

PAGE COUNT OF 50 PAGES

used in the letter was not perhaps the most gentle in the world, and far from it; but in the letter he explained to you the purpose of his attitude in the letter was to scare her more, to make her more afraid of him than she was of Ben Chavis; that she had previously stated to him that she was scared of Ben Chavis and he felt that was the only way he was going to be able to get to her, to get her to tell what she knew. If that is not asking for the truth, I don't know what is.

The constant reference by the summation of defense counsel to Allen Hall and Jerome Mitchell being in Cherry Hospital up there, you know that mental hospital. Well, of course, prior to going to Cherry Hospital as they both testified they both had been charged with serious felonies, and they went to Cherry Hospital upon advice of their legal counsel; and the way we have it set up in this State in serious felony cases, a defendant can be sent to Cherry Hospital for a pretrial diagnostic study to see if he is competent to stand trial. Both were competent, found competent to stand trial and did stand trial and received their sentence; and yet they would have you to think you just can't believe them because they were in Cherry Hospital for 50 days. Just because a person has gone to Cherry Hospital doesn't mean he is not believable, ladies and gentlemen.

You have seen the medical supplies that were at Templeton's house. They tell you Eric Junious has smashed his finger in a door and they had to send him to the hospital when they had medical supplies at Templeton's house. Did you hear anything about them having an xray machine at Templeton's house? If somebody smashes a finger in the door, aren't you going to send them to the hospital to see if their finger is busted? Mrs. Templeton was treating him, and she was a registered nurse and knew they had to go to the hospital to treat it, to get it xrayed.

On the other hand, they say, "Well why send Junious, Little Motor Mouse, why send him to the hospital and not send the rest of them?"

You know why. A busted finger is an ordinary accident. If you go into emergency room to get an Xray of a busted finger, you are not going to have a doctor saying, "Well, how did you bust it?" Except to say I busted it in the door, it is an everyday action that occurs to anybody. Why didn't they send the others to the hospital? Why did they have the medical supplies there? They knew that if somebody got shot and was sent to the emergency room of the hospital with a gunshot wound, that many, mahy questions would be asked and that they would be jeopardizing themselves at that point. That is why they weren't sent to the hospital

and why ERic Junious was.

Now another contention of the defense. How possibly could all of the things be done that Hall testified to between the time that the officer was shot at 5th and Nun on Saturday night and between the burning of Mike's Grocery Store? Between these two places how could All of the things have occurred that Allen Hall testified to in that short period of time? And they have told you that it is impossible that all of those things could have occurred. Let's go back and determine what occurred.

You recall that Allen Hall testified that they were shooting at police officers up in this area and that he and Chavis and Willie Earl Vereen had retreated to an area behind the barricades, the pipes over here; that they returned fire toward the policemen. They then ran back to the church. Well, before I go into those details let me mention this to you. Also in reference to the time interval thing, they have referred to the testimony of Sarg. Bloomer who testified for the State in this case and said that Sarg. Bloomer said that hthey went straight as soon as Det. Genes got shot, that they went straight from here around to 6th and Ann and saw the fire at Mike's. But you will recall that Det. Bloomer, Sarg. Bloomer, testified they were here for some 5 or 10 minutes before they went over there, but recall his testi-

mony a little bit further. What did he say when they got in-
to this area here? What did they say as to what they
observed as he and Det. Brown started walking up Ann
Street toward Mike's? They saw firetrucks backing out.
Right?

Now Chief Glisson of the Wilmington Fire Depart-
ment testified that the Wilmington Fire Department received
the alarm at 10:10. They would get here about 10:15,
receive gunfire and back out 10:20 or 10:25. So it was
about 10:20 or 10:25 that Sarg. Bloomer or Det. Brown
came into this area and what time did Sarg. Genes get
shot?

You recall that he and the others testified
about 9:45. So it was between 9:45 and 10:20 or 10:25
which is some 35 or 40 minutes from the time Det. Bloomer -
Excuse me. Sarg. Bloomer and Det. Brown were here and
then came into the area of Mike's here on Ann Street.

But the more crucial matter is that from 9:45
to 10:10 is 25 minutes. that Hall and Chavis and these
other defendants had to go back to make preparations
from Mike's and to go over and firebomb.

