

MR. BARRETT: I believe that is correct.

CHIEF JUDGE TUTTLE: The Court stated when we resumed after the recess that the Court has determined that there was adequate service of the citation.

Q. Mr. McShane, I will ask you to watch this film as it is played, and when it is through I will ask you if it is an accurate portrayal of the events of September 25th in the State Office Building about which you have already testified.

A. Yes, sir.

(Whereupon, the film referred to by Counsel was exhibited.)

CHIEF JUDGE TUTTLE: Let me just state, Mr. Barrett, that the Court, of course, will ignore commentaries by someone apparently who is commenting on what happened.

MR. BARRETT: Yes, sir. We do not intend to offer that in evidence.

CHIEF JUDGE TUTTLE: I understand that. I don't know if it had any particular significance, but, of course, the Court doesn't accept any commentary that whoever made the picture may have added to make it a complete picture. You may go ahead.

Q. Mr. McShane, did that film, which you have just watched, accurately portray the events about which you have testified, on September 23th?

A. Yes, sir, it does, Mr. Barrett.

Q. Mr. McShane, you may have noted that after the Governor, that is, Ross R. Barnett, read the proclamation in the film, there was a pause of some seconds. During that period did you hear anything else?

A. Yes, I did, Mr. Barrett. Immediately at the conclusion of the reading of the proclamation by the Governor, there was a tremendous roar from down in the street, which was ten stories below, and it was obvious to everybody in the gathering there that the crowd was cheering, so much so that it seemed to me that Governor Barnett waited until the applause had died down before then going on to finish the rest of his talk.

CHIEF JUDGE TUTTLE: I think all we can consider is his statement that there was a great cheering on the street. We can't consider his estimate of what caused it, Mr. Barrett.

MR. BARRETT: Yes, sir.

Q. Mr. McShane, on the following day did you go to Oxford, Mississippi?

A. Yes, sir, I did.

Q. Did you go to the campus of the University of Mississippi?

A. Yes, sir, I did.

CHIEF JUDGE TUTTLE: That is Thursday, I believe, of this week?

MR. BARRETT: No, Wednesday.

CHIEF JUDGE TUTTLE: Wednesday of this week.

Q. Who was with you?

A. There was Mr. Dear and Mr. Meredith and myself.

Q. By what means did you arrive at the campus?

A. We flew from here, from New Orleans to the Oxford airport, arriving there about 9:30, 9:40 in the morning.

Q. And what time of day did you get to the campus itself?

A. We arrived on the campus, I'd say, about 10:00 a.m.

Q. Were you escorted in any way?

A. Yes, we were. When we arrived at the airport, I was taken over to a gentleman, who identified

himself as an Inspector with the State Highway Patrol. I identified myself, and he said that he was prepared to lead us up to the University grounds.

Q. Did he lead you?

A. Yes, sir, he did.

Q. In a separate car, I guess?

A. In a separate car. They were in the first car and Mr. Meredith and Mr. Dear and myself were in the second car.

Q. At that time, were you intending to go onto the campus?

A. Oh, yes, sir.

Q. For what purpose?

A. For the purpose of registering Mr. Meredith.

Q. And did you go on the campus?

A. No, sir, we did not.

Q. Will you tell the Court just where you did go.

A. We left the airport and drove for several minutes, and then went up this road leading into the University grounds.

Q. Mr. McShane, at that time were you following --

A. Yes, sir.

Q. -- the car of the State Highway Patrol?

A. Yes, sir.

Q. At their instructions? Is that correct?

A. Yes, sir.

Q. Go ahead and --

A. We followed this car up into the University grounds and went about 30 or 40 yards inside when he came to a street on his right. He then proceeded to go into the street and stop directly in front or rather -- excuse me -- directly in front of us was a cordon of police, and in the center was a gentleman in plainclothes. I got out of the car. I walked over to the Inspector of the Highway Police. I said, "I thought you were taking us up to the University grounds." He said, "This is as far as" -- I mean I want to get it correct now -- he said, "My instructions were to take you as far as here, and I have done that." I then turned around and I walked over to the center of the cordon of police, and this

gentleman came forward, identified himself as
Lieut. Gov. Johnson. I identified myself. We
shook hands. I said, "Governor, I am here for
the purpose of bringing Mr. Meredith up to the
Lyceum on the campus grounds for the purpose of
registering him as a student here at the University."
He then --

BY CHIEF JUDGE TUTTLE:

Q. Do you recall whether you had a court order
directing that?

A. Yes, sir, I did. I am sorry. I told him,
"I am here for the purpose of bringing him on the
grounds to be registered pursuant to a Federal
court order." He then said, "I would like to read
this proclamation," which he did in my presence,
in the presence of Mr. Meredith and Mr. John Dear.
I looked around prior to his reading this paper to
see where Mr. Meredith was, and in back of us --
in back of us were several policemen and apparently
plainclothes men. He then read the proclamation
and said that he was -- as I recall now, he said

either "on the instructions of the Governor" or "on behalf of the Governor" he was denying admittance to the University to James Meredith, and he presented Mr. Meredith with the proclamation. At this point I --

