Scottsboro and Its Legacy: The Cases that Challenged American Legal and Social Justice

James R. Acker

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Scottsboro and Its Legacy

The Cases that Challenged American Legal and Social Justice

James R. Acker
To Jenny, Elizabeth, and Anna.
And to the Scottsboro Boys—Olen Montgomery, Clarence Norris, Haywood Patterson, Ozie Powell, Willie Roberson, Charlie Weems, Eugene Williams, Andy Wright, and Roy Wright—and to those who have fought to correct legal and social injustices in their cases and others.
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Series Foreword

This volume is part of an interdisciplinary series on Crime, Media, and Popular Culture from Praeger Publishers. Because of the pervasiveness of media in our lives and the salience of crime and criminal justice issues, we feel it is especially important to provide a home for scholars who are engaged in innovative and thoughtful research on important crime and mass media issues. The books in the series touch on many broad themes in the study of crime and mass media, including process issues such as the social construction of crime and moral panics; presentation issues such as the images of victims, offenders, and criminal justice figures in the news and popular culture; and effects such as the influence of the media on criminal behavior and criminal justice administration.

During the summer of 2007, as this book was going to press, several events that illustrate the interactions of mass media, popular culture, and crime were in the news. The critically acclaimed and immensely popular HBO series, The Sopranos, broadcast its last first-run episode. This was covered by the media with interviews of the cast and creators of the show and with discussion of the series as a cultural phenomenon. Another matter in the news involved The Church of England and Sony, the manufacturer of the PlayStation video game “Resistance: Fall of Man.” BBC News reported that the Church is considering legal action against Sony because the company did not obtain permission to use the interior of the Manchester Cathedral as the setting for a scene in the video game in which hundred of combatants are killed. The Church and concerned citizens of Manchester assert that the company has been irresponsible in locating the video game in a city that has been plagued by real-life gun violence and has been struggling to deal with the problem. In the most recent media event, Atlanta Falcons
quarterback Michael Vick was indicted on federal charges alleging that he had sponsored dog fights and traveled across state lines to participate in such fights. The extensive media coverage of the allegations included images of animal-rights groups protesting as they demanded that Vick be fired by the Falcons, comments from politicians and others about the brutality of dog fighting, and “man-on-the-street comments” from African Americans who questioned the rush to judgment that seemed to be denying Vick his day in court.

The media coverage of these events—the end of a television crime drama about New Jersey mobsters that became a part of American culture, the response of the Church of England and citizens of Manchester to the use of a real setting in a violent fantasy game, and the commencement of yet another “media trial” (see Surette 2006) of a celebrity alleged to have engaged in violent behavior (against canine victims in this case)—illustrates the involvement of the media in the social construction of images of crime, criminals, and the criminal justice system. In this series, scholars present research on issues central to the complex nature of our relationship with media. Peter Berger and Thomas Luckman coined the phrase “the social construction of reality” to describe the process by which we acquire knowledge about our environment. They and others have argued that reality is a mediated experience. We acquire what Emile Durkheim described as “social facts” through a several-pronged process of personal experience, interaction with others, academic education, and, yes, the mass media. With regard to crime and the criminal justice system, many people acquire much of their information from the news and from entertainment media. The issues raised by The Sopranos phenomenon and the use of the Manchester Cathedral by Sony in a video game illustrate not only the blurring of the line between make-believe and reality but more generally the impact of what we consume—what we read, watch, see, play, and hear—on our lives. The Michael Vick coverage illustrates the manner in which a criminal case can blur the boundaries between news (for example, the federal investigation of an illegal sport) and entertainment (that is, the coverage of major league sports and athletes).

The interactions of crime and mass media/popular culture that we now observe have evolved over a period of time. In fact, print media in the nineteenth century assumed its modern form at the same historical moment when criminal justice agencies were being created. With the birth of the “penny press,” newspapers became inexpensive enough for the working man. The editors of these newspapers quickly realized that they could sell more papers by not only introducing regular “police beats” in their pages, but by reporting on sensational crimes. In New York City, the birthplace of the penny press, reporting of two such crimes increased circulation in 1836 and 1841, respectively: the trial of a young clerk for the murder of a stylish brothel prostitute named Helen Jewett and the
mysterious death of Mary Rogers, “the beautiful cigar girl” who was found floating in the Hudson River.

By the end of the nineteenth century, the idea of journalistic professionalism had emerged. At the same time, the newspaper wars between the Pulitzer and Hearst newspapers had given rise to the sensational reporting that came to be called “yellow journalism.” This was followed by the “jazz age” reporting of the 1920s. But during and in the aftermath of World War I, the media were also giving attention to the “Red Scare” inspired by the Bolshevik Revolution and the Russian Civil War. The concern about antigovernment conspiracies in the United States was further fueled by a bomb scare that led to a series of raids in 1919, ordered by U.S. Attorney General A. Mitchell Palmer and coordinated by J. Edgar Hoover, Assistant Director of the Bureau of Investigation (later renamed the Federal Bureau of Investigation). The raids involved the roundup of socialists, communists, and other alleged conspirators. Thus, in the 1920s, Americans were aware of the Communist Party, and many had come to perceive those who allied themselves with the communist movement as dangerous radicals.

