

Using segregation to redistribute scarce resources to working whites was, at best, a rearguard action. For years, labor unions had struggled to increase taxes paid by Birmingham industries, but this campaign routinely failed. Alabama's 1901 Constitution invested the power to tax exclusively in the state legislature, and it routinely opposed a more progressive tax system. In Montgomery, moneyed industrialists and Black Belt planters—whose political power was swollen by blacks who were counted in the census but were denied the vote—usually prevailed on economic issues. Left to live with what little they got, Birmingham's skilled and unskilled white men often turned to Jim Crow. At least he paid them a "psychological wage" every time segregation belittled a black person and occasionally redistributed thin slices of monetary privilege towards their own white families.⁶

Caught between competing interests of white managers and white workers, Birmingham's black community was in no position to appreciate the differing motives and means that animated Jim Crow. Whoever was "the class of white persons in control of legislation and finances," African Americans always faced manipulation to serve as someone else's tool. "Whether the control has been that by slave-owners, humanitarians, planters, financiers, or white farmers and workers," observed Horace Mann Bond, "it is obvious that each has wished to provide . . . its own concept of Negro status in the social and economic order." This predicament created for African Americans a "double-consciousness," as W. E. B. DuBois saw it at the turn of the century, "this sense of always looking at one's self through the eyes of others, of measuring one's soul by the tape of a world that looks on in amused contempt and pity."⁷

"YOU ARE THE PLAINTIFF IN THIS CASE, Mrs. Miniard . . . ?" Hugo Black asked.

"Yes, sir."

"Now, just tell the jury exactly what happened . . . when you got on that train."

"Well, I got on the train . . . and it didn't seem but just like a very few minutes and the negro woman commenced raving and cursing; I never heard such language in all my life, so I didn't know what to think, it excited me, and scared me. I thought at first the negro was drunk, or something, and would start some kind of a row, and shoot on the train, so I got kind of excited.

"In a short while a negro came by, a physician that was with her . . . and

told me not to take any exceptions whatever; he said I seen she was crazy and didn't know what she was talking about, and not to pay any attention to it,—or I would have made a complaint at first. So I tried to stand it and put up with it all night. I got excited, and nervous, and worried; she started running once, and got loose; took part of her clothes off, kept herself half undressed, and got loose from the negro and run and jumped over the baby, and scared me nearly to death.”

“Over your baby?” asked Black, as if hearing his client's story for the first time.

“Yes, sir; over my baby; I had her lying on one seat. And my husband, he stood up; he said that he hated to hit the woman if she was crazy. He said if she came back and started anything he would try to kill her. I got scared so my husband, or either one of us, couldn't even go to the lavatory; I wouldn't let him go, and I wouldn't pass her myself. Well, I suppose about three or four—about three o'clock in the morning, she directed a cursing to me . . . She cursed me in the presence of all of the negro men, and the white men too, and me the only white woman in the car; so I called the porter.

“In the meantime one of the conductors did sit back on the seat and carried on a conversation with the man; and he didn't seem to pay any attention to it whatever, to her cursing; he didn't seem to think it was anything at all. So one of the porters did sit and talk to some of the colored women and listened to it all the time; it seemed to be kind of a show. So I told the porter to go and tell the conductor to come in, I was bothered so. In I suppose an hour, or an hour and a half he came in; I told him just what had happened, that I wasn't used to any such as that. The negro doctor said that they might remove her to the baggage coach; he said that they had put crazy passengers in the baggage coach, but he hated to put her in there.”

Roy Percy objected. “I move to exclude that, what the negro said.” Black insisted, however, that the statement was a part of the *“res gestae”*—evidence so spontaneous that it captures the essential character of the event in question. The judge agreed. Percy remained dissatisfied. To note his objection, Percy had the court reporter read the disputed testimony so he could grace it with a litany of adjectives—“illegal, incompetent, irrelevant, and immaterial and hearsay.”

