

SCOTTSBORO

a record
of a broken
promise...



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CENTS

Issued by
SCOTTSBORO DEFENSE COMMITTEE
112 East 19th Street
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SCOTTSBORO DEFENSE COMMITTEE

Rev. Allan Knight Chalmers, Chairman
Col. Wm. Jay Schieffelin, Treasurer
Rt. Rev. William Scarlett, St. Louis, Mo.
Dean Elbert Russell, Durham, N. C.,
Vice Chairmen
Morris Shapiro, Secretary



The Committee is composed of representatives of the following organizations:

American Civil Liberties Union
Brotherhood of Sleeping Car Porters
Church League for Industrial Democracy
Fellowship of Reconciliation
International Labor Defense
League for Industrial Democracy
Methodist Federation of Social Service
National Association for Advancement of
Colored People
Unitarian Fellowship for Social Justice

Sponsoring Organizations:

National Urban League
National Committee for Peoples Rights

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IN July, 1937, four of the original nine defendants in the Scottsboro case were released by the state of Alabama. A variety of reasons was given for this action, but all of them added up to an admission by the state that the evidence against the four on the original charge of "rape" was not sufficient to hold them. The youths released in 1937 were Olin Montgomery, Roy Wright, Willie Roberson and Eugene Williams.

Since all nine defendants had been held in jail since March 25, 1931, on the same charges and had been found "guilty" over a period of six and a half years on identical evidence, it became apparent to observers that the state of Alabama, by releasing four youths, was placing itself in an inconsistent and untenable position. If four were innocent, five could not be guilty, since the evidence against all nine was the same.

The weight of public opinion made itself felt so strongly that Bibb Graves thought it wise to grant an interview to Dr. Allan Knight Chalmers, chairman of the Scottsboro Defense Committee; Dr. Henry Edmonds, prominent Birmingham minister and chairman of the Alabama Scottsboro committee; and Grover Hall, editor of the Montgomery Advertiser.

The open letter following contains a complete record of the negotiations with Governor Graves from the first conference throughout 1938.

The negotiations based on the "rape" charge dealt only with the release of four of the defendants, for Ozie Powell had also been exonerated of that charge in July, 1937, and is now serving a twenty year sentence on the new charge of assaulting an officer.

The Scottsboro Defense Committee firmly convinced of the innocence of all the defendants is now centering its efforts on a pardon campaign directed to the new Governor of Alabama, Frank Dixon, and will continue its work until complete and unconditional freedom is won for all of the defendants.

Included also is a legal argument to the board of pardons submitted by Osmond K. Fraenkel of the New York Bar.

His Excellency,
Honorable Bibb Graves,
The Governor of Alabama
Montgomery, Alabama.

December 19, 1938.

My dear Governor Graves:

Your refusal to carry thru with your given word to release the remaining Scottsboro defendants on parole to the Defense Committee has caused great concern to all those who know about it, including men of high rank in our national life.

It is a matter of real regret that the time has apparently come when we must release these facts to the general public because we desired to avoid this additional reflection on the name of the State of Alabama. It is your failure to observe your word which requires the publication of these facts.

As Governor of Alabama you gave your word before reputable witnesses within your own state, (and there are documents to support this statement,) that you would release the remaining Scottsboro defendants on parole to the Defense Committee. Date and hour of this release were set by you.

Because your subsequent refusal to go thru with your given word has made a situation where extreme bitterness has arisen having social and political repercussions, it becomes necessary to give a simple time schedule of events which have led to a situation wherein a Governor so shockingly betrays an understanding which was backed by his own word.

In July of 1937, after five defendants had been adjusted guilty by jury and sentenced for terms from twenty to ninety-nine years, the State of Alabama reversed its procedure releasing four defendants thru nolle prosee action, altho all defendants were charged on exactly the same testimony, and for nearly seven years have been considered equally guilty by the State. Obviously this was a thoroly untenable position on which the State of Alabama could not stand, as you freely stated on several occasions.