In this volume, James R. Acker examines the media coverage of the Scottsboro Boys case. This case attracted international attention because of the involvement of the International Labor Defense (ILD), the legal arm of the Communist Party. Nine young black men were accused of the gang rapes of two young white women while all were hitching a ride on a slow-moving Alabama train. The case is fascinating not only because of the spotlight it shines on Southern justice, regional conflicts, and gender issues, but because of the social and political issues highlighted in the battle between the National Association for the Advancement of Colored People (NAACP) and the ILD over who would represent the young men, known as the “Scottsboro Boys,” in court.

In the first trial the defendants were reluctantly defended by local attorneys appointed by the court. Eight defendants were convicted and sentenced to death. The ILD gained permission from the Boys’ families to find them more effective legal representation. The ILD persuaded Samuel Leibowitz, one of best criminal defense attorneys in the United States, to take the case. Leibowitz was Jewish and from New York City. His religion and the fact that he was a Northerner became important factors in the series of trials that followed. The Scottsboro Boys saga would eventually yield two Supreme Court decisions about the rights of the accused. But for the defendants the ordeal would drag on for years.

In this outstanding addition to the series, Professor Acker provides a fascinating account of the case that lives on in cultural memory. The Scottsboro Boys case is “one of the essentials” for those readers seeking to understand the interaction of American social and cultural history with criminal justice. In 1931, as the Scottsboro Boys trials were underway, a state militia unit stood guard outside the
courtroom to ensure that the nine young black men would not be taken out and lynched by a mob. Almost 60 years later, in 1989–1990, the mainstream media in New York City reported on the alleged rape of a young, white, investment banker by a gang of young black and Hispanic teenagers in what became known as “the Central Park Jogger case.” The negative stereotypes used in describing the young men led the Amsterdam News (a black newspaper in the City) and some white journalists to question whether the young men could/did receive a fair trial (see Benedict 1992). As recently as 2003, when Kobe Bryant, a black National Basketball Association (NBA) player, was accused of the rape of a young white female hotel employee, discussion again turned to the impact of media coverage on the outcome of the case. This time one of the questions was whether the alleged victim was being negatively portrayed in the media, including the release of information about her on Internet sites. Again, the media were castigated by some scholars for perpetuating “rape myths.” Other observers raised the specter of a “racial hoax” similar to the Scottsboro Boys case. The collision of race, class, and gender issues played out in front of media audiences and in “water cooler” conversations inspired by media coverage.

In the Scottsboro Boys case, we see an early twentieth century example of the collision of these issues that still plague us. The Scottsboro Boys story offers a window on American crime and justice. As Professor Acker shows us, it is also the story of an American tragedy.

Frankie Y. Bailey and Steven Chermak,
Series Editors

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Preface

Much can be learned from studying criminal trials. The people in them, as in all walks of life, are venal and courageous, fragile and strong, peevish and righteous, ambitious and humble, myopic and enlightened—and possess all of those qualities at once and in different measure depending on some peculiar mix of fate, fortune, and life circumstances. Trial issues spring from facts. The facts are often ambiguous and disputed. They involve the accuser and the accused but also transcend them, embracing witnesses and social context. They demand resolution. Yet their resolution can be uncertain, and invoke issues beyond the competence and control of the involved parties. Criminal trials are designed to ascribe guilt and proclaim innocence within a system of justice. The decisions are weighty and made with high expectations. Criminal trials sharpen our focus about what is right and wrong and how we arrive at those answers. The courtroom, sometimes, is a metaphor, and the verdicts there reached speak beyond the actors in them to illuminate larger social truths and visions of justice.

The trials of the Scottsboro Boys—nine black youths accused of raping two white women on an Alabama train in 1931—offer this much and more to those willing to become immersed in them. They open a window on a time and place where social norms weighed so heavily on principles of law that the law buckled, resisted, and then buckled again in uneasy dialogue between lawyers and judges and juries, and between the courts of Alabama and the U.S. Supreme Court. They generated enormous local, regional, national, and international interest that alternatively worked to the benefit and the detriment of the nine young men. They brought social and legal issues to light that demanded attention then and compel our attention now.

My own work, which relates in part to the media’s important role in reporting on and helping give definition to the Scottsboro cases, relies heavily on contemporaneous newspaper and magazine coverage. I could not have begun to assemble my research materials without the heroic help of the interlibrary loan department at the University at Albany Library, and the similar assistance I received from reference librarians at the Cornell Law School Library. I am indebted to Qing Wei for her invaluable assistance in acquiring microfilm and other newspaper records, printing them, and organizing her work so I could take advantage of it. I thank Michelle Storm for performing similar duties. Giza Rodick very generously shared her own research about the Scottsboro Boys with me. I benefited immensely from my collaboration with Elizabeth Brown and Christine Englebrecht on a chapter that we coauthored about these cases in Frankie Y. Bailey and Steven Chermak, eds., *Famous American Crimes and Trials* (Westport, Connecticut: Praeger Publishers 2004). I also thank Frankie Bailey and Steve Chermak for their help with this volume, and Suzanne Staszak-Silva for her immense patience and guidance in seeing this book through. Errors and shortcomings are entirely my own.
Introduction

Few events are as mesmerizing as a criminal trial born of events that transcend the parties and particulars of a local courtroom and that, redolent with symbolism, compels the nation to confront fundamental questions of social justice. Trials embodying these qualities serve a function reminiscent of the public morality plays of a bygone era. Through their presentation and resolution of case-specific facts and issues, they give meaning to and reaffirm the value of fundamental abstract principles. Yet unlike oft-staged dramas that enable audiences to witness them firsthand, court proceedings (at least prior to the advent of Court TV and its ilk) are one-time events that occur erratically and have limited seating. Most people have little direct contact with the criminal justice system and necessarily rely on published accounts of trials as a substitute for what they cannot personally witness. Consequently, what is portrayed in the media, and how those accounts are presented, not only inform but also help shape public perceptions and attitudes about crime and justice.

