

The Scottsboro Puppet Show

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THE Scottsboro trial is a puppet show. The principals are jerked through their ordained parts with such fidelity to class and racial and regional traditions, their motives and emotions so faithfully obeying established patterns, that it is difficult, even on the scene, face to face with reality, to realize that these are human beings, or that nine Negro boys, after five years of incarceration, are still fighting for their lives. The vulgar tragi-comedy of the plot being enacted here in the little cotton and mill town of Decatur in the northern red-hill district of Alabama, the pettiness of the judge, the trickery and the demagogic ambitions of the prosecution, and the hatred of the poor-white-trash spectators, relieved only by the gleam of starved lust when they listen to salacious testimony or their amens of approval when the judge squashes the argument of the defense, make it difficult to appreciate that here is being decided a case which may well mark the beginning of a new chapter in the history of the South and of the nation.

It would be easy, too, to forget these things for the quaintness of the scene and the types. An unshaved jury commissioner in a frayed collar and greasy suit that hangs in folds tells you at length in an almost unintelligible dialect how he has been reducing. A ruddy deputy sheriff with a big paunch and gold lodge pin tells you of the cars he saw piled up in the blizzard while he was bringing the nine Negro prisoners from Birmingham to the courtroom. "The damn' niggers," he tells you with comfortable joviality, "ain't wo'th all this heah trouble." A court clerk spends all his recess periods examining the chaw twists of tobacco of the courtroom folk—scarcely a man is unable to produce one, and the court proceedings are punctuated constantly by the spurt of tobacco juice on the floor and wall. The whole courthouse from basement to attic, despite the most amazing collection of spittoons I have ever seen under one roof, is stained with brown juice.

An old man with a mop of uncut and never-combed white hair hanging about a gossipy, womanish face hops in on a home-made crutch, with one shriveled foot wrapped in dirty cloths sticking out sideways. He leans over the rail and wisecracks at the defense attorneys, then hops from person to person in the courtroom urging vengeance.

Prosecutor Thomas E. Knight, Jr., who has played sharp politics with this case and has ridden on the backs of these Negro boys into the lieutenant governorship and expects soon to ride into the governorship, peers from unexpected places in the courtroom with glazed blue eyes. His smile of victory and smug contempt draws back frog-like across his narrow face like a stretched rubber band. During a recess he foregathers with some of the correspondents. With two armed deputies on either side, the Negro defendant Haywood Patterson sits over against the wall.

Knight has been very successful with this case. He knows the temper of local juries and how to appeal to them. He never misses an opportunity to show contempt for that foreign country "New Yawk" and by implication to cast

contempt on the defense attorney, Samuel S. Leibowitz, who after Clarence Darrow is probably the most brilliant criminal lawyer in the country. Furthermore Knight's own father sits on the Supreme Court bench of the state of Alabama and helps write the confirmations of the verdicts rendered by the local farmer juries. But during this last trial Knight has been rather subdued. The defense opened with a plea that he retire from the case because the Alabama constitution prohibits a public official from holding two public posts, and because if Ku Klux Klan Governor Bibb Graves should die or leave the state, Knight, as acting governor, would have to pass on any plea for clemency from the boys he helped to condemn. Throughout the trial the defense ironically referred to him only as "Governor."

A jury venireman approached me in the corridor during recess to tell me he did not believe anything he read in the newspapers. A lean, red-headed fellow with steel "specs," he moved his quid of tobacco to one side of his mouth to tell me of the origin of the "nigger" race—he had just solemnly sworn to the court he had no racial prejudices. Cain, it seemed, after killing Abel, went off to the land of Nod where he "knew a woman." "Now mos' folk don't go on and think things out. The Bible never says sexual intercourse, it jus' says a man knows a woman. But the Bible tells that there couldn't be no human folk at that time in the land of Nod. Now jus' put two and two together. Cain had offspring in the land of Nod, so he had him a female baboon or chimpanzee or somethin' like that. An' that's how the nigger race started."

After the geniality of the first day the courtroom setting became grim and harsh as it filled up with a rougher, though orderly crowd. Judge William Washington Callahan drove through the proceedings with relentless speed, making no concessions for delay of witnesses or anything else. Judge Callahan is a man over seventy whose son was recently acquitted of murder through a temporary-insanity plea. The Judge has a lashing tongue and indulges in salty dialect witticisms that usually fall viciously at the wrong moment. With his wispy white hair, his choleric rumblings, his easy mouthing of legal and constitutional formulas, he is, as one writer said, a Hollywood version of a Southern judge.

A climax in the trial was reached on the second day, after seven wearying hours in the foul-aired courtroom, when the two defense attorneys called for a mistrial, accusing the Judge of impatience, irascibility, continued ridiculing of the physical and other evidence of the defense, and repeated remarks made to prejudice the jury. Judge Callahan declared that if he had made any improper remarks he was willing to apologize, and in a tone of cold fury denied the motion. He then charged the jury not to heed the remarks of the defense, nor were the jurors to be prejudiced against the defense because of their motion. Subsequently the defense made five other mistrial motions which were denied.

At the outset Judge Callahan ruled out as evidence the defense model of the fatal freight train that ran between

Stevenson and Paint Rock five years ago with its human cargo of young derelicts and two mill trollops, Victoria Price and Ruby Bates. "That train is a useless waste of time," snapped the Judge. "It would take half a day longer and is no help to anybody." Actually, without the model train no proper reconstruction of the details is possible. When the defense insisted, the Judge roared out, "I cain't waste time this way. How will you get it set up as it was?"