In December, 1937, after preliminary arrangements thru the Alabama Scottsboro Committee, an interview was held with you by Dr. Henry Edmonds, of Birmingham, Chairman of the Alabama Scottsboro Committee, Mr. Grover Hall,

Editor of the **Montgomery Advertiser**, and myself as Chairman of the National Defense Committee,

At the end of that conference you freely stated your intention of releasing the boys as soon as the cases were out of the hands of the judiciary. Copy of a document signed by Messrs. Edmonds, Hall, and myself, dated December 22, 1937, substantiates this statement and is included in this letter as a part of it:

"Memorandum of a conference with Governor Graves, held on December 21, 1937, by Dr. Edmonds, Mr. Grover Hall, and Dr. Chalmers.

"The letter from Messrs. Johnston, Chappell, Mills, and Dr. Edmonds was before him and had been read by the Governor.

"Dr. Edmonds asked the Governor to listen to the statement of Dr. Chalmers on the present situation of the Scottsboro Case.

"Dr. Chalmers began with the premise as stated in the joint letter before the Governor that the State of Alabama will be subject to criticism and adverse propaganda so long as these defendants remain in prison. He emphasized the incongruity of four of the accused being let out and four remaining in prison on the same charge and evidence.

"He submitted that it was good public policy to use the powers of executive clemency to remove the case from further controversy and pointed to the well known fact of the Governor's courage and forthrightness in handling difficult situations of similar nature when they came into his jurisdiction.

"He asked for definite action leading to the immediate release of the defendants, the details of procedure to be left to the Governor's judgment. This act would meet with nearly unanimous approval of the Press and informed public opinion redounding to the credit of the Governor and the State of Alabama and was justified under the circumstances.

"Mr. Grover Hall immediately voiced his whole-hearted and unqualified personal support of the statement of Dr. Chalmers and promised his editorial backing in the Governor's capable action.

"Dr. Edmonds assented personally and mentioned that Mr. Chappell and Mr. Mills concurred definitely.

"The Governor stated that he felt the position of the State to be untenable, that either all were guilty or all should be freed, that half fish and half fowl was not reasonable.

"He said that his own mind was therefore clear on the action he should take when the cases "fell in his lap."

"He felt it was not possible for him to take any action so long as there was any pending appeal before the courts, but that when the cases had been decided in the Supreme Courts and legal action had ceased, it was his intention to act quickly and definitely.

"Dr. Chalmers offered to withdraw the appeals if it would facilitate the Governor's immediate action.

"The Governor stated that the cases would be heard in January, that only a few weeks remained to put them before him in regular order, that he would prefer to await action until the cases had passed through their routine.

"He then leaned forward and stated, "I cannot make any promise which would look like a deal. I have already stated my feeling that the position of the State is untenable with half out and half in on the same charges and evidence (he used again his expression of half fish and half fowl). My mind is clear on the action required to remedy this impossible position. When the cases come before me I intend to act promptly. I cannot be any clearer than that, can I?"

"The conference lasted nearly an hour. It was agreed by Dr. Edmonds, Mr. Hall and Dr. Chalmers in an immediate consultation afterwards that their understanding was that the Governor intended to use the powers vested in his office for the immediate release of the accused as soon as the matter was out of the judiciary and in the hands of the executive.

"This memorandum was prepared at once and attested that the record of the conference might be accurate and unquestioned.

(Signed) GROVER C. HALL
HENRY M. EDMONDS
ALLAN KNIGHT CHALMERS

Dec. 22, 1937

In the late spring of 1938, you restated your intention to Mr. Shapiro, Secretary of the National Defense Committee, and at that time made definite suggestions on the men you wished to appear before the Pardon Board as soon as the State Supreme Court rejected the appeal of the last cases. Specifically you insisted that in addition to Mr. Forney Johnston, of Birmingham, and myself, who were necessary as advocates to present certain phases of the case, Mr. Donald Comer, President of Avondale Mills, Birmingham, also son of a former governor, should also appear to support publicly the contention that it was good public policy to release the prisoners.

