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A Yes, sir; it sure does.

MR. HARMON: Move to strike.

THE COURT: Motion to strike denied. *(Exception No. 1)*

Q Mrs. Watts, I hand you what has been marked as State's Exhibit number "45" and ask if you can identify that.

MR. HARMON: Objection.

THE COURT: Overruled. *(Exception No. 2)*

A Yes, sir; that is me sitting in the car talking to the patrolman there and asked me how bad I was hurt. That is what that picture is.

MR. HARMON: Objection; motion to strike.

THE COURT: Motion to strike denied. *(Exception No. 3)*

Q Is this photograph a fair and accurate representation of you in the vehicle after the incident that you have testified to that occurred on the evening of February 5, 1971?

MR. HARMON: Object.

THE COURT: Overruled. *(Exception No. 4)*

A Yes, sir; it is.

MR. HARMON: Motion to strike.

THE COURT: Motion to strike denied. *(Exception No. 5)*

SOL. STROUD: May it please the Court, State moves that photographs, State's Exhibits

"44" and "45" be received in evidence.

MR. HARMON: Objection.

THE COURT: Overruled. *(Exception No. —)*
Members of the jury,
State's Exhibits "44" and "45" is offered by
the State and admitted into evidence for the
purpose of illustrating and explaining the
testimony of the witness if you, the jury,
finds that it does illustrate and explain the
testimony of the witness and for no other
purpose. It is not substantive evidence.

MR. FERGUSON: Objection.

THE COURT: Objection overruled. *(Exception No. —)*

SOL. STROUD: For the purpose of the record,
I believe I moved the photographs be intro-
duced into evidence, I believe I said "44"
and "45". It should be "45" and "46".

(State's Exhibits "45" and "46" marked for
identification.)

THE COURT: Members of the jury, the instructions
I just gave you applies to State's Exhibits
"45" and "46".

SOL. STROUD: The State has no further questions
of this witness, your Honor.

Are you tendering this witness for cross ex-
amination?

SOL. STROUD: Yes, sir.

CROSS EXAMINATION BY MR. HARMON:

MR. HARMON: We would like to move to strike all the testimony of the witness.

THE COURT: Motion denied, Mr. Harmon. *(Exhibit No. 45)*

Q Mrs. Watts, I hand you State's Exhibit "45" and ask you if that is not a copy of a newspaper clipping that appeared in the newspaper the day following February 5th.

A This is our car.

~~Q I understand that.~~

~~A This is the picture they took the night that happened.~~

~~Q Did this picture appear the next day in the newspaper?~~

~~A This is a picture of our car.~~

~~Q I am asking you did it appear the next day in the newspaper?~~

~~A It was supposed to have been in the paper, ^{the next day} but it still is our car.~~

Q Now I understand. I hand you what has been identified as State's Exhibit "46". I'll ask you if this is not, too, a newspaper clipping that appeared the

next day in a newspaper.

A It is a picture of me and the patrolman. That is the car. I don't know whether it is the newspaper clipping or not.

Q Was this too supposed to have appeared in the newspaper the next day?

A I don't know. They were going to be in the newspaper.

~~Q Were they in the newspaper? Were they?~~

~~A I think they were.~~ *in the newspaper.*

Q Wasn't there also in the newspaper the following day an account of the incident as you have related it to the police?

A There was some wording there in the newspaper, but I don't remember just what all is said, but there was some working about it.

~~Q Let me ask you this. Did you relate to the police what occurred?~~

~~A Pardon me?~~

Q Did you relate to the police what had occurred?

A When I got to 5th and Castle they asked me was I hurt, and I told them, and they looked at the car.

~~Q My question is did you relate to the police what had occurred.~~

~~A No,~~ *T*he only thing I told them that 5th and Castle

that I had hurt myself. That is the only thing I told them, and they could see the car.

Q ~~Did you~~ tell them how ~~you~~ got hurt?

A ~~I told them, yes.~~

Q ~~Did your~~ husband also relate ~~to~~ the police what had happened?

A ~~Yes, sir, he did.~~ He did more talking than I did because I was hurt.

Q No further questions.

THE COURT: Mr. Hunevol, do you have any questions?

MR. HUNEVOL: I have no questions.

THE COURT: Any further questions for the State?

SOL. STROUD: No, may this witness be excused, your Honor?

THE COURT: Yes, sir.

MR. FERGUSON: Do we understand that all of these witnesses are being excused subject to recall?

THE COURT: If there is any question, yes.

MR. FERGUSON: We are perfectly willing they be allowed to leave, but we would like to have them on call if necessary.

THE COURT: You do not wish to ask them any further question now?

MR. FERGUSON: Not at this time.

THE COURT: They may be excused at this time.

SOL. STROUD: State would call Father Jones.

MR. HARMON: We'd like to renew our motion to strike the testimony of the witness.

THE COURT: Motion denied. (*Exemption No.*)

REV. JAMES R. JONES, called as a witness for the State, being duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

Q ~~State your name, please, sir.~~

A ~~Rev. James R. Jones.~~

Q ~~Are you a resident of Wilmington, Father Jones?~~

A ~~Yes, I am.~~

Q ~~And with what church are you connected there, please?~~

A ~~Saint Marys Catholic Church.~~

Q ~~Where is that church located, please, sir?~~

A ~~Corner of 5th and Ann.~~

Q ~~Were you associated as a priest in that church in~~

February of 1971?