The model was identical with that admitted by Judge Callahan at the previous trial, but he now demanded that the defense produce evidence. As the defense was not expecting to be asked for witnesses until late afternoon, the train conductor was not available, and most of the witnesses were required to go through long-winded unintelligible explanations which could have been settled at once by the model. In a previous trial Judge Callahan sarcastically remarked about the train, "Go ahead and set it up before Santa Claus gets it."

Late in the afternoon, after two-thirds of the evidence was in, the defense was able to call Conductor R. S. Turner to identify the model train again. Callahan again objected, "All I see it does, it takes up a lot of time"; and throughout the trial he seemed to take the attitude that the loss of five minutes was more important than the lives of the nine Negro boys. As the conductor started to testify, the Judge bellowed at him to ask him the total number of box cars on the train, and before the conductor could make his calculations rushed to another question in such a way as to imply lack of credibility in the witness. Frequently throughout the trial, whenever any witness seemed likely to make a statement that threw light on the facts, the Judge would roar over the bench at him, interrupting and confusing the evidence.

As in all previous trials the star witness of the state, since Ruby Bates recanted her testimony, was Victoria Price. She entered the courtroom well dressed in blue wool and brown velvet coat, and was not, as before, chewing snuff. In an earlier trial she had testified that one of the Negro boys had held her mouth so she couldn't take a spit. On this occasion she altered her testimony in a few key matters, declaring, for instance, that the gravel car was filled up only to two and a half feet from the top as compared to a foot and a half in her previous statements. But when the defense attempted to bring out the contradictions of Victoria Price's testimony with her statements in previous trials the Judge promptly sustained the objections made by the prosecution. The court ruled out all evidence bearing upon the past conduct of Victoria Price—her jail convictions, her various marriages, her actual relations with Jack Tiller, a married man, her profligacy with two different men on the two nights preceding the supposed rape. But in his charge to the jury Judge Callahan declared that the credibility of Victoria Price was not in question, because the defense had not produced evidence showing bad character or untruthfulness.

She sat with her back half turned to the defense except during cross-examination. She spit out her words venomously at the defense with a hard crease in her thin mouth, and this time in her evidence increased the number of scratches on her body, but denied the disfigurements on her face to which she had previously testified and which had been denied by half a dozen witnesses. In this trial she put the supposed blow on her scalp instead of on her forehead over one eye. When no signal for a given reply was forth-

coming from the prosecution, toward which she constantly glanced, she would answer sullenly, "I cain't remember." Several times during interruptions she sat smiling at Prosecutor Knight from behind a blue handkerchief.

The local prosecuting attorney and Sunday School teacher, Malvin Hutson, opened the jury pleading. Spitting his cud of tobacco into a spittoon and dropping his legs over the table, he combed his hair, smoothed his tiny black bow tie, and talked for a few seconds to the jury in an intimate low tone. His plump boyish face gradually flushed, and suddenly he sobbed out in a tone that shook the windows, "Save the pure womanhood of Alabama!" From then on he alternately roared and sobbed about the courtroom in a voice that would have filled the Metropolitan Opera House, giving a cross between a sermon and a stump speech and devoting only a few brief moments to actual summing up of the evidence. "Women, red, white, black, or green, depend upon this jury for protection," he insisted. He pictured the long fight of the pitiful Victoria Price for vindication, without which the jurors would have to "hang their heads." Whether "in overalls or in furs" a woman was protected by the law of Alabama against the vilest crime of the human species, that of rape, a crime which put any man lower "than the birds of the air, the fish of the sea, or the beasts of the fields." Even dogs choose their mates. The law reached "from the mountain tops to the swamps and caves" to protect "the sacred secret parts of the female," and now almost in tears, he assured the jurors that "Victoria Price is a human of the female species." Unless the jury upheld the law, women "might have to buckle six-shooters about their middles." The penalty for rape in Alabama is death, a penalty prescribed in accordance "with the wisdom of the ages."

One prospective juror remarked that Hutson was a "very good" Sunday School teacher. He is such a good Sunday School teacher that Haywood Patterson is to spend seventy-five years in prison.

The knife and gun fracas between a deputy sheriff and Ozie Powell, one of the Scottsboro defendants, which took place on the top of Lacon Mountain on the road from Decatur to Birmingham, helps to obscure the complicated case. The original trial in Scottsboro, with a hurried conviction without proper defense and with a mill band playing "There'll Be a Hot Time in the Old Town Tonight" under the courthouse windows, was a form of legal violence that barely stopped short of a major tragedy. The fact is that since then, during the five years of the case, seven of the defendants have never even been brought to trial. It would be strange indeed if stronger minds than those of these black derelicts were not preyed upon by fear, despair, and hate; and for five years the boys, who have grown into young manhood, have known only the companionship of criminals and riff-raff. Ozie Powell, who by his desperate act further endangered himself and his companions, has been brooding about these things. Jail madness seems the most likely explanation. Unfortunately more than ever the case is restored to the basis of passion, and the racial, social, and legal principles are further obscured. The boys will lose sympathy here and elsewhere, but, just as much as ever, justice as well as the boys will remain on trial.

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