Scottsboro: An American Tragedy

Transcript

Hear the rattle of gravel as it rides whistling through the day and night. Not the old or the young on it, nor people with any difference in their color or shape, not girls or men, Negroes or white, but people with this in common: people that no one had use for, had nothing to give to, no place to offer, but the cars of a freight-train careening through Paint Rock, through Memphis, through town after town without halting.

FRANK GRIGG, Resident: I've had people that knew that you and I were going to have this conversation and some of them said, no, don't do it. Don't stir it up again. I said, 'well, it's a part of us.'

WAYNE FLYNT, Historian: It begins with a fairly clear cut issue of black and white, of sexuality, of rape. Then it becomes increasing confused.

The image of the black man was that he was anxious at all times to rape a white woman. It was the Scottsboro case that met that issue head on.

PERRY BRUSKIN, Former Activist: Will you let them murder the nine Negro boys in Scottsboro? No! Louder: No! Organize, demonstrate, protest. Raise your voices.

BRYAN STEVENSON, Attorney: What Scottsboro teaches us is that you cannot underestimate the power of our history as it relates to race, as it relates to poverty, as it relates to sectionalism, in the struggle for justice.

FLYNT: There're are heroes in this story. But that's the footnote to this story. The tragedy of this are nine boys lives hopelessly, eternally interrupted, sent cascading down roads of terror and imprisonment. No, I don't think there's I don't think there's any way to see this story but as a great tragedy.

On the morning of March 25, 1931, a freight of the Southern Rail Corporation left Chattanooga, Tennessee bound for points west. Scattered among the cars of the freight were some two dozen hoboes -- black and white.

A few minutes out of Lookout Mountain, the train dipped into the Northeastern corner of Alabama.

MILLS THORNTON, Historian: As the train emerged from the tunnel under Lookout Mountain, a group of whites was moving along the top of the train and they stepped on the hand of one of the blacks and almost knocked him off the train.

The hand belonged to an 18 year-old named Haywood Patterson, who was on his way to Memphis to look for work.

Voice of Patterson: We was just mindin' our own business, when one of them said, 'This is a white man's train. All you Nigger bastards unload.' But we weren't goin' nowhere so there was a fight. We got the best of it and threw them off.

Word of the fight reached the tiny town of Paint Rock, Alabama, where the train was scheduled to stop and take on water.
JAMES GOODMAN, Historian: In Paint Rock news goes out that there is a gang of Blacks, a gang of Negroes on the train that beat up a gang of Whites. A posse is organized. Virtually every man in Paint Rock with a gun or a rope shows up. The train stops. The posse goes up and down the train looking in all the cars.

FLYNT: What they thought they were gonna find is a group of blacks who had beaten up a group of whites and thrown them off the train. Immediately unexpected things began to happen. That's what you most fear in a racial confrontation is the unexpected.

Suddenly, from the shadows of a box-car, emerged two white women: pale and disheveled.

DAN CARTER, Historian: At first they weren't even aware that they were women. They were wearing overalls. They identified themselves as Victoria Price and Ruby Bates. And there are conflicting accounts about who said what, when. But one of the young women said, 'we've been raped. All those colored boys raped us.' And that was it.

CLYDE BARCLAY, Paint Rock Resident: A bunch of people here got the guys off the train, marched them up here about where this old building, right across from where the white wrecked car is there -- lined them up against the wall there.

BILLY O'NEAL, Paint Rock Resident: I saw a lot of people surrounding those boys, many of them having guns of course and ropes or pieces of rope. They were intent on mayhem.

STEVENSON: For any black man in Alabama whenever you saw a group of white men with guns in the menacing ominous way in which people were collected in Paint Rock, Alabama, you knew you were in a lot of trouble.

There were nine prisoners in all. One of them was 19 year-old Clarence Norris.

Norris, audio: The place was surrounded with a mob. They had shotguns, pistols, sticks, pieces a' iron, everything. The crowd commenced to hollerin' let's take these black son-or-a-bitches up here and put 'em to a tree. I just thought that I was gonna die. Clarence Norris.

GRIGG: Mr. Broadway sent up to the store to get a skein, I never did hear that word before, a skein of ploughline, and the rope was cut into pieces where they could tie the hands of the ones that was under arrest. And the next thing was, how we going to get them to Scottsboro?

The prisoners were loaded onto a truck and driven to the nearby town of Scottsboro.

ROBERT WANN, Sheriff's son: On March 25, 1931, a friend and I were playing basketball on the side of the Jackson County jail. And we noticed a flatbed stake-body truck stop in front of the jail with a guard with rifles on each corner. They quickly unloaded the prisoners.

BILLY WANN, Sheriff's son: Crowds were beginning to form outside the jail....The rumor was that they were going to go into the jail. There was already poles outside that they were going to break the door down with.

Norris, audio: Cars, trucks, they was comin' in all kinds of ways, the mob was. 'Bring them niggers outta there. If you don't bring them out, we'll come in and get 'em.' That's all you could hear, all over that little town.
KWANDO KINSHASA, Historian: The sheriff goes out on the front porch and basically makes the comment to the growing crowd outside that the first individual that puts a step on that door, puts their foot on their door step he's gonna kill 'em.

ROBERT WANN: As the situation became desperate, my father took his pistol off and he gave it to his deputies.... he walked out the front door right through the middle of the mob and the crowd separated for him, not a hand touched him. He went to the courthouse and called the governor.

By the next morning, the National Guard had secured the jail while newspapers identified what one called "the nine Negro brutes."

Of the nine, only four had known each other before their arrest. Charlie Weems, the oldest, was 19; Eugene Williams, the youngest, 13. Willie Roberson suffered from syphilis so severe he could barely walk. Olin Montgomery, nearly blind, had been looking for a job to pay for a pair of glasses. Clarence Norris had left behind ten brothers and sisters in rural Georgia. Ozie Powell had been found riding alone. Andy Wright, 19, and his thirteen year-old brother Roy had ridden from Chattanooga together. It was Roy's first time away from home. Haywood Patterson had been riding the freight trains so long, he said he could light a butt in the wind from the top of a moving car.

By the time the nine defendants had taken to the rails, the full brunt of the Depression had already struck the South. And no state was hurting worse than Alabama.

