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We don't know who the director is, who the producer is, who the scriptman is, but somebody is. These witnesses have all been rehearsed. Why do you think when little Motor Mouse was interviewed, why do you think that Allen Hall was there? Why was Allen Hall there when Motor Mouse was interviewed? Allen Hall is not a policeman, is he? He is not a Solicitor. He is not a Deputy Sheriff. Why did they take Allen Hall there? They wanted Allen Hall to tell his story and let Motor Mouse tell the same thing. Then Motor Mouse gets on the stand and tells about his hard life, and you are supposed to be sympathetic with him. Armed robbery, breaking and entering, lying to everybody, to his grandmother, always lying to everybody. Do you think Motor Mouse won't lie to you? Lies to his grandmother. Think he won't? Sure he will. They have all been rehearsed.

They have all been rehearsed by the State. State is director, producer, scriptwriter. Everything been rehearsed.

This case is simply this. It is an attempt to get a conviction of mainly Ben Chavis. That is what this case is really all about, an attempt to get Reverend Ben Chavis. I mean you have all heard of him. You know you have either

read about him, heard about him on radio, or saw him on T.V. You know who he is, know all about him.

The State wants to put him away. But they can't put him away by himself. Got to put some more people with him.

Allen Hall said five people threw firebombs, which will help. More people had guns in the bushes waiting. Ben Chavis might be well known, but he is not all encompassing. He can't do all these things by himself. Give him more people. Jerry Jacobs, Wayne Moore, Joe Wright, Willie Vereen, Reginald Epps, James McKoy, Connie Tyndall, George Kirby, Marvin Patrick.

Now another aspect of this case, the State couldn't just have all black defendants. That wouldn't look right. In comes Mrs. Ann Shephard. That is why she is in this case. We can't say, "Well you are just prejudicing black people." They can say, "Well got Ann Shephard, too."

How can a little Motor Mouse eighteen months ago get on this stand and tell you exactly what she said eighteen months ago, February the 6th? He said she said, "We have got to show those crackers." Then he said, "We have got to show those hunkies." Which did she say? Can any of

you recall what you were doing February 6, 1971? Think about it a minute now. Can you recall what you were doing? I can't recall what I was doing February 6, 1972. You sure can't either. Another example of how these witnesses have been rehearsed.

They put on Jacky Shaw. He spent one hour talking about how he shot Steve Corbett. Jacky Shaw ain't on trial in this trial. Steve Corbett's death was not on trial. Why did they bring that in? To further inflame you, to show you that somebody was killed on the night of February 6. But again I ask you. Look at the diagram, what does Jacky Shaw's killing of Steve Corbett have to do with whether or not Mikes burned, who burned it and whether or not there was an agreement to assault emergency personnel in the area of 302? Had nothing to do with it.

Let's talk about another thing. You will recall that policemen testified that they were assaulted in the area of Fifth and Nun on the diagram. And right away they left Fifth and Nun, came down Fifth Street and then went up Sixth Street, and as they were going up Fifth Street towards Sixth and Ann the fire truck was backing out. Do you recall that? What did they mean? It means that Mikes was already ablaze.

Did the same people who were down here at Fifth and Nun, were they also up on Sixth shooting at firemen and policemen? Could they have been two places at once? It had to be according to the police's own statements two different groups of people.

What did Allen Hall say? "We went down to Fifth and Nun. Somebody threw a firebomb. It went out. The police came up. They put it out. We started shooting at them. We left there, went back to the church and then Ben Chavis made this statement, and George Kirby said something. Ann Shephard said something. Then Ben Chavis and I went outside. We started talking. We up to Sixth and Ann, Sixth and Nun, looked around, went back to the church, went to the back of the church, got the firebombs, went down to Mikes, threw the firebombs."

Why did all of this happen? Where was Reverend Chavis? Was he at Fifth and Nun? Was he also at Sixth Street?

If the fire at Mike's Grocery started before the assault ended at Fifth and Nun, how was Ben Chavis up there on Sixth Street shooting a weapon at the same time that it started? Couldn't have been two places at once. But like I said before, in the final analyses this case is just an

attempt for a conviction of Rev. Benjamin Chavis.

The State doesn't really care how it gets it. It doesn't make much difference to them, just so they get it. You stand between Rev. Chavis and a conviction. It is up to you. Nobody is going to try to tell you what to do. It would be improper if someone did so.

But just think about what the State has done in this case. This guy is an arsonist, murderer, a little juvenile delinquent. All of these people have committed very serious offenses, arson. You know that is serious. Murder. Can you imagine a little eleven year old boy taking a little knife and rock a grown man? Doesn't that take nerve. Don't you know any little boy that would do that? Lie to you; lie to me; lie to anybody you can think of and wouldn't care? Would care less about it. Don't you know he would? Well then you say how about motive. Why would Allen Hall pick out Rev. Chavis? Why didn't he just get somebody else? You have got to know something about a mind like Allen Halls. He is forever scheming.

He stated Benjamin Chavis was suppose to get him a lawyer. Didn't get him a lawyer. He got mad about it. He said, "Well I'll show him. I'll fix him." It was at

this point that the State and Allen Hall came together. Each man wanted something. Each man wanted the same thing, the State and Allen Hall wanted the same thing. They wanted to get Rev. Ben Chavis.

Each had his own reasons for wanting him. Allen Hall's reason wasn't the same as the States. Allen Hall's reason was merely a personal reason. The State's reason is somewhat more complex. It is perhaps hard for you to understand that a State would want to put a person away. You probably say, "Well that is not true, no. No State would do that. No Government would want to put a citizen away."