What did Hall testify to? Hall testified that
they ran back to the church, that Marvin Patrick took
his gun away from him; that he and Chavis then went right
over to Templeton's house; that Chavis gave him another

gdn. They went straight back to the church and there Chavis made his speech, said, "We are going to burn Mike's. We are going to shoot at police officers and firemen when they come into the area and tend the fire.

And Ann Shephard stands up, says, "We are going to have to show these crackess we are going to - mean business."

How long does that take? Not long. He and Chavis come to 6th and Nun to look for police; go right back to the church. How long? Not long.

Then they get the group, immediately get the group, go down an alley between the church and the parsonage; hand out firebombs back at the air conditioning unit; come straight over here. Hall, Chavis, Vereen and Corbett cross the street here to Mike's, then up to 5th Street where they have this brief encounter with Father Jones, back over here to get the firebombs, back over here to throw the firebombs and then back to the church, Hall and Chavis.

The other defendants scatter in position in this area. Now all of that can be easily done in 25 minutes. Easily. There is no question in my mind about it. The State's mind; and I am sure there is none in yours. Those things - 25 minutes is a long time. You can do a lot of things in 25 minutes. Yet the defense

would have you believe those things couldn't be done in 25. It didn't take 10 minutes to have the encounter with Father Jones. It couldn't have taken more than 3 or 4 minutes, if that long. How long does it take to throw firebombs? You can throw them in a couple of minutes. You are not going to stand there, say, "Here is one firebomb. Here is another firebomb." You are not going to stand there waiting for the police to come by and see you throwing firebombs. You are going to throw them as fast as you can. So the time interval is no problem as the defense would have you believe.

Now the defense asked you why didn't the State put on certain other evidence. Why didn't the State put on that evidence? All right. First of all, they asked and asked you why didn't the State put on the driver of that white van if they went out to Fields and if they went to get gasoline. Why didn't - and you will recall their exact words. Why didn't they put Johnny Robinson on the stand? During the time that Mr. Weiss and Allen Hall and Mrs. Decker were testifying on this stand, did you ever hear them call him Johnny Robinson? It was always John Robinson. Does that tone of familiarity, Johnny Robinson, that was used by the defense counsel, does that give you a clue as to why John Robinson didn't testify on this stand? It certainly should.

Then they go on to ask where is Hall's cousin and his aunt and his uncle? Why didn't they testify for the State of North Carolina? That he had been around there eating Kentucky Fried Chicken and that he had had a drink. How is that relevant to this case. We could have put on evidence like that for a year and never finished. Why is the State going to put on that kind of evidence? and then

And then Mr. Harmon gets up here and tells you, "Well the aunt and uncle, Uncle Charles and Aunt Celestine Graham are a figment of Hall's imagination." It must be a figment of Ann Shephard's imagination, too, because she spent the night there. How would their testimony be relevant? Why not Sandra Marshall? Why not put her on the stand and testify? What difference does that make? You'd sit there and laugh at me. What we need is testimony that is relevant, and that is what the State has put before you. That is all the State has put on and probably some of that you thought wasn't that relevant.

"Where were the other people in the church of all those other people?" Mr. Hunevol asks you. "Why didn't they bring them in here to testify?" He brought one to testify and you saw how he testified. He put Benjamin Wonce up on the stand and what did Benjamin

Wonce do but tell one lie after the other? Do you think I am going to bring those people up here and have them testify for the State of North Carolina and know they are going to lie? I am not going to do that. If they want to do it, fine; but I am not. He put up a case for Ann Shephard. Why didn't he put them up here? Why didn't he call them up here and put them on the witness stand?

MR. HUNEVOL: Objection.

THE COURT: Objection sustained.

MR. HUNEVOL: Request instructions.

THE COURT: Members of the jury, you will not consider that statement of the Solicitor.

SOL. STROUD Continues: Well the point is he didn't. *(Exception No.*

Then the defense goes on to contend that the State spent an hour and 6 witnesses justifying the killing of Steve Corbett. Well I don't want to justify anybody's killing. They would have you to believe that that evidence was put up there strictly to inflame you against these defendants, to inflame your mind and to defend the actions of Jacky Shaw. Well I am sure you are convinced just like I am that Jacky Shaw didn't need to defend his actions at all. And that wasn't the purpose of the testimony.