FLYNT: Alabama in the 1930's was literally a world coming apart, with massive unemployment in a state that had always been poor, with increasing conflict between both classes and races. It was a state that was in calamitous conditions, families were disintegrating. Hoboes were frequenting the railroads by the thousands and the tens of thousands.

Like the nine alleged rapists, their two accusers had been driven onto the rails by economic necessity. Ruby Bates, 17, and Victoria Price, 21, hailed from the cotton center of Huntsville, 50 miles from Scottsboro. They worked together in the poorest of the town's textile mills.

At 21, Price was already twice married and had served time in the workhouse for adultery and vagrancy.

CARTER: Victoria Price was tough, a survivor in every way. She hardly fit the stereotype of the young Southern lady -- hard-talking, tobacco chewing, but a kind of feistiness to her. Ruby Bates is totally different. Very quiet, soft spoken. In effect it was a kind of relationship in which Victoria totally dominated Ruby Bates.

The mills in which the girls worked employed mostly young women. They labored up to 14 hours a day in deafening noise, air choked with cotton lint, and near complete darkness.

By 1931, wages in the mills had dropped so low that Victoria and Ruby could only afford to live in the black section of Huntsville where they occasionally traded sex with both black and white men for food and clothing.

GOODMAN: Their lives are in fact a complete violation of the ideals of segregation. But the second they accuse a black man of rape at least for an instant they became a pure white woman.
The trials of the nine defendants for rape got under way on Monday, April 6 in the Scottsboro courthouse. It was a traditional trading day in town, but the usual crowd was swelled by thousands more from hundreds of miles around. Eventually, the largest crowd in Scottsboro's history squeezed into the courthouse square, as a brass band played "Dixie" and "Hail, hail, the gang's all here."

GRIGG: I saw many strangers, lots of strangers. I saw a car-load over here and a carload over there. I saw Tennessee tags and Georgia tags. And some of them were armed, most of them had shotguns.

Two hundred national guardsmen ringed the courthouse to keep the crowd from rushing its doors.

ARCHIE STEWART, Scottsboro Resident: They had strings up so the mob could not get up beyond the string. So whenever the guard would pass, the crowd would push beyond the string, and the guard would turn on his heels, throw his gun down, and say: 'get back!' But as soon as he would turn his back, they were back again.

The crowds outside the courthouse were drawn by what one newspaper called the "most unspeakable crime in the history of Alabama."

Since the days of slavery and before, what was presumed to be the black man's insatiable sexual appetite for white women had struck fear in the hearts of Southern whites.

ROBIN KELLEY, Historian: The protection of white womanhood it might be the pivot around all of Southern culture. The five thousand people who were lynched from 1880 to 1940, most of those were cases of black men accused of raping or sexually assaulting a white woman.

In the early 1930's the incidents of lynchings in the South had spiked upward, tracking the economic misery of poor whites. But so too had the efforts of a small, but powerful faction opposed to lynching.

With the Scottsboro trials, the anti-lynching forces hoped to prove that in Alabama the rule of law would prevail against the passions of the mob.

THORNTON: Here was an example of their doing it right! Of showing to the world that they were capable of giving equal and fair justice to prisoners in the most emotional and threatening kinds of conditions.

As the trial began, Victoria Price took the stand and told a chilling story.

Voice: There were six to me and three to her. One was holding my legs and the other had a knife to my throat while another ravished me. That one sitting behind the defendants' counsel took my overalls off. Six of them had intercourse with me. 'Pour it to her, pour it to her' they hollered.

Ruby Bates corroborated her friend's story in every detail, though she could not identify any of her attackers.

Unable to get a lawyer in Scottsboro, the nine accused rapists were being represented by a Chattanooga real estate attorney hired with $60 scraped together by their parents.

The defendants had just one twenty-minute meeting with their lawyer, during which he urged them to plead guilty.
Now, the boys were the only witnesses called to testify in their own defense. Clarence Norris and Haywood Patterson were the first two to take the stand.

FLYNT: The first thing they try to do is concoct an excuse for themselves. Norris says well the other eight did it but I didn't do it. And Patterson says well I didn't do it but they did it. And it's the classic reaction of people trapped in a world where they know they're not gonna be believed; where they have no resources. And so that's the way they explode.

Norris, audiotape: The courthouse were full of people and they were jumpin' up out their seats with pistols, wasn't a black person around nowhere. Everybody was white but just us nine.

CARTER: When they announced the verdict of guilty, people ran out. And the judge was trying to bring order. And as soon as the as soon as the word got outside the crowd outside went crazy.

The trials lasted three days. All nine Scottsboro defendants were convicted of rape. The jury could not decide whether to sentence thirteen year-old Roy Wright to life-in-prison or death. All the others were sentenced to die in the Alabama electric chair.

The Scottsboro defendants, now convicted rapists, were taken to Kilby prison near Montgomery, the pride of the Alabama system. Two to a cell, the boys looked out on 50 foot walls topped by gun turrets on each corner.

Their first night in Kilby, the boys rioted, tearing up their bedding and hurling their food through the bars. Guards rushed their cells and beat them.

Patterson voice: The cell door banged open. They beat on us with their fists, they kicked and tramped on our legs. The sheriff said to me: 'see that gallows, nigger. If you don't quieten' down I'll take you around to that gallows and hang you myself.' Haywood Patterson.

CARTER: Understandably they're terrified. They're in one of the most brutal prisons in the United States. They have a death sentence hanging over them and they're like drowning individuals, grasping for a life raft, grasping for a life preserver, grasping for straws.

When help did come, it was from the most unlikely of sources: the Communist Party of the United States.

By 1931, the Communists were a small but dynamic force. Opportunistic and organized, they seized on the Depression as proof of the inevitable decline of capitalism and the rise of a workers' paradise.

THORNTON: The advent of the Depression had made it possible for the Communists to gain a hearing among people who just a few years before would have dismissed their claims. It did appear to a great many people in the 1930s that capitalism was in crisis.

For years, the Communist Party had devoted special attention to the American South, and to Southern blacks in particular.

VOICE: It is only the Communist Party which day in and day out fights for every demand and need of the Negroes in the terror and lynch-ridden South.
LLOYD BROWN, Former Communist: The view was that in the south we had an uncompleted revolution. The abolition of slavery had not been really fulfilled we now had sharecropping. We had literally tens of thousands of people who were bound to the farm in debt, work all year, at the end of the year they would have nothing left. We felt that the system was maintained only in one way: by terror. Terror -- if you get out of line you're lynched. (end of sheet 1)

But the communists had found Southern blacks deeply rooted in the system. Organizers believed they needed a striking example of what they called "Southern lynch justice" to rouse blacks to action. The mass arrests in Scottsboro were just what they were waiting for.

