paint Rock when that picture was taken?

A Yes sir.

Q On which side of the barn were you standing at the time you took this picture? (Handing picture to witness)?

A Well, here is the ~~paintx~~ opening here.

Q (By the court) That is the one that shows one gondola?

A Yes sir.

Q (By the court) Was that at the center of the opening? (This Exhibit 6)

A We were near the center of the opening, but more

to the right.

Q You were on the right?

A More towards the right.

Q How do you account for the fact, you have a photograph here, have you not, of a portion of the left side of the barn, how do you account for that?

A I think it would do that; I think the lens being closer, the angle we spoke of would catch that.

Q Then you have it there, standing over on the other side?

A Yes sir, because the further away you get from it, the smaller it will show.

Q What distance, in your best judgment, does that represent, the line of vision between that gondola there, - I mean that portion of the gondola back to here (Indicating)

A What distance? I would say something in the neighborhood of 150 feet.

Q Did you make any pictures looking directly out of that barn?

A You mean looking straight west?

Q Directly away?

A It seems to me that we did.

Q It is not in any of these here?

A No sir.

Q This picture made up in the left, - in your best judgment what distance does that represent?

A That represents a little more distance than the other.



Q Tell us what that is?

A That is east, the camera was sitting facing west, or rather the northwest, more northwest than the other.

Q This picture was across the railroad track?

A Yes sir.

Q And this was directly down the railroad track?

A Yes sir.

Q What was the purpose of going across that way, on Exhibit 6, what was the purpose of showing that view in there?

A That was done in order to bring that car in line of vision.

Q It was your purpose to bring these cars in line as your eye would see it?

A Yes sir.

Q From this picture here, even this picture taken on the floor, you could see people in the gondola car, provided any portion of their body was above the top?

A Yes sir, you could.

Q The same way with this?

A Yes sir, absolutely, if above the top.

COURT: I would like to ~~ask~~ ask the witness one or two questions.

Q In taking a photograph, does the appearance of the photograph when taken, as to its levels, elevations or depressions on the ground, depend upon the manner in which the lens is adjusted?

A It depends on what we call the focal length of the lens, and the manner in which it is adjusted. In other words you can cause distortion by using extreme focal length. This particular lens happens to be a twelve inch lens, which is considered a commercial lens for the work.

Q Would the position in which you place the lens with reference to angles make any difference?

A You can make it make a difference, yes sir.

Q For instance, here is two objects that are about even, can you so adjust the lens in taking a picture of them so that you will make them uneven?

A You can do that, yes sir.

Q Can you do the same thing with reference to elevations?

A Yes sir, it can be done.

Q In all of it, the distance would have something to do with it?

A Yes sir.

#### REDIRECT EXAMINATION

MRL LEIBOWITZ:

Q I want to ask you, Mr. Sullivan if you have had any connection with anybody in this case, the lawyers for the defendant, or anybody on the side of the defense, outside of being asked to go out there and make these photographs?

MR. KNIGHT: We are not insinuating that he is.

COURT: Then, that is immaterial.

Q Did you, when you went out there, do anything of what is called trick photography?

MR. KNIGHT: I don't believe Mr. Sullivan would do that.

COURT: Do you object?

MR. KNIGHT: Yes sir.

COURT: Sustain the objection.

Q What I want to know is this, when this picture (Exhibit No. 6) was taken, was it your object to turn your camera so that you could get any portion of this gondola car, so as to be able to show in court what you could see out of that window, looking straight at the gondola car?

A That was the purpose.

Q Would that be the most favorable view any person could get of it?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. LEIBOWITZ: We except.

Q What would be the closest point on that track of any car on that track shown on that picture, what object on that track would be the closest?

A As far as you could see here, of this gondola.

Q Would it be the gondola that would be the nearest to you?

A Yes sir.

Q Then, if you turn your eyes towards the left and looked down the track, you would see further?

A Yes sir.

Q Further away than this gondola?

A Yes sir.

Q If a man stood in this opening where you stood, and looked out at the point nearest to him on that railroad track, would see this gondola, if it was there?

A Yes sir.

Q I wasnt to know if Exhibit No. 8 absolutely and faithfully and honestly represents the height of the gondola car and the height of that train?

A As nearly as I could make it, yes sir.

Q Was that the very purpose of taking that picture?

A Yes sir, that was the purpose of that picture,

RECROSS EXAMINATION

MR. KNIGHT:

Q When a man looks from the position you were in when taking this picture (Exhibit 6) from the side of the barn, the nearest thing that comes in view would be the gondola cars, but he is looking across the track, directly, so to speak, at the gondola?

A Well, yes sir, that is right, but not directly.

Q But if the gondola car is nearest that vision, he is looking directly to that extent, - that is when he is looking across here, he sees the gondola?

A Yes sir.



COURT: What number is that?

WITNESS: Number 7.

REDIRECT EXAMINATION.

MR. LEIBOWITZ:

Q. To make that last point clear, - Mr. Sullivan let us assume we are standing here (having made a square on a piece of paper), can you see that from where you sit?

A Yes sir.

Q When you look squarely out of that window, looking almost straight ahead, do you get the result shown on MR defendant's exhibit No. 6?

A No, that is looking more to the north.

Q Looking a little north?

A Yes sir.

Q You looked more down the track, and turned your camera that way?

A Yes sir, about that.

Q So as to get all of the view you could through that opening?

A Yes sir.

Q The result of that was this picture, defendant's Exhibit No. 7?

A Yes sir.

Q That, of course, didn't change the height of your view?

A No sir, it didn't change that.

Q In other words what I mean is this: if you are

standing looking out at these gondola cars, and you say that the height of your head was lower than the tops of those gondola cars, it wouldn't make any difference whether you were looking straight, or whether on down the line, that wouldn't change the height?

A No sir.

Q And would not give any more opportunity to see in that car as it went on down the line?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. LEIBOWITZ: Exception

ELIAS M. SCHWARTZBART, sworn for the defendant, testified:

DIRECT EXAMINATION.

MR. LEIBOWITZ:

Q You are an attorney and of counsel also?

A I am.

Q How many years?

A For four years.

Q You are assisting here with the defense of this case?

A I am.

Q Do you remember going down to the barn of Mr. Morris together with Mr. Sullivan of Decatur?

A I do.

Q The photographer?

A I ~~see~~ did.

Q Did you go under instructions from me to see what you could see out of that big opening in that barn?

A I did.

Q Had you read the testimony of Mr. Morris in the Scottsboro case?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

Q You know what you went there for?

A Yes sir, I had definite instructions.

Q Did you go up in the hay loft?

A We did, Mr. Sullivan and myself.

Q Did you get permission?

A We did. We saw Mrs. Morris and she said we could go up there.

Q After you got up there what test did you personally make, what eye test did you personally make up in that barn?

A We got up in the hay loft on the ladder at the side of the barn, and there was an opening facing the west.

Q Looking towards Paint Rock?

A Yes. We went to the opening. The opening was perhaps eight feet high, and a cross bar about five feet or thereabouts, - along about here (Indicates on person height of bar).

Q That would be how HIGH large?

A Two or three by four.

Q You indicated about the top of that beam on your person?

A Yes sir.

Q Did you look out of that opening?

A Yes, I looked from that opening in various directions. I first looked to the extreme right, trying to get the best view possible that a person could get of a passing train from the east towards the west. I noticed some gondola cars standing there, beyond the barn.

Q You didn't cause those cars to be put there?

A No.

Q They just happened to be there?

A Yes sir.

Q You saw out of that window, standing on your feet looking through this opening?

A Yes sir.

Q Tell the jury what you saw?

A I looked directly at the gondola cars, and in my judgment the top of the gondola cars were higher than my eye level.

Q You couldn't see into the gondolas?

A I couldn't see beyond the top of the gondolas, or any of the interior portion.

Q You see that pencil resting on top of this gondola (indicating)?

A Yes sir.

Q In standing on your feet and looking at the gondola, was your eye level higher or lower than the side



of the gondola, the top side?

A Quite definitely lower.

Q Did you look along the track towards Paint Rock?

A I looked from that opening down the track as far as my eye could see.

Q In looking at the gondola car, you say that the top of the gondola was higher than the eye?

A Yes.

Q Is this a correct representation of the view that you got (Handing photo to witness)

A I should say that was very accurate.

Q Did you see Mr. Sullivant take that picture?

A I was beside him; I assisted him.

Q What position was the lens when that was taken with reference to the eye height of the eye?

A I should say approximately the same as the eye.

Q That is a true picture of what you could see?

A Yes sir.

Q Looking straight out that window?

A Yes, that would be northwest.

Q Were you present when this picture was taken, defendant's exhibit No. 8?

A Yes.

Q What was the object of taking that picture?

A The object of the picture was to show -

COURT: No need to tell what the object was.

Q Is that a true view of the position, - let me ask

this, are these gondola cars right opposite that barn?

A They are very close, practically parallel with the barn.

Q In other words in looking out of that barn straight across, the first thing you saw was the gondolas?

A Yes sir.

Q Could you make a very good comparison as to the height of the gondola and the height of the barn?

A Yes sir.

Q According to that picture, and refreshing your recollection from the picture, which was higher, the roof of the barn or the tops of the gondolas?

A I would say, looking from that direction, the top of the gondola cars was at least as high as the roof, the peak of the roof.

NO CROSS-EXAMINATION.

MR. CHAMLEE: E. L. Lewis was examined on the other trial, and this man Dallas Ramsey has testified as to his death, and his testimony is in the record of the other trial, and we are going to offer to read his testimony on the other trial.