In July, 1938, this hearing was held with the full knowledge of all interested persons that the pardon hearing was to clear the record for your action. All those taking part knew before the hearing that the Pardon Board's decision would probably be unfavorable, but that it was your intention to act as you had indicated as a matter of good public policy.

After the hearing was completed, you thanked the Pardon Board for their courtesy in meeting in your office, and immediately asked, before adjourning the hearing, that Mr. Forney Johnston, Mr. Donald Comer, Mr. Grover Hall, Mr. Morris Shapiro, Secretary of the Committee, and I remain in your office for a conference.

As soon as the others had gone out, you said that you had asked us to remain that you might tell us the way your mind was working on this matter. You told us that it was your intention to parole the boys in the custody of the Defense Committee, as soon as the Pardon Board had submitted its decision and time enough had elapsed for you to hear any that objected to the release.

Following a brief discussion and congratulations by the Alabama citizens on the courage and wisdom of your decision, the conference adjourned.

Affidavits supporting the above statement can be secured if desired from any one or all of the men present.

Every man expressed himself, afterwards, as being certain of your clear intention.

In preparing for the promised release, I wrote a letter to you outlining the steps to be taken in anticipation of your promised action. This letter, a copy of which you have, was answered by you making only minor suggestions on procedure and by direct implication further documented your given word.

Subsequently, in a conference with the secretary of the Committee on details, you again expressed your intention to release the Scottsboro defendants at a date that would be in the near future, promising to let the Committee know when the date and hour was set. Subsequently you set the date of October 24th at ten o'clock. Later, because of illness of your legal adviser, you requested that the date be postponed to Monday, October 31st. Mr. Shapiro and I were asked to be in your office at ten, and the release of the prisoners was set for eleven o'clock.

A letter was prepared by me at your suggestion covering our understanding of the conditions under which the release to us was to be made. A copy of that is included here:

His Excellency
The Governor of Alabama
Montgomery, Alabama.

My dear Governor Graves:

As you release to our care Haywood Patterson, Clarence Norris, Charles Weems, and Andrew Wright of the so-called Scottsboro Case, I want to tell you what we hope and plan to do with them.

We shall take them to places already prepared for them among relatives and friends. They will not be taken to New York or its vicinity. Rather we expect them to be placed in at least two, and preferably three, different cities where relatives or friends of each can help them.

We expect to act, in so far as we can, as unofficial guardians opening up for them, wherever possible, opportunities in schools or trades where they can be rehabilitated.

We understand that they are on a six months parole, during which time they are expected to make a monthly report

to the Parole Board. We also shall make a monthly report and shall do all in our power to have them live up to the requirement of their parole. While we can not be, in the very nature of things, official parole officers, we shall in every way conduct ourselves in the spirit of that office in its highest sense.

May I add, to this letter of confirmation of our understanding of our responsibility in connection with this act of yours, my appreciation of your courtesy in dealing with us in this issue. It is my opinion that your act will be recognized throughout the world as a right and courageous facing of a situation which has troubled many thoughtful people for many years.

With cordial good wishes,

Sincerely,

(Signed) ALLAN KNIGHT CHALMERS.

Negro citizens in Atlanta, Cincinnati, and Cleveland were taken into our confidence only after you had officially set the date. These Negro citizens worked out a detailed plan covering all contingencies for the safe release of the boys and the beginning of their rehabilitation in the outside world. Actual reservations of cars, train accommodations, and services of social workers, were definitely engaged for the particular times needed, and adequate funds for their care were provided.

On Saturday afternoon, October 29th, with everything arranged in detail for their release on Monday, a telegram was received from you asking for a postponement of your agreed action. In the interim former Senator Heflin had had an interview with you and subsequently gave a threatening interview to the papers.

Since that time you have given us no satisfactory explanation for changing your commitment to us of a year's standing.

We have acted with you all along in good faith. There has been no forcing of your decision by anything but the most friendly means. The initiative has been taken by reputable Alabama citizens of standing and influence. You have given us no ground for supposing that your word was not seriously given.

That you should now withdraw from your decision, under which you have knowingly allowed us to act for a period of a year, is such a betrayal of all honor and decency that it has shocked men of high standing who are acquainted with the facts.