GOODMAN: Two local communist organizers are actually in the courtroom during the trials. They immediately send word of this up to party headquarters in New York saying this is a wonderful opportunity to publicize all the things we're trying to publicize in the South. The National Party agrees.

Only three weeks after the Scottsboro trials, the communists launched their first demonstration on behalf of the Scottsboro defendants.

Voice: Two hundred communists undertook to march down Lenox Avenue through the center of Harlem yesterday afternoon in defiance of the police. Fifteen minutes later, when twenty policemen had replaced their nightsticks and the screams of women in the crowd had died down, the sidewalk was strewn with communist banners. The New York Times.

But there were other organizations, principally the venerable NAACP, eager to defend the Scottsboro boys, for whom the Communist Party's public demonstrations seemed self-serving, even dangerous.

CARTER: The NAACP's position is these people are revolutionaries. We can talk all we want to about the ultimate revolution. We've got to defend these young men in Alabama. And the last thing you wanna do is enrage and inflame local juries by raising the specter of communism and the class struggle and social equality.

BROWN: We were propagandizing. There's just no doubt, we were using, yes. We were using the Scottsboro case to expose what was going on in the South.

In June, lawyers from the International Labor Defense, the legal arm of the Communist Party, visited the boys in Kilby, trying to raise their spirits and secure control of their defense. The ILD lawyers dressed as farmers to elude the suspicions of Kilby's wardens.

SYBIL WASHINGTON, Writer: They put on overalls and a straw hat and put a straw in their mouth and went down to Alabama to see the Scottsboro boys.

Voice of Schwartzbart: They had been in a very bad psychological condition. We brought them cigarettes and chocolate. They were scared but they were they were delighted to see us.

But the boys' remained deeply confused by the appearance of white men from the North bearing promises of liberation. It was not until a young organizer visited the parents of Haywood Patterson and the mother of Ozie Powell, that the communists finally secured control of the defense.

MARY LICHT, Communist Organizer: I told them if the International Labor Defense comes we don't believe in just having a trial. We believe in masses of people being behind the causes you're fighting for, and that's how the International Labor Defense Works.
VOICE: Workers, Farmers, Negro and White....

With control of the case, the communists set about to bring Scottsboro to the attention of the entire world.

GOODMAN: There was demonstrations in Germany. There was demonstrations in Spain. There was demonstrations in Moscow. The world knew about this case because of the way the Communists spread the word.

BRUSKIN: Attention, attention comrades. Will you let them murder the nine Negro boys in Scottsboro? No! Louder: No! Organize, demonstrate, protest. Raise your voices and raise your fists and scream. Stop! Stop! Stop! I got all excited all over again.

In November 1932, Communists took their public protests to the steps of the Capitol, where they were routed by the police. But inside, their lawyers were appealing the Scottsboro verdict before the Supreme Court of the United States.

The Justices considered whether in Scottsboro trials, the boys' legal defense had been so inadequate that it violated their rights to legal due process. By a vote of 7-2, they concluded that it had.

STEVENSON: The Supreme Court in a precedent-setting decision for the first time held that poor people like the Scottsboro defendants get effective assistance from lawyers, and where they were denied effective assistance from lawyers they would be afforded new trials.

Alabama authorities immediately resolved to retry, reconvict, and execute the nine defendants.

GOODMAN: The communists realize at this point that they've got to show the world that these defendants are actually innocent. What's the best way to do that?

In the early 1930's, the best-known criminal lawyer in America, after Clarence Darrow, was New York's Samuel L. Leibowitz. Leibowitz had won fame and fortune by defending gangsters, kidnappers, rapists, corrupt cops, and jealous lovers. In fifteen years, he had won 77 out of 78 murder cases -- the 78th resulted in a hung jury.

GOODMAN: Leibowitz was, first of all, a remarkably thorough researcher. He studied every aspect of a case. Never left a stone unturned. Add to that, he was a showman. He literally could have been an actor.

ROBERT LEIBOWITZ, Defense Attorney's son: He had a supple baritone instrument for a voice which he could use like a Paderevsky or a Yasha Haifitz so to speak. And he had a sense of timing that Jack Benny would have envied.

In January, 1933, Joseph Brodsky, one of the leaders of the International Labor Defense, asked Leibowitz to take over as chief defense attorney. But Leibowitz was wary of entanglement with the communists.

BROWN: Ideologically, he would be about the last man to represent the Scottsboro movement. He made it clear, 'I don't agree with you guys, I don't like what you're doing.'

But if one thing was more important to Leibowitz than political principal it was his personal reputation, and the Scottsboro affair was fast becoming an international cause celebre.
GOODMAN: He wanted to make a name for himself that was larger than the criminal's lawyer. He wanted to widen the circle of his renown.

LEIBOWITZ: After my father met with Brodsky and Patterson of the ILD and their agreement was finalized, he said to them look, if I don't bring these nine boys back and dump them in your lap, I'll buy both of you the finest hats that Stetson makes. Take my word on it.

BROWN: He was he was probably as provincial as most New Yorkers were then and I think still are in the sense of thinking that things would be the same down there. He had no idea what it was like going into a different country. Rules are different. Everything is different. He had no idea.

The second trial of the Scottsboro defendants had been moved to Decatur, a town in Northeast, Alabama. As it opened in April, 1933, three hundred spectators crowded the hallways waiting to enter the courtroom. Hundreds more gathered outside.

ATHLENE BANKS, Decatur Resident: I went because of history. I had never seen anything like that before, and I wanted to know just how it would be carried on. When we entered the courtroom, we were not told the way to go, we knew the way to go: because it was black on one side and white on the other.

Leibowitz had won a motion to try the defendants separately. To stand trial first, the state had selected 19 year-old Haywood Patterson.

KELLEY: If the prosecutors were gonna win and win big Haywood Patterson was the best person to put on trial. Because Haywood Patterson was the exemplar of the bad Negro. He was someone who looked the closest you can imagine to a rapist as far as the white imagination's is concerned.

VAN GLASSCOCK, Former National Guardsman: Patterson was mean. I looked him in the eye first time we brought him out of jail. I saw he'd kill if he got a chance.