MR. KNIGHT: Your Honor, that testimony encludes ~~the~~ matter which I have objected to, and which objections have been sustained by your honor, and I prefer that it be not read, and I object to its introduction. I am not objecting because of the death of the witness; I am taking his word for that. But there are some portions, practically all of it that I do

object to.

COURT: My understanding was that these records were identified and it was agreed that they were the official stenographer's report of the evidence of the witnesses that appeared therein, and that is as far as that agreement went; now you have paved the way to show what his former testimony was by showing that he is dead. Does the defendant propose to show what his testimony was by that record?

MR. CHAMLEE: Yes sir, by reading what he said, that was agreed so as to relieve the the official reporter from attending court.

MR. KNIGHT: I am not taking my position on that. But there is testimony that is objectionable, and we want the court to rule on our objections at this time.

COURT: I am going to make my own independent rulings on that.

MR. CHAMLEE: We will not read any answers where an objection is made until the court rules.

COURT: All right, go ahead:

Q What is your name?

A E. L. Lewis.

Q Where do you live?

A Chattanooga, Tennessee.

Q How long have you lived there?

A Lived there since 1922.

Q I want to show you a picture of a building and will ask you if you recognize the house in that picture?

MR. KNIGHT: The state objects.

COURT: Read that question again?

Q. I want to show you a picture of a building and will ask you if you recognize the house in that picture?

MR. CHAMLEE: The picture was Exhibit 11 to testimony of Dallas Ramsey.

COURT: I sustain the objection.

MR. CHAMLEE: Exception.

Q Is that your house?

MR. KNIGHT: State objects.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q ~~EXH~~ Do you know Dallas Ramsey? (Botton of page 634)

A Yes sir.

Q How far do you live from him?

A I live three or four hundred yards from him.

Q In the same City?

A Yes sir.

Q Here is another picture introduced in evidence as an exhibit to the testimony of Dallas Ramsey, Exhibit No. 12, I want you to look at that and tell us if that gites a good representation of the railroad crossing there, the junction of the two railroads?

MR. KNIGHT: State objects to that and the introduction of



the picture as immaterial.

COURT: I'll overrule the objection. That is a picture showing the crossing that has been referred to by the evidence.

(This picture was introduced as No. 12 to testimony of E. L. Lewis)

Q In that picture I will ask you if there is a picture of a water tank?

A Yes sir.

Q For what railroad is that water tank?

A Southern Railroad.

Q I want to show you another picture, marked Exhibit No. 10, to the testimony of Dallas Ramsey, and will ask if you have ever seen that woodland pictured in this picture?

MR. KNIGHT: State objects.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

Q I will ask you whether or not you have had occasion to be in this woodland shown in this picture, to be in there sometimes?

A Yes sir.

Q Trees in there?

A Yes sir.

MR. KNIGHT: There was objection to that, it is so immaterial.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

Q Did you have charge of part of it?

MR. KNIGHT: That is objected to.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

Q Is that your house?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. CHAMLEE: We's except.

Q Do you own any hogs?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Where do you keep your hogs?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q In some of these woods shown here?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q On the morning of the 25th of March, 1931, did you have any engagement with Dallas Ramsey?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q What was that about?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: We except.

Q State whether or not he came to your house early on that morning and you and him went in this woodland to look at some pigs?

MR. KNIGHT: We object to that.

COURT: Sustained.

~~XXXXXXXXXX~~ MR. CHAMLEE: Exception.

Q Did you and Ramsey go down to see the pigs?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did you have a sick hog somewhere on this land?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: We except.

Q Did you go to see about a sick hog?

MR. KNIGHT: We object to that

COURT: Sustained.

MR. CHAMLEE: We except.

Q On your way, either going or coming back, I will ask you to tell us whether you saw any women?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q How many?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: We except.

Q Was there any fire anywhere around there?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q On the night before this trip when you went to see about the hogs, did you see a fire burning in this woodland, did you see a fire there the night before?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q After you had been down to see the hogs, did you have an occasion, or did your friend Ramsey have occasion to

no

ool



talk to some women?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q It was nearer back to your house?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q By coming by where the women were than it was going by the way you had gone?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q This stream here, are there crooks in the stream that wind ~~around~~ <sup>around</sup> through the land?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. ~~KNIGHT~~ Chamlee: Exception.

Q I will ask you if you can give a description of how the woman looked?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q A scar or a bruise?

MR. KNIGHT: State objects.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q (By the court) She had what?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q What size woman was she?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q How old would you say she was?

A She was something like, looked like in her twenties.

Q Do you remember how she was dressed?

A She was dressed in overalls and a long coat on, but her overalls of course was a little bit dirty. (Rest of answer was excluded by the court on motion, to which defendant excepted.)

Q Had you seen that woman before that time?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Where had you seen her before that?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Colored men?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q How long was that before you saw her on this occasion?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q You mean back in the woods?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Had she ever come up to your house?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: We except.

Q Asked for food before this time?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

COURT: Let her come in.

MR. KNIGHT: I would like to ask him the color of her hair; Can I question him a little?

COURT: All right.

Q You say that you had seen this woman about a month before?

A About three or four months.

Q Before that time?

A Yes sir.

Q You are sure that is the same woman?

A Yes sir, same woman.

Q That was on what day?

A I seen her.

Q Last?

A That was about March 24th, I think it was, 1931.

Q What color hair did she have?

A He had kinda dark hair.

MR. KNIGHT: Bring her in.

REDIRECT EXAMINATION BY MR. CHAMLEE:

Q Did she have on a hat?

A She had on a cap.

Q Look at this lady and tell us if that is the woman (Indicating)?

A Yes sir.

Q How many times would you say you have seen this



woman in those jungles, or come to your house?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: We except.

Q Frequent visitor to that place?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q When you were returning from looking at this sick hog, did she say anything to Ramsey in your presence, ask him something?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did he tell her?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did she say anything else to him?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did she say whether or not she wanted to go back

on that train?

A Yes sir, she wanted to go back to Huntsville on a freight train.

Q Tell us whether or not that was the place the freight trains stopped, at that water tank?

A Yes sir.

Q Freight trains stopped there every day?

A Yes sir.

Q And every night?

A Yes sir, to get water.

Q Are there a few or a great many people get off there and go in those jungles?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: We except.

Q Is the edge of these jungles near the railroad or along the side?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q I will ask you to tell us if after you had returned from looking about the hogs if some white man stopped you in the road?

MR. KNIGHT: We object to that.

COURT: Sustained.

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MR. CHAMLEE: Exception.

Q Before that happened, before this white man spoke to you had you seen these girls after you left the place where they were in the jungles?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Where were they?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q This girl here was sitting on a ~~IBM~~ log between two colored boys? (This question was not read out before the jury, but was submitted to the judge, who, after reading it, sustained an objection to the question, lodged by the state, and handed the question to the reporter to copy in the record of this case. Whereupon, Mr. Chamlee, for defendant, duly excepted to the court's ruling).

Q When this white man came back what became of those colored men and this girl?

MR. KNIGHT: We object to that.

COURT: I sustain the objection.

MR. CHAMLEE: We except.

Q Did she leave these colored men?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q When she got with the white man did the white man come to see you about something?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did you tell him that you had not said anything improper to the girls?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did Ramsey say anything improper to the girls?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did he talk to them about riding trains?

MR. KNIGHT: We object to that.

COURT: Sustained.

~~XXXXXXXXXXXXXXXX~~ MR. CHAMLEE: Exception.

Q What did she say about her husband?

MR. KNIGHT: We object to that.



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COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did she say anything about they were broke?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did you hear Ramsey mention anything about getting a job at the Champion Mill?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Is the Champion Mill located on Main Street?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q In Chattanooga?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q How long was it from that time if you know until the freight train actually came?

A It was I guess about two hours, as near as I could get at it.

Q Do you know whether these women actually got on the freight train and left?

A I seen them going across the Central of Georgia trestle going back towards the tank.

Q Is the tank where they get on, up there at the tank?

A Yes sir.

Q Tell us whether ot not next day you heard about this trouble down at Scottsboro?

A Yes sir, the next day I was looking at the morning paper and I seen where this trouble happened at Scottsboro - answer to the (The court ruled out the balance of the/question. No excep- tion was taken. p 644, 1st question).

(Next two questions were not read or offered)

Q Since that time you and Ramsey and everybody else has talked about this case?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q All the time more or less?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Is it not true that a lots of other people in that same neighborhood have also talked about it?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. CHAMLEE: We except.

Q Do you know whether other people have seen this woman in the jungles?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: We except.

Q State whether or not she came to your house and asked your wife for food?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Was there another girl there besides the one you saw here?

MR. KNIGHT: That is objected to.

COURT: Sustain the objection.

MR. CHAMLEE: We except.

MR. CHAMLEE: That is all of the direct examination, down to the cross examination by Mr. Knight.

MR. KNIGHT: I don't care to offer it.

MR. CHAMLEE: We think it all ought to go in.

MR. KNIGHT: All right.

(At this point court recessed until one o'clock).

(At the re-convening of court, cross-examination of the witness E. L. Lewis, was read to the jury, this court, ruling on objections to testimony.)

Q What is your name?

A Lewis.

Q You testified, I believe that you saw Victoria Price on the 24th day of March?

A Yes sir.

Q Did you see Ruby Bates there at the same time?

A There was a little small girl with her.

Q Was she lower than Victoria or taller?

A A little taller than her.

Q What was the color of her hair?

A I didn't notice her hair right particular.

Q You didn't notice it particular?

A Nosir.

Q How do you know it was Ruby Bates, who was it, do you know who the girl was?

A Victoria Price.

Q Who was the one with her?

A Named Bates.

Q How do you know?

A Because the two were together, and I know one of them must have been, they wouldn't have had the same name.

Q Did you know the names of either of them at the time?