And then Mr. Harmon comes up here and says, "Well why? Why did they put on that? What is the relevancy of that? Jacky Shaw killing Steve Corbett? I just can't understand why they did it."

You can understand it because I am going to tell you why right now. That is one of the strongest bits of evidence that the State put on concerning the conspiracy to assault emergency personnel at Mike's Grocery Store. Where was Stever Corbett? He was between the third and fourth house right there where they had left him to be a part of the ambush on police officers and firemen when they came to put out the fire. And where was Jacky Shaw? Jacky Shaw was on the porch of the third house. What did Jacky Shaw see? He heard a click first and then he saw a barrel, shotgun barrel, pointing up at him.

Now if that evidence is not relevant to a conspiracy to assault emergency personnel I don't know what evidence is. Because that shows more clearly than any otehr piece of evidence that the State put up here that the reason Steve Corbett and these defendants were out there were to kill police officers and firemen, and that is exactly what Steve Corbett tried to do.

You recall that Allen Hall testified that Steve Corbett went wit him with that shotgun down to 5th and

Nun. You recall that he was back there when firebombs were handed out and he came with a group over to 6th Street. You recall that Corbett was the one that was preparing to shoot Father Jones across the Street and Mr. T. D. Love and was aiming the gun. You will recall that Steve Corbett was last seen in this area where he was when he was killed because he had tried to kill a police officer.

MR. HUNEVOL: If your Honor please, we object to any referent to the defendants conspiring with Steve Corbett. I will refer the Court to the bill of indictment. We move to strike that.

THE COURT: Motion sustained.

MR. HUNEVOL: Your Honor, the bill of indictment says "with others" and names some.

THE COURT: Objection sustained.

MR. HUNEVOL: Move for instructions.

THE COURT: Members of the jury, you will not consider any reference to Steve Corbett. *(Exception No.*

SOL. STROUD Continues: Then you will recall that Mr. Hunevol gets up here and says, "What does the killing of Stever Corbett by Jacky Shaw have to do with my client, Ann Shephard?"

Well if his client, Ann Shephard, hadn't gotten up right after Chavis said, "We are going to go over and

burn Mike's, and we are going to get into position to shoot the police officers and firemen when we come there." If his client had not stood up right after Chavis and said, "Yes, what you are doing is right. We are going to have to show these crackers we mean business," then some of the people might not have gone out with Chavis and these people, Stever Corbett, might be alive today. That is what she's got to do with it. She incited and encouraged others to go out and do it. Don't you think they paid attention to what she did? Sure they did. That is the relevancy to Ann Shephard. It is relevant to everyone of these defendants.

Then the defense contends "How could Officer Chipps identify - how could he be standing at this corner and identify the defendant Chavis on the porch of the church and not identify the other people around here that were there with guns, the young teenagers there with guns on that Saturday morning when they were sitting out or picking up barricades." You will recall Officer Chipps testimony that when he came up into this area he saw young men standing out here, teenagers with guns; that he was with 4 or 5 other officers in uniform at that time; that he looked down toward the area of the church and there he saw the defendant Chavis pushing two men into the front door of the church and just as he was

doing it, the defendant Chavis looked down at the corner right at him.

Now they ask "Why could Officer Chipps identify him and none of these people down here?" Well maybe he hadn't seen any of these other people down here before. But he testified that he had seen the defendant Chavis before because other officers had pointed him out to him. And he knew what the defendant Chavis looked like, and when the defendant looked right at him he saw his face.

"Why couldn't he identify the other two men that were up there?" Well there is no evidence that they looked at him so that he could see them full face. You are convinced I am sure that that is a good identification by Officer Chipps.

And then Mr. Hunevol would come up here and say to you, "If you believe the State's case and the testimony of Allen Hall and Jerome Mitchell and Eric Junious, then you must believe that the defendants Chavis is one of the most vicious and ruthless men that ever set foot in this earth. But then he goes on to say that it is hard for me to say that because Chipps testified on that Saturday morning there he was ushering two men - and ushering was th word - ushering two men into the church as if for church services. "Now could a mean,

vicious ruthless man put young children out here with guns and leave them there and push two adult men into the church and not go to the side of these young men?" Now that is ruthless and that is vicious.