Roy Percy had good reason to fret about this testimony. A key issue in cases of gross negligence, as the judge would explain later to the jury, is how

the defendant took reasonable care in protecting its riders from disturbances. The confession of the black doctor that railroad agents had on other occasions removed insane passengers to the baggage car could be a damning item of evidence.

Now Black asked Mrs. Miniard to finish.

“So the conductor came in just before they got to the Mason & Dixon line, and said that he was awful sorry it happened; he said, though ‘I am not the conductor that let her on the train; but,’ he said ‘I will get her out; so we won’t have much longer until we get to Cairo,’—I think that is the name of the station; anyway, it divides the North from the South. So when he got there he made all of the colored passengers move, and that was the first action they taken.”

“Did he ever say or do anything at all before that?” Black asked.

“No; nothing at all.”

“When he was sitting back there talking, did he laugh, or was he serious?”

“Well, he was carrying on a conversation, and once in a while he would laugh; I noticed that he would laugh at the negro’s action; she was dancing, and cutting up, and cursing and swearing.”

“Did you sleep any that night?”

“Not a wink; no,” Mrs. Miniard said.

“You say she cursed directly at you. Did you tell the conductor that?”

“Yes; I told the conductor that.”

Black now revealed a weakness in his client’s own case—a weak link that he hoped would appear understandable if he brought out the facts before the opposing counsel did. “Do you know which conductor it was; do you know whether this was the conductor?” Black asked as he pointed to a man in the courtroom audience.

“Well, really, I don’t know,” Mary Miniard said, “with their uniforms on . . . I didn’t notice their faces.”

Roy Percy’s questioning of Mrs. Miniard was short. He realized that he could accomplish little by grilling a local white woman about the extent of her “frightened” experience with an “immodest” black woman on a train in the North. But, he did try to recast parts of her testimony.

“Who did you say the conductor was carrying on the conversation with in one of the seats . . . do you remember?” Percy inquired.

“Some man,” said Mrs. Miniard.

“Not these negroes?”

“No, sir; not the negroes.”

“You noticed from time to time that he laughed as he was talking?”

“Yes, sir.”

“You don’t know what he was laughing at, do you?” Percy insisted.

“No, sir; I couldn’t say.”

“He might have been telling funny stories to the next man to him?”

“I didn’t hear the conversation.”

“As soon as they got to the Mason & Dixon line they took the niggers right on off?” Percy stated.

“Yes, sir; as soon as they got there, which they had to do anyhow.”

“They did it, anyhow?” Percy reiterated.

“Yes, sir; they done it then,” Mary Miniard conceded.

WHEN MARY MINIARD STEPPED DOWN from the witness chair, Black rested his entire case on her words. No doctor testified about her distress and trauma. No family member, friend, or neighbor verified how she had suffered emotional or physical problems since the train ride. In October 1919, as suffragists fought for passage of a national constitutional amendment guaranteeing women a right to vote, Hugo Black depended on twelve white men on a Birmingham jury to understand completely the unspoken pain and suffering his client had endured—and to act upon the tradition that every “Southern woman has a protection and champion in every Southern man.”

The protection of white women was, at bottom, the white South’s explanation for much of the Negrophobia and racial violence that extended into the twentieth century. It remained a Southern white man’s article of faith that a black man had an uncontrollable, primitive lust for a white woman. In public rhetoric, this racialized notion of sexual danger was dressed up with references to the evils of “social equality,” but it structured Southern society on the permanent necessity for both the black man’s captivity and the white woman’s dependency.