A I seen the names in the paper.



Q Since then?

A Yes sir.

MR. KNIGHT: We object to the next question and answer; I think it is incompetent and immaterial.

COURT: (After reading question) Sustain the objection.

MR. CHAMLEE: We except.

(The question was as follows:)

Q You just know those were the two girls?

Q You say she had dark hair, didn't you?

A Yes sir, she has got kinda dark hair; I wouldn't say right black.

Q Did the other one have dark hair?

A I didn't notice.

Q How did it happen that you noticed this one?

A I seen it.

Q Didn't you see the other one's hair?

A She was setting down.

Q Can't you notice a person's hair sitting down?

A I didn't notice that girl's.

Q You say you saw a man on the railroad tracks, you say he asked you what you had said to the girls?

MR. KNIGHT: I object to that answer. I don't think it is material.

COURT: I sustain the objection.

MR. CHAMLEE: We except.

Q And asked you what you said to them?

MR. KNIGHT: I object to that also.

COURT: I sustain the objection.

MR. CHAMLEE: Exception.

Q Tell us what that man looked like?

A He was a young man like, along in his twenties, looked to be.

Q Was he long or short?

A He was just a little bit taller than I am.

Q The man you saw was a little taller than you?

A Yes sir.

Q How many men did you see?

A That man was by himself.

Q What was the color of his hair?

A Kinda red looking hair.

Q You said that he was taller than you?

A He looked to be, just estimating.

Q How was he dressed?

A Overalls.

Q Was he heavy set?

A Not quite as heavy through here (indicating) as I am, but a little bit taller than I am.

Q You told him you hadn't said anything to them?

A Yes sir.

MR. KNIGHT: I want to make my objection to the answers to these questions. I necessarily had to ask these questions on the former trial. Now, I am objecting to these answers. Of course I would not have propounded these questions under

the present court's ruling.

COURT: The objection is sustained.

MR. CHAMLEE: We except.

Q You are sure he said something to you about that?

MR. KNIGHT: We object.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q You are sure of that?

A Yes sir.

Q That was down about the sick hog pen?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q How far from the pen in which you had the sick hog?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q The next question is the same.

COURT: The hog business is out.

Q Did you see the girls again that day?

A As they went down the railroad.

Q When did they go down the railroad?

A They went down after we passed them, after they

passed us they went down the railroad and I didn't see them any more.

Q You didn't see them any more, you don't know whether Dallas did or not?

A Dallas went to his home and I went to mine.

Q What time did they get on the train that day?

A I don't know.

Q Do you know what time the train went?

A The train generally runs about nine o'clock.

Q What time was this that you saw them?

A Long about nearly seven o'clock.

Q Was it after seven?

A I don't know; I didn't have no watch to look

at,

Q You say they told you they were looking for work?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHEMLEE: Exception.

Q She had been to your house before?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHEMLEE: Exception.

Q Did you see her?

MR. KNIGHT: That is objected to.

COURT: Sustained.



Q What was she looking for then?

MR. KNIGHT: We object to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did she tell you anything about work?

MR. KNIGHT: We object to that.

COURT: Sustain the objection.

MR. CHAMLEE: We except.

Q How many times have you and Dallas Ramsey talked this over?

MR. LEIBOWITZ: Pass that by.

Q Have you talked to Dallas Ramsey since he testified here?

MR. LEIBOWITZ: Pass that by.

Q You haven't seen Dallas Ramsey since he testified here?

MR. LEIBOWITZ: Pass that by.

MR. LEIBOWITZ: Here is Carter, General Knight?

COURT: (Former trial) Are you ready for Carter.

Q Is this the man that was there (indicating)

A Yes sir.

Q You are sure that is him?

A Yes sir, that is him.

(Witness stood up beside Lester Carter, and was about the same size man.)

Q That is the man that you saw that day?

A Yes sir.

Q What was it that he said to you?

MR. KNIGHT: I am objecting to the answer.

COURT: I sustain the objection.

MR. CHAMLEE: Exception.

Q How close was he to you when he said, hey?

MR. KNIGHT: We are objecting to that.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q That was your explanation to Carter, to the man that walked out here?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Have you seen Carter since that day?

MR. KNIGHT: That is objected to.

COURT: Sustained.

MR. CHAMLEE: Exception.

Q Did anybody tell you what kind of hair he had?

MR. KNIGHT: That is objected to.

Q You looked to see what kind he had?

A Yes sir.

Q Didn't you look to see what kind of hair Victoria Price had?

A He was mad, he was mad and had his hat setting back.

(The next five questions were skipped).

Q Did you see Ruby Bates?

A Yes sir.

Q How do you know Ruby Bates?

A I know her when I see her.

Q Had you seen her before?

MR. KNIGHT: We object to that.

~~MR. CHAMLEE:~~ COURT: Sustained.

MR. CHAMLEE: Exception

Q Yes?

MR. KNIGHT: THAT IS OBJECTED TO.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

(Next three questions were same as above and objection was sustained to them, with exception on part of defendant. First three questions on page 653.)

Q Where has you seen her?

MR. KNIGHT: That is objected to.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

Q How many times have you seen Ruby Bates?

MR. KNIGHT: That is objected to.

COURT: Sustain the objection.

MR. CHAMLEE: Exception.

Q You have seen her a number of times and you can't tell me the color of her hair?

MR. LEIBOWITZ: Pass that by

MR. KNIGHT: That is all of ~~her~~<sup>his</sup> testimony.

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MR. LEIBOWITZ: Now, your honor, I want to read into the record certain testimony for which I have laid a predicate, certain testimony that has been identified as the official testimony, of Victoria Price, on page 66 of the record made before Judge Horton last Spring. Turn to that, General, you will probably have to help me.

MR. KNIGHT: Now, your Honor, of course in order to impeach a witness he has got to introduce testimony of a former trial on the points on which he has laid the predicate. But it should be confined to that, however.

COURT: That is what I have ruled, of course.

MR. LEIBOWITZ: That is what I expect to do. This is on page 66 of that record:

Q Did that blood come out on your clothes?

A Yes sir.

Q Did the doctor see that, did you show it to the



doctor?

A I reckon he did."

MR. LEIBOWITZ: Then on page 65, the preceding page:

"Q Were you bleeding from your private parts?

A A little bit".

MR. LEIBOWITZ: Then on page 36 of the same record:

"Q Was that the last or first thing, being struck on the head with the gun?

A No sir one of them picked me up by the legs and back of the overalls and held me over the gondola and said he was going to throw me over.

Q Held you by your head and feet with your head hanging down?

A No held me by the legs."

MR. LEIBOWITZ: Turning now to page 58:

"Q So you were not having intercourse for about five minutes before the train reached Paint Rock?

A The quit raping me about five minutes before the train reached Paint Rock."

MR. LEIBOWITZ: Then again, on the same page?

"Q Didn't none of them try to come back for a second time?

A Not that I remember of."

Q They were satisfied with one time?

A The best I remember."

MR. LEIBOWITZ: Then on page 64:

"Q You lay on your back there for close to an hour on that jagged rock screaming?

A Yes sir.

Q Was your back bleeding when you got to the doctor?

A I couldn't say.

Q When you got to the jail was there any blood on your back?

A A little bit."

MR. LEIBOWITZ: Then again on pages 33-34:

"Q One of them smacked you in the head?

A With a gun yes sir.

Q With the butt end of the gun?

A Yes sir.

Q On the side of the head?

A Yes sir.

Q Right on the side of the head with the butt end of the gun?

A Yes sir.

Q Then it started to bleed?

A Well, a little bit, not much.

Q How high up on the head did he hit you?

A He hit me somewhere between here and there (indicating)

COURT: Where were you hit?

A I would say between my eye-brow and my head up

here (indicating)

COURT: The top of your head?

A Between the eye-brow and the top of my head.

COURT: Between ~~the~~ your right eye-brow?

A Yes sir.

COURT: And the top of your head?

A Yes sir.

COURT: Between those points?

A Yes sir."

MR. LEIBOWITZ: Turning to the testimony of Mr. Hill on page 216 -

COURT: That is the depot agent?

MR. LEIBOWITZ: The station master, your Honor.

"Q You claim all the negroes got off that car?

A The ones that were arrested got off.

Q All of them off of that one car?

A Yes sir."

MR. LEIBOWITZ: Then to page 229:

"Q When you saw these women they had coats on did they not, overcoats?

A No sir, didn't have on any overcoat, had on overalls."

MR. LEIBOWITZ: We not go, to the record in the Scottsboro trial, the testimony of Victoria Price, at Scottsboro, in the Weems-Norris case, page 25:

"Q Which one is that? "

A That one behind there, that is one with a gun, he got me by the leg and by the ankle and slung me back in the gondola and picked me up like he was going to throw me out."

MR. LEIBOWITZ: Page 24, same witness, Victoria Price:

"Q That one yonder, Charley Weems?

A Yes sir.

Q With a gun or pistol?

A A pistol, a 45."

MR. LEIBOWITZ: Same witness, page 12, in the Powell-Roberson case:

"Q Did you see the two men who carried the guns?

A Sure.

Q They were both there?

A There was two that had guns absolutely, a 38 and a 45."

MR. LEIBOWITZ: The same witness, page 4 of the Patterson Scottsboro trial:

"Q What did you see this defendant do in that fight?

A I seen him knock a boy in the head.

Q With what?

A A gun.

Q A pistol?

A A 38."



MR. LEIBOWITZ: Now, the testimony of Luther Morris, in the Weems record, Scottsboro trial, page 106:

"Q What did you do with them?

A They run off and left me; they would not talk with me; they run back to Stevenson.

Q You say you only saw two after the train passed?

A I saw five.