If this letter, prepared that there might be a brief resume of the larger record for immediate release before Christmas, goes out to the public it will be because you have refused to take action to clear the name of Alabama from this unquestioned stain on her honor. Men may differ in their convictions about the truth or falsehood of a legal trial. There is no appeal before men of honor from a Governor going back on his given word.

Very sincerely yours,

Allan Knight Chalmers

Chairman, Scottsboro Defense Committee.

**Argument in Support of Pardon Applications of
Clarence Norris, Haywood Patterson,
Charles Weems and Andy Wright**

After a brief summary of the history of the cases, the application continues:

Applicants submit that they are wholly innocent of any rape and that Victoria Price, the prosecutrix, is wholly unworthy of belief.

The rape is alleged to have occurred in broad daylight on a freight train going through settled and traveled country between Stevenson and Paint Rock. The prosecutrix claims that twelve negroes raped her and her companion, Ruby Bates, while they were riding in a freight car loaded with chert. She claims that force and violence were exerted upon her. Under these circumstances one would naturally expect that her body would show the marks of this treatment, especially because of the rough material on which she was being pressed down. And, in accordance with that expectation, Victoria Price testified in great detail to scratches and bruises and bleeding.

At the trial of Patterson before Judge Horton, Victoria Price testified that she had been hit on the head with the butt of a pistol and that her head had bled a little. She said that each of the six negroes had wet her "more and more," that her clothes had been spattered with semen. She referred to "those marks on my face," and stated that she had bled from her vagina and that blood had come out on her clothes. Asked if the doctor saw this she answered "I reckon he did."

At the trial of Patterson before Judge Callahan in November, 1933, she again said that she had been hit with the butt end of a pistol and that this caused a little bleeding, that one man hit her on the back with a pistol, and that "practically all" twelve negroes hit her on the face. She further said that she had a cut over her eye-brow, a scratch over her eye, marks on her throat, a swollen nose and bruised and swollen lips, that the inside of her lips bled, that there were four or five scratches on her breasts and bruised spots all over her body and that her ankles were swollen.

At the subsequent trial of Norris she repeated much of this testimony, adding: "Sure, they punched me in the face; they knocked my head around. * * * My whole face was swollen up and bruised, black and blue kin'ly. She also claimed that the skin on her body had been torn in several places,—on her throat, her face and her back and also on her leg, and that her stomach, back and hips were sore.

While she had denied at this Patterson trial her testimony at the previous one with regard to the bleeding from her vagina, she admitted it at the Norris trial, saying as to her vagina: "I was kin'ly bloody, a little bit." She also said that she was "all sore from the man handling and pummeling that I got. I was sore all over my body kin'ly." Finally she said that in the process of ~~tearing her step-ins~~ ~~apart~~ one of the negroes had scratched her in the crotch.

At the last trial of Patterson, Victoria Price testified that her head bled a little, that her back, hips, face and throat were scratched, that her face was bleeding a little, that there were injuries practically all over her body, that there was blood on her left leg and bruised places on her breast. She also testified that her lips and cheeks were swollen.

At the trials in July 1937 of Norris, Andy Wright and Weems her testimony was substantially to the same effect.

But in fact there were no such scratches, bruises or bleeding as she testified to, or as necessarily would have existed had she been raped as she claimed. Nor was any semen noticed on her clothes or those of the defendants.

Within two hours of the alleged rape Victoria Price was examined by physicians at Scottsboro. These physicians, Dr. Bridges and the local health officer, Dr. Lynch, were, of course, chosen by the state. They made a careful and thorough examination and noted what they found. Their testimony completely discredits the story told by Victoria Price. Instead of the numerous injuries which she described they found only one or two slight scratches, and bruises about the size of a nut—indications not of rape, but merely of a ride on chert:

At the trial before Judge Horton, Dr. Bridges testified that he had found on Victoria Price "some scratches on the back part of the wrist *** small scratches *** and she had some blue places in the small of the back *** right above the top of the hip, three or four bruises that ranged about like a joint of your thumb, small as a pecan, and *** between the shoulders another place about the same size. The doctor found no lacerations in the vagina. He contradicted Victoria Price's story about blood on her scalp, on her back or coming from her vagina. The few bruises he found might have been two or three days old and the scratches were nothing more than the size of a pin. He testified that the respiration and pulse of both Victoria Price and Ruby Bates were normal when they were examined. On the body of Ruby Bates he found also only a few small scratches on the front of one arm and two bruised places on each side of the vagina.