Alabama would entrust the prosecution of the case to its highest-ranking lawyer -- Attorney General Thomas Knight.

The 34 year-old Knight had the demeanor, one reporter wrote, "of a small and enthusiastic child." Yet he was Leibowitz' equal in the courtroom; and like Leibowitz, he was highly ambitious.

MILLS: He said I'm going to prosecute these nine boys and ride their black asses right into the governor's mansion.

Presiding over the case would be the chief judge of the local circuit court, 55 year-old James E. Horton.


Jury selection took place under heavy security. The twelve jurors ultimately chosen to sit in judgment of Patterson included a shopkeeper, a barber, a clerk and several farmers. All of them were white.

As the state prepared to present its case, newspapers reported the mysterious disappearance of Ruby Bates who was rumored to have been kidnapped or even killed. Every effort by the prosecution and defense to find her had come up empty. More than ever, the prosecution would rise or fall on the testimony of Victoria Price alone.
GOODMAN: Victoria Price gets on the stand and in a matter of minutes says she was riding on a freight train. Suddenly a large group of Blacks comes hopping over on to the car that she is on, quickly dispatches with her White companions, beats them up, throws them off the train, and then en masse holds her up, rips her clothes off, and rapes her.

Voice: I hollered for help until they stopped me, until some of them knocked me in the head with the butt-end of a gun. They unfastened my overalls while I was standing up and then they threw me down on the gravel and finished pulling them off my feet. This Negro grabbed me by the legs and pulled them open and then one of them put a knife on my throat, and one got on top of me.

GLASSCOCK: She just pointed at Haywood Patterson and said: "He raped me" right there in the courtroom.

Price's direct testimony lasted just 16 minutes, but made a powerful impression on the jury and the audience in the courtroom.

But Leibowitz was unconcerned. For months, he had waited for this moment: the chance to confront Victoria Price in a court of law.

He began his cross-examination by setting out an exact replica of the freight train which he had procured from the Lionel Toy Corporation.

LEIBOWITZ: My father had set up this Lionel train set in the courtroom in order to demonstrate where the alleged rape took place. Because his own clients had told him where and it did not coincide with where she claimed she was.

Voices:

Leibowitz: Just look at this little replica and tell me it fairly represents the general appearance of the box car you rode on?

Price: It kinda represents one, but it ain't like the one I was on.

Leibowitz: In what way is it different, can you say?

Price: I won't say.

Leibowitz: If you can't say, why do you say it is different?

Price: Because that is not the train I was on. It was bigger, lots bigger -- that is a toy.

GOODMAN: She just refuses for question after question after question to admit the most basic point that this in any way resembles the train that she was riding on.

CARTER: I think at that moment Sam Leibowitz realized that she may have been uneducated. But she was gonna be a hell of a witness for the prosecution.
Again and again, Leibowitz attacked Price's story in every possible detail: her location on the train; her physical condition; her movements on the day before the alleged rape. But in each case, Price was able to parry his attacks.

GOODMAN: He finds dozens, scores of inconsistencies. Yet she has a manner that makes it difficult for him to make his points. It wasn't that he'd never had a difficult witness before. It was that he'd never had a witness that said over and over I 'can't remember'. Usually a witness is defensive when they say 'I I can't remember.' She aggressively said she couldn't remember and used it to her advantage.

BANKS: I feel if you are telling the truth you could look anybody in the eye. Victoria never looked directly. It was almost to the floor. Until she was made angry, and then she would shout, 'I don't know anything. I told you that before, and I'll tell it to you again.'

Leibowitz knew that he had to overcome one crucial piece of State's evidence: an examination of the girls just hours after they were brought from the train had turned up traces of semen in their bodies.

But Leibowitz believed he could explain the semen found in Price and Bates: not by rape on the day of the train ride, but by consensual sex the night before.

Price had claimed that she and Bates had spent that night in a boarding house in Chattanooga owned by a Mrs. Callie Brochie.

But Leibowitz had scoured Chattanooga and found no Callie Brochie anywhere.

GOODMAN: So he asked her dozens of questions about Ms. Callie Brochie and where she lived and what she looked like and had she ever met her before.

Voices:

Leibowitz: You went to bed in the lady's house?

Price: Yes sir.

Leibowitz: Was it one floor or two floor?

Price: I don't remember, four or five room house.

Leibowitz: What sort of food, what did you do in the evening, what sort of bed or room?

Price: I don't know.

Leibowitz: By the way, Mrs. Price, as a matter of fact the name of Mrs. Callie you apply to this boarding house lady is the name of a boarding house lady used in the Saturday Evening Post stories: isn't that where you got the name?

Price: I ain't never heard of that Callie!

LEIBOWITZ: The truth about Callie Brochie was that she was a fictional character in stories that appeared in the Saturday Evening Post. There was no Callie Brochie on Seventh Street in Chattanooga.
Leibowitz had found a witness, a drifter named Lester Carter, who claimed that he knew where Price and Bates had really been the night before the train ride: with himself and a friend in a hobo camp near the train yards. Now, Leibowitz confronted Price with this story.

Voices:

Leibowitz: Did you tell a man by the name of Lester Carter that you would introduce him to Ruby?

Price: I told you, I never seen Lester Carter before.

Leibowitz: Isn't it a fact that the night before you left Chattanooga you and your boyfriend and Ruby and Lester Carter went walking along the railroad tracks?

Price: No sir, we never have been on the railroad together.

Leibowitz: Isn't it a fact, Mrs. Price, that you had intercourse with your boyfriend on the ground while Ruby had intercourse with Lester Carter right beside you?

Price: We absolutely did not.

Frustrated, Leibowitz finally shouted: "You're a pretty good little actress aren't you?"

Royer: And she fired right back at him immediately; she said you are a pretty good actor yourself. I remember that. (pt 2 4:30)

Unable to shake her story, Leibowitz resorted to accusing Price directly of lying.

Leibowitz: Isn't the reason why you are making these charges you were found hoboing on a freight train?

Price: I was seeking work for my mother.

Leibowitz: And you saw the Negroes had been captured by the people at Paint Rock and you thought you would be arrested for vagrancy for being a hobo on a train in company with Negroes and at that time you determined to say they raped you to save yourself?!

Price: No sir, I didn't!

Northern reporters who had been in the courtroom, wired breathless accounts of Leibowitz' brilliant cross-examination. But to many Southerners, it had been a deep affront.