Then they asked the question, "Well if these police were there, why didn't these young men shoot at the police?" Well they were right across the corner from each other. Do you know any young man in his right mind who is going to stay there in broad open daylight and point a gun at a police officer, a trained police officer and try to shoot him? Not many young boys are going to do that, and they say yet, "Well the State would have you believe they shot at everyone else, why didn't they shoot at the police officers? Why didn't they do that?" Because they were young boys. It was daytime. They had no cover. The shooting was at night when they could get behind buildings and between buildings, take cover and be hidden and not be harmed.

THE COURT: Members of the jury, we'll take about a 10 minute recess.

(The Court recessed from 11:15 A M until 11:30 A M.)

SOL. STROUD Continues: Ladies and gentlemen, let me finish with the contentions. Next you will recall that as best they could they did everything within their

power to break down and to tear down the testimony of Eric Junious, Motor Mouse. And they asked him such questions as "Have you ever lied to your grandmother?" And he said, "Yes." "Have you ever stolen anything?" And he said, "Yes." "How many of us - I am going to speak for myself and not you. I cannot say that I have never lied to a grandparent or to a teacher in order to stay out of trouble. And I can't say that I have never stolen anything because when I was a little boy I used to go through my mama's pocketbook to get out the loose change. We have all done that. But I retract that. We know that because a 13 year old boy lies to his grandmother and because a 13 year old boy steals something that that does not mean he cannot be a credible and believable witness.

Now remember just as we have talked about in the jury selection stage, you have got to apply standards that you use in everyday life to determine how much weight you are going to put into a witness's testimony. And you know, just as the State knows, that the State could not have put a more credible witness than Eric Junious on that witness stand. If that boy wasn't telling the truth, the truth has never been told.

Then they question him about being in training school and try to leave you with the impression that Eric

Junious got out of training school because the State made a deal with him to testify and yet Eric Junious told you from this witness stand, and when Mr. Brown and I first went up there to see him in training school that he had already received notice that he was getting out of training school in two weeks. Yet the implication of the deal, again, the State is dealing to win a case. And you know that is not true.

And they asked him what he was in training school for and Eric says armed robbery. And then they get up here and say, "Here he is, a little 13 year old boy, robbing a grown man. Can you believe his testimony?" Well I just wish you knew the circumstances under which Eric Junious was charged with and sent to training school for robbery. But I can't tell you the circumstances because he wouldn't tell you from the witness stand, and I can't argue what hasn't been put into evidence. But you don't know the circumstances of that robbery. You don't know what kind of an alleged knife he had and where he got it from. You don't know who the grown man was that he robbed. You don't know how much money or change he got when he did it. You don't know who was with him. All you know is that he was sent to training school for armed robbery, and I wish I could tell you. And the reason Eric didn't want to tell you is because

he was afraid you would laugh at him just as I did when he told me.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Sustained as to laughing at him.

MO. STROUD Continues: Yet what does Eric say? He says each time he's been in court he's told the truth; that when he went to court for armed robbery that he wasn't arrested. They just came by and gave him a summons to be in court on a certain day. So he goes to court, Juvenile Court, and the Judge asks him, "What did you do, Eric?" And Eric tells him, tells the truth, knowing that it is going to get him in trouble. He had been in court before, Juvenile Court, for breaking and entering Hemmingway Hall. He said he told the truth then, and he was put on probation; that he is no longer on probation. Yet they tried to imply with you that he is theoretically under supervision of the Juvenile Court until he is 18 and that is why he is testifying because we put the pressure on him to testify. And you know that is not true. Did he look like he was under pressure when he was up here testifying? Did he look like he was scared of me or W. C. Brown or anybody else? Out of the mouths of babes comes the truth. And I contend that that is exactly what Eric Junious is. He hasn't yet learned,

even though he has been on the street and he may be street wise, he hasn't yet learned that when you come into court sometimes you are going to have to tell a lie like we adults have because we have all seen adults get up on this witness stand and lie.

Eric is probably the most believable witness that could ever be put on a witness stand.

And then the defense, through Mr. Ferguson, questions Eric in order to show you that Eric is seeing a psychiatrist because of his problem about lying and stealing, and so Mr. Ferguson asks, "Do you see a doctor regularly?"

"Yes."

"How often?"

"Once a month."

"Where is his office located?"

"17th Street."