Well just think about it. From what all of you have read about Rev. Ben Chavis, all of you have developed some type of opinion about him I am sure. The public is perhaps divided. I would concede that. There are some who perhaps say he is no good. There are others, on the other hand, say he is good. He is doing something. I don't know how you feel about it.

In this case that is not real important. It shouldn't be important because all of you said, "No matter what I think of him I can disabuse my mind of my prior opinion and render my verdict solely on the evidence."

But you know its a very difficult thing to do, disabuse your mind of anything once you get it in your mind. It is not easy. Those of you who have small children, you know this. It is the hardest thing in the world to get a child to learn how to do something. But you also know this. Once that child learns how to do it, he will never learn how not to do it.

The same thing about an opinion. Once you develop a fixed opinion about a thing, I don't care what anybody tells you about disabusing your mind, you are not going to do it completely. That is just human nature. We act according to our experiences. We can try to put it aside, but we just can't do it. You can't say that didn't happen; so I will forget about it for two days; I'll come back and bring it back in my mind. You can't do it. That is not the way human nature operates. I just hope that you will disabuse your mind of any opinion you may have about Rev. Chavis and render your verdict solely upon the evidence that has been presented from this witness stand.

We have had firemen, policemen, Smiths, Loves, Father Jones, everybody talking about everything but whether or not Allen Hall was telling the truth when he said these

defendants, what he said they did.

Oh, then Jerome Mitchell and Motor Mouth, all of whom have committed felonies, who else do you have who has testified Benjamin Chavis or anybody else did anything?

Now consider for a moment Officer Chipps. Fine man, I assume. What did he say? "I recognized Rev. Chavis about 6:30 Saturday morning. He was about 170 feet from me and right across the street were some other people with guns. I didn't recognize who they were. I didn't know who they were." How are you going to look past ~~and~~ somebody somewhere else and recognize the person further away than the one right there next to you and then recognize any of them.

Now let's talk about the chinchilla man. "Yes, I recognized Rev. Chavis. He was in my chinchilla shop in January." How would he remember somebody being in his chinchilla shop in January of 1971, somebody that didn't even talk to him.

And then he started hedging. "Well it kinda looked like him." A lot of people look alike. "It kinda looked like him."

Everybody that the State found who would say I saw Ben Chavis anywhere, took the stand and testified. "I saw Benjamin Chavis here. I saw him there, here, there, every-

where, Benjamin Chavis." That man would have to have wings to be everywhere they said he was.

You heard Mr. Taylor testify for the defendant Ann Shephard there was no Liberation Club at 708 Castle Street in February of 1971. There was a furniture store there then. Later on in February a pool room moved in.

Now Jerome Mitchell said, "I have been going there for over a year." Well he probably had. Let me tell you why he had been going there. Probably been stealing from the furniture store. That is probably why he was going there.

So in the final analysis this case really becomes a very simple case; whether or not you believe Allen Hall.

Well Jerome Mitchell now he just happened to show up at certain places at certain times. It is whether or not you believe Allen Hall and little Erick Junius, better known as Motor Mouse. That is what this case resolves about, whether or not you believe these two people.

The defendants contend that you should not believe them because each of them has an interest in this case. Allen Hall wants to get Rev. Chavis because he didn't give him a lawyer. And, of course, Motor Mouse, he told you he committed armed robbery; only served eleven months and got out, but he knows he can go back. Who do you believe? These State

characters? Or do you believe the defendants who have pleaded not guilty, and by that plea of not guilty they have said that they are not guilty?

Now these are very very serious cases. These are all young men. Most of them are probably younger than you. So you might at first glance, you might have trouble seeing things from their point of view. They probably average twenty years of age. Most of you are probably older than twenty. I think about the old Indian prayer where one Indian told another one. "Do not criticize a fellow Indian until you have walked a mile in his moccasins." So before you can really judge these defendants you have got to look at things from their point of view, their point of reference. Their backgrounds are not the same as yours. Their experiences have not been the same as yours. Somehow you have got to try to see things from their point of view.

Let me talk about another thing that bothers everybody in this case. Some of you are probably horrified at the thought that there could be guns in a church, in a sanctuary. Think about that for a moment. The idea that there may have been guns in the Gregory Congregational Church at sometime. But I submit that you should not be horrified

because there were guns in the church, but you should be horrified that a church had to have guns in order to protect itself. You heard Ann Shephard testify that people come by shooting at the church, bomb threats, scared. You can't imagine ever having to have guns at church to protect you.

You may say, "Well they should have left it. Would have been better." But ladies and gentlemen of the Jury, when you can't be safe in the church, where else can you turn? If people will shoot into the Lord's House, where else are you going? You can't go home because any man who would shoot into a church would certainly shoot into a home, would shoot into a car.

Now the State offered no rebuttal evidence that the shots were not fired at church, none whatsoever. Wouldn't it just horrify you to think that you could be at your church. Somebody would come by, night riders would shoot into your church. What would you do if someone did that in your church? Hopefully it will never happen. But we are talking about a situation where it did, in fact, happened. People riding by, shooting in a house of the Lord, mad men, night riders. What would you do if somebody came by, shot into your church? Would you pick up and leave? If so, where would you go?

You can't stay at the police station all the time. If you can't be safe in the sanctuary of the church, there is no where else to go. If you have got to leave there, you might as well pack up and forget it. So don't be horrified because guns may have been at Gregory, but be horrified that Gregory may have had to use guns. That is really what should repel you.