A ~~Yes, I was the pastor.~~

Q ~~Now, Father Jones, do you recall the evening of~~

February 6, 1971, when Mike's Grocery store building was burned?

A ~~Yes.~~

Q

~~Q~~ On that evening, ^I did you have occasion to be on the outside of your church?

~~A~~ Yes.

~~Q~~ And what were you doing at this time, please, sir?

~~A~~ I was walking away from the church after confessions Saturday evening.

~~Q~~ And how were you attired at that time? ^{I was}

~~A~~ In the cassock and collar.

~~Q~~ The cassock would be the long flowing robe?

~~A~~ The long flowing robe.

~~Q~~ Where were you going at that time? ^{I was}

~~A~~ Back to the rectory after confession.

~~Q~~ Where is that in relation to the church?

~~A~~ I think it is north to the left as you walk out the front door of the church it is the next house to your left.

~~Q~~ Now on this evening when you came outside of the church, did you see anyone outside of the church at that time? ^{Some}

~~A~~ Yes, but I don't remember if it was immediately as I walked out the door or after I had walked down the steps.

~~Q~~ Who did you see at that time?

~~A~~ I saw my neighbor, Mr. Love, and that evening I saw

one man on the other side of the street.

~~Q~~ ~~Where was~~ ^T the man that you saw on the other side of the street? ^{was} ↓

~~A~~ Catercornered, diagonally across from the church, close by the home of Mr. Ross Picot.

~~Q~~ ~~Picot on 5th Street or Ann Street?~~

~~A~~ He was at the corner of 5th and Ann and I was on the opposite corner of 5th and Ann.

~~Q~~ ~~What did you observe about~~ Mr. Love at this time when you came out of the church?

~~A~~ ~~That he was standing behind the last tree in the~~ block at the corner.

~~Q~~ ~~And what, if anything, did he have in his possession~~ at that time?

~~A~~ He had a pistol, a small hand pistol.

~~Q~~ ~~Now what did you observe about~~ ^T the person across the street?

~~A~~ He had a ^{shotgun} or a rifle, a long gun.

~~Q~~ ~~Did you observe anything else about that person?~~

~~A~~ As I walked down the front steps of the church and got to the bottom, I looked across the street. The man was on one knee, and he had the rifle up sighting it across the street in my direction.

~~Q~~ ~~And can you describe the man, his physical appearance?~~

A I would say he was approximately 5-11, maybe 6 foot, slight build. He was a black man.

Q ~~And what, if anything, occurred~~ at this time when you observed him in this position?

A I jumped behind the closest tree when it appeared he was pointing the rifle in my direction.

Q And then what, if anything, occurred, please, sir?

A A voice called across the street "Father Jones."

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A "Is that you?" I answered "Yes." He said, "Step out from behind the tree." And I stepped out from behind the tree. He then said, "Who is that with you?" And I said, "It is Mr. Love, my neighbor." He then said, "Tll him to step out from behind the tree." Mr. love did not answer, but I said to him, "You heard what he said." Mr. Love answered, "I am not stepping out from behind the tree." I turned then to walk away to try to get to my house. When I was about half way back to the house, I think the same man who had pointed the rifle at me -

MR. BALLANCE: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A Had walked across the street and was standing on

the median in the middle of 5th, and we looked at each other for a second or two and I simply turned away and walked into the house.

~~Q~~ Now at that time what, if anything, did he have in his possession?

~~A~~ He was carrying the rifle.

Q Now later in the evening, Father Jones, did you have occasion to glance out of your building there, the rectory, into the neighborhood?

MR. FERGUSON: Object to the leading.

THE COURT: Overruled. (*Exception No. —*)

A Yes, I was sitting I believe on the back porch of the second floor, and as I looked about I noticed the red in the sky.

~~Q~~ Could you tell where it was?

~~A~~ ^{It was} Somewhere in the general direction of the church south of the house. I went to the window. I could not see any particular building burning, but I could see the flames licking up into the sky. I was fearful that Mrs. Picot, our church organist -

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A That it might be her house or something close by.

MR. FERGUSON: We would move to strike that, if your Honor please.

THE COURT: Motion denied. (*Exception No. —*)

Q I have no further questions of this witness. No, excuse me. FATHER JONES, I hand you what has been admitted into evidence as State's Exhibit number "24" and ask if you can point out where you were and where Mr. Love was.

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A (Points) Mr. Love was behind this tree here. I was behind this tree here.

Q Could you point out on there where the young man went in the median as you have described?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A (Pointing) Here.

Q Now would you point that out for the defense counsel, please, sir?

A This tree here, Mr. Love was behind this tree.

MR. FERGUSON: I just want to be clear. What intersection is that there, Father?

A 5th and Ann.

MR. FERGUSON: Where was the young man? I didn't see that part.

A I can't show it here. On in the median. He came from back here to here. The median is right in the middle of the street.

SOL. STROUD: I have no further questions of this witness.

MR. HUNEVOL: Your Honor, at this time I would like to make the same motion with respect to Mrs. Shephard.

THE COURT: What is your motion?

MR. HUNEVOL: My motion is that you instruct the jury that the testimony of Father Jones in no way corroborates any testimony of any witness as far as my client, Mrs. Shephard, is concerned.