At the 1901 Alabama Constitutional Convention disfranchising African Americans, a Black Belt delegate proclaimed that “not one of our fair women has ever been assaulted in this land but that the infamous act may be traced to the Fifteenth Amendment”—which gave former male slaves and their

descendants the right to vote. From 1904 until 1919, there were eighty-two reported cases of blacks being lynched in Alabama. As if aroused by their own corrupt fascination with sex, race, and violence, white men insisted lynchings were a sacred, honorable act of revenge for blacks' alleged or merely feared bespoiling of white womanhood. On the eve of the Miniard trial, explaining recent lynchings in Alabama and elsewhere, the *Birmingham Ledger's* editor declared that Southern honor had become an American virtue. "The white man, wherever he is found, is going to protect his women from the negro," the editor concluded.

This white masculine honor was fortified through law. In 1915, the Alabama legislature made it a misdemeanor crime for a white female nurse to attend to a black man regardless of his medical condition. There were barely one hundred black physicians and not many more trained black nurses throughout Alabama, mainly because African Americans were barred from attending the state's professional schools. Yet, alarmed by reports that white women might be touching black war veterans in Tuskegee's federal hospital, state representatives were willing to imprison white women nurses to protect white womanhood.

Safeguarding white female purity went beyond the color line. At night, any male who, without legal cause, looked into a room occupied by a woman who was not his wife was guilty of being a "Peeping Tom" and faced imprisonment of up to six months. A similar punishment was meted out for using "abusive, insulting, or obscene language" in the hearing of a girl or woman. These statutes were not merely on the books. They were enforced in Alabama in the early part of the century.⁸

The historical, idolized image of the Southern lady on a pedestal—innocent, pure white, and naturally unsuited for worldly matters—rarely had portrayed real life, and in 1919 it cruelly ridiculed a majority of Alabama's white women. Most white females carried out grueling work in crude circumstances on small farms, where every member of the family worked from sunup to sunset. Women had to cook three large, daily meals, raise small children, keep house, maintain the livestock, grow and preserve household food, hand-wash clothes, and (often carrying a baby and a pallet with her) hoe or harvest the fields. If there was a pedestal for these women, it was near the backside of a cow at milking time. Della Black did these chores during her days in Harlan, and so did most rural Alabama white women in 1919.

Urban women were not necessarily better off. Birmingham's Avondale Mills

was built as a convenient place for poor white women and children to work while husbands went to steel mills. The number of poor white women working in the South's textile mills increased during the world war, and afterwards almost one of five Alabama women was employed outside the household. Women “lint heads” in Alabama's textile mills worked ten to twelve hours each day, and, according to a later survey, had the lowest wages in the nation. As guardians of Southern womanhood, the all-male Alabama legislature never thought to regulate hours, wages, or conditions for workers, except to provide by law that, *whenever possible*, female workers should have a stool available—not exactly a pedestal.⁹ Yet, as Nannie Cornelius, Black's client in an earlier railroad case, knew, Alabama's railroads and other industries offered a stool only to Southern ladies, not working white women.

Had it been his desire, any man on Mary Miniard's jury could have walked less than six blocks from the courthouse, across the rail tracks, to pay for sex with a Southern woman. The city no longer recognized a red light district, as it did when Black sat as police court judge, but white prostitution still flourished. At the same time, in Alabama's rural communities, county officials attempted to protect innocent young men from teenage white girls who “lay out in the woods and begile boys” for “imoral (sic) purposes.” In Walker County, for example, a sixteen-year-old white girl was convicted of vagrancy. According to various local male officials, she was guilty of being a “very profane and vulgar” girl with a “bad nature common to prostitutes” who entrapped reputable young men. As punishment, the white girl was sentenced to labor in a *men's* convict camp.

The notion in Alabama that a woman's place was beneath a man extended beyond coital practices. By law, in 1919 married women could not dispose of their own properties without their husband's consent. A mother had no standing in court to sue for the wrongful death of her minor child, unless the father was dead. Upon marriage, a woman's will was automatically revoked. Women could not serve on juries and by custom were barred from courtrooms when sensitive or crude testimony was presented. And, women could not vote.