Q. At least Mr. Meredith has got quite an accumulation of proclamations by now, hasn't he?

A. At this point I again said to the Lieut. Gov. that I had a duty to perform, that I was here for the purpose of going into the University grounds to see that he was registered and I intended to do so. He said, "You are not going." I said, I am sorry, Governor, that I have to do this, but I am going in." I started to walk -- I placed my hand on his arm to have him step aside, and our bodies met ever so slightly, and he firmly stood his ground and again repeated, "You are not going in." I then went a little to my left and tried to break in between the two policemen, who both stood firmly together and refused to admit me. At this point I said, "I am a United States Marshal and I am an officer of the Court, and it is my duty to bring Mr. Meredith into the University grounds." And they did not respond. I went a little further to

my left again and again tried. I then came back and said to the Lieut. Gov., "I want to get on the grounds," and he did not respond. I then turned around and walked to the far left of the cordon and thought what I saw was an opening to go through, and at that point a very heavy set gentleman, whom I had seen previously at the airport with this party of police officials, stepped directly in front of me and blocked the way. I told him I wanted to get through. He didn't say anything, he just didn't move. I then came back to the Lieut. Gov., and at that point I believe that Mr. Dear again reiterated the purpose of our visit and the fact that a court order had been issued by the Fifth Circuit Court of Appeals. At this point I believe it was decided then that there was no further need of even trying to get past this cordon of police, that for the group we had that it would have been physically impossible, and with that we turned around and Mr. Meredith, Mr. Dear and myself got into our cars. The Highway Police turned around and led us back to the airport.

BY MR. BARRETT:

Q. Mr. McShane, did Mr. Dear speak to the Lieut. Gov. on that occasion?

A. Yes, sir, he did.

Q. Would you tell the Court what he said.

A. He told the -- and I recall now, he told the Lieut. Gov. that they had a court order signed that morning at 8:30, which was an injunction preventing Governor, the Lieut. Gov. from interfering with James Meredith going into the University grounds or to be admitted as a student.

Q. Mr. McShane, this morning did you view another film showing the incident you have just described to the Court?

A. Yes, sir, I did.

Q. And did it accurately portray the events on that occasion?

A. Yes, sir, it did.

Q. I would like you to look at that film again, with the Court's permission.

CHIEF JUSTICE TUTTLE: Well, this dealt with the Lieut. Gov.'s action. In the light of the oral testimony, the Court thinks we just won't take the time to see any further film of how it happened.

MR. BARRITT: Very well. No further questions.

- (Witness excused)

I stayed in New Orleans on that night and returned to Memphis on the 19th. I arrived at Millington Air Base early that afternoon.

When I got back to Memphis there was a considerable increase of personnel at Millington Air Base. Mr. Oberdorfer, Assistant Attorney General in charge of the Tax Division, was in charge of the operation, and Joe Dolan acted as his assistant. I was in charge of the deputy marshal personnel, including all the Border Patrol people, and acted as the operations officer. Detailed plans had been worked out to go to Oxford with a sufficient force of men to enable us to enter the University grounds even if we met resistance from the state police. And we were prepared to do so. I supervised the planning of this operation and saw that the men were properly organized and equipped for it.

During that period we organized our groups and squads and ran through and reviewed the plans that we were to carry out if we were instructed to go to Oxford.

As my deputy commander was Jack Cameron who had been in charge of all of the training classes which had been

given to deputy marshals since 1958. Under Cameron, I had three group commanders for the 123 deputy marshals who were under them. These three commanders were Deputy Marshals Butler, Porcht and Duley. These men had acted as instructors for several years on riot control techniques. Since I came to work as a Marshal I came to know them well and I had confidence in their training, experience and ability. Besides these three group leaders I worked closely with Mr. Coppock, Mr. Chamblee and Mr. Rainbow of the Border Patrol. Under my direction and according to the organizational structure we had worked out, they organized their men into groups. There were about 270 Border Patrol men there.

On Sunday I received word from Mr. Oberdorfer that the state police had agreed to cooperate with us and to obey the court's order to admit Meredith but I was to take immediately as many deputy marshals as were available, fully equipped, to go to Oxford by plane but that when I got there the state police would assist us in going on to the University of Mississippi and securing the campus so that James Meredith could come to the University and register and commence classes.

On Sunday, September 30, 1962 at 2:25 p.m., I arrived at Oxford airport with 133 deputy marshals and about 50 Border Patrol men.

On arriving at the airport I was informed by the pilot of our plane that I was to call the United States Attorney's office in Oxford and speak with Mr. Jim Croh who was an attorney with the Department of Justice. I had some difficulty in finding a phone, there being only one public phone at the terminal and that had been taken by newspapermen. At 2:40 p.m. I contacted Mr. Croh who informed me that I was to stay at the air base until the arrival of Mr. Katzenbach from Washington. I returned to the plane, had the men removed from the plane and gathered them on the grassy plot adjacent to the runways. Some time passed and we noticed a jet overhead circling which we assumed was Mr. Katzenbach's plane. I was informed by radio that I should again contact Mr. Croh in the United States Attorney's office. I contacted Mr. Croh who stated that upon the arrival of Mr. Katzenbach he was to call the United States Attorney's office forthwith and also speak with the Attorney General in Washington. At about 3:30 p.m.

Mr. Katzenbach's plane arrived. Mr. Katzenbach was the first to leave the plane, followed by Mr. Harold Reis, Mr. Dean Karthun and Mr. Ed Guthman. Mr. Katzenbach immediately went to the public phone and spent some time phoning. By this time I had ordered the men placed on Army trucks which had been waiting for them prior to our arrival under the leadership of Major Koch. All the deputy marshals were placed on the trucks and we awaited Mr. Katzenbach's departure from the booth, which was in a matter of a few minutes.