These people at the church were there at the invitation of the church. Had a perfect right to be there, and it was not until the church had been fired upon that any guns ever appeared at the church. That is why the guns were there, if you so find that they were there. No guns were at that church on that Monday, Tuesday, Wednesday. Guns only came when the bomb scares came, the firing at the church. That is something that all of you ought to think about, the idea that you have got to put guns in the church in order to protect the church.

In conclusion I just might say this. My colleague, Mr. Ballance, mentioned Clifford Irving. Now some of you may not know Clifford Irving, but all of you know about Howard Hughes, the Big Ann. Now that is what he was talking about.

The State produced no witness to corroborate Allen Hall, Jerome Mitchell and Erick Junius except policemen and

firemen who only corroborated that Mikes burned, that they were fired upon.

Here is another thing to think about. Father Jones gave his statement to the police February 17, 1972, in which he stated that he left his church, was walking down. Some man came out in the street. There was behind him a white man with a gun. The next day Allen Hall gave his statement. At the time Allen Hall gave his statement the police knew all about that incident. All they had to say was Allen Hall and Father Jones said this. Allen Hall said, "I was there. I was the man that hollered at him. Ben Chavis stood there with a silver handle pistol." All he said was everything that Allen Hall put in his statement the police already knew. They knew that Mikes had burned around midnight, February 6.

One other thing, Erick Junius stated he mashed his finger at Gregory on the night of February 6; that Ann Shephard took him over to Rev. Templeton's house for Mrs. Templeton to fix his finger; that he then caught a cab to New Hanover Hospital where he was treated in the emergency room. Now what question comes to mind in your mind right now? Where are the hospital records showing that he was

treated? Where are they? Now you know a hospital keeps records. Everytime you go into a hospital for any reason whatsoever, your name is written down and a chart is made for you. Everytime you are treated, what doctor treated you. Well again maybe the State couldn't get the hospital records of New Hanover Hospital. Where are thoses records to support Erick Junius' assertion that he was treated at the hospital? Now you know if there are any such records in existence the State would have produced them.

W. C. Brown, great investigator, where are the records. We don't have them. Where are the records? I submit there are no records.

In summation I say that you just cannot believe these State witnesses because they all have an interest in it. They have all committed serious offenses, and they all want to see these people convicted, and we maintain that at least based on all the inconsistent statements, if nothing more, there should be a reasonable doubt in your mind of each of these defendant's guilt on each charge.

It's sort of like when you start deliberating you will come to like a fork in the road. You go this way,

or you can go that way. And the law says this. When you come to the fork in the road now one says guilty and one says not guilty. If you are satisfied beyond a reasonable doubt they are guilty then you will take this road. If you are not so satisfied then you will take this road. But what if you come to the fork of the road and can't make up your mind? You might say, "Well he might be guilty. Well they might be innocent." The law says so long as you can make up your mind you don't know which way to go, you must take a not guilty road because so long as you can't make up your mind that means you have a reasonable doubt. Thank you.

THE COURT: Members of the Jury, we are going to take a recess until tomorrow morning. May I again instruct you not to discuss these cases with anyone nor allow anyone to discuss it with you or in your presence. Do not discuss it among yourselves until you have the case for your deliberation. May I again instruct you not to read, view or listen to any news accounts of this trial if such should appear in the press, on television or on radio. May I again instruct you not to linger about the Courthouse or the Courthouse grounds on your way to your destination? On your return

in the morning now when you do return in the morning go immediately to your Jury room and there await the opening of Court. You go now, members of the Jury, and come back at 9:30 tomorrow morning.

(The Jury retired from the Courtroom.)

(The Court recessed at 4:45 P.M.)

October 13, 1972

9:33 A.M.

THE COURT: We are going to take a recess anywhere around 11 or 11:30. If you want to leave I'll ask you to leave now. I don't want anyone going in and out of the Courtroom until recess. Bring the Jury in.

(The Jury comes into the Jury box.)

(Mr. Ferguson summed to the Jury on behalf of the nine defendants as follows:)

May it please the Court, ladies and gentlemen of the Jury, let me add my word of thanks and appreciation to you for the attentive, kind, understanding and patient manner in which you have sat over the past five weeks and listened to the proceedings.

Part of that time was consumed in our selecting you twelve ladies and gentlemen to serve as the Jury in this case, and a part of that time was consumed in the presentation of evidence in this case. That is it has indeed been a very long case by any standards, the longest case I have ever been involved in, as a matter of fact, and I am sure it is the longest case that many of you have been involved in or even been familiar with.

The fact that it has been somewhat of a long case perhaps is indicative of the tremendous importance of this case to everyone involved, and particularly the nine young men and one young lady who are on trial here. Now for many of you this was a completely new experience, some of you never having served on a jury before. For perhaps all of you it is a unique experience. For I doubt if any of you have ever experienced anything like this before, and it is doubtful that even after this you will experience it again.

The role you have been called upon to play in this matter is one which is in my view more important than that of anyone else, and I will tell you why. You are the ones who will ultimately decide which way this case is going to go.

Now for those of us who are counsel in the case, both on the side of the prosecution and the side of the defense, our responsibility is a very heavy one. I feel very personally that in any criminal case the responsibility of defense counsel is a very heavy one in any kind of a case because the person on trial seeks to project himself and his defense to you through his counsel. That would be true in the simplest criminal case.

In the cases at hand, ladies and gentlemen, our

responsibility is indeed a very, very heavy one. In this case our responsibility, as I see it, is eighteen times as heavy as it would ordinarily be. Yours is nineteen times as heavy as it would ordinarily be. I say that because those of us who are representing these nine young men here in effect are representing nine defenses. So that makes it nine times as heavy. But we are presuming nine defenses to two criminal charges, and that makes it eighteen times as heavy.