At the trial of Patterson before Judge Callahan, Dr. Bridges stated that he found only a few scratches and one or two small spots. He denied having seen blood on her head or found cuts or marks on her cheeks or blood coming out from her mouth or that her lips were swollen.

At the later Norris trial he testified that the only bruise he found was "a small blue spot about like a pecan in the

small of the back." With regard to the claims made by Victoria Price of further injuries he said: "If I had seen that, I would have noticed it. We were looking for those things. * * * I was examining her for the purpose of finding marks, if possible, and I made note of everything I saw." He expressly stated that the only injury he remembered finding was "some scratches on the wrist and forearm and a blue place on the small of her back."

That this mass of testimony completely destroyed the prosecution's case was recognized by Judge Horton who presided at the second trial of Patterson in 1933.

He said:

"Her manner of testifying and demeanor on the stand militate against her. Her testimony was contradictory, often evasive, and time and again she refused to answer pertinent questions. The gravity of the offense and the importance of her testimony demanded candor and sincerity. In addition to this the proof tends strongly to show that she knowingly testified falsely in many material aspects of the case. All this requires the more careful scrutiny of her evidence.

The Court has heretofore devoted itself particularly to the State's evidence; this evidence fails to corroborate Victoria Price in those physical facts; the condition of the woman raped necessarily speaking more powerfully than any witness can speak who did not view the performance itself."

We can add nothing to what Judge Horton then said.

* * * * *

We wish, however, to deal briefly with certain alleged corroboration of Victoria Price on which the state has, at various times, relied: 1, the semen found in her vagina; 2, the knife alleged to have been taken from her; 3, the testimony of Gilley; 4, the alleged admissions of some of the defendants. We submit that in no instance is there any corroboration of defendants' guilt.

1. The doctors testified that semen was found in Victoria Price's vagina when they examined her. But as the spermatozoa were all dead the doctors were unable to determine when the intercourse had taken place which produced them.

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1. The doctors testified that semen was found in Victoria Price's vagina when they examined her. But as the spermatozoa were all dead the doctors were unable to determine when the intercourse had taken place which produced them.

At the trial before Judge Horton the defense established to his satisfaction that the semen had come from intercourse between Victoria Price and her boy friend Tiller less than two days before the alleged raping.

(Here followed a question from Judge Horton's opinion).

We call to your Excellency's attention, moreover, the fact that the defense was not permitted to offer this evidence of Victoria Price's adulterous relations at any of the subsequent trials because the state refrained from calling the doctors as witnesses.

2. Victoria Price claimed that one of the negroes (once identified as Patterson), took from her a small pocket knife she was carrying. She identified a knife taken from Norris after his arrest as being hers. The incredibility of this story is manifest. Victoria Price repeatedly testified that each one of the negroes had brandished large knives during the raping. No such knives were found, either on the train, or on the defendants. The prosecution would have us believe, therefore, that these defendants, including Norris, threw away their own knives, but that Norris kept Victoria Price's knife, the one object which would surely brand him as guilty. Things just do not happen that way.

3. Concededly there was a fight between a group of negroes and whites on the freight train as a result of which the white boys were thrown off, all except Gilley. Victoria Price herself testified that Gilley was pulled back by some of the negroes because the train was moving so fast they were afraid he might be killed. So Gilley remained in the car with the girls until the train reached Paint Rock.