For decades, women had lobbied for their right to vote in Alabama. At the 1901 Constitutional Convention, Frances Griffin, a self-described “old maid,” proclaimed: “The man without a vote is a subject, not a citizen; the woman without a vote is an inferior, not an equal.” The convention wholeheartedly agreed. It disfranchised black men and many poor white men and left women

below the man. On the convention floor, "Cotton Tom" Heflin referred to women suffragists as "a few cranks strolling over the state."

With the rise of an urban white middle class, a small segment of Alabama women were freed of constant child care, homemaking, and daily household duties. They used their freedom to stroll across the state organizing women's clubs and temperance unions. Leaders of their associations included wives and sisters of industrialists and planters, although after the war they often were women married to merchants, doctors, lawyers, and small businessmen. All were expected by husbands to assure a peaceful, domestic life, but in their own time the women became activists for prohibition, child welfare, and suffrage. Ironically, their freedom to be active citizens outside the home was enabled by the growing employment of black women as servants in white middle-class homes.¹⁰

By the time Mary Miniard went to court, the status and role of Alabama women were changing. Thousands had worked tirelessly for prohibition. They had organized speakers' bureaus and took to the streets in massive temperance parades at a time when a middle-class woman's world was supposed to be indoors. They successfully lobbied the Alabama legislature for ratification of federal prohibition. Others worked for passage of the state's first, modest child labor law. They assured by law that women would be appointed to local and state boards of the new child welfare department and women could serve on local boards of education, although none could vote in school elections.

In the summer of 1919, the Alabama legislature considered the Nineteenth Amendment, granting women the vote. Supporters included women activists and progressive, dry political leaders, men such as former Senator Frank White and Alabama's Chief Justice John Anderson. Opposed were U.S. Senator John Bankhead (and his large family of politicians), former Governor Emmett O'Neal, and Senator Oscar W. Underwood, among other anti-prohibitionists.

In July, led by former Alabama first lady Mrs. Charles Henderson, the Women's Anti-Ratification Committee sent the legislature a written message—an actual appearance before the legislature was considered unlady-like—"on behalf of 80 percent of the white women" in the state. These women asked "the men of Alabama" to continue "to stand between us and the rough things of life." They beseeched the legislature "to protect us against this device of Northern Abolitionists" who sought to "mongrelize" the South's "Anglo-Saxon civilization." A Black Belt legislator joined the women's chorus by condemning

the Susan B. Anthony amendment as "Blood brother of the Fourteenth and Fifteenth Amendments" of the U.S. Constitution. All three federal provisions, he declared, were "conceived in inequity and born in sin, based on hatred and frenzied desire of carpetbag scalawaggery, dominated by the most depraved considerations for racial equality."

Working for corporate clients in Montgomery, Forney Johnston tried to be "neutral" on the women's amendment when discussing the matter with his own wife, a quiet "suffragette." Johnston had met a "pippin from the East" lobbying for state passage. He thought she was "forlorn, deserted," and "evidently waiting for a man." Johnston warned his wife that the "bobtailed legislature" would be "gun shy of Susie's Amendment" as soon as "the anti-bodies" stampeded. He was right. The amendment failed less than a month before the Miniard trial opened. Alabama women nevertheless gained the right to vote a year later after the amendment was ratified by states outside the Deep South.¹¹

Hugo Black favored the women's vote. He thought it would continue political support for prohibition, and it fit his concepts of equal rights. Like most men of his generation, however, Black could not conceive of men and women having the same roles in society or at home. He thought a woman's role was to instruct and support a man's work through her examples of human goodness in child-rearing, family life, and society, as did his own mother and her friends of Ashland's Ladies Aid Society. Black "could idolize a woman to the point where he believed she was near perfect," especially if she evoked the memory of his mother, but he also could denounce a woman as "made for men" and their sexual desires if she flaunted her body. Yet, even a woman with a questionable appearance and reputation won Black's heart and help if her mistakes were attributable to the trials of living with an alcoholic, abusive husband. Also, Black was deeply outraged when men sexually abused women. As prosecutor, he had sought the death penalty in 1914 for an Italian who kidnapped and raped a woman. He was sorely disappointed when the jury sentenced the accused to twenty years in prison and he subsequently opposed the man's pardon, even after his victim later forgave and married her attacker.