Mr. Katzenbach then instructed us that we were to take the convey and go to the campus of the University of Mississippi. We started the convey down the road leading from the airport. Travel was made very difficult because of the automobiles being parked on both sides. The cars contained mostly sightseers. About half way down the airport road we observed a car coming in our direction and we stopped. Mr. Katzenbach, who was following in his car (our truck was first and Mr. Katzenbach's car was in between us and the second truck), alighted along with Mr. Joe Dolan and myself and we went to the car and met Colonel Birdsong. Colonel Birdsong is the Director of the Mississippi State Highway Patrol. I had met Colonel

Birdsong on prior visits to Mississippi and we shook hands and Colonel Birdsong and Mr. Katzenbach engaged in a conversation for a few minutes and then parted. Mr. Katzenbach then informed us that Colonel Birdsong would lead the convoy to the Lyceum on the campus grounds.

The car in which Colonel Birdsong was riding contained a chauffeur and two unidentified policemen in plain clothes. Colonel Birdsong's car turned around and proceeded to lead us down the road onto Route 6 where the convoy was broken up, that is, cars coming along would get in between the trucks. Referring back to the occupants of Colonel Birdsong's car, I recognized the driver as being a state patrolman, having met him, I believe, the previous Wednesday when we attempted to get past Lt. Governor Johnson. This patrolman at that time was the driver of the car that led us to the campus and to where Lt. Gov. Johnson was standing. Getting back to Col. Birdsong, he took us down the road onto Route 6 where the convoy was broken up by civilian cars getting in the convoy and in between Col. Birdsong's car and Mr. Katzenbach's car and the trucks.

Along the route I noticed uniformed policemen out of their cars directing traffic. Also as we entered the

University grounds I saw two Mississippi State Highway police cars with several policemen standing around them. We entered the campus grounds a little after 4:00 pm and proceeded up a driveway and halted in front of the Lyceum Building. Colonel Birdsong got out of his car, as did Mr. Katzenbach, Mr. Deian, Mr. Guthman and several others. We waited around for a few minutes and at this point a heavy-set policeman came along who identified himself as Chief Burns Tatum who informed us he was Chief of the University police department. He admitted us to the Lyceum Building and Mr. Katzenbach, Mr. Guthman and Mr. Schiel entered. Shortly thereafter a man entered the building and identified himself, whose name I cannot remember, as being part of the University staff. He admitted us to a room. I returned outside to the front of the Lyceum and consulted with Jack Cameron of the Executive Office for United States Marshals, Donald Forcht, Ellis Daley and Al Butler, the group leaders of the deputy marshals that we had arrived with. Discussion followed as to the best place and the best way we could place the various deputy marshals around the area. We started off by ringing the Lyceum Building, the front ^{and} / the north side, with deputy marshals and Border Patrol men. This was about 4:30 p.m.

Up to this point to 4:30 p.m., Colonel Birdsong and I had no conversation as to his police and our deputy marshals, except that I knew that the unloading of the deputy marshals at the Lyceum was all right with Colonel Birdsong and Chief Tatum. The plan we had developed the day before had provided for the securing of the Lyceum and the circle in front of the Lyceum. However, at that time, I did not have enough men to do anything except secure the Lyceum. From about 4:30 p.m. to 5:00 p.m., discussions were held with Cameron, Forsht, Butler and Daley as to the setting up of roadblocks and the advisability of having Colonel Birdsong assign a state police car with three state police officers at each of the five entrances with our marshals. However, it was decided not to do that at that time.

At about 5:00 p.m. the trucks departed for the airport to pick up an additional group of deputy marshals who were en route to Oxford from the Naval base at Millington.

Shortly after 5:00 p.m. I saw that small groups of students were arriving and were gathering in groups and more or less stalling across the street at the deputy marshals.

My recollection is that this was the first time that I noticed that there was any sizeable gathering of spectators or students. I based this observation that they were students on the fact that they were college age and their attire was common on college campuses. My recollection is at this point that there were several police, uniformed highway police, standing on the roadway in front of the Lyceum between the deputy marshals' side and the other side where the grove begins. Also as I was standing directly in front of the Lyceum looking out in the direction of the grove on my right hand side, I noticed a group of highway policemen of various ranks standing in small groups in conversation. I would put the groups at a total of 15 to 20. On my left there were several uniformed policemen stretched out from the center of the Lyceum up to and around where the road leads past the Lyceum on the left side, in the direction of the post office. I would put this group from 8 to 10 policemen. It was about this time that I returned inside the Lyceum where I informed Mr. Katsenbach of the present situation outdoors, and, as I recall, he told me that they were going to the airport shortly to pick up James Meredith who was en route from

Memphis with Mr. John Dear. There was a total of 170 deputy marshals and Border Patrol men at this time on the campus. All of the deputy marshals were attired in orange vests which were designed to carry a quantity of tear gas equipment. They all wore white helmets (white field helmets) on which was printed on the front U.S. Marshal. They also all carried a large club which is commonly referred to as a nightstick. All the deputy marshals and Border Patrol men were also carrying .38 caliber revolvers fully loaded. These revolvers which were carried on their person were concealed and were not displayed. Prior to leaving Millington, which was the staging area for this project, they were all instructed that they were not to use their firearms except in case of danger to life or property and then only in a last resort. As to the firing of the tear gas equipment, they were instructed, as they had been so many times previously in the training courses, that the order to fire would be given either by the one in command or one of the group leaders in command. My group leaders knew that I, being in command, would be the only one who would give the order to fire, and this was thoroughly understood.