THE COURT: Objection overruled. *(Exception Denied)*

MR. HUNEVOL: I make a motion then, your Honor, that all of the testimony of Father Jones be stricken as relates to Mrs. Shephard.

THE COURT: Motion denied. *(Exception Denied)*

CROSS EXAMINATION BY MR. FERGUSON:

Q Father Jones, just for purposes of clarity, there is a diagram on the board behind you, and I believe there is a ruler or something up there. The blocks comprized of Ann and 6th, Nun and 5th is indicated on the diagram. Do you see what I am talking about? If you will look to the right of the diagram. Would you point out on the diagram approximately where you

were when you were outside standing behind the tree?

A (Points)

Q The tree was in the median that you were standing behind?

A O, no, I am sorry. That is the median, isn't it?

Q The line down the middle is the median, yes. Approximately how far from you was Mr. Love?

A About 10 yards.

~~Q~~ Toward the corner there?

~~A~~ Corner.

~~Q~~ Where was the first young man you saw?

~~A~~ The only young man I saw was here.

~~Q~~ He was the only one you saw?

~~A~~ Yes.

Q And I believe at some point you say he moved across the median. Where did he go to?

A (Points.)

Q Approximately how far was he at that point?

A Approximately 10 yards.

Q And it is at that point you say he pointed the rifle at you?

A No, sir; he pointed the rifle on me over here. He was kneeling on one knee. He was standing there holding the rifle like that.

Q You say a voice said, "Father Jones, is that you?"
Is that a voice that you recognized?

A No.

~~Q~~ ^Q Do ~~you~~ ^{not} ever recall ever having heard it before?

~~A~~ No.

~~Q~~ ^Q Did ~~you~~ have occasion to relate to the Wilmington police or any law enforcement officer the encounter that ~~you~~ had there that night?

~~A~~ Yes.

Q When did you first talk to an officer about it, Father Jones?

A Two detectives; I believe two detectives came to my house, maybe three. I think it was two.

~~Q~~ Do you recall approximately when that was?

~~A~~ ^{It was} Sometime after this incident. I wouldn't want to hazard a guess. It may have been a month or two. I am not sure, maybe longer.

Q Well let me just ask you this. Did you talk to police officers on more than one occasion about this?

A Once on this occasion, once I was called down to the police station when the first trial was coming up.

~~Q~~ ^Q At some point ¹ did you sign a written statement for the police officers?

~~A Yes, I did.~~

Q I wanted to show you what we received as a copy of your statement. Before that, I want to ask you. Have you talked to the police officer on an occasion before you signed the statement?

A Yes. Yes, I recall.

MR. FERGUSON: I'd like to have this marked and identified as Defendant's "6".

(Defendant's Exhibit "6" marked for identification.)

Q Father, would you look and tell me whether or not that is a copy of a statement you signed?

A It is a copy of the statement I signed, but not all of the corrections are in it.

Q Yes, sir. Directing your attention to the top portion of it, I would like for you to tell the jury what date it was that you gave that statement.

~~A I don't recall the date that I gave the statement.~~

~~Q Well at the top can you refresh your recollection by looking at this portion here?~~

A It says February 17, 1972.

Q Father Jones, other than the neighbor, Mr. Love, who was outside with a gun, did you see any other persons who were outside with a gun?

A Not at this time.

~~Q Well later on.~~

~~A During the fire, yes.~~

~~Q~~ ^{one} Did you see ~~some~~ white people with guns out there?

~~A One.~~

~~Q~~ This was ^{before} ~~during~~ the fire?

~~A Before the fire.~~

Q Was that other than Mr. Love?

A The only Mr. Love I know.

Q I have no further question.

THE COURT: Mr. Hunevol, do you have any question?

MR. HUNEVOL: I have no question, Father Jones.

THE COURT: Anything further for the State?

SOL. STROUD: No, sir.

SOL. STROUD: Your Honor, may Father Jones be excused?

THE COURT: Yes, sir.

SOL. STROUD: The State would call Mr. T. D. Love.

THE COURT: Members of the jury, the Court instructs you that the testimony of Father Jones was offered by the State and admitted by the Court in evidence and will be considered by you for the purpose of corroborating Allen Hall

if you the jury finds that it does corroborate Allen Hall and for no other purpose. It is not substantive evidence.

T. D. LOVE, called as a witness for the State, being duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

MR. FERGUSON: If your Honor please, we object to the testimony by this witness on the same basis that we mentioned to the Court and inserted in the record.

THE COURT: Objection overruled. *(Exception No. —)*

~~Q State your ^{my} full name ^{is} to the Court.~~

~~A T. D. Love.~~

~~Q Where do you reside?~~

~~A I live at 208 South 5th Street, Wilmington, North Carolina,~~

~~Q Where is that in relation to SAINT Marys Church?~~

~~A Two doors from Saint Marys Church.~~

THE COURT: Mr. Sheriff, if anybody wants to leave the court, please leave now or else stay here until we take a recess. Don't let anybody in.

Q Mr. Love, do you recall the evening that Mike's Grocery store building was burned?

THE COURT: I didn't hear where he said that he lived.

A 208 South 5th Street, Wilmington, N. C.; two doors from the Catholic church.

Q How long have you lived there, Mr. Love?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A I lived there for 40 years, sir.