In Black's view, gender divided human beings by character as well as physique. Men were generally complex, contradictory creatures. "A good man will sometimes hurt people and be selfish," Black once observed, but "a good woman will never hurt anybody." Women embodied human virtue or human vice, "all good or all bad."¹²

Nothing in the record of Mary Miniard's case reveals her physical appearance or personal characteristics, except for her race, class, recent motherhood, and her own words about an experience up North on the Illinois Central. In Black's opinion, this evidence was good enough.

A. M. WAKEFIELD, A WHITE CONDUCTOR from the Illinois Central, was the defense's first witness. He had been the last conductor on Mary Miniard's ride from Chicago to Cairo Junction, where in accordance with Southern custom and Northern duplicity, the insane black woman and all other African Americans on the rails were removed to Jim Crow cars.

"When did you first see this crazy nigger?"

"Well, when I gotten at the train at Centralia."

"What was the nigger doing at the time that you saw her?"

"She wasn't doing anything particularly, only sitting there on the seat," replied the conductor.

"What did she do to act crazy in your presence?"

"The only thing I saw her do out of the way was to sit on the back of the seat, and hang from the hat rack, and sing a little."

"Where was the train approximately, when you got the message from Mrs. Miniard to come back?"

"I don't just remember, but I think it was thirty minutes before I got to Cairo Junction."

"When you got back there what did you do?" Percy asked.

"I went to this lady and she told me she was being disturbed by this crazy person . . ."

Mr. Black: "I can't quite understand you."

"She told me she was being disturbed by this crazy woman on the train, and she asked me how far it was before the niggers had to get out of that car. I told her the next stop was Cairo Junction; and she said she would be very glad, that she was afraid of niggers—afraid of crazy niggers," the conductor stated more loudly. "I told her that I was sorry, but we would transfer at Cairo Junction just as quick as the law permitted . . . At that time I was in the State of Illinois. It is a thirty minutes run to Cairo Junction."

"I believe in the State of Illinois they don't have Jim Crow cars?" Percy mused innocently.

"No, sir."

“Where did you first pick up the Jim Crow cars?”

“Cairo Junction.”

“Where is that?”

“It is just on the north side of the Ohio River.”

“You put this crazy nigger in the Jim Crow car as soon as you got there?”
Percy repeated.

“Just as quick as we stopped at Cairo Junction; we always transfer.”

RACE RELATIONS ON BOTH SIDES of the Ohio River were mean-spirited and violent in 1919. In the aftermath of World War I, many black soldiers were disappointed that they had fought overseas to make the world safe for democracy only to return to an anti-democratic South of segregation, white supremacy, and personal humiliation. North and South, many whites thought black ex-soldiers had become unruly, discourteous, and dangerous.

African Americans were organizing anew to improve themselves and to challenge racist practices. The NAACP had set up scores of new chapters across the South, and a large stream of black migration out of the South revealed a growing number of Negroes determined to escape a regime of outrageous racism. Thomas Parke, a white Birmingham physician, recorded the new mood of black defiance in the privacy of his diary: “It seems to me that evidence of fight in negroes against social injustice are cropping up all the while and that negroes more and more are proving a willingness to take the consequences of fighting for their rights. To my mind it means that the immediate future holds trouble.”

The spring and summer of 1919 did bring trouble, the greatest period of interracial strife the nation had ever known. More than forty race riots took place, beginning in Charleston, S.C., and Longview, Texas, where white poses burned several Negro shops and houses as a warning against black retaliation for a recent lynching. In Washington, D.C., gangs of whites and blacks fought for several days and left four dead and more than a dozen seriously wounded. Two thousand federal troops and torrential rains were necessary to close violent streets.