Few sagas combine the transcendent significance of a criminal trial and the news media’s representation and construction of the social meaning of the events giving rise to it with the power and poignancy of the Scottsboro Boys cases. This epic legal drama began near Scottsboro, Alabama in the midst of the Great Depression. Nine young black men were put on trial for their lives after being accused of raping two white women. The immediate disputes of fact and law were never far removed from issues of race and social class. On trial, in addition to the defendants, was the tenor of Southern justice. The Communist Party embraced the case as a *cause célèbre* as did, shortly thereafter, the NAACP and other organizations committed to racial equality. One of the country’s leading
criminal defense attorneys waged battle against not only local prosecutors, but also capricious judges, regional prejudices, and overt anti-Semitism. The proceedings were conducted within the brooding dark shadow of Alabama’s electric chair. The U.S. Supreme Court twice issued decisions granting the defendants new trials, and in the process announced magisterial rules of constitutional law that foretold dramatic changes in federal court oversight of state systems of criminal justice.

Although the Scottsboro Boys cases date back to the 1930s, their defining issues are starkly familiar to contemporary criminal justice. The death penalty remains in effect throughout much of the United States, although no longer for rape or for juveniles. The high stakes of capital cases continue to focus attention on problems that mar the administration of justice today, including claims of racial bias, ill-prepared and inadequately funded defense counsel, unrepresentative juries, prejudicial publicity, and wrongful convictions—all of which are vividly reminiscent of the Scottsboro trials. Controversy still swirls about the rules of evidence that govern rape prosecutions, including the proper boundaries for cross-examining complaining witnesses, an issue that hovered over the allegations involving the Scottsboro Boys.

The nine young men accused of rape in Alabama, indelibly labeled by the news media as “the Scottsboro Boys,” are with us no more. Nor are their accusers, the lawyers who represented and prosecuted them, the jurors who sat in judgment of them, the judges who presided over their trials and appeals, and the newspaper reporters and editors who reported on them to the nation and the world. Still, the legal and societal issues linked so closely to this case endure with discouraging persistence. The case is a prism that helps make visible the interrelated social forces that shape the administration of the criminal law. And it also is a window on the media influences that sustain and give content to public perceptions of justice, in both historical and contemporary context.

The stories told in the ensuing pages are based in part on trial transcripts and other court records, but primarily on the contemporaneous newspaper and other media accounts of the cases and the perspectives of social commentators who offered their interpretations about them. As such, the narratives are not presented as an unbiased historical record of the events as they unfolded but rather as a story that reveals as much about the storytellers and their milieu as the cases and case participants. This is a tale of the Scottsboro Boys and the events in which they were immersed, as molded and defined by the media and the enveloping social context of the times.
On “Black Thursday,” October 24, 1929, panic had besieged the New York Stock Exchange during Herbert Hoover’s presidency. Stock prices temporarily stabilized but then plummeted. “Black Monday” gave way to “Black Tuesday,” and within three years the average price of a share of stock had fallen by 80 percent.1 In 1931 Americans were on the move, leaving their homes, looking for work, struggling to make ends meet. By year’s end, more than 11 million people would be unemployed, double the number of the prior year. A drought began that would turn major sections of the Midwest and South into a dust bowl. Farmers abandoned parched fields, in search of a way to support their families. Others took to the rails, knowing that even if prospects for work were not better in the next town, they could not be worse than in the previous one. The United States was mired in the second year of the Great Depression. On March 25, 1931, Ida B. Wells-Barnett, an African American anti-lynching activist and journalist who had been forcibly removed from a Memphis train in 1884 because she refused to ride in the “blacks-only” car, died in Chicago.2

At 10:20 A.M., Wednesday, March 25, 1931, somewhat behind schedule, a Southern Railroad freight train left Chattanooga, Tennessee, bound for Memphis. Between the engine and caboose of the half-mile long train were tank cars, flat cars, boxcars, and gondolas—sturdy, low-sided cars without roofs that commonly were used to haul heavy loads of coal and gravel. Scattered about the cars were several riders who were “hoboing,” having hopped the rail in search of employment or simply to move on to wherever the train would take them. Among the illicit passengers were Victoria Price and Ruby Bates, who
were returning home to Huntsville, Alabama after failing to find work in Chattanooga’s textile mills. Price was 21 years old, and Bates 17. Each was white. Four friends who lived in Chattanooga also had scrambled onto the train: 18-year-old Haywood Patterson; brothers Andy (age 19) and Roy (13) Wright; and Eugene Williams (13). They did not know five other young men from Georgia who were on board, nor were those five acquainted with each other. Charlie Weems, the oldest, was 20. Clarence Norris was 18; Olen Montgomery 17; Willie Roberson 15; and Ozie Powell 15. The nine youths—soon to be known as the Scottsboro Boys—were all black.