Q What is your occupation, please, sir?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A I am retired.

Q What was your occupation before that?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Accountant.

Q Do you recall the evening of February 1971 when Mike's Grocery store burned?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Yes, sir; I do.

Q On that evening did you have occasion to be on the outside of Saint Marys Church at 5th and Nun?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Yes, sir; I did.

Q What, if anything, did you have in your possession at that time?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A I had a pistol in my pocket at that time.

Q Why were you at the intersection at this time?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A My wife and myself were sitting in my home, and I heard a substantial amount of gunfire. My wife and myself both went outside to see what it was all about. It quietened down, and coming from over in the area of 6th and Ann or 6th and Nun was a considerable amount of smoke. I told her "I think somebody had been hurt. Somebody had been shot over there. Something had happened."

MR. BALLANCE: Objection; move to strike.

THE COURT: Motion to strike denied. (Exception No. —)

A The noise quietened down; gunfire did. I went back into my home, took my seat, wasn't too long before it started again, substantial amount of gunfire. In order to protect my home and my wife and myself I put a gun in my pocket and went out front and

stood behind one of the trees in front of Saint Marys Church.

Q At this time did you have occasion to see FATHER Jones?

MR. BALLANCE: Move to strike his previous answer.

THE COURT: Motion denied. (Exception No. —)

A Father James Jones ✓

MR. BALLANCE: Object to the question.

THE COURT: Motion to strike denied. (Exception No. —)

Members of the jury, the testimony of this witness is offered by the State, admitted by the Court, will be considered by you to corroborate the testimony of the witness Allen Hall, if you find it does corroborate the witness Allen Hall. It is not substantive evidence.

Q Other than Father Jones did you see other persons out there at that time?

A Yes, sir; I did.

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I did.

Q How many?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A At least or maybe four. Whether they were the same

persons or not, I think it was the same persons I saw.

MR. BALLANCE: Motion to strike.

THE COURT: Overruled. (*Exception No. —*)

Q Where did you see them?

A Sir, I was standing behind a tree right here. Father Jones behind a tree here. Over on this corner going back and forth in the middle of this block over here to this corner were three black men. They would run from here over there and crouch down when they got to the corner of this house. I was trying to determine what was going on and I observed them. I thought probably somebody was hurt right in here. I am just telling you what my thoughts were, what I saw. I thought someone might have been hurt in here. I couldn't understand why they were running back and forth with a gun at this corner.

~~Q Excuse me just a second.~~

MR. BALLANCE: Move to strike.

THE COURT: Motion denied. (*Exception No. —*)

Q Now if you will just put the yard stick down, please, sir. Now at this time did you hear anyone say anything?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A I heard one or two of these men address the Father, but I am getting a little hard of hearing. I don't know exactly what they said. I remember the Father telling them "There is no one over there but Mr. Love and me."

MR. BALLANCE: Motion to strike.

THE COURT: Motion denied. (Exception No. —)

Q And then what occurred?

A There was a man over here with a rifle coming from this area down into here and the Father - I don't know what he said, if he said anything at all, but the Father told me, "I have got to go into the house. Don't somebody is going to shoot me."

MR. BALLANCE: Motion to strike.

THE COURT: Motion denied. (Exception No. —)

A Just trying to tell you.

Q What did you do then?

MR. BALLANCE: Objection. (Exception No. —)

A At that time I did not go in the house, sir. I stayed behind the tree.

Q And then did you later return to your house?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A Excuse me?

Q Did you later return to your house?

A O, yes, I later returned to my house.

SOL. STROUD: That is all the questions the State has.

THE COURT: Members of the jury, the testimony of T D Love was offered by the State and received and admitted by the Court and will be considered by you for the purpose of corroborating Allen Hall, if you, the jury, finds that it does corroborate him and for no other purpose. It is not substantive evidence.

MR. HUNEVOL: I'd like to make the same motion I did before as I did with Father Jones's testimony and request instructions to the fact that the testimony of Mr. Love in no way corroborates Allen Hall or any other witness for the State of North Carolina as far as my client, Mrs. Shephard, is concerned.

THE COURT: Motion denied. *(Exception No. ...)*

MR. HUNEVOL: I would move that all of the testimony of Mr. Love therefor be stricken.

THE COURT: Motion denied. *(Exception No. ...)* Are you tendering this witness for cross examination?

SOL. STROUD: Yes, I am.

THE COURT: You may cross examine the witness.

CROSS EXAMINATION BY MR. BALLANCE:

~~Q Now, Mr. Love: -~~

MR. BALLANCE: Your Honor, we move to strike
this witness's testimony.

THE COURT: Motion denied. *(Exemption No. ---)*

~~Q Mr. Love, can you tell us when you first talked to
anyone from the Wilmington Police Department, if,
in fact, you did?~~

~~A Excuse me?~~

~~JUROR 6: I couldn't hear what he said.~~

~~THE COURT: Speak up louder.~~

Q Mr. Love, could you tell us when you first talked
to anyone from the Wilmington Police Department
regarding this incident, if, in fact, you did talk
to someone.

A If my memory serves me correctly, shall I say, 2
or 3 weeks after this incident. I could have been
a little longer or a little shorter period of time;
somewhere along in there.

Q Do you recall who you talked with at that time?

A The officer who is sitting here.