MR. LEIBOWITZ: Now the testimony of Lee Adams, in the record of the trial of Patterson in Decatur, beginning at the bottom of page 245:

"Q How are you located with reference to the train, were you on the ground, or even with the train, or above it or how?

A I was sitting on a load of cross-ties and when the train come out of the cut I was something like level with the train.

Q How far away from the train were you when it passed?

A I was just about a quarter.

Q Quarter of a mile?

A Yes sir."

MR. LEIBOWITZ: That is all of that testimony. I now want to offer the entire testimony of the defendant, Haywood Patterson, given by him in the trial at Scottsboro, direct and cross examination.

MR. KNIGHT: I have no objection to it.

MR. LEIBOWITZ: May we read that in Judge - do you have a copy of it over there?

MR. KNIGHT: I don't think we have. I know what it is, we have a printed record of it.

COURT: Now listen; that calls for a new ruling on the proposition of the admissibility of the testimony. I'll tell you what I think about it; I think it would be improper to read questions and objections to questions and things like that. I don't think it would be proper to put in all of his testimony in the case, but I do think it would be fair wherever it is necessary to make an answer make ~~sense~~<sup>sense</sup>; all of that question ought to be read.

MR. LEIBOWITZ: I am going to read only such questions as are material.

MR. KNIGHT; No, it all ought to be read.

COURT: I think the understanding was that you could read the testimony, and wherever it was necessary to make an answer make sense, the question be read so that it would make sense.

MR. LEIBOWITZ: My motion is this: I propose to read from that record, the testimony given by Patterson in Scottsboro, such testimony given by him which is explanatory or in contradiction of the testimony offered by Mr. Knight lastnight before we adjourned; that the defendant has the right to offer such testimony in explanation of, or in contradiction of the testimony culled from the very same record from which the prosecution read. I respectfully urge that as a matter of law to the court. I don't know whether I submitted that to the

court last night, and I want to make sure that I have submitted it, in order to obtain a ruling from the court.

MR. KNIGHT: Our position on that is this, we were taking excerpts from the testimony of Haywood Patterson on his trial at Scottsboro which were contradictory to his testimony taken here on this trial, and the defendant did attempt to show some other testimony ~~XXXXXXXX~~ given by Patterson on his trial in Scottsboro which he contends is explanatory of the testimony, or excerpts of testimony which I offered in evidence last night. Now, today he announces to the court that he is offering all of the testimony of Haywood Patterson in his trial at Scottsboro. I don't object to it, your Honor, let him read it all.

MR. LEIBOWITZ: Is there any objection to reading excerpts from his testimony which are explanatory of the testimony culled from the record by the prosecution?

COURT: That would turn on the matter of construction as to whether it was explanatory or an answer. So far as I am concerned, I have grave doubts whether you could read any of it, without consent. However, I am inclined to allow you to read from that record any statements that shed light on the testimony offered by the prosecution.

MR. LEIBOWITZ: That is exactly what I propose to do. I am now reading from the record in the Patterson case in Scottsboro, from the bottom of page 55, of his testimony:

"Q And that was a big box car?

A Yes sir.

Q That is the one you were on when you saw these boys down in there?

A When I seen them I crawled up on top and looked over in there.

Q And you saw these girls?

A No sir, I did not see no girls.

Q Didn't you tell me while ago you saw them?

A No sir, I didn't see any girls.

Q You never did see any girls in there?

A No sir, not 'till we got to Paint Rock.

Q Who was doing the fighting in there?

A The other fellows.

Q What other fellows?

A The other fellows that was on the train, I did not know their names.

Q What color were they?

A Colored.

Q The colored boys were fighting by themselves?

A No sir, they were fighting at the white boys, the white fellows jumped off.

Q Did they jump off?

A Yes sir."

MR. LEIBOWITZ: Now, on page page 88, at the bottom of the page:

"Q All of you was fighting in there wasn't you?

A Not all were fighting, some were fighting.

Q You were fighting?



A No sir, I wasn't fighting.

Q You helped to put the white boys off didn't you?

A No sir, the boys were surrounded, I could not get a chance.

Q But that is what you went down there for?

A Yes sir.

Q Did you look around in the gondola in there?

A Yes sir, I looked all around.

Q You could see all over the gondola?

A Yes sir.

Q But you never saw any women in there?

A No sir, I did not see any in there.

Q Wasn't you in the gondola when it got to Paint Rock?

A Yes sir, I was in there.

Q You were still in the gondola when it got to Paint Rock and yet you didn't see any women in there?

A No sir, I didn't see any.

Q And there wasn't any women in the gondola was there?

A No sir.

Q No woman on the gondola when you got to Paint Rock?

A No sir.

MR. LEIBOWITZ: There are two witnesses I want to speak about, one if a physician in Chattanooga, Dr. Reisman who testified on a former trial. I am informed that the doctor

had two major operations this morning, but that he has left Chattanooga and will positively be here in one hour, he said he would be here by three o'clock.

COURT: I will let you examine him out of order, if he gets here before we close the case.

MR. LEIBOWITZ: I want to call the court's attention to an affidavit signed and sworn to before a notary public in New York City.

COURT: Let me see it. (Mr. Leibowitz hands paper to the court). (I think your Honor has seen it.) Court: I probably just glanced at it.

MR. LEIBOWITZ: This is dated November 27, 1933, and reads as follows: (Starts to read affidavit)

COURT: You needn't burden the record with that.

MR. LEIBOWITZ: I want to mark it for the record, together with the envelope in which it came. This affidavit and the envelope in which it came.

(The affidavit and envelope were handed to reporter who marked both: Exhibit No. 2 to statement of Mr. Leibowitz, one being marked Exhibit No. 2, and the other Exhibit No. 2, part 2.)

MR. KNIGHT: We object to that.

COURT: All right, I'll sustain any kind of objection you want to make to that.

MR. LEIBOWITZ: I am going to now ask for a continuance of the case at the present time on the following grounds: On the

day that the trial was set for arraignment, motion was made before your Honor for the issuance of a commission to take the interrogatories of one Ruby Bates, a material and necessary witness in this case; the witness was at that time out of the state and not subject to the subpoena of this court; pursuant to that application we had immediately prepared a set of interrogatories, and served notice upon the attorney general of the application for these interrogatories, and served a copy of the interrogatories upon him immediately, and asked if he had any cross-interrogatories to offer. He stated that he would let us know about it, and accordingly on Wednesday, and after this motion, and after the interrogatories were served on Mr. Knight, he submitted to Mr. Brodsky a set of cross-interrogatories to this Ruby Bates. Mr. Brodsky at the earliest possible moment mailed the interrogatories to the commissioner appointed. I offer now in evidence a receipt from the post office of registered mail, signed by the commissioner as having received the interrogatories on the 25th of November, 1933. Now, your Honor, by Special Delivery letter addressed to Mr. Joseph R. Brodsky, of counsel, Air Mail, we received an affidavit from the physician who has this Ruby Bates under treatment, stating that her physical condition was such as to not warrant the taking of her testimony, by reason of some major operation performed on the 24th of November. Now, this morning I received the telegram I now have in my hand, reading: "Deposition completed early this morning now in transit air mail

stop should arrive tomorrow morning." This is dated November 29th, 1933.

COURT: Who is that signed by?

MR. LEIBOWITZ: It is signed by a man named Joseph in Mr. Brodsky's office. Your Honor, according to this telegram, this testimony should arrive in the mails tomorrow morning, and I am asking that the case be postponed until tomorrow morning so that this important evidence may go before the jury.

THE COURT: I can't do that.

MR. KNIGHT: In justice to the court, I wanted to say that I was entitled to ten days notice of the interrogatories, and I waived that to save time.

MR. LEIBOWITZ: I want also to state for the record, that when that affidavit was received, I called up my assistant in my office and told him that no matter how sick that girl was, - that the court here would not delay the trial, - and to see to it, if it were humanly possible, that the commissioner take that testimony so that it could get here, and I presume that the telegram that I have read to you is the result of my urgent instructions to my clerk in my office.

COURT: I'll overrule the request.

MR. LEIBOWITZ: We reserve an exception.

COURT: Anything further from the defense?

MR. LEIBOWITZ: I want also to state that we made application for the interrogatories at the earliest possible time on the opening of court on Nov. 20th, when the case was set for



arraignment.

COURT: You have already shown when you did it, and "the earliest possible moment" would be surplusage.

MR. LEIBOWITZ: I want to respectfully except to the court's ruling.

COURT: All right, you have that twice. Is there any more testimony for the defense?

MR. LEIBOWITZ: We are asking for a continuance for 40 minutes, in order to produce a witness that is on the way.

COURT: The state has some rebutting testimony, and I have already stated to you that you may introduce this witness out of order, when the state introduces its rebuttal.

MR. LEIBOWITZ: That's all right. That is all we have for the present.

-----  
The affidavit, envelope, registry receipt, and telegram referred to by Mr. Leibowitz, are in the following words and figures, to-wit:

"Nov. 27, '33.

"IN THE CIRCUIT COURT OF MORGAN COUNTY, STATE OF ALABAMA.

STATE OF ALABAMA  
vs.  
HAYWOOD PATTERSON, et. al.  
Defendants.  
-----

STATE AND COUNTY OF NEW YORK : SS

Louis Dresin being duly sworn deposes and says: I am a physician duly licensed to practice in the state of New York. Ruby Bates has been and is under my personal care and has on the 24th day of November, 1933, been operated on by me for a major

abdominal condition and is at the present time in a critical condition. As her personal physician I deem it dangerous to her health and well being to be interrogated at the present time on matters concerning the Scottsboro cases, or any other matter. It is my opinion that Ruby Bates will not be fit for such interrogation for about one week from today. However, should her condition so warrant, this interrogation may be conducted sooner.