Voice: One possessed of that old Southern chivalry cannot read the trial and keep within the law. The brutal manner in which Leibowitz cross-examines Mrs. Price makes one feel like reaching for his gun. The Sylacauga News. (end of sheet 2)

CARTER: He thought with each attack he was strengthening his case. And what he didn't understand was that each with each attack on Victoria Price he was weakening his case. Because the audience saw this not as an attack as he saw it upon this woman of ill-repute, this prostitute. They saw it as an attack on Southern womanhood.
Leibowitz' cross-examination had stirred deep memories among Southerners of humiliation suffered at the hands of the North.

GOODMAN: In the minds of many Alabamians, by the middle of the trial in Judge Horton's court, this case is not so much about what happened on that freight train. This trial is a replaying of abolitionism, Civil War, and Reconstruction.

Voice: Seventy years ago the scalawags and carpetbaggers marched into the South and said: 'The Negro is your equal and you will accept him as such.' Today, the reds of New York march into the South with a law book and again say, 'The Negro is your equal and you will accept him as such.' We will not!" The Jackson County Sentinel

THORNTON: While blacks felt that they were oppressed by Southern whites, Southern whites had a strong sense of their own oppression. They were junior partners in the American experiment, that they were not fully accepted as citizens of the United States. And they resented that.

Much of that resentment was directed at Leibowitz himself.

GRIGG: He didn't like the South and the South didn't like him in numbers. No get, we didn't ever care for him.

Royer: You've heard the expression from the outside of the courtroom so to speak that that the Jew lawyer ought'a go back to New York.

Two retired New York City police detectives began to accompany Leibowitz everywhere he went.

Voice: Cable to the Brooklyn Eagle: There's intense feeling here because we have brought the question of Negro rights into the open. I have received numerous crank letters threatening death if I don't stop. We are sitting on a mountain of TNT. Samuel Leibowitz.

ROSE SHAPIRO, Member of Defense Team: I was walking along on the sidewalk; a dirt farmer came along and shoved me off the sidewalk into the road and spit his tobacco juice. And to this day I can feel that spit running down my cheek.

As the trial resumed, the tense atmosphere in the courtroom was heightened by a spring heat wave.

The state called to the stand Dr. R.R. Bridges, the Scottsboro physician who had examined Price and Bates hours after they'd been taken from the train. As expected, he confirmed that he had found semen in their bodies.

GOODMAN: Leibowitz now cross-examines him and over the course of that cross-examination essentially turns him into a witness for the defense.

Leibowitz asked the doctor if the girls had shown any signs of a struggle -- bruises, or scratches? He answered: 'No'. Had the girls been hysterical, breathing heavily, with elevated pulses? 'No.' Had the sperm he had seen in his microscope been moving? Again: 'No.'

LEIBOWITZ: The spermatozoa were non-motile, that means they were dead. They would not have been non-motile if six Negroes had ejaculated into her an hour to an hour-and-a-half before she was examined by the doctor.
Leibowitz next called his star witness, Lester Carter, to the stand. Carter testified that he and a friend had been with the two girls the night before the fateful train ride.

Voices:

Carter: Victoria Price said she knew where we could go and see fun, take a walk for instance.

Leibowitz: Go ahead, what happened?

Carter: We walked up the yards 'til we came to the (hobo) jungles.

Leibowitz: What occurred in the hobo jungles that night?

Carter: We all sat down near a bendin' lake of water where they was honeysuckles and a little ditch. I hung my hat on a little limb and went to having intercourse with Ruby... by firelight I saw Victoria's boyfriend had intercourse with her.

Carter: This is what happened. It wasn't that they were raped. Victoria Price, Ruby Bates and their two boyfriends had sex. And that's all it amounts to.

Throughout Patterson's trial, the other eight defendants had been kept locked away in the Decatur jail, unaware of the proceedings. Now, Leibowitz had them brought to the courthouse under heavy guard.

Inside, Leibowitz called each to the stand in turn. Each denied having ever touched Victoria Price or Ruby Bates.

The last to take the stand was Haywood Patterson.

Voices:

Leibowitz: Haywood Patterson: Did you have anything to do with a white girl?

Patterson: I didn't see any girls on the train

Leibowitz: You are a colored boy, would you dare rape a white girl

Patterson: No sir.

Leibowitz: Haywood Patterson, did you rape this girl?

Patterson: No sir!

BANKS: Each time he would say: "I did not touch any of them. I had nothing to do with any of them."

With Patterson's testimony over, many thought Leibowitz would rest his case.

GOODMAN: What Leibowitz does is pretend that he's about to rest his case. And then he quietly goes up to the Judge and says I'm going to have one more witness. The crowd is buzzing. Horton doesn't know what's going on. The prosecution doesn't have the slightest idea of what's going on.
CARTER: The door opens in the back of the courtroom and in comes Ruby Bates. Only she's coming into the courtroom not as a witness for the prosecution, but as a witness for the defense.

Voice of Elias Schwartzbart, ILD Attorney: When she made her appearance, the tension in the courtroom was palpable. Knight was jittery; he turned red. The crowd gasped: "there's Ruby Bates testifying for the defense".

Ruby Bates had spent the months before the trial in hiding -- as far from the media glare, and the clutches of the prosecution and defense as she could get. She had made her way to New York, until finally representatives of the ILD tracked her down and convinced her to return to Alabama and testify.

Voices:

Leibowitz: You testified at Scottsboro that six Negroes raped you and six Negroes raped Victoria. Who coached you to say that?

Bates: She told it and I told it just like she told it.

Leibowitz: Did Victoria tell you what would happen to you if you didn't follow her story?

Bates: She said we might have to lay out a sentence in jail.

GOODMAN: So Bates essentially says that she made the whole thing up. She comes right out and says said that: 'I made the whole story up because Victoria told me to make it up.' If I didn't make up the story then we would have to go to jail.

But Ruby fell apart on cross-examination. Knight pointed out that either she was lying now or had lied two years earlier in Scottsboro. Ruby became flustered. Knight hammered away at her:

GOODMAN: He asks her where she got her pocket book, where she got her hat, where she got her coat. What was she doing in New York? How did she get from New York to Alabama?

To each question, she answered: "The communists."

Leibowitz: Ah, ha! The only reason she's doing this is because she's been bought and paid for. She told the truth the first time, now she's lying for the money and for the clothing.