~~Q Anyone else - well first, which officer are you
referring to?~~

~~A This officer sitting right here. (Indicating.)~~

Q Mr. W. C. Brown, Detective Brown?

A ~~Yes.~~

Q Was anyone with Mr. Brown at the time you talked to him?

A Yes, another officer. What his name was I do not know.

Q ~~Was anyone else with Mr. Brown and the other officer?~~ ^{No} ^{was}

A ~~Not that I remember.~~

Q ~~Do you recall where you were at the time you talked to him?~~

A I was in front of my home,

Q And you say it was some 2 to 3 weeks later.

Was it 2 to 3 weeks after the incident that you have described?

A ~~Was it what?~~

Q ~~2 to 3 weeks following the incident?~~

A It is so hard for me to keep all that together. I would say 2 weeks. It could have been 3. It could have been one week. I can't remember.

Q No further questions.

MR. HUNEVOL: I have no questions of Mr. Love.

THE COURT: Any further questions from the State?

SOL. STROUD: No, sir. May the witness be ex-

cused?

THE COURT: I expect we'd better take a little recess. Mr. Sheriff, will you turn all the air conditioners on? We'll take a recess for 10 minutes.

(The jury retired to the juryroom.)

(The Court recessed from 3:59 until 4:10 P M.)

WILLIAM H. BUTLER, JR., called as a witness for the State, being duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

MR. FRUGUSON: If your Honor please, we object to the testimony of this witness.

THE COURT: Objection overruled. (*Exception No. —*)

MR. HUNEVOL: I will also object.

THE COURT: Objection overruled. (*Exception No. —*)

~~Q~~ ~~Would you state your name to the Court?~~

~~A~~ My name is William H. Butler, Jr..

~~Q~~ ~~Mr. Butler, are you a resident of Wilmington, North Carolina?~~

~~A~~ I am.

~~Q~~ ~~How long have you been a resident, please, sir?~~

~~A~~ For 49 years.

~~Q~~ ~~And what is your occupation?~~

A I am with the Babcock-Wilcox Company of Wilmington.

Q ~~Are you~~ ^{I am} a member of the Gregory Congregational Church?

A ~~I am.~~

Q ~~How long~~ have you been a member there, please, sir?

A About 23 years.

Q ~~Do you~~ ^{not} presently hold a position in the church?

A ~~I do not.~~

Q ~~Did you~~ in February of 1971 hold a position in the church?

A ~~I did.~~

Q ~~What was your position?~~

A I was Chairman of the Board of Trustees.

Q On Saturday, February 6, 1971, did you have occasion to go to Gregoary Congregational Church in Wilmington?

A ~~I did.~~

Q ~~Had you~~ ^{not} been at the church before that day in that week?

A ~~No, I hadn't.~~

Q Did you know what was happening at the church before that Saturday?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. 1)

A There was a meeting in the earlier part of the

week. Dr. Haywood Bellamy was to speak to troubled parents and students about attentions at Hoggard High School.

~~Q~~ ^{not} Did you attend that meeting?

~~A~~ I did not.

~~Q~~ ^{I was} How were you aware of the meeting?

~~A~~ Because it was asked by Rev. Templeton could this meeting be held the previous Sunday right after church service.

~~Q~~ ^{I was not} Were you aware of any other meetings that were going on at the church the week before that Saturday?

~~A~~ I was not.

~~Q~~ ^{I went} What time did you go to the church on Saturday approximately?

~~A~~ ^{at} It was approximately 1:30 or 2 o'clock in the evening.

~~Q~~ What was your occasion for being there at that time?

~~A~~ I was called by the church's Treasurer, Mr. Herbert Howard, and he came by my house - well, he called me and told me he wanted to talk to me. He came directly by my house and began to explain the situation to me at the church saying that -

MR. FERGUSON: Objection.

THE COURT: Can't tell what someone said to

you. Objection sustained.

Q As a result of what he said, what did you do? ~~---~~

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A We proceeded to the church.

~~Q You say Mr. Howard is here in the courtroom?~~

~~A He is.~~

~~Q Would you point him out, please, sir?~~

~~A This is Mr. ^{Howard} Howard here. (Indicating.)~~

~~Q That is Mr. Herbert Howard?~~

~~A That is Mr. Herbert Howard.~~

Q Do you know what his employment is?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A He is Magistrate of New Hanover County.

~~Q He is a Magistrate of New Hanover County?~~

~~A Right.~~

Q And he is the Treasurer of the church?

A He was at that time, and he still is.

Q What did you observe when you arrived at the church on that Saturday afternoon, please, sir?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A Several young people milling around the church,

and we went directly to the Rev. Templeton's, and he began to explain the situation to us.

Q By milling around the church, do you mean on the outside or inside?

A Mostly on the outside; ~~one or two maybe -~~

~~Q Pardon me? I am sorry.~~

~~A One or two may have been inside.~~

~~Q About how many people (were outside at this time?)~~

~~A I would say about a couple of dozen people.~~

Q What, if anything, did any of these people have in their possession at that time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

MR. HUNEVOL: Objection.

THE COURT: Overruled.

A I did observe one rifle. I did observe that. It was an old one, an old rifle.

Q Where was it?

MR. FERGUSON: Object.

THE COURT: Overruled. (*Exception No. —*)

A It was lying across the lap of a young man that I know.

Q Who was that?