Although Memphis was due west, the train would meander through northern Alabama and then slice through part of Mississippi before reaching its destination. Shortly after departing Chattanooga it entered Alabama’s Jackson County, which borders Georgia to the east, and Tennessee to the north. A number of white youths also were on board the train, riding the rails. Trouble began shortly after the locomotive emerged from the tunnel that burrowed through Lookout Mountain. A white boy stepped on Haywood Patterson’s hand as Patterson clung to the side of a tank car. An exchange of words gave way to rock throwing. The train pulled in to the station in Stevenson, Alabama, some 45 miles removed from Chattanooga and another 20 miles away from Scottsboro, a town of 3,500 and the county seat. The confrontation resumed when the train continued its westward journey. A fight broke out pitting a group of the white boys against several blacks. The black youths got the better of the whites, all but one of whom either jumped or were thrown off the slow-moving train. Orville Gilley, spared ejection because he risked serious injury or death if he hit the ground after the train had picked up speed, was the lone white combatant remaining on board as the locomotive rumbled toward Scottsboro.

The deposed whites were none too pleased. They made their way back to Stevenson and reported to the stationmaster that they had been assaulted and thrown off the train by a “bunch of Negroes,” and that they wanted to press charges. Although they had been illegally on board the train themselves, they undoubtedly (and correctly) perceived that the authorities would consider their treatment at the hands of the black youths as the more serious affront to Alabama law and thus had no inhibitions about lodging their complaint. By the time they made their report, the train had already passed through Scottsboro. The Jackson County Sheriff, M.L. Wann, telephoned a deputy who lived near Paint Rock, the train’s next scheduled stop, roughly 20 miles beyond Scottsboro. The sheriff gave instructions to “capture every negro on the train,” and to deputize as many citizens as could be found to carry out this order. When the train arrived in Paint Rock just before 2:00 P.M., it was greeted by dozens of armed white men, who immediately fanned throughout the train’s 42 cars in search of black riders. They found Olen Montgomery alone in a tank car near the caboose. Willie Roberson
occupied an otherwise empty boxcar. Ozie Powell was in a nearby gondola. They and the other six black youths who were dispersed throughout the train were rounded up at gunpoint, tied together with a plow rope, and marched to the back of a flatbed truck where they awaited transportation to the Scottsboro jail. A deputy told Haywood Patterson that they were being charged with assault and attempted murder, an apparent reference to the claims made by the white boys in Stevenson.

The search of the train revealed more than the nine young blacks. Also uncovered were Victoria Price and Ruby Bates, whose unanticipated presence surprised members of the posse but did not command their immediate attention. Some 20 minutes later the accusation first surfaced that would come to define the Scottsboro Boys case and soon cascade over the Alabama countryside, and then the nation and the world. One of the young women, perhaps Ruby Bates, either volunteered or else responded affirmatively to a sheriff deputy’s question that they both had been raped by the gang of blacks while the train made its passage.

The nine youths taken into custody did not learn of this accusation until several hours later, when they were led from behind bars at the Scottsboro jail and lined up so they could be confronted with the two white women. In the interim, the women had been examined by two local physicians, Dr. R.R. Bridges and Dr. Marvin Lynch. News of the alleged rapes spread like wildfire through the community, first by word of mouth originating with the deputies in Paint Rock, and then later that afternoon in the local newspapers. Headlines in one of Scottsboro’s newspapers blared, “Nine Negro Men Rape Two White Girls,” and denounced the “black fiends” who had “committed [this] revolting crime.” The Huntsville Daily Times, the hometown newspaper of Price and Bates, ran a front-page story on the afternoon of March 25, in which the “accused ravishing” was “described as one of the most brutal attacks in the history of the Tennessee Valley.” A mob of several hundred gathered outside of the jail, threatening to storm the facility if the boys were not turned over to them. The prospect of a lynching could not be dismissed. Although in decline by the 1930s, more than 2,800 lynchings had been documented in the country over the past half century, frequently involving southern white mobs acting against blacks suspected of raping white women.

Sheriff Wann placed an urgent telephone call to Montgomery, imploring Governor Benjamin Meeks Miller for assistance. The governor responded promptly. He ordered armed National Guard troops dispatched to Scottsboro from the closest armory, approximately 20 miles away. Order was maintained and after the immediate crisis subsided the boys were transferred to a sturdier jail in Gadsden, in nearby Etowah County. The New York Times’ first report on the case appeared on March 26 under the caption, “Jail Head Asks Troops as
Mob Seeks Negroes; Riot Feared in Scottsboro, Ala., After Arrest of Nine, Held for Attacking Girls.”19 A prominent Alabama paper, the Birmingham News, conversely proclaimed on its front page on the same day: “Town Reported Quiet After National Guard Arrives to Watch Prison.” The story noted that “the negroes . . . slept soundly during the night while the soldiers protected them from any mob violence.”20

The different newspaper renditions of events in the immediate aftermath of the two women’s rape claims harbingered a dramatic and intensifying competition involving the media, interest groups, and courtroom actors to give meaning to the Scottsboro Boys case. At least formally, what happened on that Southern Railway train after it left the Stevenson station and prior to its arrival in Paint Rock would be determined in a court of law. For courts are where factual disputes of this nature are meant to be resolved, through legal procedures that have been refined over centuries to best elicit the truth. But courthouse walls are not impermeable. The law, in operation, is subject to social influences that find no recognition in rules of evidence or procedure. The deeper meaning of the Scottsboro Boys case is only revealed through understanding the social context and the pervading extralegal factors that left their imprint on the courtroom evidence.