Between April when the Miniards left Chicago and their October trial, the Windy City also endured a race riot. On July 3, a white saloonkeeper in Chicago died of heart trouble, although the press incorrectly reported that a black man killed him. That evening, gangs of white youth rode through one

of Chicago's black sections shooting wildly at African Americans. On July 4, white gangs announced that they were going to "get all the niggers," and when a black accidentally entered a "white only" section of Chicago's lake beaches, he was stoned to death. Blacks retaliated. A week later, forty had been killed and more than five hundred injured.

A week before the Miniard trial, America's season of racial blood-letting reached a climax in the fields of the Arkansas Delta at Elaine. On October 1, reports of a "Negro Insurrection" were telegraphed across the nation. Black tenants had organized to oppose white landlords threatening to evict them. Violence erupted. "Race War Rages In Streets of Arkansas Mill Village," announced enormous headlines on the front page of Birmingham's morning paper on Thursday, October 2.

Racial hysteria was not distant news. Less than a week before the Miniard trial, three African Americans were lynched in Alabama's state capital within a span of twelve hours. The national NAACP declared that a "reign of terrorism" in Montgomery was forcing "colored people, among them professional men and property owners" to leave the city. By week's end, a state circuit judge dismissed a special Montgomery grand jury that could find "no information whatsoever to establish the identity of any of the parties engaged in these killings." From neighboring Georgia, wire dispatches reaching Birmingham on October 6 and 7 reported that two African Americans arrested for murder were burned on wooden stakes and a third was shot repeatedly at close range by a white mob.

In response to Alabama's lynchings, Governor Thomas E. Kilby publicly condemned "mob law" with a promise that anyone involved would be prosecuted. Kilby's words drew praise and attention from the nation's press, as the U.S. Congress considered federal legislation to deal with the Southern lynchings—a prospect of federal intervention worrying Kilby and other officials. Yet, no one was brought to court in Alabama for lynching a black man in 1919.

Birmingham's race relations also deteriorated. In March a near riot had erupted, as the city barely avoided what a seasoned black observer said "would have been one of the worst in the history of the nation." A Negro, later identified as a professional robber dressed in a soldier's uniform, killed a white policeman. African Americans then reacted angrily to "the rough methods of the police in combing the Negro districts" to find the murderer—the same methods used two weeks earlier when police searched for another black suspect. On the night

of March 1, rumors spread throughout black and white neighborhoods that the other “race” was readying an attack. Many in both communities armed themselves. Several hundred revolvers and rifles and more than \$6,000 worth of ammunition were purchased in a single day. Industrial plants reported that over two tons of dynamite had been stolen. It was one of the longest nights in the city’s young history.

In early fall, Judge William Fort presided over a local race relations conference where for the first time local black and white men discussed race problems openly, but without firm promises of change. Afterwards, tensions continued to mount. Jefferson County Sheriff J. C. Hartsfield feared race riots involving “negro mobs of six hundred or eight hundred men.” The sheriff reported that at all-black mining camps outside Birmingham “negroes are heavily armed and are well equipped with pistols, guns and ammunition.” In response, white men “are arming themselves to protect their families.”

As Hugo Black prepared for the Miniard trial, paperboys rushed to the streets below his office hawking the *Birmingham Age-Herald*, whose front-page banner headline screamed: “NEGROES PLAN SLAUGHTER OF WHITES.” The secondary headline read, “Wholesale Murder of White People In Arkansas May Be Part of Plot Against South.” Local and state officials, encouraged by an eager press, concluded that Bolsheviks—agents of the recent Russian Revolution three continents away—were agitating among African Americans. White leaders were morally incapable of imagining any other explanation for blacks fighting back. The lesson was clear to Birmingham editors: “No one among the white residents of a community knows how far such agitation has gone until there is a reign of terror, such as Chicago had.”