At about 3:13 pm or so Mr. Katzenbach instructed me to get a detail of deputy marshals and send them to Baxter Dormitory where Mr. Meredith was to have his living quarters. I selected a group of 24 men which was shipped by truck up to the dormitory. Prior to their leaving I was given several keys to the dormitory rooms of Meredith and I went with the 24 men to Baxter Hall. About this time, I noticed that the campus was becoming a little more crowded with an increasing amount of spectators and that the police would ask them to stand on the curb across from where the deputy marshals were standing, but they would continue to walk off and walk past the police who made little effort to insist that they stay back. The crowd/would estimate to be 300 - 400 and it spread out across the street from the Lyceum in the grove. There was a certain amount of name-calling but I would not say that the demeanor of the crowd was one of being hostile at this point. About 3:43 (before I went to Baxter Hall) I noticed that the grove in front of the Lyceum was filling quite rapidly with students and new spectators, people who obviously, by their age, were not students of the University and obviously were not faculty people. I could determine that by the way they spoke and

abused and the way they dressed. There were instances where members of the crowd would walk across the street and come up close to the deputy marshals and abuse them. I spoke with Cameron about this. Cameron and I were both of the opinion that we should not in any way, outside of asking these people to get back, place our hands on them in any way and use force, however slight, to get them back across the road and onto the curb. We were both of the opinion also that it was of no use to speak to the individual policemen because Cameron said that on two occasions in the last fifteen minutes he had asked policemen standing there to get people back and they did nothing at all. Cameron suggested that I speak to a Colonel Pyke who was in charge of the detail of highway state police out front and he pointed him out to me and I suggested that Cameron come over with me. Cameron said that he had spoken to Col. Pyke previously and warned me not to attempt to shake hands with Pyke because he would refuse to do so. I went over to Col. Pyke; I introduced myself; I put out my hand to shake his hand. I said Col. Pyke, my name is Mathews, and I am in charge of the deputy marshals here. We would like your assistance in having your men keep the crowd back out of the roadway. He refused to put his hand out,

turned sideways and in a very, very hostile manner and in a loud voice so that everyone could hear, announced that he was not a colonel, that he was an inspector and that the men out there were under his command, but that he did not have the authority to order them to keep the crowd back unless he was instructed to do so by his superior officer. I asked him if he knew the name of the superior officer, so that I could go and speak to him. He said that that was for me to find out; that he had his job to do and I had mine. I thanked the inspector and returned to the front of the Lyceum and asked who Inspector Pyke's commanding officer was. A man in plainclothes, and obviously a state highway official, wanted to know what my problem was. I informed him; he said he would see what he could do and he left the top of the Lyceum, went down the steps, went up to several of the policemen and told them to insist in keeping the crowd back. This was probably the only time in any way that I received any assistance from anyone connected with the state highway patrol.

At this point I noticed that there was some egg throwing and throwing of gravel in the direction of the deputy marshals. At this point I went into the Lyceum Building and

went to an office where I saw Col. Birdsong. I asked him would he give us some assistance in having his men give us some assistance in controlling the crowd which was now growing. He said he would and he came with me out onto the porch of the Lyceum. He went out and he spoke to several people in plainclothes, whom I assume were officials of the Mississippi State Highway Police. They, in turn, went over to a group of officers that included Inspector Pyke. Colonel Birdsong then returned into the Lyceum and I made a tour around the perimeter of the Lyceum to see that the deputy marshals were in place and just to take a look and see how conditions were in general. There was little or no activity in the back of the Lyceum, except for a couple strolling along or several people walking by and there was little or no activity, such as was out on the front, and facing the grove. Standing in front of the Lyceum, the crowds there were gathered in the center and to the left of the Lyceum. About 6:30 I left the vicinity of the Lyceum in a car and drove to Barber Hall where I conferred with the deputy marshal who said that they had made a complete search of the rooms where Meredith was to stay and that they found nothing unusual. I recall seeing Chief Tatum there. I checked where the deputy marshals were placed around the immediate area around the door where

Meredith was to stay. At 6:45 two or three cars pulled up in front of the dorm, about thirty yards away. At this time as the cars arrived there were about 100 students gathered there on the side street and in front of Baxter Dormitory. The second car came to a stop and Deputy Marshal Miller got out, along with Mr. Ed Guthman, Mr. Katzenbach, John Dear and James Meredith. There was a lot of jeering and name-calling and several of the deputy marshals surrounded Meredith and we took him directly up the stairs and into his room. I stayed with Meredith for about fifteen or twenty minutes. I placed Deputy Marshal Miller in charge. I discussed with him the fact that if he needed any assistance he was not to hesitate and that we would provide as much manpower as he wanted. I then left Baxter Hall and returned to the Lyceum.

By this time the grove in front of the Lyceum was just literally packed with a crowd that was jeering, yelling, screaming and quite a number of bottles and rocks and stones were being thrown in the direction of where the deputy marshals were stationed. I saw one patrolman, smoking a cigarette, engaging in a conversation with the students and pointing to the left rear wheel of a truck. I then saw the student go over to the wheel and attempt to remove some part of a cap and look around at the police officer who

shook his head. The student then pointed to another part of the wheel and the patrolman shook his head affirmatively. The student then proceeded to take the cap off and press what looked to me to be a pencil which released air from the left rear wheel. As this was being done the Mississippi State Highway patrolman continued to nod his head slowly in an affirmative manner. A few minutes later I saw another patrolman engaging in a conversation with a student who then proceeded to jump on top of a truck, light what looked to me to be a roll of paper and place it on the covering of the truck which started to ignite. At this point, a deputy marshal then ran out, jumped ^{up} on the truck, took off the lighted paper, threw it on the ground, jumped off and as he jumped off he narrowly missed falling on a uniformed man of the state highway patrol who turned his back and walked slowly away. The deputy marshal then put out the lighted paper, at the same time being jeered and yelled at by the students who surrounded him. This was at about 7:30 to 7:40 p.m.