More was on trial than the nine young men, who risked capital punishment if convicted. Also at issue was whether justice dispensed in an Alabama rape trial in the 1930s could be impervious to the deeply ingrained social taboo, especially inviolate in the South, against black men engaging in sexual relations with white women. At the same time, the economic and social unrest occasioned by the Great Depression had provided a catalyst for the Communist Party to recruit disaffected workers. The Communists perceived the Scottsboro Boys case as a vehicle for making inroads in the South, particularly among blacks. The legal issues thus became infused with politics and social class, in addition to having sectional and racial dimensions.

Fundamental questions of law intersected with the cultural currents of the Scottsboro trials. The nine youths were poor, uneducated, and far from home when arrested. On trial for their lives, they lacked the resources and skills to defend themselves against the rape accusations. They were dependent initially on the State of Alabama to provide them with the essential ingredients of due process of law, including competent legal representation, impartial jurors, and fair-minded judges. If the state courts failed in their obligation, they would have to persuade the federal courts to intervene. Difficult evidentiary issues stalked the rape prosecutions, and those issues became especially challenging as information emerged about the backgrounds and reputations of the accusing witnesses. Few of the legal questions would be resolved easily, and many endure in contemporary criminal trials.
Jackson County officials moved swiftly in the face of the unrest following the Boys’ arrest to press charges and bring the cases to trial. Indeed, it was understood that quick legal action could be instrumental and perhaps essential to help quell community agitation and avert a lynching. \(^\text{21}\) The *Montgomery Advertiser* lauded the decisive action taken by Sheriff Wann and the governor. It editorialized:

Ordinarily it would be next to impossible to restrain the mob spirit in such circumstances. . . .

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

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

In other words, in face of extreme provocation, Alabamians have again shown that they are willing to let the law have its way. \(^\text{22}\)

Circuit Judge Alfred E. Hawkins conferred with the circuit solicitor, H.G. Bailey, and Sheriff Wann, and announced within 24 hours of the Boys’ arrests that he would travel to Scottsboro to convene a grand jury. According to the *Birmingham News*, the officials would proceed “immediately to indict the nine negroes. A prompt trial . . . also was indicated.” \(^\text{23}\) Solicitor Bailey declared that “he would demand the death penalty in every case.” \(^\text{24}\) Meanwhile, the youths remained in the Gadsden Jail.

The Jackson County Grand Jury met in Scottsboro on Monday, March 30, to hear evidence in the case. \(^\text{25}\) True bills of indictment were returned the following day, formally charging each of the nine prisoners with rape. The young men were charged jointly in two indictments, one of which named Victoria Price as the victim and the other naming Ruby Bates. \(^\text{26}\) The indictment listing Price as the victim read:

The grand jury of [Jackson C]ounty charge that before the finding of this indictment Haywood Patterson, Eugene Williams, Charlie 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. \(^\text{27}\)

Less than a week had passed between the return of the indictment and the day the boys boarded the train and were placed under arrest. Under Alabama law, trial juries were given the discretion to impose sentence ranging anywhere between 10 years imprisonment and death upon a conviction for rape. \(^\text{28}\)

The boys were transported from the Gadsden jail to Scottsboro on the morning of March 31, the day the indictments were returned, still under the watchful eye of scores of armed National Guardsmen. \(^\text{29}\) They were arraigned that afternoon. Judge Hawkins presided. Alabama law provided for the appointment of
counsel in capital cases for defendants too poor to hire their own lawyers. The accused stood before Judge Hawkins, indigent and without legal representation. A day earlier, a Chattanooga lawyer, Stephen Roddy, who had been retained with offerings collected by a church group from that same city, had driven to Scottsboro with a promise to resist any efforts that might be made to "railroad" the youths. However, Roddy had already returned to Tennessee before the indictments were delivered and did not appear in court for the arraignment. Peering down at the nine young men who now stood charged with rape, Judge Hawkins "appointed all members of the local bar" to represent them "for the limited purpose of arraigning the defendants."

Seven lawyers comprised the local bar. None stepped forward in the ensuing days to act on the Boys' behalf, and three were soon hired to assist the prosecution.

Among the observers attending court to witness the arraignment were two members of the Communist Party. These Party workers lived in Chattanooga and had heard news of the Boys' arrest and the subsequent gathering of a mob outside of the Scottsboro jail. They relayed this information to the New York City office of the International Labor Defense (ILD) and warned of a possible lynching. The ILD served as the legal arm of the Communist Party USA and although it was not an official Party organ, it was commonly regarded as functioning in that capacity. The ILD had participated in the defense of Sacco and Vanzetti and was actively involved in civil rights and anti-lynching activities, mindful of opportunities to help recruit Party supporters. Its interest in the developing events in Scottsboro thus was not unusual, although its prescience in identifying the Boys' case as a potential rallying cause at this early date was unusually keen.

The first account of the developing case in the Daily Worker, the New York City-based newspaper published by the Communist Party USA, was reported on page 1 of the April 2, 1931, edition, just two days following the arraignment. The story began:

Intensifying their campaign of terror against the Negro workers in an effort to smash the growing unity of white and Negro workers as expressed in the growing resistance of the working class to the persecution of the Negro and foreign born workers, the local bosses and courts are rushing through the frame-up of nine Negro workers who were taken off a freight train a few days ago and thrown into jail on the usual lynch-terror inciting charge of "attacking white women."