By Saturday, October 4, four days before Mary Miniard took the stand, tensions and antagonism between the city’s races seemed explosive. At Twentieth Street and Fourth Avenue, a shopping area between the courthouse and city hall, four hundred African Americans gathered on Saturday afternoon. “With drawn knives and threats of violence,” the crowd cheered madly as a black man made “an inflammatory speech against the white race.” According to the *Birmingham Ledger* reporter, police ordered white women to seek safety in the stores, and shouts of “Kill him!” rang out when a white man challenged the black crowd. The gathering finally dispersed peacefully, but Birmingham’s atmosphere “was never more filled with hysteria . . . than at this hour,” according to black newspaper editor Oscar Adams.

Reactions in the white community to local racial tensions were more orderly, although no less threatening. Sheriff Hartsfield readied two machine guns on loan from the state militia. White men continued to arm themselves. Businessmen discussed reviving the American Protective League. The police arrested a white man in Ensley's Tuxedo Negro Theater for telling his black audience that they should stand up for their American rights. The speaker was sentenced to six months hard labor.

At the courthouse, newly appointed Circuit Judge Horace Wilkinson demonstrated the reactionary force of the criminal justice system. Wilkinson sentenced a Negro burglar to fifteen-to-twenty years, a long, possibly deadly tenure as convict laborer, for breaking into an empty house in a white neighborhood. "Why, judge," the black defendant vainly protested, "you could kill a nigger and only get ten years for it." The lament was true enough. But, in Birmingham in October 1919, white leaders used any wayward act to show the heavy power of the white man's law over a black man's transgression in order to restore good race relations. "Negro men of Alabama," beckoned black editor Oscar Adams, "these are perilous times for us."

When Hugo Black began his cross-examination of the Illinois Central Railway's conductor, the trainman who worked the route between Illinois and Birmingham, newsboys were on Birmingham's streets, within earshot of the courtroom, crying out, "Read All About Race Riot. Get your paper here. Read All About Race Riot."¹³

"MR. WAKEFIELD, didn't you hear that nigger woman say anything?" Black demanded.

"Sir?"

"Didn't you hear that nigger saying anything—any cursing?"

"I did not; no, sir," the conductor insisted.

"She was just singing, and hanging to the rack?" Black asked.

"That is all that I saw her do."

"How was she hanging to the racks?"

"Hanging up by her hands."

"What was she singing?"

"I don't know; humming a little song."

"Singing it in a loud voice?"

"Just kind of low."

“Kind of a soft, gentle voice?” Black inquired.

“Yes, sir.”

“Had her hands up on the hat rack, and singing familiar songs in a soft, tender voice?” Black asked again.

“She seemed to be amusing the passengers rather than hurting them,” Wakefield replied. Here was a real admission. The jury had heard the plaintiff state that most passengers were Negroes, and now the conductor testified that these passengers were amused by the situation. Black decided he had scored an important point. He moved slowly towards another.

“The first time you went through what was she doing? . . . Was she singing in the soft, gentle tone?” Black asked in his own rural, white Southern accent.

“Kind of a gentle tone of voice,” the witness repeated.

“Singing in a soft, gentle tone,” Black repeated.

“I don’t know,” the conductor replied nervously. “There wasn’t any words to it, or any tune, very much.”

“She was singing in that soft, gentle tone, sitting in the seat, and the next time you came through she was hanging on the hat racks?” Black continued.

“I saw her hang on the hat rack,” the witness affirmed.

“Each time you came through she was singing in that soft, gentle tone,” Black repeated.

Black had repeated the term “in a soft gentle tone” so often that the words now seemed to belong to the witness, although in truth Black originated the phrase and only he had used it—seven times. Now, Mary Miniard’s lawyer was ready to turn the words he had grafted onto the conductor’s testimony against the witness.

“Now when this lady called you back there did she tell you that she was scared of this woman because she was singing *in that soft, gentle tone*, or did she tell you that she was scared because she was *cursing and came over her*?” Black demanded.