MR. FERGUSON: Object.

THE COURT: Overruled. (*Exception No. —*)

A This young man was Roderick Kirby.

MR. HARMON: Move to strike.

THE COURT: Overruled. Go ahead. (Exception No. —)

Q Where was Roderick Kirby at that time?

A He was sitting on the steps.

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A He was sitting on the steps of the church.

Q What, if anything, did you observe in the possession of any of the other people there?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A They were only milling around, some drinking soft drinks, some drinking beer.

Q Did you see any other weapons?

~~MR. FERGUSON: Object.~~

~~THE COURT: Overruled. (Exception No. —)~~

A I did not.

~~MR. FERGUSON: Withdraw the objection.~~

Q Now what, if anything, occurred after you talked with Rev. Templeton then?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A We proceeded into the church, and I was trying to

observe what damage had been done to the church. I did observe that some pews had been damaged in the church. The church carpet was soiled, and the walls had just been painted, and they were slightly dirty.

MR. FERGUSON: Move to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q Who was in the church with you at this time?

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exception No. —)*

A Rev. Templeton and I; and that is when I met Ben Chavis for the first time.

~~Q~~ ~~Would you point out in the courtroom, please, sir?~~

~~A~~ That is Ben Chavis. (Pointing.)

Q What was the defendant Chavis wearing at that time?

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exception No. —)*

A At that time I remember distinctly he was wearing street clothes.

~~Q~~ Was ^{he} ~~he~~ wearing a clerical collar?

~~A~~ ~~No, he was not.~~

Q Were you introduced to him as Rev. Ben Chavis?

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exception No. —)*

A I was not.

Q Did you have occasion to say anything to the defendant Chavis at this time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A I did talk with him briefly.

Q What did you say to him?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)
Members of the jury, you will consider this testimony only as to the defendant Ben Chavis.

A I did tell him that it was wrong.

Q You told him what, sir?

A That this was wrong.

MR. HARMON: Move to strike.

THE COURT: Motion denied. (Exception No. —)

A And that these people should not be in here. This was wrong. This was the church, and he was destroying it.

MR. BECTON: Move to strike.

THE COURT: Motion denied. (Exception No. —)

Q And what, if anything, did he say to you?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)
Members of the jury, you will consider this testimony only as to the

defendant Ben Chavis.

A "Man, you don't know what you are talking about."
And you know, so on. Mr. Chavis is much younger
than I am, and you know how the young people speak
today, and that was the only conversation that I
had with Mr. Chavis. That was the first and last
time that I saw Mr. Chavis.

MR. FERGUSON: Move to strike.

THE COURT: Motion denied. (*Exception No. —*)

Q Now when you made the statement to him that this
was wrong, what were you referring to?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Using the church for such purposes.

MR. FERGUSON: Move to strike.

THE COURT: Motion denied. (*Exception No. —*)

Q What kind of purposes?

A Gatherings.

MR. FERGUSON: Objection; move to strike. (*Exception No. —*)

A Gatherings in the church.

THE COURT: Members of the jury, you will con-
sider this testimony only as to the defendant
Chavis.

Q Did you observe anything else on the inside of the

church at this time other than what you have described?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Only the condition that the church was in.

Q Did you observe any kind of bottles inside of the church?

MR. FERGUSON: Objection; he is leading.

THE COURT: Well don't lead the witness; objection overruled. Go ahead. (*Exception No. —*)

A By me being the Chairman of the Board of Trustees, naturally the church's property is under the jurisdiction of the Trustees. The Trustees are entrusted with the property of the church. It was my duty to observe what damage had been done. I did find a couple of wine bottles, and I did find a knife.

Q Did you have occasion to go into the belfry or attic of the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A As I just stated that it was our duty to keep the property of the church, I was trying to observe what damage had been done to the church, to the church's property; and I also went upstairs up in the belfry of the church.

Q What, if anything, did you observe up there, please?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A I observed some chairs that had been taken up in the attic.

Q And how were the chairs situated?

MR. FERGUSON: Objection.

THE COURT: Overruled.. *(Exception No. 1)*

A These chairs were facing Nun Street.

Q And are there windows there?

MR. FERGUSON: Objection. *(Exception No. 1)*

A Yes, sir; there are three windows in the church.

Q And what was the position of the windows as to being open or closed?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A They were raised.

Q Now in the sanctuary of the church did you observe any type of equipment?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A There was no equipment there, but there had been.

I don't know if this amplifier system had been used that Monday night for Rev. Bellamy's speech

to the audience or not, but there was an amplifier
in the vicinity.

~~Q There was an amplifier?~~

~~A And a couple of public speakers.~~

~~Q Where?~~

~~A I do not remember if it was in the church or over
at the house.~~

MR. FERGUSON: Motion to strike.

THE COURT: Motion denied. (*Exception No. —*)

Q Now did you have occasion at this time to say any-
thing else to the defendant Chavis or any of the
people that were there?

A I did not.

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

Q Did you ask the people to leave the church?

MR. FERGUSON: Objection; he is leading.

THE COURT: Overruled; don't lead him. (*Exception No. —*)

A We did.

~~Q You did what?~~

~~A Ask the people to leave.~~

Q Who did you ask?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A No particular individual because I did not know these young people, none of them.

Q And did any of the people leave at that time when you asked them to?

A Not right away.