You are not only to judge these nine young men, but also the one young lady on an additional charge. And that makes your responsibility nineteen times as heavy as it might be in the ordinary criminal case. And the charges faced by these persons are indeed very very serious charges with serious consequences flowing therefrom.

So in a sense, ladies and gentlemen, you have in your hands ten lives and you have to make a judgment about those ten lives because your decision here will effect those ten lives in a way that perhaps no other decision that has ever been made in the lives of these ten people before ever could or ever will. So it is in this connection that we come to trial here and go through the process that our system of law has devised for the hearing and trying of

criminal cases. It is in this context that your role becomes extremely important, ladies and gentlemen, as twelve impartial arbitors of the facts of this matter.

Now our system of law is set up so that no man and no woman no matter what the color of his skin, no matter what his political beliefs, no matter what his religion, no matter what his station in life, can be deprived of his liberty, convicted of a crime except the twelve impartial people drawn from the community sit in judgment on those persons, listen to the facts and make up their mind about whether or not the State has proven its case beyond a reasonable doubt.

Now there is a reason that our system of law operates that way. And the reason is that those persons who founded this Country, those persons who authored the Constitution which governs us all felt a need to interpose twelve people between the awesome power of the State and the powerless individual who might be effected by that power of the State. The founders of this Country and the authors of our Constitution knew that because of abuses in the past that something had to come between the police and the citizens, something has to come between the prosecutor and the citizen. Otherwise one man could view a given individual engaged in any given

act and say, "You are guilty of a crime, and you have got to go to jail. You have got to be deprived of your liberty." And no one would have anything to say about that.

Someone has to come between the prosecutor and the individual citizen. He elsewise anytime the prosecutor felt that someone had committed a crime he could simply come in and rip that person off the street, put him in jail and that would be the end of it. And you and I would have nothing to say about it.

The founders of this Country and the authors of the Constitution realized what the awesome power of the State was. It realized what it could do to an individual citizen if there were no safeguards imposed to govern all of us. And you, ladies and gentlemen, the twelve of you seated here, are the guardians of those rights that have been imbedded in our system of law and our Constitution. The same system of law, same Constitution that would protect you or your sons or your daughters or your friends or your loved ones if ever they should be the target of this awesome power of the State that I mentioned to you. And that is why I say to you, ladies and gentlemen, that the position that you hold, the role that you play, the function that you serve in the trial of this

case or in the trial of any case indeed is a very solemn one and you shoulder a very, very heavy responsibility.

Once understanding that, then it becomes clear what some of the processes were that we went through in deciding upon the twelve of you as being the twelve peers of these people on trial to sit in judgment on them. Some of you may have wondered when we started selecting the jury, now why are these lawyers over here asking me all these questions about whether I have ever served on a jury before, what have I read about this case, what have I heard about this case, what kind of work do I do, who do I work around, what my feelings are about race, what my religion is, what church I go to. Why are these lawyers asking me all these questions about my personal life and my personal affairs? Why can't they let me sit on this jury if they want me or take me off if they don't?

The reason for that, ladies and gentlemen, is that anyone who is faced with serious charges such as these, has to make that effort to be extra sure that the person who sits in judgment are indeed persons who can in fact be completely fair and impartial and unaffected by outside influences to the greatest extent possible. It is perhaps

impossible ever to find any twelve people or perhaps any one person who is completely and absolutely free of all prejudices, of all factors which may influence you other than the evidence in the case. That is well nigh impossible, and I think I realize that as well as anyone.

Many of us are affected by prejudices that we have that we aren't even aware of. I know that sometimes I react to people in different ways. Some people I take an immediate liking to. Others I am kind of standoffish about. Is there a real reason for that? I don't know. Perhaps it is some prejudices that I have that I am not conscious of. Sometimes because of my cultural upbringing and my environment I may react differently to a white person than I do a black person because I may be more familiar with the one than the other because of my background.

The something is true of you, ladies and gentlemen. You react differently to different people in different circumstances for reasons perhaps that you are not even aware, and all that we can do, all that we can do is to put these things out of your mind to the extent that you are conscious of it and try to search your minds to the extent that you may not be conscious of it, to see if

anything is there, which might effect you and then if it is there to make that effort to put it aside and that is not easy.

It may be easily said, but it is not easily done. But when it comes to a matter as serious as what we are dealing with here you have to make that effort. You have to try to do that because, you each one of you, is sworn under oath that you would be fair, that you would judge this case solely by the evidence as it is presented from the witness stand, that you would not be affected by anything that you read or heard or saw.

It is going to be difficult, ladies and gentlemen, and I realize that and I am sure you have thought about that again since you have sat here over those weeks. I know it is going to be difficult, but I am satisfied that the twelve of you or the fifteen of you, should some of the others be called upon to serve, will make every effort to do that, will make every effort to be fair. You said that under oath, and I believe you meant it. You owe yourselves that. You owe your fellowman that. You owe these persons on trial that. That is what they are seeking. That becomes more important because when we look about us and the world in

which we live we have to note that there are many institutions about us which sometimes are affected by the forces at work in the world such as racism, such as prejudice, such as classism. Those forces are at work in many of our institutions and although efforts were being made daily to eliminate these forces they are still there.

But if there is any one place where a man is to be judged solely as a man; if there is any one place where ever man is to stand equally it has to be in our courts of justice. That is the one place where every man should be judged on his own merits and not by anything else.

Each one of these persons on trial here have come here feeling that any political beliefs which anyone may conceive that they have will not affect the way that they are going to be judged in these charges, that the color of their skins will not be a factor in determining their guilt or innocence, but the only factors which will be present and at work here will be the evidence as it is presented in the Court.