The jury, one reporter said, "smelled the North" on Ruby.

CARTER: By the time she gets down off the witness stand what should have been the most effective witness for the defense, as one of the jurors said later, 'we never even considered her testimony.'

Summations began the next day. Wade Wright, one of Knight's co-prosecutors, opened with an emotional appeal. He ridiculed Bates' "fancy New York clothes"; and called Lester Carter "Carterinsky."

CARTER: He turns to the jury, points his finger to the jury and says: 'Show them that Alabama justice can't be bought and sold with Jew money from New York!' Of course immediately Leibowitz is on his feet.

LEIBOWITZ: He objected. He wanted, called for a mistrial immediately. Of course it was over ruled.
In his closing argument, Leibowitz called Wade Wright's summation for the prosecution a "hangman's speech".

Voice: What is it but an appeal to prejudice, to sectionalism, to bigotry. He was simply saying: 'Come on boys! We can lick this Jew from New York.' The question here is whether even this poor scrap of colored humanity will receive a square deal.

Finally, Leibowitz said of Price's testimony: "It is the foul, contemptible lie of an abandoned, brazen woman."

At one o'clock on Saturday afternoon Judge Horton gave the case to the jury. The twelve men filed out of the courthouse, less than two weeks after they had been sworn in.

Haywood Patterson, nearly forgotten in the courtroom hubbub, passed the time with his mother on a bench outside.

At ten o'clock the next morning, word came that a verdict had been reached -- guilty. And the sentence: death by electrocution.

Patterson conceded no emotion as he sat at the defense table, but Leibowitz was crushed.

CARTER: When that jury brought in that verdict of guilty, everyone said he looked like someone had struck him. He just sank back in his seat with a look of disbelief on his face.

The verdict had finally made plain to Leibowitz himself how naive he had been. He had carefully considered how the jury would see every aspect of the trial, but one: himself.

FLYNT: They saw the ultimate outsider. Someone who was Jewish, totally foreign to their religion. They saw someone who was allegedly a communist, totally foreign to their political values. They saw someone who was defending accused black rapists, someone totally contrary to their racial values. The minute a Jewish lawyer from New York City came to Alabama that case was lost.

Upon his return to New York, Leibowitz was swamped by more than three thousands admirers. Carried away, he vented his anger at the verdict.

Voice: If you ever saw those creatures those bigots whose mouths are slits in their faces, whose eyes popped out at you like frogs, whose chins dripped tobacco juice, bewhiskered and filthy, you would not ask how they could do it.

CARTER: And of course you had the reporters writing it down. And the next morning there it's in the newspapers all over Alabama. In this case, I think Leibowitz's ego, his anger got the best of him.

Leibowitz's outburst elicited howls of protest throughout the South. Grover Hall, influential editor of The Montgomery Advertiser, immediately lashed back.

Voice: He left little if anything undone to arouse the resentment if not the bitterness of everyone in the courtroom, including members of the jury. He came into Alabama as the voice of bigotry and arrogance. What a stupid lawyer poor Patterson had! Grover Hall, The Montgomery Advertiser.
Whatever Leibowitz had been when he entered the case, he was now a different man.

CARTER: I don't think there's any question that Leibowitz felt much more keenly having gone through this trial, seeing what had happened to these defendants, seen the attacks on him, there was a kind of bond in which he saw this is not simply these defendants, but also in a sense his own Jewishness was on trial.

In the months following the verdict, he began to appear at Scottsboro rallies in Harlem, where he promised to carry on the struggle in the South.

Leibowitz, SOT: "I will fight to my last breath to send these boys back to their parents and to their loved ones."

From his home in Brooklyn, Leibowitz prepared a motion asking Judge Horton to overturn the verdict and order a new trial.

Judge Horton had retreated to his farm in Limestone County after the verdict. But Leibowitz' motion now forced him to confront his own doubts about the case.

FLYNT: I think when that trial began he thought the nine boys were guilty. And Lord knows there was plenty of evidence. Their contradictory testimony; the allegations of the two women. Then all of a sudden there's this cascading kind of evidence that indicates something has gone terribly wrong.

HORTON: At one point I remember he arose from his chair, went and sat down on the bench and watched the manner in which Victoria Price testified. And you know they say you can tell a lot from the way a person speaks. And I think he thought probably from early on in the trial that this woman was lying.

But Horton was a man of the South, and the South was speaking in a single voice. More than 800 letters arrived at the Horton home, nearly all praising the verdict.

CHRIS DOSS: He had all kinds of pressure from friends, both personal and political friends, saying 'Don't do what we think you may do. If you do, it will destroy you politically.'

In his colonnaded home, Horton took up Leibowitz' motion for a new trial. Working deep into the night he poured over every word of the trial transcript.

Why, he wondered, in the "rich cloud" of possible witnesses had none stepped forward to corroborate Price's story. After being brutally raped, why would Price show only minor scrapes and bruises to an examining doctor, and only traces of dead semen? Was it likely that nine black teenagers could have raped two white women in full view on a slowly moving train and then made no move to escape?

Voice: Her testimony was contradictory, often evasive. The proof tends strongly to show that she knowingly testified falsely in many material aspects of the case. Deliberate injustice is more fatal to the one who imposes it than to the one on whom it is imposed. Judge James Horton.

DOSS: Here is a man that sees himself as having to go against much of what has been his life, much of a system that he's been a part of, that he's benefited from, that's been good to him and now he's gonna have to stand up and say uh-uh.

On June 22nd, 1933, in a crowded courtroom Horton set aside the guilty verdict. He ordered the Scottsboro defendants to stand trial for the third time.
While the trials had been going on in the South, outrage over the Scottsboro affair had migrated from radical circles to ordinary people. In Harlem, thousands had closely followed the events in Alabama; the verdict shocked and radicalized many.

Scottsboro helped forge a new kind of movement: whites and blacks marched side by side for the first time since the days of abolition.

GOODMAN: Scottsboro is the rekindling of an interracial movement of equality. Black people and white people together trying to overcome the legacy of slavery and of segregation.

BROWN: "Black and white unite and fight". That was a standard in all of the demonstrations. This concept of interracial unity.