At about 7:45 I realized that by this time things were getting completely out of hand. I consulted with Forcht, Butler and Cannon. They were unanimous in the opinion that if this thing were allowed to continue and no more definite action was taken on our part, that it was

just a matter of time before the crowd would overcome the deputy marshals and, if they had a mind to, could have entered the Lyceum Building. At this point, I returned to the Lyceum, went to Mr. Clegg's office and asked for Col. Birdsong who was in an inner office. I went in, excused myself to Mr. Katzenbach who was there as well as Mr. Schlei. (Mr. Schlei is the Legal Counsel for the Department of Justice.) Also Mr. Ed Guthman and Mr. Joe Dolan were there along with Col. Birdsong, Chief Tatum and a man who was subsequently identified to me as Senator Yarborough of Mississippi. I called the Colonel outside and I said that the thing was getting entirely out of hand; that unless he would instruct his officers to give us some sort of cooperation, none of which so far had been forthcoming, that we would have to take some very positive action. He fumbled and hesitated and said his hands were tied; that I should appreciate the position that he was in; that he knew that up to now he had always cooperated in everything that I had asked. I assured him that that was correct. He said, however, that there was talk now going on inside that the Governor was seriously thinking of withdrawing the highway police and that he would have to be governed by that decision. I recall his very vividly saying to me that it

was all right for me to insist that we cooperate but he said, and I am now quoting him, "We'll have to live here long after you people are gone." Again we talked for a few minutes and I told him that the complexion of the crowd in front of the Lyceum had changed considerably since he and I had last gone out. I recall telling Col. Birdsong that unless we could control this crowd out front and that unless some effort was made on his part to assist us, that we, meaning the deputy marshals, were going to take some very definite action and that time was of the essence.

He excused himself, went inside and then came out and said that Senator Yarborough was going to address the students and ask them to go home. Senator Yarborough and Col. Birdsong then walked out of the Lyceum. I walked behind with Guthman and Katzenbach. Mr. Katzenbach wanted to know what the situation was. I told him that it was getting to the point where we would have to do something definite and I assured him that only as a last resort would we resort to discharging any tear gas. Mr. Guthman was there at the time. I told him that the situation was getting to the point where we didn't know how much longer we would be able to control the mob, that the deputy marshals were

being subjected to virtually a barrage of rocks and bottles. I then went out in front of the Lyceum where I observed the crowd closer than it had ever been to the deputy marshals standing there. They had completely surrounded and had infiltrated in between the trucks that were standing now directly in front of the Lyceum.

When I got out on the porch I saw that my men had their gas masks on. I went to Cameron. I asked him who gave the order to put the gas masks on. He said he did. I told him to tell the men to remove their masks at once. This was done. I then observed Senator Yarborough making a speech to the crowd that was jeering and yelling at him. There was a good 1,000 people there. Col. Birdsong was standing along side of him. I saw quite a number of police, but there was no police line. The police were mixed in with the crowd and in some instances I saw the heads of some of the police officers back at the sixth or seventh row (had the crowd been lined up in rows) talking and mingling with the crowd, smiling and nodding, but making no effort to try to control this crowd or trying to get them under proper supervision. I watched to see what Col. Birdsong would do. He did not speak to any police officer, or rather to any uniformed police officer.

It was now about five minutes till eight and one of the group leaders, Butler, came over to me and handed me a lead pipe about 2 feet long and said now this is what they are starting to throw. He said that it had been thrown into the group of deputy marshals while I was inside discussing the situation with Col. Birdsong. The rock and bottle throwing got worse; the jeering and chanting of the crowd got louder. I was advised that several of my men had been injured by objects and taken into the Lyceum. The crowd filled the street completely in front of the Lyceum. I made up my mind at that point that the police were not going to take any action to assist us in any way and that the situation if it was going to be controlled was going to be controlled only by us.

I decided that there was one of two ways for the deputy marshals to take charge of the situation. One way was for me to give an order to walk forward and use physical force to push the crowd back and start to control it by using force to disperse the crowd. However, I knew that this method would involve physical contact with the result that people on both sides would be injured -- possibly seriously. The other method was to use the tear gas equipment we had. By doing this there would be no physical con-

tact with the crowd and the crowd would surely be dispersed without any injury. So I issued the order to don gas masks, which was done immediately. I have a recollection of speaking with Ed Guthman, who said what do you intend to do and a recollection that Mr. Katzenbach was there and I told them that if things did not take a definite change for the better in the next few minutes/^{we}were going to have to resort to gas and they left the decision to me as to when to use it.

I waited a few more minutes. There was no let up of barrage of rocks and bottles continued to be thrown. I walked up and down the entire line in front of the Lyceum. The crowd was becoming more unruly. They were paying no attention to Senator Yarborough. They were sneering at him. He had no effect on the crowd at all. The state police were doing nothing. I made up my mind the situation was not going to get better and could only get worse. So I gave the order to fire.

I did not have my gas mask on. The gas started to drift back. It got in my eyes. I went into the Lyceum to clear my eyes. At this point Ed Guthman said who gave the order to fire that gas. I said I did.

U.S. v. *Karnoff*
J.