Now I am going to talk to you some about that evidence. I am going to talk to you some about the law as it effects this case and your judgment of it. I am going to talk to you some about the context out of which these

charges arose. I am going to talk to you some about the manner in which we view the State having put its case together and presenting it here in Court.

I caution you now and remind you of another thing that we asked you about before you were finally selected to serve, and that is that Ben Chavis, William Dallas Wright, called Joe Wright, Marvin Patrick, Wayne Moore, Jerry Jacobs, Connie Tyndall, Willie Vereen, James McKoy, Reginald Epps and Ann Shephard all walked into this Courtroom as innocent people. There was a presumption of innocence surrounding them, and that continues to surround them throughout the trial of this case.

Not one of the persons named had any obligation nor do they have any obligation now to prove to you their innocence or to prove anything or to disprove anything the State might say. They have that presumption of innocence. You have to in your mind give them that presumption of innocence. They have no burden and have no burden to prove to you anything. The burden in this case as in any criminal case rest with the prosecution. The prosecution has the responsibility of proving beyond a reasonable doubt that each of these persons I named is in fact guilty of each

offense that they are charged with beyond a reasonable doubt.

That doesn't mean that the State can come in and make some suggestion that they might be guilty. That doesn't mean that the State can come in and present some circumstances which make it look like they might have done something. That doesn't mean that the State can come in here and make you feel like they've probably committed some crime.

It means a lot more than than, ladies and gentlemen. It means that you have to be morally certain in your mind that each one of them did what the State said that they did, that they committed the offenses that the prosecution said that they committed.

If it were any other way, then we would be back to the ages of the inquisition where someone could come in with a charge and accusation and say, "You did this." And then there would be a responsibility on you to disprove it, to show that you didn't do it.

Those days are long past. We live now in a time of enlightened justice where the prosecution is required by law, and in order for that law to be meaningful, you have to enforce it because the State is required by law to prove

beyond a reasonable doubt each and every element of the charges brought against any given individual. So that is what we are dealing with today. That is what your responsibility is all about, and you cannot take it lightly.

You are not here to vindicate any personal vendetta you might have against any person. You are not here to show your allegiance to any given institution. You are here to enforce the principles that must govern us all if we are to remain a free country.

The law is meaningful only as it expresses itself through men and women like yourselves, and if you abdicate that responsibility, if you make your judgment on something other than these principles and others that the Court will give you, then you have taken a step towards undermining the principles upon which this country was founded. If you have taken a step toward undermining the Constitution which governs us all and protects us. And I am sure that not a single one of you would want to be a party to anything of that sort.

And in this case your job is not going to be easy because you have heard a lot of things said about a lot of things that are supposed to have happened. And you have got

to make judgments on specific charges. You have got to decide whether these nine young men conspired to assault police and firemen in the area of 302 South Sixth Street on the 5th and 6th of February, 1971, in an area where a state of emergency existed or a riot was imminent. You have got to decide whether each and everyone of them did that.

You have got to decide whether each and everyone of them burned down Mike's Grocery on February 6, 1971 and you have got to decide that or whether or not the prosecution has made you morally certain that they did, whether the prosecution has satisfied you beyond a reasonable that that is in fact what happened.

Now during the course of this trial a lot has been said, as I said, about a lot of things. You have seen witnesses on the stand testify. You have seen lawyers for both sides presenting their contentions from time to time. You have seen us object. You have seen us stand up and say something and all of a sudden you would have to go out of the room and don't know why, wonder what those lawyers are in there doing and why you are back there in the juryroom. You have wondered why we objected to certain things and you have wondered why

there are certain things you haven't heard.

All of these things go through your mind and I know that. But that is all a part of how our system operates. As lawyers we are not objecting because there is something we want to hide from you, but there are certain principles that have to be applied in a case, and when you feel that something is being presented that shouldn't, then the only way we can bring that to the attention of the Court we object. Then the Judge - that is why we have a Judge - makes a ruling on that, and sometimes we have to argue about some things that if you were in the room might influence the way you decide a case. And there are sometimes you are asked to go out. That is what that is all about. That is the way the system operates.

And in doing what we feel we have to do, in presenting a defense to these charges, we can never know whether we are always right. We can only try and deal with the case as best as we see it.

And I ask you now if there is anything that any of these counsel have done during the course of this trial that you think was not quite right or you have some question

about, don't hold it against this young lady. Anything that we have done in our approach to this case has been because we felt that this was the best that we could defend the lives of these persons whom we were engaged to represent. So be not concerned about that.

Now the course of my remarks to you I will be reviewing some of the evidence as I recall it. Now the evidence has been presented over a period of about two and a half weeks. There is no way in the world I can remember all of that so if I state some facts differently from what you remember them to be, go by what you remember because you are the ones to decide that. You decide what the facts are.

In the course of my remarks I may make some comment on the way that I see the law applied or is effected in theses case. If I am in error there it will be corrected by the Judge. He will tell you what principles of law are to be applied, and you are to be governed by what he says in that.

I don't mean to be standing here telling you nothing I say matters. I am just saying if in the event that happens, it is not an attempt on my part to mislead you, but it is simply because my recollection may be different

from yours because of the period of time that has been consumed in the presentation of evidence.

Now in this case we are presenting our arguments before the State presents theirs. You have already heard three of my colleagues very ably argue this case to you. I am caught here in the middle because right after I finish, three other people are going to argue. There is not much left for me to say right now because these three gentlemen said about all of that, and anything I do say probably will be forgotten while you hear the other three gentlemen. It is part of my responsibility, and I am going to say it anyhow.