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A Not right away. They would walk a few steps and turn around and come back and chat and keep on going. Not with me. With one another.

Q With regard to the belfry there, had you ever seen chairs in the belfry before that time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A There was never no need for the use of chairs up there.

Q After this what, if anything, did you do?

~~A Beg pardon?~~

~~MR. FERGUSON: Objection.~~

Q After this what, if anything, did you do after going into the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. ---*)

A We talked briefly. Mr. Howard and I talked briefly

with Rev. Templeton and some of the young people were beginning to move on. I couldn't spend the rest of the Saturday afternoon up there. I felt that the Rev. Templeton could do more with the young people than Howard and I. And Howard and I left.

Q Would you observe the young men that are over on this side of the courtroom, the defendants, and tell me if any of them are members of Gregory Congregational Church, please, sir?

A No, they are not.

Q Now on that same Saturday later did you have occasion to go back into the general neighborhood of the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Simpler than...)*

A That Saturday night I was called at my home at approximately 9 or a little after 9 to state that there was -

MR. BECTON: Objection.

A To state that there was -

MR. BECTON: Objection.

THE COURT: Objection sustained.

Q As the result of the phone call what, if anything, did you do?

A The party that called me on the telephone that Saturday said that -

MR. BECTON: Objection.

THE COURT: Objection sustained. You can't state what someone said over the phone.

~~Q As a result of what he said.~~

A As a result of the telephone call I proceeded up in the direction of the church because there was a large fire in the vicinity of the church.

~~Q What street were you travelling on?~~

A I travelled through - I went through 8th Street to Nun. I could park on Nun Street at 8th and Nun and look all the way down to see whether or not the church was on fire. The church was not on fire. So I proceeded north on 8th Street to Orange. I turned left at Orange Street and proceeded towards 6th Street. That is when I saw that Mike's store was on fire.

Q And at this time did you hear anything?

A When I got at 6th and -

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A When I reached the corner of 6th and Nun the firemen were there trying to get to the fire.

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A And there was gunfire in the area. The police were waving people to get out of the area.

Q On the following day, Sunday February 7 -

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

Q Did you have occasion to go -

MR. BECTON: Objection.

THE COURT: Overruled. (*Exception No. —*)

Q Did you have occasion - excuse me just a second.

May we have a moment?

THE COURT: yes, sir.

Q Let me repeat the question if I may. On the following day, Sunday, February 7, did you have occasion to go into the general neighborhood of Gregory Congregational Church?

A I did.

MR. BECTON: Objection on Sunday.

THE COURT: Overruled. (*Exception No. —*)

Q What street were you travelling on, please, sir?

A I travelled 8th Street to Ann; turned left on Ann to 7th and came down 7th and parked between Ann and Nun on 7th Street.

MR. BECTON: Move to strike.

THE COURT: Denied. (*Exception No. —*)

Q ~~How long did you stay there?~~

A ~~Less than an hour.~~

Q Where did you go at this time?

MR. BALLANCE: Object.

THE COURT: Overruled. (*Exception No. —*)

A I proceeded towards Rev. Templeton's house.

Q And did you have occasion to talk with Rev. Templeton at that time?

A I went there to get Rev. Templeton.

Q And did you see any people in the area of Rev. Templeton's house or the church?

MR. BECTON: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Very few because he met me on the sidewalk.

Q Did you observe the intersection of 6th and Nun Street at that time?

MR. BALLANCE: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Not at that time.

Q Did you observe it during the time that you were there on that Sunday morning?

A Just merely glanced up the street.

Q What, if anything, did you see up the street?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A At that time I didn't see too much.

Q Did you have occasion to later come by the church on that Sunday?

MR. FERGUSON: We object to that.

THE COURT: Overruled. *(Exception No. 1)*

A We didn't go by there. No, I didn't.

Q Into the general neighborhood?

A O, later on that Sunday evening.

Q Did you have occasion to observe the intersection or area of 6th and Nun at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A Briefly.

Q Did you observe anyone at that intersection?

MR. HUNEVOL: Objection. *(Exception No. 1)*

A I observed two or three fellows standing around in that vicinity of 6th and Nun.

MR. BECTON: Move to strike.

THE COURT: Overruled. *(Exception No. 1)*

Q What, if anything, did you observe in the very pos-

ression of these fellows?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Ex. plan No. —)*

A There was a young man with a gun.

Q What kind of gun was it?

MR. FERGUSON: Objection, if your Honor please. *(Ex. plan No. —)*

A It appeared to be a machine gun.

MR. FERGUSON: Object to what it appeared to be; move to strike.

THE COURT: Objection overruled; motion to strike denied. *(Ex. plan No. —)*

Q I appeardd to be what?

A A machine gun.

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Ex. plan No. —)*

MR. HUNEVOL: Objection.

THE COURT: Overruled.

Q Had you ever seen a machine gun before?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Ex. plan No. —)*

A Yes, sir. I spent time in the service.

Q Sir?

A I have spent 5 years in the service, and I know about weapons.

Q You know what?

A I know slightly about weapons and appearance of weapons.

MR. HUNEVOL: Motion to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q Now were you able to recognize though that was a machine gun?

MR. BECTON: Objection.

THE COURT: Overruled.

A No.

THE COURT: Withdraw the objection you say?

All right.