STATEMENT OF CLARENCE ALBERT BUTLER

My name is Clarence Albert Butler. I am 33 years old. I am 6'2" and weigh 200 lbs. I live at 511 East Paris Street, Tampa, Florida. I am a Deputy United States Marshal. I am married. We have three children. My wife and I were married in 1953. My family consists of two boys, ages 5 and 3, and one girl, age one. My family still lives at 408 Brightseat Road, Landover, Maryland. In October of this year I was transferred from the District of Columbia Marshal's office to the Tampa, Florida, Marshal's office. I have not yet moved my family to Florida.

I went to Surrattsville High School at Clinton, Maryland. My sophomore year in high school I left high school to go into the service. I was in the Air Force from 1947 through December 1949. For the first six months I was a drill instructor. Then I attended the radio operators school at Scott Air Force Base. Then I transferred to Kearney Field, Nebraska. There I was used as a fabrication mechanic. While in the Air Force I studied

and took tests for the purpose of receiving from the Air Force a certificate equivalent to a high school diploma and I did receive such a certificate after a course of study and examination.

After I was discharged from the Air Force I went to air-conditioning and refrigeration school in Washington. This lasted eight months. On graduation I was unable to find employment in the area so I worked briefly as a steel rigger's helper. While I was working on that job I was waiting for an appointment to the Maryland State Police. I joined the Maryland State Police in March 1951 and worked there as a state trooper, principally as a patrolman. When I say patrolman I mean that one officer would patrol in an automobile. In July 1952 I transferred to the Prince Georges County Police Department. There I worked as a patrolman in a squad car. I transferred because the working conditions were better and I received an increase in pay. I stayed with the Prince Georges County police until 1953 when I resigned to accept a position with the State of Maryland Department of Parcel and Probation. I took this job because it paid a better salary and better

working conditions. My job was to supervise men on parole and probation and conduct investigations for the state and county courts. I worked with the Department of Parol for the State of Maryland until February 10, 1958 when I resigned to accept a position with the United States Marshal's Office in Washington, D.C.

I took this job because after I heard about the United States Marshal's work I wanted to be a United States Marshal.

Before qualifying as a United States Marshal, I obtained from the State of Maryland after additional examinations a high school diploma.

I think it is fair to say that I have always been highly recommended by my supervisors wherever I have worked. In the Prince Georges County Police Department I was promoted to PFC after a year and one half on the job. In the last two years I was there I was generally number two man in command of whatever shift I worked.

While a state and county policeman, I was trained in standard operating principles of a police officer, including the use of a stick and gun. I also received training in the use of riot guns and gas guns which might have to be used in case of a large scale riot. However, during my tour

of duty with the state and county police I never actually participated in controlling a riot or a mob. I did have considerable experience in handling crowds. For example, while on the state police, I was always assigned to the University of Maryland football games as a motorcycle patrolman, and while a patrolman in Prince Georges County I had considerable experience in handling large scale barroom fights.

When I started with the United States Marshal's Office I was employed as a GS-6 and have since been promoted to GS-7.

After I commenced my duties as a marshal I received the standard interoffice training and since then have carried out my duties of handling prisoners, executing all orders of the federal court, serving all types of process of the federal court, locating and arresting persons charged with federal crimes and maintaining courtroom decorum.

In 1938 when the Little Rock situation came about the first Deputy United States Marshals' training class was set up in Washington under a Bureau of Prisons instructor. I was a member of that class which was held in August 1938 and was trained there in the use of riot equipment, includ-

ing the 1.3 gas gun, tear gas grenades, smoke grenades, sickening gas grenades, tear gas billies, riot control formations and the use of riot sticks and firearms in controlling crowds and riots. Due to the emergency nature of this first class, the training was condensed into one week. During this class I was trained in personal self-defense. The school was held at the National Training School in Washington. At the conclusion of the class, since the situation in Little Rock had subsided, the entire class was held over for another two weeks in order to perfect its riot techniques. And during that period I, along with two other Deputy United States Marshals, were selected by the Bureau of Prisons instructors to receive more advance training and to assist the Bureau of the Prisons instructor with a view of making us instructors for the United States Marshal's Service. The two other instructors were Ellis Duley and Donald Forsht. At the conclusion of this three week period we were selected to become instructors in the United States Marshals training course and I accepted that position along with the other two men. From that time the three of us have instructed Deputy Marshals in various training classes held each and every year. Over us in

general charge is Mr. Cameron. I would say that I have instructed approximately 26 classes. We did not go to Little Rock but I did go to New Orleans when the first two elementary schools were integrated there. Cameron was in charge. I was in charge of a detail assigned to McDonough 19. I worked in connection and close cooperation with the New Orleans City Police Department. They did an excellent job. I had four men under me at the school and stayed about two weeks. We were identifying arm bands and side arms. Order was maintained, however, by the city police. Crowds collected around the school up to 1,000 persons and there was considerable verbal abuse.

From that experience I learned more about what could happen at the time of an integration event at a public school. I found that without adequate police control people in the highly emotional state could become very ugly. It was brought out to me very forcibly in New Orleans that we should increase and concentrate our training on riot control; that more emphasis should be given to the types of formations to be used; the type and amount of equipment needed if we were called upon to act without the assistance of the local police. The next instance I was involved in was