Now I don't know what the State's theory is going to be in this case. They're coming after us. But I do have to try to anticipate it somewhat. It is a difficult position to be in. We are arguing a case we don't even really know what they are going to say, but we have to try and anticipate some of the things they are going to say. And perhaps that is where we really ought to start.

Let's look at what has been presented here and see what the State might have to say about that. Now I know both Mr. Stroud and Mr. Johnson, known both of them a good while. Tried a few cases in my short time in a few

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courts. Have some idea how prosecutors proceed. That is what I have to base what I am going to say on. Now I gather from the way the evidence in this case has been presented that the State will argue to you that this all started from some high school grievances that some black students were getting aired and that they didn't state their grievances in terms of pleas or requests, but they stated them as demands, and that somebody somewhere held a press conference of these students and stated at that time that they wanted their demands met, and if they were not met they were going to take further action.

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I wouldn't be surprised if they tell you that the students headquartered themselves at Gregory Congregational Church there to carry out that further action if the demands weren't met. I wouldn't be surprised if they argued to you that these demands were not met, and thereafter they decided to carry out that further action and that from that point on they started some affirmative action using Gregory Congregational Church as the headquarters for it, and you know how the State has cast everything in this trial in terms of black and white.

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They are going to tell you that these students

and these young men here, this young lady, met at Gregory Congregtional Church and plotted out how they were going to pick out targets in the immediate area of places owned or occupied by white people and decided to take action against them to get their demands met.

And they are going to tell you that all of these persons assembled themselves there in that church for that purpose and no other purpose, and they are going to tell you that in connection with that they went out and shot at cars with innocent men and women and children riding down the street in them, and they are going to tell you from there they went and firebombed houses of innocent people who had done nothing to them and tried to smoke them out and shoot at them. They are going to tell you that Rev. Chavis was there, and they are going to argue that he wasn't a Reverend at that time, but Rev. Chavis was there teaching revolution in Gregory Congregtional Church, and they are going to tell you how lucky you are that you didn't ride down Sixth Street or Nun Street or Ann Street or Fifth Street and how lucky you are you didn't live in any of those houses over there and how terrible it was that Mr. Poulos's Grocery Store was burned and Mrs. McNeill's house and Mrs. Jackson's house;

and they are going to tell you how terrible it was that little Steve Mitchell was killed out there on Saturday night; and they are going to tell you that the persons responsible for all that are these persons seated over here; and they are going to tell you that you have got to convict them because that is what they did.

They are going to tell you all of these persons assembled and listened to Ben Chavis tell them about some Chicago Strategy and shooting at police and firemen and that that was a conspiracy; and they are going to tell you that they presented all of these people on the stand as Mr. Smith and Mrs. Watts and Mrs. McKeithan and Mrs. Jackson and Mr. Poulos is that they wanted to present to you the picture of everything that was happening; and they wanted to show to you the state of minds that these young men had as they rode up and down Sixth Street and Nun Street and Ann Street shooting and looting and burning. That is the picture that the State will try to present to you.

And they will present to you a picture that things had happened so much so on that weekend abouts on February 5 and 6 that the National Guard was assembled outside of

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Gregory Congretional Church on Monday morning, February 8, ready to go in and take over. And I wouldn't be surprised if they paraded all of these photographs before you again to try to place you there on Sixth Street and Nun Street or Sixth and Ann Street on the 5 and 6 of February; and I wouldn't be surprised if they paraded before you the shotgun shells and bullets and cotton and paper and mercurochrome that they said they found there in that house and in that church to show you how terrible it was.

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And they are going to say, "See? Convict." I think that is what it is going to be all about, ladies and gentlemen. They are going to tell you how courageous it was for Allen Hall to come forward and expose all of this and how he had nothing to gain by doing it and how Jerome Mitchell had not a thing to gain by saying what he said and how even little Motor Mouse came in here and told you about - Eric Junius, I am talking about - he didn't have anything to gain. They are just telling the truth. That is the picture. That is the picture that I wouldn't be surprised if the State tried to present.

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Now let's see how this picture was all put together. Let's see what happened to assemble the evidence

that the State has presented to you.

First, let's see how it was put together and then let's see what it shows. Now I suppose one of the central characters in the State's case has to be Allen Hall. He is the big man in the State's case. He is the one who sat here on the stand and identified over thirty pictures for them. Different angles of Gregory Congregational Church, the annex, pictures of the street, pictures of the inside of the church looking out, pictures of the outside of the church looking in, pictures of the back of the church, pictures of the front of the church, pictures of Fifth and Ann Street intersection, pictures of the intersection of Fifth and Nun, just pictures, pictures, pictures.

Allen Hall sat on the stand and identified all of those. Then he sat there and told you how he was in the church on these two nights, knew everything that went on, knew everything each one of these nine young men did, everything, everywhere they went. Wherever they were he was with them. Knew who was where, how many shots were fired, who fired them, from where they were standing in the church, who they were talking to, can tell you everything about it, everything about every single one of them. He didn't miss

a thing, chief character in the State's case.

Where did he come from? When did he first become a potential witness for the State? At a time when he himself was in trouble, at a time when he himself had been arrested on assault charges.

Now his thing is to blame everything he's ever done on Ben Chavis and to bring Joe Wright, Willie Vereen, Marvin Patrick, Connie Tyndall, Reginald Epps, Jerry Jacobs, James McKoy and Ann Shephard to show how he can blame it on them.