"When you go to your doctor does he give you any shot or pills?" trying to leave the impression that it would be a psychiatrist.

"No, sir."

"When you go to the doctor does he talk to you a lot?"

"No, sir."

"Well after you have gone to the doctor, does

your grandmother talk with him a lot?"

"I don't know."

"Do you know what a psychiatrist is?"

"No."

"Are you in good physical health?"

"Yes."

"Do you play organized football?"

"Yes." Trying to show he couldn't be going there for physical reasons, and then the question.

"When is the last time you went to the doctor?"

"The 3rd of last month."

"And what did you and the doctor talk about?"

"My broken arm."

And did you notice after that that Mr. Ferguson didn't ask anymore questions for about 5 minutes because he wanted so desperately for you to believe that Eric Junious was seeing a psychiatrist. But Eric in his own innocent way comes up here and answers the questions, not knowing what Mr. Ferguson is trying to lead up to, not understanding what those questions are about, and he tells the truth and Mr. Ferguson doesn't like it.

Then Mr. Ferguson gets up here and argues to you that you should not believe what Eric Junious says. You should not believe him. He is an armed robber. He lies to his grandmother. He steals. You should not believe it.

And then, on the other hand, Mr. Ferguson tells you, well, you know impliedly, even if you do believe him he didn't testify to much. What he testified was about Saturday night and his testimony was in direct rebuttal to what that defendant Ann Shephard had said up here on this witness stand.

Eric said he had been there Wednesday night. He didn't remember being there Thursday. Been there Friday night. Been there Sunday. Yet they say he didn't testify to much. If they wanted to hear more why didn't they ask him questions? Did they? They didn't ask him any questions about Friday night. You didn't hear Mr. Ferguson ask him one question about what he testified to.

Now let's take Hall, Mitchell and Junious together. Clearing the training schools and the prison camps to get witnesses to come in here to testify to something we told them to testify to.

First of all, is there some principle of human behavior that says that a criminal cannot tell the truth? Have you ever heard of such a principle? That a criminal can't tell the truth? If that were true we wouldn't have so many criminal cases because many criminal cases are solved by confessions just as Allen Hall's case was and just as Jerome Mitchell's case was. They told what they did and then came to court and told what

they did and what others did. Contrary to popular belief you don't get State's witnesses for this type of case from a monastery or a convent.

Now I am not holding Hall and Mitchell and even Eric Junious, I am not holding them out as saints or angels, but I am holding them out as believable witnesses. Why? Hall and Mitchell wouldn't be criminals if they have told the truth on themselves. The same thing with Eric Junious. He is not considered a criminal because he was in Juvenile Court. He is not yet 16. He wouldn't have been sent to training school if he hadn't told the truth on themselves, all three of them did. If they are going to tell the truth on themselves, is there some reason they won't get up here and tell the truth on other people, too? What better witness could you have than an accomplice to these defendants who was there at the time that the crimes were committed? And he told his part in it and their part and pleaded guilty to his charge? What better witness could you have than that? Yet they get up here and try to tell you Allen Hall is trying to beat the rap. Man, it's too late for him to beat the rap. He is got 12 years. There is nothing he can do about it now. They are up here telling you he is trying to beat the rap. You couldn't have a better witness. He is an accomplice

who saw it, who participated, who pled guilty and who has already received his sentence.

What does he have to gain in coming in here and testifying? Nothing. Yet the defense would tell you if he hadn't been sentenced, if he had come in here and had not been sentenced on his burning of Mike's case and his assault on emergency personnel case, they would tell you that the State was making a deal with him. He hadn't even been sentenced yet. And so the State is making a deal on his testimony. Yet they come right back after the man's been sentenced and tell you the same thing. The State has made a deal with him. He's already gotten his 12 years. He has nothing to gain. There is no reason for him to get up here and lie to you or anybody else.

Secondly, what better witness could you have than a person who was present in the surrounding vicinity of the crime but who was not charged with any crime arising out of that incident? Eric Junious, Jerome Mitchell. What better witness could you have than one who was there and who wasn't charged? They have nothing to gain by coming up here to testify. They haven't been charged with anything. On the one hand you have got a guy who has been charged, who is already received his sentence: can't beat the rap anymore. And, on the

other hand, you have got a guy, two young men, who weren't charged in any of this, have nothing to gain; and that, I submit, makes them a believable witness along with the standards that you apply in everyday life to the manner in which they testify, to the manner in which they responded in cross examination. They can't shake the testimony materially of either of these three witnesses on cross examination. That shows their credibility. That shows their believability.