Louis Drosin, M. D. L. S.

Sworn to before me this 27th day of November, 1933.

Max Bloom,  
Notary Public, Kings Co. Clk's  
No. 375, Reg. No. 4490  
Term Expires March 30, 1934.

Certificate filed  
in New York County  
Clk's # 1522, Regis-  
ter's # 48956. "

ENVELOPE ON FACE.

AIR MAIL. SPEC. DEL.

Post Mark.  
New York N. Y. Nov. 27, 6 P M  
Station W  
Special Deliver Stamp and 8¢ Air Mail  
Stamp. Anoth Post Mark that is not  
legible.

Mr. Joseph R. Brodsky  
Cornelian Court Apts  
Decatur, Ala.

ON BACK OF ENVELOPE:

Louis Drosin, M. D  
302 West 86th Street,  
New York. One or two undecipherable Post Marks.

-----  
REGISTRY RECEIPT.

Return to: Joseph R. Brodsky,  
% Cornelian Court,  
Decatur, Ala.

Registered Article No. 177

Insured Parcel \_\_\_\_\_

On Reverse Side:

"RETURN RECEIPT. Received from the Postmaster the Registered

or Insured Article, the original number of which appears on the  
 face of this card: Julius Applebaum  
 (Signature or name of addressee)  
 Marie H. Smith  
 (Signature of addressee's Agent.)  
 Date of Delivery: 11/27.33.

-----  
 The telegram referred to is as follows:

Received at: "WESTERN UNION"

New York N Y 1133A NV 29 1933

Joseph R. Brodsky,  
 Court Room Decatur, Morgan County, Ala.

Deposition completed early this morning now in transit air mail  
 stop should arrive tomorrow morning.

Joseph 1051 A

-----  
 DEFENDANT RESTED.

MAJOR JOSEPH STARNES, for the State, testified:

DIRECT EXAMINATION.

MR. KNIGHT:

This is Major Joe Starnes?

A Yes sir.

Q You are in command of a battalion of National  
 Guard of this State?

A Yes sir.

Q I will ask you if, on March 26th, 1931, you were  
 in command of a battalion of National Guard who had been de-  
 tailed for duty at Scottsboro, Alabama.?

A I was.

Q Do you remember hearing of the alleged commission

of an offense on a freight train in Jackson County, on the 25 day of that month?

A I do.

Q That is the reason you were called there?

A Correct.

Q I will ask you if you know the defendant Haywood Patterson, there?

A That is the negro that was said to be Haywood Patterson.

Q Did you see him in jail at Scottsboro, Alabama, on March 26th, 1931?

A Yes.

Q Do you know one Mr. William Harris?

A Yes.

Q He is a newspaper man?

A Yes, he represented the Associated Press at that time and the Chattanooga Times.

Q Was there also a Captain Whitehead there?

A Yes, he was there.

Q There were soldiers under your command in and about the jail?

A That is correct.

Q Did you see the defendant Haywood Patterson on the morning of the 26th of March, 1931?

A I did.

Q Were there others present at that time?

A All of the defendants were in jail at that time, and the National Guard, under my command, were there



and had charge of the jail at that time.

Q You were in Patterson's presence that morning or night?

A Yes.

Q Who else was with you at that time, if you remember?

A William Harris, this Associated Press man, Capt. Whitehead, as I recall, and there were some enlisted men in the corridors of the jail on the second floor of the jail.

Q Were the other defendants there?

A They were all there.

Q Together?

A Together, but not in one cell.

Q I will ask you if at that time any one, you, Mr. Harris, Capt. Whitehead, any of the National Guard, or any other person, in your presence offered any threats to Haywood Patterson, or any inducement, or any reward, or hope of reward, or anything of that kind, to induce him to make a statement?

MR. LEIBOWITZ: I object to that, if the court please. Any confession of the defendant must be brought in during the case; none has been offered and no predicate has yet been paid.

COURT: There has been a matter which has been brought up. In the matter of confessions it is the duty of the court to hear the evidence on each side as to whether it was voluntary or not,

and after hearing the evidence of both sides on that, determine whether the confession is voluntary or not. It is a matter that is in controversy and does not go to the jury until the court determines that it is voluntary. It has already been shown by Haywood Patterson that it wasn't voluntary; that whatever statement he did make was not voluntary, or rather he stated that he had been threatened.

MR. LEIBOWITZ: That evidence was brought out by the prosecution?

COURT: That was brought on cross-examination. I overrule your objection for the present, and I will permit you, if you want any more evidence on that state of the case, to submit it before I submit the question to the jury, if I submit it at all.

Q I will ask you if any one in your presence, or in the presence of the defendant, at that time, made any threats towards the defendant?

A They did not.

Q Were any inducements held out to him to get him to make a statement?

A Absolutely none.

Q Were there any offers of reward to induce him to make a statement?

A None whatsoever.

Q I will ask you, if at that time, in reply to a statement made by Roy Wright, whom, I believe you said

was in the presence of the defendant -

MR. LEIBOWITZ: We object to that.

COURT: Overruled.

MR. LEIBOWITZ: Exception.

Q Was Roy Wright in the presence of the defendant at that time?

A Yes sir.

MR. LEIBOWITZ: Are you fixing to ask what was said by the defendant?

MR. KNIGHT: Not yet.

Q I will ask you if Roy Wright then and there, at that time, made a statement -

COURT: About the case?

MR. KNIGHT: Yes sir, relative to the guilt or innocence of the defendant.

A Yes sir.

BY THE COURT.

Q What time was this statement made?

A In the morning.

Q Do you remember about what time in the morning?

A No, I can't tell you the exact hour to save my life. Probably, I should say, around ten o'clock, something like that.

Q Where was he when he made it, in the cage, or just in a room of the jail?

A All of the defendants were put on the second floor in one big cage.

Q Was that where he was when the statement was made that you have been asked about?

A Yes sir.

Q Who was up there at that time, outside the cage, any prisoners there, or do you remember?

A Mr. Harris was there; Capt. Whitehead was there and there were probably two or three sentries on duty on that floor.

Q You mean soldiers?

A Yes sir.

Q Were they in hearing distance of what he said?

A I would presume so.

Q They had on their uniforms?

A They did.

Q Have their guns?

A They did.

Q Whom started the conversation?

A The Newspaper reporter; he asked permission to interview the defendants, and I granted that permission.

Q Do you remember what he said?

A He asked me if I had any objections to his interviewing the prisoners, and I told him I had none.

MR. LEIBOWITZ: We are objecting to all of this.

COURT: I think that is material. I have to pass on it; the jury don't have to pass on it. I want



to get all the information I can as to whether it was voluntary or involuntary. I overrule the objection.

MR. LEIBOWITZ: Exception.

(CONTINUATION BY THE COURT).

Q When did do that - did you go up with him?

A I went up immediately after that. IM I told Capt. Whitehead to have/~~x~~ <sup>the</sup> sentry placed at the head of the steps to permit this newspaper to come in and take him back to the cell where they were.

Q When you got up there, what was going on?

A Mr. Harris was talking to this Roy Wright and asking him some questions about this case.

COURT: Gentlemen of the jury, all that is going on here now is not before you to determine; that is for the court. I am hearing this evidence to determine whether or not I shall let go to you anything that the defendant may have said there on that occasion, so what is going on here now won't have anything to do with your finding. This is before me, and not before you. If you prefer, I will let the jury retire.

MR. LEIBOWITZ: We have no objection.

COURT: Of course I couldn't let the jury retire without your consent. Gentlemen of the jury, you will retire to that room. (Jury retires to

jury room).

(After a lengthy examination of this witness on direct and cross, the court ruled that the proposed evidence of a confession on the part of the defendant was not admissible, and as this evidence was heard by the court, while the jury was sequestered, it is not included at this point.)

THEREUPON THE STATE RESTED.

COURT: All right, gentlemen:

MR. LEIBOWITZ: While we are waiting I would like to call Mr. Bailey for a few questions.

COURT: I don't see how you can do that.

(Without further objection Mr. Bailey was called to the stand)

H. G. BAILEY, being sworn, testified:

DIRECT EXAMINATION.

MR. LEIBOWITZ:

Q You were the prosecutor in the Scottsboro cases?

A Yes sir.

Q I want to ask you if, when you prosecuted the Scottsboro cases, you preserved the coat, overalls, dresses or the step-ins of Victoria Price as evidence in the case, just "Yes" or "No"?

A I don't know sir.

-----

COURT: What have you to offer further, gentlemen?

MR. CHAMLEE: Will you let me look out on the yard and see if the doctor is here, and hurry him in?

COURT: Go ahead, but don't leave the court grounds.

(Mr. Chamlee returned and stated that he did not find the doctor).

DEFENDANT RESTED.

(By agreement the argument was limited to two hours for each side. Mr. Leibowitz asked for the limitation)

Argument started at 3:30 P. M.

OBJECTIONS TO ARGUMENT.

MR. LEIBOWITZ: I object to the Solicitor's argument that Victoria Price said she rubbed herself off; she said she urinated.

COURT: She said both. The objection is overruled.

MR. LEIBOWITZ: Exception.

MR. KNIGHT: I want to object to his arguing as to what Dr. Lynch said.

COURT: Well, ~~gentlemen~~ gentlemen, both sides have been arguing along lines that are highly improper. What has been said by a witness not put on the stand is not the law of this state nor of this nation.

MR. LEIBOWITZ: I think the record should show that what was said by me was in retaliation to ~~the~~ the state's argument.

COURT: It was answering improper argument by improper ar-

gument. I will exclude it.

MR. LEIBOWITZ: Exception.