Gilley was a witness at Scottsboro in 1931 but he said nothing about any raping. All he then testified ~~to was the presence of certain of the defendants on the train.~~ He did not testify before Judge Horton. His only testimony about rape was at the trials of Patterson and Norris before Judge Callahan in November 1933. But he admitted that he had made no attempt to get help, although able to do so, either on the train, or at Paint Rock, that he had not helped the alleged victims get out of the train, or even told anyone at

Paint Rock about it—he simply shifted for himself and ran away. It is inconceivable that he would have acted this way had a raping really occurred. Moreover, in vital respects his testimony is inconsistent with that of the prosecutrix.

Gilley admitted that he made no attempt to go back to the caboose and communicate with the conductor or go forward to communicate with the engineer. He made no claim that he was prevented from leaving the car. On the contrary, he stated that the negroes had threatened to shoot him if he did not go out but said that, nevertheless, he had remained. Mrs. Price testified that he had been prevented from seeking help while the raping was going on because "the colored boys was holding their knives on him" but Gilley gave no such testimony at the Patterson trial. And at the Norris trial, where Mrs. Price did not give this testimony, he contended for the first time that Patterson had held a pistol to him. However, he also said then that they had tried to push him off the car, and one tried to choke him but he finally added: "They tried for a little while to put me off and then decided to let me alone." He stated also: "They told me to stay in this end of the gondola up there from where they were." It is quite evident that Gilley was not molested by the negroes.

Gilley claimed that he had been the cause of the raping's coming to an end about fifteen minutes before the train reached Paint Rock. He had asked Patterson, the negro with the gun, he said, to stop the raping as one of the girls was gasping, her eyes were bulging out, and they would kill her; and he asserted that Patterson had thereupon told the other negroes to stop and threatened to put them off the train if they didn't. Victoria Price told a quite different story, namely, that the attacks had ended about five minutes before the train reached Paint Rock and that when Gilley tried to help her on with her overalls Patterson had interfered. She testified that the negroes said: "they were going to take us north and make us their women." Gilley heard no talk to this effect and Mrs. Price failed to corroborate him either as to the conversation he had had with Patterson or regarding what he said Patterson had told the other negroes. Mrs. Price added

in the Norris case that when the rapping was over she was lying with her head in Gilley's lap and Ruby Bates was sitting down "with one of the negroes with his arm around her neck." Gilley told no such tale.

It is quite evident that Gilley's story is a fantastic invention and gives no weight to the equally fantastic tale told by the prosecutrix.

Gilley testified at none of the later trials, presumably because he had been convicted in Tennessee for robbery.

4. The alleged admissions by the defendants are of several kinds. It is claimed that immediately after the arrests and also at the Scottsboro trials, one or more of the defendants, while denying his own guilt, implicated the others. These statements, of course, were denied by the defendants to whom they were attributed. But no weight should be given to any such statements, even if made, because of the surrounding circumstances. The defendants had just been arrested; threats of lynching resulted in the calling of the militia; every step taken from that time on was under military guard. We have already quoted the views of Chief Judge Anderson and of the United States Supreme Court on the circumstances preceding and including the Scottsboro trials. These terrified boys, far from home, without friends, without even the protection of counsel, cannot be held responsible for anything they may have said after their arrest.

The same observations apply to the testimony attributed to certain of the defendants at the Scottsboro trials. Moreover, the record of Patterson's trial shows that he repeatedly denied even having seen any girls on the train. The contrary statements attributed to him were either erroneously recorded or were the result of hysterical fear. In view of the decision of the Supreme Court that these defendants had been deprived of the benefit of counsel at these Scottsboro trials nothing which occurred there can properly be used against them and it is significant that, except as to Patterson, no claim has been made since the Scottsboro trials of any admissions whatever.

The contrary contention, as to Patterson alone, is that while waiting word of the decision from the United States Supreme Court on his second application for review of a sentence of death, he confessed to a guard. No credence can be given to this remarkable story. Every time Patterson had an opportunity to speak in open court he denied his guilt.

* * * * *

The remaining testimony introduced by the State can be briefly dismissed. No one who saw the train on its way from Stevenson to Paint Rock testified to any raping. The testimony of the members of the posse at Paint Rock added to the discrediting of Victoria Price.