The communists seized on Scottsboro's notoriety to reach a wider audience. They sponsored the mothers of the defendants on a national speaking tour. Janie Patterson, who had never traveled more than 100 miles from her home, led a protest march on the White House. Ada Wright, mother of Roy and Andy Wright, embarked on a six-month tour of Europe ending in Moscow, where she spoke before crowds of thousands.

On many stages, the mothers were joined by Ruby Bates. Cast out of the South for her testimony in Decatur, Ruby now apologized for her lie, and proudly proclaimed herself a communist.

BROWN: She spoke many times and told of the great wrong that she had done and that she was concerned that these boys' lives should not be lost on account of her.

But all the speeches and rallies in the North did nothing to deter Alabama. Almost immediately after Judge Horton's decision the state announced that it would retry the Scottsboro prisoners.

FLYNT: Alabamians have never backed away from a fight. There's no state in this union that has a bigger chip on its shoulder than Alabama. And so in a sense this national reaction works against the Scottsboro Boys. Not to back Alabamians off but to harden and toughen the resistance to any kind of fair trial.

Once again, Patterson would go first, but this time Alabama authorities were taking no chances. Attorney General Thomas Knight, also the State's prosecutor, engineered the removal of Judge Horton from the case, and named in his place 70 year-old judge William Callahan.

CARTER: Judge Callahan was from the old school in many ways. I think much less widely read than Judge Horton. Much less sensitive to these issues and in fact to an extraordinary degree, a creature of his own prejudices. So that from day one in the trial he becomes in effect another prosecutor.

Repeatedly, throughout the trial in Callahan's courtroom, the judge frustrated Leibowitz' defense -- overruling his objections, and excluding crucial evidence to his case.

LEIBOWITZ: At one point Attorney General Knight wanted to voice an objection and Callahan said to Attorney Knight: 'Sit down. I'll take care of him.' So after that, Attorney General Knight knew it was all right. It wasn't necessary to voice an objection, Callahan would take care of it.

The jury deliberated a day before reconving Patterson and sentencing him to death for the third time. Norris' trial followed quickly with the same result. Leibowitz managed to postpone the trials of the other seven, but with little hope of a different outcome.
All nine boys were sent back to Kilby's death house.

By this time, their hope was fading; Kilby prison was closing in around them like a shroud. Despite contributions from around the world to purchase new clothes, food, even musical instruments, the boys' international notoriety singled them out for continual torment by guards.

STEVENSON: The guards who ran Kilby Prison, certainly the death row unit, also saw it as their role to punish you on a daily basis. To torture you. To beat you. To brutalize you. To break you. And that's what happened.

When Charlie Weems was discovered reading Communist literature, guards dragged him from his cell and beat him until he begged for mercy.

At one point, Ozie Powell slashed the throat of a Sheriff's Deputy with a home-made knife. A second officer then shot him in the head. Though he survived, Powell was never the same.

Patterson and Norris feuded constantly over gambling debts; Norris once stabbing Patterson with a prison shank.

STEVENSON: They started to turn on one another. They started to fight with one another. They grew more hopeless about their situation. They were literally living like dying men might live.

The boys' cells were separated by a thin door from Kilby's electric chair. Norris would lay awake listening to the midnight executions.

KINSHASA: Norris can hear the last words. Everything the individual who was who was going to be executed Norris hears the last words. The switch is thrown. The lights actually dim in the death house itself.

WASHINGTON: Every time it was him going in there. It was him dying, over and over and over and over again.

Back in New York, Mr. Leibowitz tells of the appeals.

Leibowitz, SOT: The appeals are now being rushed to the Alabama Supreme Court. I have every confidence in the world that we shall win there. In the event that we do not we are going right on up to the United States Supreme Court in Washington

Leibowitz soldiered on with one last appeal to stop the scheduled execution of his clients. In each of the Scottsboro trials the boys had faced an all-white jury -- a clear violation, he believed, of their right to equal protection under the law.

THORNTON: White Alabamians did not believe that blacks ought to serve on juries. And black Alabamians assumed that they would not serve on juries. They never had.

In February, 1935, the Supreme Court of the United States heard Norris vs. Alabama, which would determine whether Alabama had purposely excluded blacks from their juries.
To prove that they had, Leibowitz brought with him the huge jury rolls from Decatur. In them, he had made a startling discovery -- of the prospective jurors listed, all were whites, except for a handful of blacks whose names appeared to have been hastily scrawled at the bottoms of several pages.

BROWN: They just took a whole group of blacks and added them to the list as if they had been there all the time. And when the judges of the Supreme Court looked at that they had no comment. They just said and in effect said: 'Oh my God!' It was crude.

In a landmark decision, the Supreme Court ruled that Alabama had deliberately excluded blacks from their juries, and yet again overturned the guilty verdicts.

Exhausted, embarrassed, and near broke from trial after trial, Alabama's once united front regarding Scottsboro finally began to crumble.

CARTER: A lot of Southerners begin to say look this thing is more trouble than it's worth. And there are really are serious questions here and maybe the best thing to do is to settle this case.

Grover Hall, editor of the Montgomery Advertiser, once one of the most ardent defenders of the Scottsboro verdicts, began to wonder if something had not gone terribly wrong.

Voice: The Advertiser knows, all of its readers know, the whole of this sordid, sickening story. "Scottsboro" has stigmatized Alabama throughout the civilized world. We herewith suggest and urge that the State now move for a decent, dignified compromise. Nothing can be gained by demanding the final pound of flesh. Throw this body of death away from Alabama. Grover Hall, Editor, The Montgomery Advertiser.

Hall quietly began to lobby for an end of the Scottsboro prosecutions and the parole of the defendants. State officials listened, but made clear that one condition would have to be met: Samuel Leibowitz would have to go.

For Leibowitz, the notion that he shared blame for the convictions of his own clients was almost too bitter to swallow.

LEIBOWITZ: He never believed that for a moment. Their blackness convicted them. Not him. Not the ILD. Not all the other extraneous influences in the case. The fact is they're black and that's what convicted them.

But, Leibowitz had no choice but to give in. As Alabama began the fourth trial of the Scottsboro defendants, he stepped aside in favor of a Southern attorney.

CARTER: I can't imagine many things more difficult for Sam Leibowitz than to sit in a courtroom and be the second ranked attorney, to sit there while another attorney takes on the case. But everyone convinced him that that's what he had to do.