Montgomery, Alabama. On Saturday night after the bus station riot I was ordered to Montgomery. Marshal McShane was in charge of the marshals. His deputy was Cameron and three group leaders were myself, Duley and Wasilveski. Donald Forsht didn't arrive as soon as the rest of us but when he came to Montgomery he was made a group leader, also. My assignment at Montgomery was checking in personnel and assigning personnel to various groups and seeing that the various groups had sufficient equipment. So I was not at the church when the riot started but was at the base organizing and checking the equipment and dispatching groups of marshals and Border Patrol people to the scene. My recollection is that Duley, Cameron, Forsht and Wasilewski were at the church. But I was well briefed immediately afterwards as to what occurred there and the effectiveness of the use of gas on the mob. Overall command of the operation was under Deputy Attorney General Byron White, who was assisted by Mr. Oberdorfer and Mr. Bolan. After we returned to Washington I attended a number of meetings involving men who had been in supervisory positions there and submitted a written report as to suggestions for improvement of our technique. Riot control started again and as an instructor

I and the other instructors gave the marshals more extensive riot control training. We worked on a manual for the marshals and devoted more time to field work. In late November 1961 I was sent to New Orleans to stand by in the event that there was trouble at the McComb bus station. But I never went to McComb. In January 1962 I went to the University of Georgia. I was accompanied by Cameron and Suley, and one deputy from Pittsburgh. We lived near to the campus and maintained surveillance over the University. We took no active part in controlling the situation but we did observe the campus and how the situation was controlled by the local police. A riot had occurred prior to the time we went to Georgia.

In May of 1962 I was assigned to maintain security at the House UnAmerican Activities hearings at Los Angeles, together with Mr. Cameron. We were assigned 25 Border Patrolmen to assist us in maintaining order inside and outside the building where the hearing was held. We maintained close coordination with the local police force and no trouble ensued, although the crowds were very big and very noisy. I would estimate the crowds to be as high as 3,000 people at times.

In the summer of 1962 three two-week training courses were held. There some of the older men went through refresher courses and we trained additional marshals. Again more emphasis was placed on actual riot control with more field work and not as much blackbeard work. In the middle of September I was assigned to go to Memphis to stand by in the event that I was needed at the University of Mississippi. I arrived in Millington on September 17 at 3:00 p.m. I had driven there in a station wagon loaded with riot control equipment and began checking in and billeting marshals as they came and issuing equipment to them. While there I made one air reconnaissance flight to Oxford with Charles Chaubee and Donald Forsht. I was also briefed on the physical layout at the University by other marshals who had been in Oxford looking over the situation from the ground. Between September 17 and September 30 I stayed at Millington Air Base checking in additional marshals as they came, billeting them and issuing and checking their equipment and putting the men through refresher courses and training sessions on riot control. Squads and group formations of marshals were organized and on Friday and Saturday, September 28 and 29, we conducted refresher courses for Border Patrol personnel who arrived.

I forgot to mention that on Thursday, September 27 I, together with about 40 other marshals, set out in Border Patrol planes to take James Meredith to register. But on our way we were instructed to turn back and return to Millington.

I observed the Border Patrolmen as they came and their officers. They were well disciplined, were familiar with riot control procedures and I worked with their group leaders, including Mr. Coppock, Chamblee and Rainbow. On Friday Mr. Oberdorfer arrived from Washington to take over general charge and a meeting was held on Saturday morning where we were told that it might be necessary for us to go to Oxford and enter the University in the face of resistance from the state police and that we should develop final plans to accomplish this. We were told that it might be possible to have quite a lot of resistance from the state police. We were told that a definite plan would be effected so we would know our exact assignments. My job that day was to work with the Border Patrol personnel in organizing and coordinating the transportation for the marshals and Border Patrolmen. In addition to that, my particular assignment was to be commander of a group which would actually force its way onto the campus if necessary. The plan was to have

a bus push any cars or other vehicles out of the way at one of the campus entrances, if there was a road block at the entrance of the campus. I was to have four squads, two on each side of the bus with full equipment. Because of the type of operation we had, we reorganized the equipment that my squads would carry. Generally squads of marshals (12 men in a squad) were set up so that each man with the exception of the gas gun men could carry six grenades. There would be two gas gun men in each squad and each gas gun man would carry six shells. However, we reorganized this so that I had two full squads, in which every man carried a gas gun. This was because two of my squads were to be in the front of the wedge, each man equipped with a gas gun, and then two additional squads were to be behind them fully equipped with gas grenades. On Sunday we were told that there was a possibility that we might go to Oxford by air and were instructed to carry out a dry run to the airstrip. This we did about 1:00 p.m. on Sunday and when we got to the airstrip we were told that we were to go to Oxford. We loaded up on the planes and started for Oxford. I was in the second plane and I had my four squads of marshals in tact, organized as the attack group in the event we met resistance. Each of my men in addition to their offensive gas equipment carried

helmets and gas masks, sticks and side arms. Each wore an orange vest. Most of my men were dressed in suits and ties. There were a few who, because it was announced as a dry run, did not change.

After we arrived in Oxford (we arrived around 2:30 - 2:45 p.m.) we waited at the airport for a little better than an hour and finally loaded up into Army trucks that had been brought there. I recall very specifically that we didn't leave the airport until night at 4:00 p.m. My men and I thought we were going to the fish camp but we were fully equipped to go into action. I rode on the running board of one of the trucks as we left the airport and observed the Mississippi state police on the job at the intersection of Highway 314 and 6. There were several policemen there. I recall seeing five and probably more. They were on foot and were directing traffic. We drove on Highway 6 for a short distance and then turned into the campus at the University at the entrance leading to Sorority Row. This was the first time that I know we were going into the campus. Again at this entrance to the campus there were a number of policemen who were blocking the entrance and who stepped aside and let us in. And thereafter I didn't see any more policemen until we got in front of the Lyceum Building. We

arrived at the Lyceum Building a few minutes after 4:00 p.m. We were led in by a police car. I had my group stand fast in the trucks until I received instructions from Marshal McShane. Donnie Forsht and his group were in the truck ahead of me and Donnie signaled me to disembark and that is what I had my group do. I had my group fall out and they fell into a group formation. Each group was in a column of fours, that is the squads lining up abreast in single file. The squad leader was at the head of each individual squad. They lined up approximately at the northeast corner of the Lyceum facing the street. I then marched them off a squad at a time to put them in position around the Lyceum Building. In the event that we had to force our way onto the campus, our mission was to maintain security around the Lyceum Building and the grove, although we met no resistance. I placed my men in front of the Lyceum in a line on the curb because the first rule of riot control is to make a show of force by properly equipped and dressed police personnel. My 48 men were lined up in front of the Lyceum Building from about the northeast corner to a little bit south of the main entrance. I believe Forsht's men were to the south of me and Dulcy's men were around to the north side of the building.