MR. LEIBOWITZ: We object to the statement by the solicitor that if Lester Carter had had sexual intercourse he would not have been on the stand.

COURT: The objection is overruled.

MR. LEIBOWITZ: Exception.

MR. LEIBOWITZ; We object to the statement by the solicitor that if you cannot avenge the assault on Victoria Price, you cannot stop the attacks on our womanhood. We object to it because it is an appeal to the passion and prejudice of the jury. And I therefore now move for a mistrial.

COURT: I overrule the motion.

MR. LEIBOWITZ: Exception.

MR. LEIBOWITZ: He has repeated the statement, and we object to it.

MR. KNIGHT: I did not repeat all of it. I said: "We do have a passion for protecting the womanhood of the state of Alabama".

COURT: I could tell what I thought he said, but I don't know whether that would be safe. Anyway, I am giving him the benefit of an exception.

MR. LEIBOWITZ: We have that on the record.

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THEREUPON, the court charged the jury as follows:



Gentlemen of the Jury:

At a special term of the grand jury of Jackson County, Alabama, a grand jury of that county returned into the circuit court an indictment against this defendant, jointly with others. That indictment, leaving off the state, county and date, reads as follows: "The grand jury of said county charge that before the finding of this indictment, Haywood Patterson, Eugene Williams, Charley Weems, alias Charles Weems, Roy Wright, alias Ray Wright, Ozie Powell, Willie Roberson, Andy Wright, Olen Montgomery and Clarence Norris, alias Clarence Morris, whose names to the grand jury are otherwise unknown than as stated, forcibly ravished Victoria Price, a woman, against the peace and dignity of the State of Alabama." By due process of law this charge has been transferred to this county and this court in the 8th Judicial Circuit, of the State of Alabama. That puts in the Circuit Court of this County jurisdiction to try and determine this case just as though the crime charged in the indictment had occurred in this county. This is a suit, not of Victoria Price against Haywood Patterson and those other parties, but it is a suit of the State of Alabama against these parties. Now, only Haywood Patterson is on trial; the others are not on trial and it is no concern of yours or mine what has happened, or what may happen to the other defendants. You have nothing to do with that, and the fact that they are not on trial is not to be considered by you, - you have nothing to do with that. The crime charged in this indictment is known in law as rape.

Rape is defined by the law to be the carnal knowledge of a woman forcibly and against her will. The offense is complete when the woman is made to yield through fear, and does not consent voluntarily or consciously. A man need not resort to force, but if on account of the circumstances, or the relationship of the parties, he intentionally, for the purpose of accomplishing his unlawful purpose, he puts her in fear of personal injury by violence, and she yields on account of these things, he is guilty of rape. I see that I used words there that do not make good sense. "Put her in fear of injury or violence" I should have said. Where the female is not an imbecile, or is not rendered unconscious or bodily weak by the administration of drugs or other substances, force is an essential element of the offense of rape. Force is either actual or constructive. Actual force would be the application of personal violence, literally. Constructive force is a force brought to bear on the mind, and amounts to mental force. Acquiescence obtained through duress of the mind of the woman, or by putting her in fear; that is constructive force, and is as much forbidden by law as actual force. If the act was committed by force, actual or legally implied, which is constructive force, against the consent of the woman, it is rape without regard to whether the defendant puts Victoria Price, the prosecutrix in this case, in fear of her life, or fear of great bodily harm, in the accomplishment of his purpose. Consent or acquiescence obtained by duress or fear of personal violence will constitute no defense, the law regarding such submission as no consent at all. If the mind of the woman

is over-powered by the display of physical force through threats expressly made or implied from the conduct of the man, and the surroundings, or she ceases to resist through fear of great bodily harm, the consummation of the unlawful purpose by the man is rape. The offense is complete when the woman is made, or caused to yield through fear and does not consent voluntarily, whether the apprehension of bodily harm is reasonable or unreasonable. While the law arms a woman who is assaulted by a man with intent to ravish her with the legal right to stand her ground, and if necessary, kill her assailant to protect her person from the gratification of his lust, the law does not compel her to resort to such means, and the fact that she does not so resort, does not strip the charge of the offense of rape, in and of itself. All the circumstances surrounding the commission of the alleged crime are to be considered, and whether the prosecutrix does or does not repel force by force, or resist her assailant to the utmost, if the act of penetration is actually accomplished by force, actual or constructive, as I have defined these words, and against the will of the prosecutrix, the defendant is guilty of rape. In considering all these questions, the relative size of the parties, the attitude of the defendant or his accomplices, if there are any, the social or racial conditions, are all matters to be weighed by you, and are questions to be passed on by you as to whether all the elements of the crime existed, and when the elements of the crime are shown by the evidence beyond a reasonable doubt, the crime is one



of rape, although the prosecutrix may have been shown to have made no actual effort to resist.. The act must not have been by the consent of the woman, and in this case there is no claim by the defendant that the prosecuting witness, Victoria Price, gave her consent, but on the contrary, the defense is that the defendant did not have sexual intercourse with the prosecutrix, either with or without her consent. Where a woman charged to have been raped, as in this case, is a white woman, there is a very strong presumption, under the law that she will not and did not yield voluntarily to intercourse with the defendant, a negro, and this is true, whatever station in life the prosecutrix may occupy, whether she be the most despised, abandoned or ignorant woman of the community, or a spotless virgin, or a daughter of a home of luxury and learning. The law forbids rape, and that law is made for all, and reaches out its protecting arm for all, regardless of color, creed, or station in life. It is the glory of the law of this state, and of all the states of this Union, that its protecting arms encompass all womankind. If she has been violated unlawfully, she may appeal to the courts with an abiding faith that no accusing finger can point to her erring past or hopeless future, as an excuse for denying to her full protection of the law. Now, ~~gentle~~ gentlemen, there is a principle of law involved in this case, technically known as aiding and abetting. That law is this: that any person who advises, encourages, either by act or word the violation of the law, is just as guilty as the party committing the actual wrong. It makes no difference and the punishment in the eyes of the law



is the same. To illustrate: if a man should call on you for a gun, informing you for what purpose he wanted it, to-wit: to shoot or kill one of your fellow citizens, and you loaned the gun to him for that purpose, the law says you are a murderer, and you are guilty of murder, and will be punished in the eyes of the law as such. So, as applied to this case, - One other thing before I leave that. The law on the question of aiding and abetting says that the mere presence of a party, at or while the crime is going on, and his presence is for the purpose of aiding, encourageing, assisting or abetting in any way the commission of a crime, and giving his aid if it becomes necessary, and the party who is committing the crime knows that he is there for that purpose, he is as guilty as the one who committed the offense, although he never moved a muscle or said a word, provided his purpose there was to aid, encourage, abet or cause the other party to commit the offense, and such presence did aid. There is still another principle of law very much akin to that, and is known as the law of conspiracy. Now, a conspiracy is where two or more persons, either by pre-arrangement, or upon an emergency enter into a common purpose which contemplates crime, each is a conspirator, and if the purpose is to carry out such crime, each is guilty, whether he did an overt act or not, and this purpose extends to the proximate and natural consequences of such act. A very wide latitude is allowed in proving a conspiracy, extending to everything said, and every thing done by any one of the conspirators in the execution of the common purpose.

The conspiracy need not be proven by positive facts, but its extent and intent are to be determined by you, gentlemen, from the conduct of the parties charged with the conspiracy. It may be a mere gesture, a mere nod; it may be determined that there was a conspiracy by a consideration of all the facts and circumstances, and the situation of the actors, at the time, provided these acts and the circumstances permit a reasonable inference therefrom. When a prima facie conspiracy is established, any act or declaration on the part of the co-conspirators in connection with, and in furtherance of the common purpose is proper to be considered and weighed. That, gentlemen, is a statement of the law concerning the crime of rape. When this case was entered upon before you, the state read or stated this indictment to you. That was the state's charge. The defendant in reply to that, said that he was not guilty, and that plea of not guilty, in law, denies every material charge made or involved in this indictment before you. This same law to which I have referred, guarantees to him the freedom of defense, and a fair, just and impartial hearing to determine his guilt or his innocence. He, like the woman I referred to, has guaranteed to by by the Constitution of the State of Alabama, and the United States, that he will receive such consideration, and that law and Constitution ~~xxx~~ are all pervading; it is no respecter of persons; the most humble, the most debased, the most abandoned, the confirmed criminal, as to that matter, comes into court with that guarantee standing by him, and enters upon the trial with him. So solicitous is the law for an accused, that it declares that he is presumed to be

innocent until his guilt is shown by the evidence beyond a reasonable doubt. This presumption enters the trial with him and abides with him until his guilt is so shown. By reason of that law, the defendant is not required to do anything when he is arraigned on that trial but to put in a plea of not guilty and sit down, and he cannot be convicted until the state has produced evidence before you that convinces your minds of his guilt, from the evidence, beyond a reasonable doubt. That is a presumption, however, which may be answered, met and overcome, and it is met, answered and overcome whenever, from all the evidence offered in the trial of a case, you are convinced beyond a reasonable doubt of his guilt. But it is not answered or overcome unless the evidence rises to that degree of credence. Now, in the trial of this case, as in all criminal cases, there are two main things to be considered. The first is what the law calls the corpus delicti, that is to say, the body of the offense. The body of the offense here is that this woman must have been ravished within the meaning of the definitions given to you. That is, the offense charged. Now, that same rule of law applies with reference to proof beyond a reasonable doubt, and I will explain what that means directly. The first question to be determined in this case is, has there been an offense committed, and is the offense charged against the peace and dignity of the State of Alabama. So you take all of the evidence in the case to first determine whether or not that crime was committed by anybody. If you reach the conclusion that it has been, then the next question is, not who did it, but did this defendant do it. That