With Leibowitz gone, Alabama quickly convicted five of the defendants. But it abruptly dropped the charges against the other four: Olen Montgomery, Willie Roberson, Roy Wright and Eugene Williams.
CARTER: Two of them are 13 years old at the time the incident took place. One of them was blind. One of them had syphilis and simply couldn't have had sexual intercourse. And basically the state said, all right, we'll give you those.

The four were spirited out of Alabama in July, 1937, after six years in jail. They arrived in New York the next day. Leibowitz was so overcome that he took off his straw hat and punched a hole through it.

For a moment, the freed defendants were treated like celebrities; they were taken on a speaking tour and booked into the Apollo Theater where they sang, danced, and took part in a reenactment of their trial.

But just as suddenly the fanfare died down. The boys drifted back into obscurity -- their pleas for help to their former sponsors frequently went unanswered.

For the five defendants remaining in Kilby, the release of the four others only heightened their despair.

Their supporters continued to push for their release. How, asked Grover Hall, could the Scottsboro defendants be "half guilty and half innocent?" By 1941, the Alabama Parole board met three times; each time refusing to free the prisoners.

The boys, now grown to men in prison, received fewer and fewer visitors, and watched as the Scottsboro case began to disappear from the nation's consciousness.

But world's forgetfulness proved to be the Scottsboro prisoners' greatest ally. As the rancorous attacks on Alabama ended, the state at last bowed to reason and exhaustion. In the end, it was not letters, marches, or editorials, but time alone that brought the Scottsboro affair to an end.

In November, 1943, the Alabama Parole Board met for a fourth time. This time, it voted to parole 31 year-old Charlie Weems after 12 years in Kilby. Two months later, Andy Wright was released, then Clarence Norris. In 1946, Ozie Powell, 33, was let go.

Only Patterson, the man whose defiant pride had marked him from the beginning as the most visible, the most hated of the Scottsboro defendants, remained in prison -- "sullen, vicious, and incorrigible," according to the Alabama Parole Board.

Patterson had become a creature of Alabama's prisons. He was sent to Atmore Prison Farm, where he worked in the hot sun for 12 hours a day, chained to other prisoners. Throughout everything, he would later write, Scottsboro haunted his dreams.

Voice: I laid on the top bunk, in a way still feeling I was on a moving freight. Nothing was standing still. I was busy living from minute to minute. Everything was rumbling. I dreamed bad dreams, with freight trains, guards' faces, and courtrooms mixed up with the look of the sky at night. Haywood Patterson.

On a hot afternoon in July, 1948, Patterson slipped away from Atmore with eight other prisoners. With dogs in pursuit, he waded through streams for days, and was harbored at night by sympathetic black families. Finally, he hopped a freight north to Detroit where his sister and her family were waiting.

The last of the Scottsboro boys was free.

Epilogue:
The town of Scottsboro has never lived down the accident of geography that forged its name with those of the defendants.

GRIGG: If the train had gone another 300 yards I believe it was it would have been in Madison County, and we certainly wouldn't have objected.

COOK: That's very true, it would have been the Huntsville boys instead of the Scottsboro boys and we would have been very glad of that.

The year after Judge James Horton overturned the verdict in the Decatur trial, he was defeated for reelection, and would never again serve on the bench. On the top of a campaign speech he had scrawled a note to himself: "Yea Shall Know the Truth and the Truth Shall Make you Free."

Samuel Leibowitz never won a victory in an Alabama court for the Scottsboro defendants, but he did save their lives.

With the Supreme Court decision in Norris vs. Alabama, he also set in motion the integration of Southern juries, which would make possible many of the civil rights victories in later decades.

In 1941, Leibowitz was appointed to the bench in New York, where, with a new vantage point, he became a passionate advocate for capital punishment.

Victoria Price, disappeared after the last Scottsboro trial and was presumed to have died sometime in the mid-1950's. Then, in 1976, she surfaced to sue NBC for broadcasting a television movie that portrayed her as a prostitute and a liar.

The suit was settled quietly for what for NBC was a pittance, but for Victoria Price was more money than she'd ever known. She died for real a few years later still insisting that she had told the truth.

After their release from prison, most of the Scottsboro defendants led troubled lives in the North.

Haywood Patterson killed a man in self-defense in a bar fight and died in a Michigan Penitentiary at the age of 39.

Andy Wright wound up in Albany, New York, where he was again falsely accused of raping a white girl: this time he was acquitted.

His brother Roy, youngest of the defendants, served in the army and married. In 1959, convinced that his wife was cheating on him, Roy shot and killed her, and then, with his Bible by his side, shot and killed himself. He is buried in a neglected cemetery in Chattanooga. Beside him, in an unmarked grave, lies his brother, Andy.

FLYNT: I think that's perhaps an ultimate tragedy. People pulled into history who never wanted to be pulled into history suddenly put on a national platform, and tragically paraded out for everybody's benefit but their own. And the question of who really cared about them, who really defended them? Almost everyone had an agenda that involved the Scottsboro Boys. And I think the courage of the Scottsboro Boys is just surviving, just enduring.

Of all the Scottsboro defendants, only Clarence Norris made a life for himself in the North.
He broke parole in 1946 and fled Alabama, making his way to New York. Assuming his brother's name, he got a job as a sanitation worker, married twice, raised a family, and began a fight to get a full pardon from the state of Alabama.

KINSHASA: He wanted the world to know that he was an innocent man. He had a responsibility now to make sure that the world understood that those nine defendants in 1931 were innocent and that it was racism, only racism, that in fact forced them to spend all those years in prison.

On an October day in 1976, Norris received word that Governor George Wallace had pardoned him.

CARTER: Clarence Norris flies to Alabama, goes and meets the members of the Pardon and Parole Board and there goes into George Wallace's office and George Wallace, the great defender of the racial status quo in the South, signs a pardon saying we were wrong. That Alabama made a mistake in the 1930s and Clarence Norris never raped anybody. The Scottsboro defendants never raped anybody.

Voice: Mr. Norris, this is your pardon, full pardon, on behalf of the state of Alabama, the board of pardons and paroles and the governor...

WASHINGTON: He was very emotional when he received the pardon at the press conference. Because he remembered getting off that train with those other eight guys and here he was getting his pardon alone. And I'm sure he could feel them around him. I'm sure he could feel their presence and he thought about them, why me?

Norris, SOT: I have no hate toward any creed or color. I like all people, and I think all people accused of things which they didn't commit should be free. I wish these other eight boys were around...