The report warned of "[t]he danger of a mass lynching" and fumed that "[l]ipsticked girls and their business men escorts drove up in fine cars to be in at the killing." It concluded by exhorting: "Only the nationwide protest of the working class started immediately and expressing in mass protest meetings, resolutions and telegrams to the governor of Alabama and the officials of this town can save these workers from a mass lynching."
Early depictions of the case in other newspapers could not have differed more significantly. The Boys’ guilt was largely presumed upon their arrest in many Alabama periodicals. The *Montgomery Advertiser* attributed to Sheriff Wann the revelation “that all nine negroes had confessed assaulting the two girls,” an assertion that later proved to lack corroboration. The *Jackson County Sentinel* reported that “some of the negroes held the two white girls [while] others of the fiends raped them, holding knives at their throats and beating them when they struggled.”38 The Scottsboro *Progressive Age* warned that the “details of the crime coming from the lips of the two girls, Victoria Price and Ruby Bates, are too revolting to be printed and they are being treated by local physicians for injuries sustained when attacked and assaulted by these negroes.”39 The *Huntsville Daily Times*, however, was not similarly restrained about what it printed. It characterized “[t]he crime [as] one of the most horrible ever perpetrated in the United States,” and gave a detailed account of what occurred, as described to its reporter by Price, Bates, and “Orville Gillie” [sic], the white boy who had remained on the train.40 It was similarly unforgiving in its characterization of the accused black youths. “And as the story was being unfolded, the negroes were telling jokes in another part of the bastile. Nasty jokes, unafraid, denying to outsiders they were guilty, laughing, laughing, joking, joking, unafraid of the consequences, beasts unfit to be called human.”41

Just as the accused boys were jailed immediately following their arrest, so too were their accusers. Price, Bates, and the several white boys who had been on the train and had fought with the blacks, were all held in the Scottsboro jail as material witnesses. The *Huntsville Daily Times* ran progressively sympathetic accounts of the two young women as its news coverage continued. The paper’s initial description of the “Huntsville girls,” on March 25, the day of the alleged attack, was that they “were hoboing with male companions on [a] freight car,” and that after having been “made captive[]” and “ravish[ed]” by “[a]ll nine of the negroes,” both were “considered in a most serious condition.”42 The following day’s story provided a richer portrait of the reputed victims.

Both girls are daughters of Huntsville widows. Both are in poor financial circumstances and had caught a “free” ride to Chattanooga the day before hoping to obtain employment of some nature in the larger city.

Unsuccessful in getting work they were forced to take the same type of transportation back home. They climbed aboard the train, an oil tanker, and there ran across the seven white boys. Victoria Price, 21, one of the girls, recognized O’Dell Gladwell of Houston, Texas, as a half-brother she had not seen for several years. It was a happy reunion and after introductions were made, the group jumped off and climbed aboard a coal car where they soon were deep in conversation. . . .

Here’s the story of the attack both [Orville] Gillie and the girls told Sheriff Wann and a reporter of this newspaper.
“We were dressed in overalls. We started to climb over the car when a big negro grabbed us and pulled us back on the gravel pile. He had a big knife in his hands.

“Another man tore our overalls from our bodies and with five men holding each of us, one with an open knife in his hands, they committed the crime.

“Near Paint Rock they attempted a second attack and were only stopped when we declared they could take our lives.”

The Price girl said she resided on Arm street and Ruby Baites [sic] on Winston street. The older girl is a blonde, rather heavy set. The younger is a slim girl of a brunette type, frail in physique and apparently unaccustomed to hardships.43

The March 30 edition of the paper ran a “Special” column featuring a highly personal account of Victoria Price’s plight under the heading, “Cannot Come Back Home.”

“I can never go back home now after this awful thing.”

Victoria Price, 21, one of the two girls alleged to have been attacked by 12 negroes aboard a Southern freight train last Wednesday near Stevenson, explained why she will seek in other cities for employment when the cases against her assailants are disposed of.

She had just finished reading a letter from her mother, a poor Huntsville widow. Crying bitterly she turned to her companion, Ruby Baites, 17, for comfort.

“Mamma is so upset. I could never face her after this,” she said. “I don’t know what I am going to do. Oh why should I have been the one?”

Victoria said she had been almost the sole support of her mother since she was 12 years of age. She had always been employed in the cotton mills of Huntsville and knows of no other work for which she would be qualified.

Clad in clothing purchased at the request of officials of the Huntsville mill in which both were formerly employed, the girls are being looked after by Sheriff M. L. Wann of Jackson county while being held as material witnesses against the negroes who will face trial…The extreme penalty will be demanded against the blacks.

“I don’t know what I will do but it’s certain I won’t go back home,” the girl said again.