Q Did you have occasion in the evening to be back by Rev. Templeton's house?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception No. —)*

A After the meeting Sunday after our Sunday meeting I did go back up to the house to see if he had gone.

~~Q~~ And was he there?

~~A~~ He was there.

Q Did you observe any of the defendants there at that time that you can recognize at this time?

MR. BECTON: Objection.

THE COURT: Overruled. *(Exception No. —)*

A Did recognize a person that I saw there at that time.

~~Q Who is that?~~

~~A It is that woman there. (Pointing.)~~

~~Q Pardon?~~

~~A That lady there.~~

~~Q The woman?~~

~~A Yes, sir.~~

MR. HUNEVOL: Objection; move to strike.

THE COURT: Members of the jury, you will consider this testimony only as to the defendant Ann Shephard. Motion to strike others is allowed. *(Exemption No. —)*

SOL. STROUD: I would like the record to show that the witness did point to the defendant Ann Shephard.

Q What was he doing at that time, if you recall?

MR. HUNEVOL: Objection.

THE COURT: Members of the jury, you will consider this testimony only as to the defendant Ann Shephard. *(Exemption No. —)*

A She was preparing meals in the kitchen.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exemption No. —)*

Q Now Mr. Butler, did you have occasion to go by the church on Monday, February 8, 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. 1*)

A I was called to the church that Monday.

Q Who was at the church when you arrived there?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection. (*Exception No. 1*)

A When I arrived at the church I met the police and the National Guard.

Q Were there any people?

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. (*Exception No. 1*)

Q Were there any other persons there inside the church and Rev. Templeton's house or outside other than police officers and National Guardsmen?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. 1*)

A There was no one there.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (*Exception No. 1*)

Q At this time as Chairman of the Board of Trustees of the church, what, if any, authority did you give

to any police officers or National Guardsmen?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Suggestion No. —)*

A The police brought a warrant with them asking for my signature to enter the buildings, especially the house. I told them the church was locked and no one was in the church if they wanted to go in the house. I signed the warrants and they entered the house.

MR. BECTON: Motion to strike.

THE COURT: Denied. *(Suggestion No. —)*

Q Who opened the house and the church for them?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Suggestion No. —)*

A Mr. Horace Bryant was holding a key at that time.

~~Q What was his position with the church at that time?~~

~~A~~ He was not an officer at the time. He and Rev. Templeton were very close friends. Rev. Templeton gave him a key to pick up the mail and so forth, and on the trips out of town would leave the key with Horace Bryant. I did not have a key to unlock the door. Horace Bryant did. The pictures will show you where he unlocked the door.

Q Did he unlock the door of the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. 1*)

A No, he unlocked the door to the house.

~~Q Who unlocked the church?~~

~~A~~ The church was locked and there was no reason to go in the church. I never entered the church with the police nor the National Guard.

Q Did you have a key to the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. 1*)

A Yes, I had a key to the church.

SOL. STROUD: May we have just a minute, your Honor?

THE COURT: Yes, sir.

SOL. STROUD: The State has no further questions of this witness and tenders him for cross examination.

MR. HUNEVOL: Your Honor, I'd like the same instructions that I have requested before as far as Father Jone's testimony is concerned, Love's testimony to the effect that this witness's statements up here in no way corroborate any witness for the State of North

Carolina as regard my client, as regard the charge against her.

THE COURT: Motion denied. *(Exception No. 1)*

MR. HUNEVOL: Move to strike all the testimony of this witness.

THE COURT: Motion denied. *(Exception No. 1)*

MR. BECTON: If the Court please, we move to strike the testimony of Mr. Butler here.

THE COURT: Motion denied. *(Exception No. 1)*

CROSS EXAMINATION BY MR. BECTON:

Q What was the person's name you said was the Treasurer of the church at that time?

A Mr. Herbert Howard.

Q ~~Spell his name, please.~~

A ~~H O W A R D.~~

Q ~~When you went to the church on Saturday, February 6, 1971, was Mr. Howard~~ ^{was me} ~~with you at that time?~~

A ~~He was.~~

Q ~~Did he~~ ^{he} ~~accompany you~~ ^{not} ~~through the church and through Rev. Templeton's house?~~ ^{me}

A ~~Not through Rev. Templeton's house. We entered the church about simultaneously of Mr. - Mr. Howard was with me and Rev. Templeton.~~

Q You and Mr. Howard and Rev. Templeton were together

throughout your visit to walk through the church?

A Briefly, yes.

Q Did ~~you~~ ^{not} have an occasion to go inside Rev. Templeton's house?

A That Saturday?

Q ~~Yes, sir.~~

A ~~No, I did not.~~

Q ~~And I believe you~~ said there were about two dozen people milling around on the outside fo the church?

A ~~Right.~~

Q How many people, if any, were on the inside of the church at the time you went in?

A At the time I was in there, none.

Q ~~About what time of day was this?~~

A ~~This was~~ Approximately 2:30 or 3 o'clock in the evening.

Q ~~I believe you say~~ ^{I said I} you only saw one weapon and that was a rifle held by Roderick Kirby.

A At that time.

Q ~~Is that correct?~~

A ~~That is correct.~~

Q ~~And you saw a knife at some other time?~~

A A knife was lying on the window sill in the church. I picked it up as I was observing damage.

Q On February 5 and February 6, 1971, did Gregory