Now he first got in trouble because he took up a bottle and threw it and hit a white teacher in the head out at some school where he had no business. He wasn't a student there and you know he wasn't a teacher. Then he said -

THE COURT: I'll have no laughing from the Courtroom now.

Then he says Ben Chavis told him he'd better leave town, better get out of town, gave him a hundred dollars and went to Washington, D.C.; went to New York and stayed there with his cousin for awhile; moved in with a girlfriend and then came back to see about his girlfriend down here. Now

he said he came back with the intention of leaving again. This is Allen Hall who has had this great revelation about truth and saving everything. He comes down here. He says he would have you believe to see about his sick girlfriend in the hospital and tells you at the same time he is living with his girlfriend in New York. But that is what he says.

So he comes down here and he gets himself put in jail. Even his mother realizes the kind of character he is because she goes off of his bond, if what he says is true, and then he winds up in jail, and that is when Allen Hall begins to have all these great revelations about truth.

He is in jail, in trouble, wanting to get out of trouble. So he looks around for another way to blame Ben Chavis, and he comes and tells you Ben told him he was going to get him a lawyer, and he didn't get him that lawyer. So then he said he decided to tell the truth, tell everything he knew. So then he made a statement while he was in jail on these charges. Took jail to bring this great revelation of truth to Allen Hall.

That is where it all started, ladies and gentlemen. His scheme at the outset was to show you Ben Chavis, Marvin Patrick and anybody else he could find to get Allen Hall

out of jail to get him out of trouble that he was in. And he felt that by talking to these officers, Mr. Monroe and Mr. Brown, that he might be able to do that.

Now at that time he didn't really know how to put it all together because he wasn't really sure he knew what they wanted to hear at that time. He said it was Chili's idea to burn down Mike's Grocery, and he and Chavis watched from across the street while four other boys did it. Never said who the four other boys were. Yet when he got on the stand he knew each one of those nine people or eight including Ben, knew each one of these people. So for four years or five he had a revelation of truth and wanted to tell everything. You heard him read that statement he made on May 30, Allen Hall, he was across the street on May 30 telling them that somebody out at Gregory Congregational Church did something. He knows that they want to know something about these people, but he is not sure right then what they want to hear. So he just starts with one statement that he signed saying it was Chili's idea and that he and Ben stood across the street and watched them do it; wasn't sure right then they wanted Chili or who so they threw four people in so he could name them too and make sure he gave them what

they wanted to hear. If he was set on telling the truth at that time why didn't he tell them who the four other people were? And why did he say only four other people? Why didn't he tell them it was nine of them or ten or eleven or thirty or forty or however many he said it was.

So then he turned around and found out he had gotten himself in a little trouble because they had charged him too with burning a grocery store. That is what he said. And I asked him, I said, "Now, Allen Hall, how many times did you talk to the police officers before you went off to the mental institution?" Went to Cherry Hospital in October, if you recall, and they brought him back there in February to get a statement. "I don't remember, Mr. Ferguson. I don't know, Mr. Ferguson."

"Allen Hall, was it one time? Was it five times? Was it ten? Was it fifty?"

"I don't know."

He can't tell you how many times he talked to these police officers before he went to the mental institution.

"How many times did you talk to Mr. Stroud during that period, Allen Hall?"

"I don't know."

"Was it five times?"

"Several."

"Was it ten times?"

"Several."

"Was it so many times you didn't remember?"

"Several."

That is all he can tell you about that. He can tell you how many shots Jerry Jacobs fired, who was a block behind him down the street on a dark night, but he can't tell you how many times he talked with Mr. Stroud in broad daylight. This is Allen Hall, this great fountain of truth spewing it out.

"Did you sign a statement telling them everything back then, Allen Hall?"

"Yes, I signed one telling them everything I did."

"Where is that statement?"

"I don't know. I haven't seen it yet. Don't believe it exists."

This is Allen Hall, the great fountain of truth.

"Here now why didn't you tell them everything in that one paragraph statement you signed, Allen Hall?"

"I was scared. I was scared what they might do to me. Ben Chavis."

"Didn't you name Ben Chavis in the statement?"

"Yes, I named him."

"How are you going to be scared of this man and naming that man you are scared of?"

This is Allen Hall, this great fountain of truth. So he went to Cherry Hospital. You all know where that is up in Goldsboro. You know what it is.

Said, "Well why did you go to Cherry Hospital?"

"Well I thought it was a way to beat the charges against me."

He has already said that he wasn't trying to beat any charges. He was just out to tell the truth, and it didn't matter what happened to him because he wanted to save everybody. But he would have you believe that he went up to Cherry Hospital to beat the rap against him, this rap he didn't care anything about because he had decided to tell everybody else.

"How are you going to beat the charges in this mental hospital, Allen Hall?"

"Somebody told me they went up there and they got Probation or Parole."

"You don't care nothing about Probation or Parole. You are the truth man. You are up here telling the truth

then whatever the consequences are you are willing to accept."

You know Allen Hall didn't go up there to try to beat any rap. He went up there because somebody thought he was crazy and he decided to use that to tell you why he went there. Anything he can tell you to try to make himself look good, that is what he is going to do, thinking he can tell you to make you believe that what he is saying is true that is what he is going to do. He doesn't care anything about truth, and he doesn't care anything about you. He just as soon throw that bottle at one of you as he would that teacher out there that he didn't know and hadn't done anything to him. He wants to come in here and have you believe everything that he is saying.

So he went on up there to the mental institution, said he stayed about fifty days, as I recall; came out.

"Did you talk to the Solicitor or the police officer between the time you got out and February 18 when you signed this statement?"

"Yes, I did."

"Well how many times did you talk to him?"

"I don't know."