Victoria Price had told a dramatic story of the negroes jumping from a box car into the first of a string of gondolas and said that she had fainted away at Paint Rock as she stepped out of the gondola which she had been riding. The defendants insisted they had seen no girls in the car in which they had fought the white boys. Carter confirmed this contention by his testimony that the fight had taken place in a gondola to the rear of the one in which the girls had been riding. The measurements of the station area at Paint Rock indicated that the place where the girls had first been seen by the various members of the posse was far forward from the position of the gondola in which Victoria Price claimed she had been riding. Evidently the story told by Victoria Price, was, in this respect also, untrue.

The testimony of Ricks, the fireman of the train, further discredits Victoria Price. He was standing on the top of the tender, in a better position than anyone else, to see what went on. Ricks said that the two girls tried to run away until intercepted by the posse.

The girls evidently acted, not as victims of a raping, but as offenders against the law. Their action was based on their own wrong doing with some of the white boys. Fearing to be charged with vagrancy, or perhaps worse, Victoria Price, concocted the charge of rape, to deflect attention from herself. Such was the testimony of Ruby Bates before Judge Horton, and of Carter, one of the white boys, on numerous occasions.

The tale they told explains the whole episode as nothing in Victoria Price's testimony does.

We have then two girls of loose morals, traveling with the lover of one of them, picking up another boy in the jungles of Chattanooga, returning home as a party of four, whose enjoyment is interrupted by a fight between some other white boys and a bunch of negroes, and who find themselves unexpectedly in the hands of a posse. The boy friend Carter jumps off the train in the fight with the negroes; the pickup Gilley deserts his girl at Paint Rock. The girls, unable to give a proper account of themselves, sought refuge in a charge against the nearest and most helpless, the negroes. Hence the accusation of rape.

And, at the last trial of Norris, two residents of Huntsville, both former officers of the law, testified that Victoria Price's reputation for veracity was bad and that they, who had known her since 1924, would not believe her on oath in a court of justice.

That the prosecutrix is not worthy of belief has, in effect, been conceded by the state when it released Montgomery and Roberson. These two defendants at all times insisted that they had participated in no rape. But Victoria Price at the trial of these two defendants at Scottsboro said that Montgomery had intercourse with her, "that old sleepy-eyed one," and that Roberson had intercourse with Ruby Bates and "was one of them that was running up and down inside of the car. That third one held me; he pulled my legs apart, once or twice. That is Willie Roberson. He is the one that had me by the legs and he and the others said, 'jerk her legs this way' and he just caught hold and jerked my legs that way." There was thus not the slightest hesitancy in her identification of these two. Yet it became evident that her story was false. Roberson was a semi-cripple, Montgomery blind in one eye. Their own story that they had taken no part in the fight with the white boys appeared the truth; Victoria Price's that they had raped her could not be accepted. So they were set free. And, at the time, the prosecution issued a statement, which said:

"But after careful consideration of all the testimony, every lawyer connected with the prosecution is convinced that the defendants Willie Roberson and Olen Montgomery are not guilty.

"The doctor that examined Willie Roberson the day after the commission of the crime stated that he was sick, suffering with a venereal disease, and that in his condition it would have been very painful for him to have committed that crime, and that he would not have had any inclination to commit it. He had told a very plausible story from the beginning; that he was in the box car and knew nothing about the crime.

"Olen Montgomery was practically blind and has told a plausible story, which has been unshaken all through the litigation, which put him some distance from the commission of the crime. The State is without proof other than the prosecutrix as to his being in the gondola car, and we feel that it is a case of mistaken identity."

In view, however, of the positive and circumstantial identification of these two by the prosecutrix it is evident that her entire story falls if she be disbelieved in this part of it.

Under such circumstances these defendants are entitled to their immediate freedom. We appeal, therefore, to your Excellency to grant them unconditional pardons.

July 20, 1938.

OSMOND K. FRAENKEL,
Counsel for Applicants.

Rev. Allan Knight Chalmers, Chairman

Col. William Jay Schieffelin, Treasurer

Scottsboro Defense Committee

Room 301, 112 East 19th Street

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