is necessary in order to connect him with the crime. Should you determine from the evidence that no rape had been committed, then your duty is ended and your verdict should be not guilty. But if you do not so conclude, then you take up the consideration of all the evidence, and the legal inferences to be drawn therefrom to determine whether this defendant did actually, as I have defined it to you, or did he aid and abet in the offense, or, did he conspire, as I have defined that to you, in the commission of the offense. Both of these must be shown by the evidence, or reasonable deductions therefrom, beyond a reasonable doubt. Gentlemen, suspicion is not evidence. It is not proof, and it is not a matter proper for you to allow lodgement in your mind for the purpose of considering the guilt or innocence of a party. His guilt cannot be shown by suspicion, nor can his defense be bolstered up by suspicion. The law requires evidence, that is, such as the court trying the case declares to be evidence by allowing the recital of it to you. That means arriving at the truth of a charge as established by the evidence; no need of me defining that. Evidence may be oral, or it may be documentary, - we call that written, but it may be both. Oral testimony, of course, is what some witness has stated from the stand as to what he saw or what he heard. That is evidence, and then you, as jurors are authorized to apply your common sense, your common knowledge and observation to that evidence and say whether or not that evidence establishes an issue; you are also authorized to draw reasonable conclusions therefrom. Now, there is another classification of evidence, the kind of evidence we



call direct evidence, that is, where some party appears and testifies to what he saw and what he heard. Then, there is what we call indirect evidence, - you know it better probably as circumstantial evidence. That is more easily illustrated than it is defined. Where the jury takes the direct evidence and applies his reasoning power, aided by his experience and observation in the determination, or in trying to determine whether or not, from the evidence, the facts sought to be established can be drawn by the application of reason to the facts proven. To illustrate, and for illustration only, that it may aid you on the question of circumstantial evidence. Suppose you are passing through a forest, heavily timbered, and suddenly you come up to a place where every tree is blown down and up-rooted, saplings and all, and the tops of all are lying to the east. Now, that is direct evidence that you see the trees up-rooted; you see the positions of the tops. Now, you want to find out what caused the trees to be up-rooted and how come the tops to be all in one direction; nobody was there and no other evidence before you. You would naturally apply your past experience and observation, and you would reach the conclusion that these trees were up-rooted by some severe wind, and you would want to know from which direction it came. The very fact that the tops were all lying to the east tells you, from experience, that that wind was from the west, and you know just as well as if you had been there, and don't need somebody to tell you that that wind came from the west; they are things you conclude from what you do see. That is a somewhat strong illustration, I will

admit, and you will not find the application of the principles of circumstantial evidence just as outstanding and clear at all times as that, but I am giving it to you so that you could be impressed with the meaning and purpose of it. Now, according to the state's contention and theory, there are two outstanding witnesses for the state, as the claim, that show that Victoria Price was raped; I mean to say, if believed by you, and believed beyond a reasonable doubt, from all the evidence in the case. The law would authorize a conviction on the testimony of Victoria Price alone, if from that evidence, taken into consideration with all the other evidence in the case, both for the state and for the defendant, you are convinced beyond a reasonable doubt that she had been ravished. The law does not require corroboration. There may be cases where corroboration is to be desired, and it is always permissible to show it. So the state contends, on this question of corroboration, that Victoria Price, the prosecutrix, has been corroborated by the testimony of the witness Gilley. Now, gentlemen, corroboration means to support, to strengthen, to aid. It doesn't mean that everything the witness said, that there must be some other proof to come along and corroborate it; that is, said the same thing, and said it in the same way, but it does mean to say that before being corroborative it must aid or strengthen some material statement of the witness. The state further contends that she is further corroborated by the alleged statement or declaration of her companion when taken off the fateful train, making complaint that they had been attacked. Well, under the law, if you believe from the evidence be-

lieve from the evidence beyond a reasonable doubt that such complaint was made, the law says that that may be looked to, and if established, it may constitute a corroboration of the evidence of the witness to some extent. The state further contends in this case that both Victoria Price and Gilley are corroborated by other evidence in the case showing that a fight occurred on that train between Stevenson and Paint Rock. They claim and contend that the corroboration is in this; they claim both testified to a fight occurring on the train between the white boys and the negro boys between Stevenson and Paint Rock, and the state says that fact is a corroboration of some parts of the testimony of the witness, Victoria Price, and also of Gilley. Now, they say that that fact, if it be one, is also corroborated by other witnesses who saw the scuffling, the alleged scuffling, or fight, and saw some of them jump off the train, or thrown off, and that blood was on their faces and on their person. Now, that is offered in corroboration of both Gilley and the witness Price. But the defendant contends that that is not to be considered as corroboration of Victoria Price as to a rape having been committed. The defendant says there was a fight on the train, but that it constituted no part of, or fore-runner of any rape that then and there or afterwards occurred. It was simply a fight between white boys and black boys; that they were put off and that the blood that was found on them afterwards was the direct result of that fight; and that there was no rape in connection with it. Well, that is a matter that you have to deal with. I can't help you on that; that is a matter of weighing the evidence and drawing



conclusions from the evidence, so you will have to deal with that by weighing the testimony on each side of that question, and, of course, if that explanation of the fight satisfies your mind that it was just a fight, and had no connection with the rape, then, gentlemen of the jury, that presumption has been met by the defendant's evidence in the case. Now, the state claims or contends that Victoria Price is further corroborated in that there was semen in the vagina and on other parts of the private parts. Well, as I understand it, there is no contention, and the point of contention does not center around that particular point. It is not claimed, as I understand it, that there was no semen found. The finding of semen certainly establishes one point, or one fact, and that is that Victoria Price had had sexual intercourse with a man. Then, the question on that point arises, how come it there? This must be met from the evidence or from reasonable conclusions drawn therefrom. Of course, standing alone, and standing unexplained, the fact that it was found there, does, in law, in a sense, corroborate the statement or claim rather of the prosecutrix that she had been raped. But, it is not conclusive; it is not absolute; it is only one of the circumstances to be considered. It is subject to explanation, but gentleman of the jury it must be explained by the evidence, or natural, logical conclusions to be drawn from the evidence, and evidence means evidence in the case. No mere suspicion, without evidence, that it could have been some other time or by some one else is a sufficient answer or explanation. Mark you, gentlemen, I am continually cautioning you that you have a right to look to the evidence



in the case, and nothing but the evidence, but it is your right, and your sworn duty, as jurors, to consider what reasonable conclusions may be drawn from the evidence. Gentlemen, at this point, I desire to say to you that during the progress of this trial wherever the court sustained an objection to any question asked by either side in this case, that ended the matter. You, of course, have responsibilities, but you do not have any responsibility on the questions of law, and when the court rules on a question and said that question was not to be answered, that ended it so far as you are concerned, and it makes no difference to you whether the court is right or wrong, fair or unfair, you have no right or authority to supervise and review the rulings of the court. When you assume to do it, you violate your oath and step outside of your power and authority, and comments on the rulings of the court that were adverse to counsel is not to be considered by you in a case, and if you do consider such comments you have violated your oath. There is just common sense and reason in that. If a case is not to be tried under the rulings and direction of the court, then, gentlemen of the jury, when the court says a question shall not be answered, if that is to be used as legitimate argument, to speculate on what the answer would be, then the party has gotten as much benefit from an adverse ruling as he would have gotten from a favorable ruling, and the whole action of the court would be nullified, and evidence that the court declared improper would go before the jury. If that is to be the law, then we could have no law. Gentlemen of the jury, there are some peculiar cases, or con-

ditions in cases, where the failure of one party to call a witness might authorize an adverse presumption. But that is not this case, and it doesn't make any difference who called a witness, the thing you have to consider is, if the court allows the witness to testify, it doesn't make any difference the source the witness came from. What you are after is the truth, the truth to be determined under the evidence, and evidence is submitted to you for your consideration. When a witness is brought into court, and under the jurisdiction of the court during the trial, that witness is a witness for either side that desires to use him, and it doesn't affect his credibility, ordinarily, whether he is used by the party that has him subpoenaed or the other party, nor does it reflect on the guilt or innocence of the defendant, whether he had him subpoenaed, or didn't have him subpoenaed, as he has a legal, constitutional right to the benefit of his testimony, regardless of who had him brought into court. There is another rule of law applicable to this case, and as to that matter in all cases of this type, and that is that the party who presents a witness in the witness chair vouches for his credibility. Of course, there could be exceptions to that. The law doesn't mean that a man shall be butchered or entrapped by his own witness, mislead him off the stand, and then get on the stand and give adverse testimony against him, but the law does say, without some good reason, the party presenting a witness vouches for his credibility. Now, gentlemen I have referred to the expression that you must believe the defendant guilty beyond a reasonable doubt. That is rather a simple term, but like a

good many simple things it is rather hard to define. It doesn't mean that you must believe it so that there is no doubt. It says a reasonable doubt. Now, gentlemen, you can't conjure up a doubt or arbitrarily establish one; it doesn't mean that. It means this in simple language: that when you enter upon the consideration of this case and dealing with any material phase of it that is necessary to make out the defense, if you have a doubt arising on that point that you find in the evidence, - not anywhere else, - if that doubt is created after an examination and consideration of the evidence, that is a doubt, a legal doubt, but it is no more. The law says that it must be a reasonable doubt. So, if a doubt of that character rises in your minds in the consideration of this case, the next thing the law requires you to do is to examine the evidence, and all of the evidence, to see whether or not that doubt is reasonable, that is, one that addresses itself to your minds as being one based on reason. If it does, it is a reasonable doubt, and if it is there regardless of whatever else may be there, the defendant is entitled to the benefit of that doubt and entitled to an acquittal. Now, gentlemen, that is about all the law there is to the case, as I see it. There is one other thing I will talk to you about, and that is about the witnesses. All I can do there is to give you some rules of law by which you are to examine and consider the evidence from the witnesses. Well, the first thing that suggests itself to my mind is this: in some instances is the testimony or parts of testimony of certain witnesses on the other trial. That is offered by what we call the official