After my people were set up I took a position in the street in front of my men and observed the crowd and tried to determine what the mood of the crowd was. This was roughly 4:30 p.m. There is a "Life" photograph which shows me standing in front of my men in front of the Lyceum after I had placed them initially in position. There were highway police in the road in front of and on the north side of the Lyceum. I don't know how many were there but I know that there was more than a dozen of them. We also had some Border Patrol people there and I made some routine changes in position of my personnel by putting some Border Patrol squads between two of my squads. However, I never divided up a squad of marshals who had trained and worked together and I don't believe any of the other group commanders did either. For the first 30 minutes to an hour, I spent the time talking to the men, giving them instructions to stand fast and not to react to any verbal abuse from any crowd which might gather. During that time there were small groups of people gathering across the street from the front of the Lyceum but there was little noise. About an hour after I got there, the second group of Border Patrol people came. I believe there were about 170 Border Patrol people in the

second group. I did not have anything to do with placing these men in position.

However, about that time I realized that the south side of the Lyceum might be a trouble point. The reason for this was because of the closeness of other buildings to the Lyceum on that side and also because students were beginning to gather between the buildings there. I took it upon myself to move one of Persht's squads to the southwest corner of the building. I think this was about 5:30.

In the last half hour or so before dark quite a crowd had built up in the grove across from the Lyceum. However, the street was generally clear. The crowd was noisy and somewhat abusive and from time to time coins, cigarettes and gravel were thrown at the line of marshals. On several occasions, members of the crowd would run across the street and spit on one of my marshals. In one of the pictures taken by a "Life" photographer, there is a little freshman waving a confederate flag. I remember he was particularly noisy. Next to him on the right is a husky, black-haired student in a white shirt and dark pants. I know he tried to spit on me three times.

Shortly after this it got dark. Then things began to get pretty strong out in front; we received all sorts of verbal abuse. It was as vile as anything I had ever heard. Small articles such as gravel, cigarette butts and small stones continued to be thrown at my men and it got heavier. My instructions to my men were to hold fast their positions and not to react in any way. I felt that it was important that the crowd know that the marshals were there in force and be impressed by the fact that the marshals were organized. Consequently, as there were some squads of marshals who had not dressed in coats and ties I moved them off from in front of the building and put them in the rear of the building. One squad of my men was not fully dressed in coats and ties but they were a gun squad so I left them where they were. After it got dark the crowd started to come up into the street and move in close to the marshals and I personally had several conversations with state patrolmen, telling them to move the people back or we would have to do it the hard way. Sometime about that time Cameron and Forsht came to me and asked for 15 men. I picked the men out individually, all good men, and they were dispatched to Baxter Hall. The objects which began to be thrown became larger and more frequent.

I stayed in front of the Lyceum and observed the crowd. As time passed, there were many attempts to set fire to the canvas on the Army truck and I saw a couple of students try to get a valve core out of a truck tire. At the time this occurred a state policeman was standing right there and didn't do anything. The crowd kept getting bigger and noiser. Within the next few minutes some of my men got hit with large objects and I personally got hit on the arm with a coke bottle. I think this happened a good hour before we used gas. Cameron was right beside me when I was hit. We discussed at that time the advisability of using gas because we felt that the crowd was getting out of hand. Shortly after this I had a conversation with Marshal McShane about moving the people back by the use of tear gas. But he instructed me that he was going to see if he could hold off from using gas.

Time passed and I was clearly of the opinion that we were in a dangerous position because we had completely surrounded the Lyceum and had to secure it. Our lines were spread thin and we were only one man or at most two men deep. I knew from my experience that it would not have been difficult for a large mob -- a mob like the one in front of me -- to break through if they were close enough to get in personal contact, and at the northeast corner of the Lyceum the

mob was in personal contact with my men and in front of the Lyceum they would have been in personal contact except for the line of trucks and one Border Patrol car just to the north of the front entrance. The state police did absolutely nothing. I saw a state patrolman stand by when a cameraman was knocked down, when a camera was taken away from a cameraman and broken and when a mob of students jumped a newspaperman's car. This occurred just northeast of the Lyceum in the street about six or seven car lengths away from the intersection at the northeast corner of the Lyceum. The street was full of people. I heard the noise up there and ran from my position in front of the Lyceum up to where the mass of people were. You could see and feel the surge of people to that spot. I ran to that corner and saw the crowd gather around the automobile. We had no reserves at that time and it would have been foolish to go out into the crowd without two or three squads, but we could not pull any squads off to take charge of the situation and besides we had no orders to do so. The state police were there, however, and they were doing nothing. I saw people all around the car bumping it up and down and heard glass in the car break and I saw a highway patrolman standing by and doing nothing. Finally what looked to be a highway patrolman who was an