“Because she was crazy,” the conductor said.

“Did she tell you that this woman had been cursing her?” Black continued.

“No, sir.”

“What?” Black asked, although he probably heard the response.

“No, sir; she did not.”

“You swear positive she didn’t tell you that.”

"I certainly do, sir."

"Well, now, about what time was it the first time you went through when she was sitting up on the back of the seat singing *in that soft, gentle tone?*" mocked Black.

"I suppose two-thirty, or two-thirty-five, or forty."

"How many stations did you pass after that where your train stopped before you got to Cairo?"

"We only made one stop . . . Carbondale, Illinois."

"Any hotels there?" Black asked.

"Plenty of them."

Next, Black asked the conductor if the train had any drawing rooms on the first-class Pullman cars where the company could have relocated the Miniards or the crazy woman.

"Yes, sir; two."

"Did you investigate to see whether or not any of those were vacant?"

"I did not," Wakefield stated.

"You did not?" Black repeated for effect.

"I did not," the witness repeated.

"How many passenger coaches were there on the train?"

"Two."

"Was this a large woman, or small woman?" Black inquired.

"Which one?" the witness asked defiantly. This was a costly, insolent response. There were only two women in question, a white Southerner who was sitting in front of him and a "crazy nigger" woman from the North whom no juror had seen. By Southern linguistic standards, the witness insinuated he saw no difference—made no social distinction—between these two women. The conductor's earlier reference to Mary Miniard as a "lady" no longer counted for anything.

"This negro woman?" said Black, quite willing to explain the obvious.

"I don't remember much about her."

"Was she a black one?" the lawyer wanted to know.

"I don't think she was a very large woman. I don't think she was black."

"Yellow?" Black inquired.

"Yes, sir; I think so."

"You are absolutely sure, are you, that this *lady* [pointing to Mrs. Miniard] did not tell you that this nigger had been cursing?" Black asked.

“She told me she would be glad when we arrived at a point where they taken the niggers out of the car, on account of being afraid of the crazy nigger.”

Black released the witness, but the conductor stayed in his chair. Roy Percy needed to make a couple of final points to recover the damage his witness had done to his own credibility. Percy asked: “Did *either* Mr. or Mrs. Miniard ask to put her into a different car or different seat?”

“No, sir.”

Casually, very deliberately, Percy asked one more question: “Where were you born?”

“I was born . . .” the conductor said as simultaneously Hugo Black exploded, “We object to where he was born!”

Ambushed by Black’s shouting, the witness was unable to verify that he was no Yankee conductor disputing and disparaging a Southern white woman. Percy maneuvered again. “We expect to show,” he informed the judge for benefit of jurors’ ears, “. . . that he was born in Tennessee.”

“We object to where he was born!” Black shouted again, but this time the jury had heard. The conductor was by the grace of God a Southerner. Faced with a test of sectional loyalty, Black told judge and jury: “We offer to show that our client was born in Greensboro, Alabama,” a small town in the Black Belt where the South’s traditional race relations could easily have been born and certainly were well preserved.

Angered by Percy’s tactics, Black decided to counter-attack. He asked the conductor: “Who was it told you that this woman was crazy?”

“I think it was Mr. Springer, the conductor that I relieved at Centralia.”

“Is he out here,” asked Black waving towards a door leading from the courtroom.

“Yes, sir.”

Trapped by Black’s inquiry, Percy now was obliged to call the other conductor—the Yankee conductor who worked the train from Chicago to Centralia, Illinois—on the wrong side of the Mason & Dixon.

By 1919, WHITE SOUTHERNERS had landscaped their region with innumerable Confederate monuments, erected in recent decades to memorialize an Old South of mythical proportions. Yet, as a cultural marker, the invisible “Mason & Dixon line” enshrined an equally expansive, historical distance between the North and South arising from the Civil War’s aftermath as much