record in the case; that is a transcription of the testimony of the witnesses that were examined in one or the other of the former trials of this case, or in the trial of companion cases, Weems, for instance, is one. That is evidence in the case for you to weigh and consider along with the other evidence in the case, just as if the witness had appeared on this trial and testified to the facts therein set down. Now, gentlemen, when you come to weigh the testimony of the witnesses, a good many things are proper to be taken into consideration, but all the things you do take into consideration, must be things found in the evidence, and not suspicion and not imagination. There must be no arbitrary figment in your mind. Cases are tried on the evidence, and the evidence alone. Of course when a witness testifies, his character for truthfulness is open to assault, and the law points out the method and mode of the assault, and that is to bring his neighbors and acquaintances into court and say: "I know this man; I know his reputation in the community where he lives for truthfulness", or his general bad character, either one. When that is done, that is a legal assault on his evidence, because it is shown by what we call his character, - but of course you can't show the character of a witness directly, because that is what he is; what is in his mind, his heart, his desires and aspirations, and his view point of life and his duties in life. The law does the next best thing, and the only thing it can do. It says we can't furnish true evidence on character, but it permits you to show his reputation, and when you show that, it stands for his character. Of course, reputation is what he is reputed



to be, and, being unable to show the one, you are authorized to show character by reputation. That is the legal method prescribed by law to assault the character of a witness, guaranteed to every man that comes into court to be tried. Of course, that is not the only way of arriving at whether or not a witness is telling the truth. When a witness takes the stand, not only what he says is evidence in the case, but he himself is evidence; you may look at his countenance, and the hand of God can be seen in his face by one that is expert enough; it's there whether you see it or not. Sometimes it is so plain that the wayfaring man may see it and know what it is, and while mortal man may not be able to see it, His hand is on his brow. You look at his conduct on the stand; how does he impress you by the way he looks; by the way he acts and by the way he talks? Then, again, you are authorized in looking at him to apply your common knowledge and observation. What story is he telling? Is it reasonable? Does it appeal to your common sense? You have a right to look at that. Then, in weighing his testimony, is it corroborated by some one else, - not that somebody must come along and testify to the same facts that he did, but has some other witness whose testimony you believe, has he corroborated him on any material points in his testimony? If so, that should be used in weighing and examining his testimony. Has his testimony been impeached, or contradicted, rather, is the better term, by the testimony of some other witness or witnesses? Well, simply because somebody else swore differently does not establish the fact that he is wrong. First, determine which is right,

to determine whether he has been successfully contradicted or not. If he has, you take that into consideration in examining his testimony to arrive at its probative force. You may look at a witness's environment, that is as shown by the evidence in the case, his associates and companions. Has he any bias? You will have to look to the evidence to determine that. You can't guess at it; the law is not guesswork. Does the evidence show any bias in any way, one way or the other? If so, you take that into consideration in weighing what he says. Has he any interest in the case? You will have to find that from the evidence. You have to look to the evidence to find all of these things, if you find them at all. Now, gentleman, because a witness has not been corroborated, or even contradicted, if he be contradicted, or shown to have bias, that in and of itself does not warrant you in setting his evidence out of the case. That is true about interest as well. You are to find all of these things from the evidence. When you get to the defendant, the law steps in and says that whenever a defendant takes the stand and testifies in his own behalf, he is an interested witness. You don't have to look any further to see whether he is interested or not; the law declares it. He is interested in the result of the case. He is to suffer the penalties of a verdict against him, or receive his freedom from a favorable verdict. I repeat that all these things, though he be the defendant, or what not, does not authorize you, by that alone, to discredit his testimony. Although he may be biased, although he may be interested, although his testimony may not be corroborated by

other evidence in the case, you must not throw it aside, but it must receive your consideration. This case must be tried according to law. Your being here is to find the truth; not the absolute truth, because that is impossible in the human mind. All men are liable to err. The law doesn't require that you shall be satisfied to a mathematical certainty. The rule is that you must be so satisfied that you are convinced beyond a reasonable doubt. That is all, but it is that much. Something has been said through the case and argument about the defendant being a negro. I shall be ashamed of you if that is to enter into your consideration in searching for the truth in this case. No man is worthy to be put in the jury box that would reach the guilt or innocence of a man on any such contemptible grounds. By the law of Alabama and by the law of this nation men must stand on equal rights, so far as the law is concerned. He is entitled to expect and to receive the administration of the law in that method and none other. Whenever it is administered in any other way, the law has failed, and when the law fails, the government will fail. Gentlemen, go into the jury room there and take up the evidence in this case. You know it is written "Come and let us reason together". That cannot be better complied with, in my mind, than in the jury room. That is what the law expects. It does not expect you to go into the room with some pride of your own fixed powers, or of your own mentality. You are expected to go in there and reason together. You are not expected to sacrifice your own judgment, but you are expected to listen to other men's reasons. I realize, gentlemen,



that I am getting on hard ground. It is human nature when we are, - particularly when it is made our duty, to hear and reach a conclusion, - it is rather difficult to hear other mens' view point on the same thing. You may look at him while he is making his statement, but the difficulty is, if you do not watch, you will be listening for the purpose of following his argument, so that when he finishes it to tear it to pieces. Don't argue that way. Hear one another, gentlemen. If after considering all the evidence in this case, under the methods I have tried to instruct you, if you are satisfied therefrom beyond a reasonable doubt that this defendant is guilty, then your verdict should be one of guilt, and if that is your verdict, there are two forms you may use: "We, the jury find the defendant guilty as charged in the indictment and fix his punishment at death." Or, if the evidence does not justify that kind of punishment, and you think he is guilty as charged, then it may assume another form, and that is: "We, the jury find the defendant guilty as charged in the indictment, and we fix his punishment at (so many years in the penitentiary, not less than ten, - any amount above that, that you see fit, according to the evidence)." Gentlemen, if you are satisfied beyond a reasonable doubt that he is guilty and that his punishment should be death, that is to be your verdict, whatever your desires may be, outside of the evidence. You reach a verdict according to the evidence, as I have indicated, because that is the law, and that is what you have sworn to follow. On the other hand, if the evidence satisfied you beyond a reasonable doubt that death should not be the penalty, and



you still think he is guilty, you should fix his punishment for a term of years as I have indicated to you, but you have no right to fix it in either one of the forms, if under your conscience, and under the evidence, - you believe from the evidence it belongs in the other. Take this case, gentlemen, and give it your consideration. Gentlemen of the jury, all the way through I have cautioned you and tried to impress upon you that the verdict must be predicated on the evidence offered on the trial. If there isn't evidence to justify a conviction, then there ought not to be any. I have also tried to impress upon you that the duty rests upon the state, in the first instance, to convince your minds, beyond a reasonable doubt, by the evidence, of the defendant's guilt. Of course, you are not limited on that question to just the state's evidence. If you find in the defendant's evidence something that supports and corroborates the state's evidence, why that is as much to be legally considered by you in determining whether the offense has been made out, as if the state offered it, and on the other hand if you find from that offered by the state there is evidence corroborating the defendant's theory, he is entitled to the benefit of that. If there is not enough evidence to warrant a conviction, then there is a lack of evidence, and a lack of evidence that is necessary to make out an offense, is just as much to be considered as the evidence itself, because you have to consider the evidence to ascertain whether or not there is a lack of evidence. I believe I forgot one thing about the forms of the verdict. I gave you the forms of the

verdict on conviction. If after considering all of the evidence in this case, you are not satisfied beyond a reasonable doubt that the defendant is guilty as charged, then he ought to be acquitted, and must be, under the law, and the form of your verdict in that event would be, "We, the jury find the defendant not guilty". Now, in trying to aid you about reasoning together in there, I do not expect you to reach the conclusion that I meant by that, that you are to destroy your opinion in there, and scuttle away from it. You are entitled to your opinion, that is, when it is based on the evidence.

MR. LEIBOWITZ: Defendant files a general exception to the charge.

COURT: All right.

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On Monday, December 4th, the following occurred:

MR. LEIBOWITZ: After the charge in the Patterson case, I came before the court and stated that I had certain exceptions with reference to the charge, and your Honor said I could take them up on motion for new trial. Following what I considered your Honor's suggestion, I only made a general exception to the charge. I now want to add instead specific exceptions to the charge.

COURT: I didn't hear it. I didn't tell you that you could wait until the motion for a new trial to lodge your exceptions.

MR. LEIBOWITZ: That is what I understood you to say, Judge.

COURT: No sir. Of course I would have heard your exceptions at that time, if you wanted to make them.

MR. LEIBOWITZ: That is what I understood your Honor to say.

COURT: No sir.


MR. LEIBOWITZ: I understood you to say I should bring them up on the bill of exceptions.

THE COURT: The trouble is I didn't say you could bring them up on the bill of exceptions. I said I would hear exceptions made at the time. It would be an unheard of procedure to come up after the jury is gone, and set out errors you claim were made in the oral charge, because by law, it is required that they be made before the jury retires, so that the court may, if it sees that he has made a mistake, correct it.

MR. LEIBOWITZ: I have made my statement is all.

F I N I S.

I certify that the foregoing is a correct transcript of the testimony taken on the trial of the above stated cause, together with the oral charge of the court, as same was taken by me in shorthand, and by me transcribed in person into typewriting.  
This January 18th, 1934.



Official Reporter