[ sic] girls have requested authorities to stop the sale of their photographs on local streets and have asked for a private trial.44

The sympathetic portrayal of Price and Bates in Huntsville newspaper contrasted starkly with how the women were described in the Daily Worker. As the trial loomed, the Communist Party publication slammed “the fake charge” lodged against “the nine young Negro workers,” of raping “two white girls ‘bumming’ a ride on a freight train.” The article emphasized that a “prominent county official admitted to [an] investigator that the two girls supposed to have been attacked are notorious prostitutes.45

This preliminary skirmishing to give definition to Victoria Price and Ruby Bates was of deeper significance than first appears. It implicated much more than
simple stylistic idiosyncrasies among competing newspapers. Under one construction, the particulars of the charged rapes struck at the heart of what traditional white Southern culture primevally feared and abhorred. Widespread apprehension existed among whites about the presumed insatiable sexual appetite of black men.\textsuperscript{46} Compounding the threat associated with this perception was the revered station of Southern white women, who by custom were “elevated . . . to a pedestal and worshipped . . . as the symbol of virtue, honor, and chastity.”\textsuperscript{47} As described by W.F. Cash in \textit{The Mind of the South}:

> To get at the ultimate secret of the Southern rape complex [involving black men and white women], we need to turn back and recall the central status that Southern woman had long ago taken up in Southern emotion—her identification with the very notion of the South itself. For, with this in view, it is obvious that the assault on the South would be felt as, in some true sense, an assault on her also, and that the South would inevitably translate its whole battle into terms of her defense.\textsuperscript{48}

At still another level, “[t]he rape of white women by blacks provoked . . . profound rage among southern white men because they viewed female sexuality as property that they owned, like slaves, and protection of this property was a key to preserving their position in society.”\textsuperscript{49} It was no coincidence that death was reserved as punishment for rape almost exclusively in the South, and that during the 1930s and ensuing decades executions for that crime disproportionately were carried out against blacks and confined almost without exception to cases in which white women were the identified victims.\textsuperscript{50}

The symbolic representation of Price and Bates thus mattered. They could be popularly perceived as standard bearers for the “virtue, honor, and chastity” of white Southern women—women worthy of “protection” by men and law alike—or, alternatively, as fallen women with loose morals and tainted character. Even in a formal evidentiary sense, whether they were chaste or promiscuous, of unimpeachable standing or ill repute, arguably had implications reflecting on the veracity of their allegations.

In a report commissioned by the American Civil Liberties Union, Hollace Ransdall offered an insightful assessment of the two women who claimed that they had been raped. Ransdall’s journalistic skills and her knowledge of economics shine throughout the lengthy report, which she completed in late May 1931, just two months after the boys were taken off the train in Paint Rock and charged with the crimes. She based her conclusions on ten days spent in northern Alabama and Tennessee interviewing an array of community members and people with knowledge about the case, including Price and Bates. Her observations speak volumes about matters that are essential to understanding the Scottsboro Boys trials, involving not only two of the principals, but broader social issues as well.
REPORT ON THE SCOTTSBORO, ALA. CASE
made by
Miss Hollace Ransdall
representing the
American Civil Liberties Union
May 27, 1931

HISTORY OF THE CASE

Two Huntsville Mill Girls Hobo to Chattanooga

On March 24, 1931, two mill girls from Huntsville in Madison County, northern Alabama, dressed up in overalls and hoboed their way by freight train to Chattanooga, Tenn., about 97 miles away. The older of the two, Victoria Price, who said she was born in Fayetteville, Tenn. and gave her age as 21, planned the trip, urging the younger one, Ruby Bates, 17 years old, to go with her...

[Ransdall interviewed "the two girls separately several weeks after the trial . . ."]

The talk with Victoria Price, particularly, convinced me that she was the type who welcomes attention and publicity at any price. The price in this case meant little to her, as she has no notions of shame connected with sexual intercourse in any form and was quite unbothered in alleging that she went through such an experience as the charges against the nine Negro lads imply. Having been in direct contact from the cradle with the institution of prostitution as a side-line necessary to make the meager wages of a mill worker pay the rent and buy the groceries, she has no feeling of revulsion against promiscuous sexual intercourse such as women of easier lives might suffer. It is very much a matter of the ordinary routine of life to her, known in both Huntsville and Chattanooga as a prostitute herself.

The younger girl, Ruby Bates, found herself from the beginning pushed into the background by the more bubbling, pert personality of Victoria. She was given little chance to do anything but follow the lead of Victoria, so much quicker and garrulous. When I talked with her alone she showed resentment against the position into which Victoria had forced her, but did not seem to know what to do except to keep silent and let Victoria do the talking.

Why the Two Girls Made the Charge?

The first of these questions can be answered only by some knowledge of the conditions of life in the mill town of Huntsville, as it affected the lives and development of the two young mill workers, Victoria Price and Ruby Bates.

Huntsville, the town seat of Madison County in northern Alabama, has within its city limits, some 12,000 inhabitants. Taking in the four mill villages which surround it, the population is about 32,000. There are seven cotton mills in and around Huntsville, the largest being the Lincoln mill made up of four units... Then there are two old fashioned plants under the same management and owned by local capitalists—the Helen knitting mill and the Margaret spinning mill. It is in this last place, the Margaret Mill, that both Victoria and Ruby Bates worked before the trial and afterward.
Wages were always low and hours long in all the Huntsville Mills, but in the Margaret and Helen especially, working conditions are very bad. The workers had to bear the brunt of the competition with the modern mills, backed by outside capital and with outside connections to help them out, while the Margaret and Helen management was muddling along in the old way. Respectable citizens of Huntsville said that only the lowest type of mill worker would take a job in the Margaret and Helen Mills.