"Was it five times?"

"Several."

"Was it ten?"

"Several."

"Was it fifteen?"

"Several. I don't know. Can't tell you a thing about that."

"What did they ask you about when they talked to you?"

"I don't know. Its so many questions."

But he can tell you exactly what everybody in that church said on February 5 and 6. He can't remember a thing Mr. Brown asked him, Mr. Monroe asked him or anybody asked him. He don't know how many times he talked to him. You don't know what they talked to him about. We do know every-time they talked they talked about the testimony in this case.

So he went to trial in January charged with arson, charged with burning Mike's Grocery.

Allen Hall never told you that he has ever pleaded guilty for being convicted of burning Mike's Grocery.

I asked him, "Did you know you could get thirty years for that?"

"I don't know it. I didn't know it when I went

to court, but I found out about it."

He told you he pleaded guilty to participating in a riot. So he found a way to get around that charge that he had gotten himself into, found that way in January. After he and these police officers had talked so many times he could remember, after he and Mr. Stroud had talked so many times he couldn't count, he ended up getting twenty years knocked off of a possible sentence he could have gotten and the assault charges came up at the same time.. He got two years on those to make twelve years all together, Allen Hall this fountain of truth.

"Then after I pleaded guilty to the charges against me, I knew I couldn't get out of jail. I knew it wasn't nothing I could do but serve these twelve years."

This was in January and on February 11 he is writing Ann Shephard a letter saying, "I am going to kill you if you don't help me get out. I am going to kill you. I can't serve these twelve years."

Why in the world if Allen Hall had started out to telling the truth in May or whenever it was when he first talked, why did it take him from May 30, 1971, to February 18, 1972, to sign the statement that he said was his statement of everything that happened? Was he bargaining,

figuring out a way to beat the rap all this time? Is that why he hadn't signed anything before then?

We know on February 18, 1972, he signed a statement which he later told you was a lie, a mistake he calls it, not his mistake though, Mr. Stroud's mistake. Allen Hall never made a mistake. Everybody else did. Allen Hall never made a mistake about how many shots somebody fired or who was where on a Friday or Saturday night or where he was. Whoever heard him just wrote it down and didn't get it right.

At any rate he signed whatever they put in front of him on February 18, 1972.

"Did you have any photographs there on February 18, 1972?"

"Yes, I did."

"Did you look at them?"

"Yes, I did."

What in the world are they doing with some photographs there when he has already told you that he knows everybody? Told you he went to school with Joe Wright; told you he knew Marvin Patrick from over on Castle Street; knew Willie Vereen; knew Wayne Moore; knew Reginald Epps; knew all of them from various places.

Yet, he is down at Cherry Hospital, brought from

Lumberton, North Carolina, down to Cherry Hospital on February 18, 1972, to sign this statement after they had been talking to him for a year and still didn't put everything in it according to him. Doesn't that make you wonder?

Why did they need these photographs there? Did they have certain people that they had picked out that they decided they wanted to charge that they had some suspicion about this that they needed somebody to back up? We weren't there on February 18, we don't know. The only person we have talked to about it is Allen Hall. We didn't even get a chance to talk to Mr. Brown on the stand. He was there. Mr. Walden was there. Mr. Stroud was there, but you wouldn't expect him to testify.

Now they have brought in this Courtroom approximately fifty pictures. Well let's talk about photographs that they didn't bring into the Courtroom. What about the photographs that they showed Allen Hall in Goldsboro in the mental hospital on February 18, 1972? Why didn't they bring them here, mark them as State's exhibit whatever it is and show it around and pass it around? They didn't show you those photographs.

Now it was interesting enough that they would talk to Allen Hall for a year almost and get his statements on

February 18 and who should pop up at the mental hospital in Goldsboro on February 18, 1972, but Jerome Mitchell, his old friend? The first question is why in the world if they were getting this statement from Allen Hall - it was his true statement - why they didn't go up to Lumberton and get it where the man was in jail? It would have been a simple matter. But they bring him from Lumberton all the way passed Wilmington over to Goldsboro before they get a statement from him. Why? Doesn't it make you wonder? Doesn't that make you wonder? Mind you now, they had only talked to Jerome Mitchell about three days before this, a few days before the 18th. That is what Mitchell said. They got to get them together, got to show them the same pictures. They have got to know what each other is saying. They have got to get it right. That is why.

Mitchell had already told them that he was over for mental observation. That is probably the only thing he said on the stand that came close to being true other than his name but he told you that.

Why couldn't they say, "Jerome Mitchell, give us a statement over here in order to find out whether you are telling the truth or not. We don't want you to know what Allen Hall said in his statement. We are going to get his

statement up in Lumberton. We'll see if the two statements check out."

No, no, they didn't do that. Got to have them together while they get the statements. Make sure if the statements brings everything to light, that they be consistent with each other.

They also needed to have a picture showing for Jerome Mitchell and if we are going to have a picture showing it would be a lot easier to do it in one place rather than haul them up to Lumberton to show them to Allen Hall and take them to Goldsboro and show them to Jerome Mitchell. Let's do it all at one time. Got them there, showed them the pictures, got a statement out of each one of them, went back and wrote it up, they said.

These are very strong statements indeed that they got from both of them if you ask me. It was the kind of statement which I call a signed now, give back later statements. See, Mitchell just put his name on a piece of paper. Ain't signed a thing about Saturday night yet. He said he was there at the church on Saturday night. Only called the name of two persons on trial here, three persons, Ben Chavis, Marvin Patrick and Jerry Jacobs, as I recall it. The only thing he said about Jerry Jacobs was that he was at the