All the mills were running on short time during the period of the Scottsboro case, and had been for some months before. Most of them had cut down to two, three, and four days a week. The Margaret had its workers on shifts employed only every other week, from two to four days a week.

Mill workers found it a dreary, hopeless enough struggle making some sort of a living when times were good, so when the slump hit them, it did not take long for a large group to fall quickly below the self-sustaining line. Low standards of living were forced down still lower, and many were thrown upon the charity organizations. It is from the charity workers of Huntsville that one may get an appallingly truthful picture of what mill life in Huntsville in time of depression means to workers who are doggedly trying to live on the already meager and uncertain wages of “prosperity.”

High standards of morality, of health, of sanitation, do not thrive under such conditions. It is a rare mill family that is not touched in some form by prostitution, disease, prison, insane asylum, and drunkenness. “That’s the kind of thing these mill workers are mixed up with all the time,” complained one social service worker. “I’m beginning to forget how decent people behave, I’ve been messing around with venereal disease and starvation and unemployment so long.”

Under the strain of life in Huntsville, the institution of the family does not stand up very well. Charity workers grumble that too many men are deserting their families. “If they get laid off, and can’t get another job they seem to think the best thing for them to do is to leave town, because then the charities will have to take care of their families,” said one.

There was no father in evidence in either the families of Victoria Price or Ruby Bates. Husbands come and go in many cases, with marriage ceremonies or without. A woman who takes in a male boarder to help out expenses is unquestionably assumed to share her bed as well as her board with him. The neighbors gossip about it, but with jealousy for her good luck in getting him, rather than from disapproval of her conduct. The distinction between wife and “whore,” as the alternative is commonly known in Huntsville, is not strictly drawn. A mill woman is quite likely to be both if she gets the chance as living is too precarious and money too scarce to miss any kind of chance to get it. Promiscuity means little where economic oppression is great.

“These mill workers are as bad as the Niggers,” said one social service worker with a mixture of contempt and understanding. “They haven’t any sense of morality at all. Why, just lots of these women are nothing but prostitutes. They just about have to be, I reckon, for nobody could live on the wages they make, and that’s the only other way of making money open to them.”

It should perhaps be mentioned that there are undoubtedly very many mill families in Huntsville to whom these things just described do not apply, but is also true that there is a large group of workers to whom the conditions do apply, and Ruby Bates and Victoria, with whom this part of the report is concerned, come from this group.
Ruby Bates and Her Family

As has been said, it is from the most economically oppressed of the mill workers of Huntsville that the two girls in the Scottsboro case come. Ruby Bates, the younger of the two, has a better reputation among the social workers of Huntsville than Victoria. They say that she was quiet and well-behaved until she got into bad company with Victoria Price.

Ruby is only seventeen. She is a large, fresh, good-looking girl, shy, but a fluent enough talker when encouraged. She spits snuff juice on the floor continually while talking, holding one finger over half her mouth to keep the stream from missing aim. After each spurt she carefully wipes her mouth with her arm and looks up again with soft, melancholy eyes, as resigned and moving as those of a handsome truck horse.

Ruby lives in a bare but clean unpainted shack at 24 Depot Street, in a Negro section of town, with her mother, Mrs. Emma Bates. They are the only white family in the block. Of the five children in the family, two are married and three are living at home. Mr. Bates is separated from his wife and lives in Tennessee, according to the report of neighbors, who say that he comes occasionally to see his children.

The house in which the Bateses lived when I visited them on May 12, several weeks after the trial, had been vacated recently by a colored family. The social service worker who accompanied me on the visit sniffed when she came in and said to Mrs. Bates: “Niggers lived here before you, I smell them. You can’t get rid of that Nigger smell.” Mrs. Bates looked apologetic and murmured that she had scrubbed the place down with soap and water. The house looked clean and orderly to me. I smelled nothing, but then I have only a northern nose.

Out in front while we talked, the younger Bates children were playing with the neighboring Negro youngsters. Here was another one of those ironic touches which life, oblivious of man’s ways, gives so often. If the nine youths on the freight car had been white, there would have been no Scottsboro case. The issue at stake was that of the inviolable separation of black men from white women. No chance to remind negroes in terrible fashion that white women are farther away from them than the stars must be allowed to slip past. The challenge flung to the Negro race in the Scottsboro case was Ruby Bates, and another like her. Ruby, a girl whom life had forced down to equality with Negroes in violation of all the upholders of white supremacy were shouting. As a symbol of the Untouchable White Woman, the Whites held high—Ruby. The Ruby who lived among the Negroes, whose family mixed with them; a daughter of what respectable Whites call “the lowest of the low,” that is a White whom economic scarcity has forced across the great color barrier. All the things made the respectable people of Scottsboro insist that the Negro boys must die, had meant nothing in the life of Ruby Bates.

Yet here was Ruby saying earnestly, as she sat in a Negro house, surrounded by Negro families, while the younger members of her family played in the street with Negro children, that the Scottsboro authorities had promised her she could see the execution of the “Niggers”—the nine black lads who were to be killed merely for being Negroes.

Ruby’s mother, Mrs. Emma Bates, clean and neat in a cheap cotton dress, talked with a mixture of embarrassment and off-handed disregard for her visitors’ attitude toward her. She has worked in the mills for many years. She was employed by the Lincoln textile mill, the largest one in Huntsville, some time before the trial. When I saw her she was out of a