Then the defense comes up here and says the State is trying everything that occurred the whole weekend down there. Well if that were true the State would be here until next year trying the weekends.

They are up here telling you that the evidence that you have heard in this courtroom about the assault at 5th and Nun trying to burn that man's house, trying to shoot police officers and killing them up here and wounding police officers, that that and shooting at houses on Dock Street and shooting at cars going down 6th and 7th that that has nothing to do with burning Mike's and has nothing to do with the conspiracy to assault emergency personnel.

But it does. It is relevant. One of the Judge's functions here in this court is to determine what evidence is competent and what is not. And if it is not competent

you don't hear it. And the Judge ruled that every bit of that evidence you heard was relevant evidence and that it was competent because you heard it. And yet they come up here and say that it has nothing to do with it.

What does it show? What does the assault up here on 5th and Nun show on a police officer? That shows that if they can shoot police officers on 5th Street, they can shoot them and conspire to shoot at them over here.

What does shooting in cars have to do with it, with their going on shooting in cars at police officers? What does shooting at firemen have to do with it? They are going to shoot at firemen and police officers, particularly those they know as "Pigs". All of it is relevant to show their state of minds, their criminal intentions. All of it is relevant to that point, the criminal mind; and that is part of what the State has to prove to you in order for you to return a guilty verdict.

They get up here and accuse me of solictorial orchestration and then they come up and talk to you about fingerprints. A desperate move. They don't have anything else to argue. Mr. Ferguson gets up here and says, "Have you seen one fingerprint? Have you heard about one fingerprint?"

Well, folks, you don't take fingerprints like

you see them in the movies and on television. It just doesn't happen that way. This isn't Perry Mason and Hamilton Berger. This is the real thing.

And let me explain something about fingerprints to you. You have all seen it to some extent on television. They put a dust, a powder, on the surface. And then they put a piece of tape down on the powder and lift it up. This is called "lifting a fingerprint". If you put your finger on something or your thumb that leaves moisture, and you lift it up and the moisture is still there, and then if they are looking for fingerprints, they come along and put some powder on that moisture, and the powder clings to the moisture to make the outline of the fingerprints, and then you get a piece of tape and you put it down on the outline of that fingerprint and lift it, and you have lifted a fingerprint.

But you have got to have ideal conditions to get a fingerprint. Unlike what you have heard on television and seen on television and seen at the movies, you can't get fingerprints under any circumstances. You have got to have ideal conditions to get a fingerprint. You have got to have a smooth surface. You have got to have the lack of heat and other elements.

Now let's talk about some of the items that we presented in physical evidence here. Let me assure you

first of all that if there had been identifiable fingerprints on any of these items you would have been the first to hear about it.

Mr. Ferguson gets up here and asks police officer, "Did you send these things off to the lab?" You don't have to send something off to the lab to get a fingerprint off of it. Any Police Department can lift fingerprints. They have got men like Lt. Turner to lift fingerprints.

Let's take some of the items. Let's take the gun shells, the .22 gun shells, that were found outside on the street in front of the church up near 6th and Nun in this area out behind the parsonage in the dirt, in the basement of the church in the dirt, shells, .22 shells. Well first of all, a .22 shell is not big enough to get an identifiable fingerprint off of it. You know how big a .22 casing is after it's been fired. It is no longer than that, and you can't get a fingerprint off of something that small.

Let's say it is a larger bullet that's been fired, a .45. Once that bullet has gone into a chamber of a gun and been fired and ejected, the chance of your getting a fingerprint off of that fired casing is almost nil. Why? All right. If you leave moisture on that bullet when you put it in the chamber from your finger

or your thumb and then that shell is fired there is a certain heat level once it's fired that that casing is going to get to. It's going to get hot. What does that do to moisture on metal? It causes it to evaporate.

MR. HUNEVOL: We object to this. There has been no evidence -

THE COURT: Objection overruled.

SOL. STROUD Continues: And then the shell goes into the dirt. People walk on it. The dirt soaks up moisture. The sun evaporates moisture. And you want to get a fingerprint off of it? Again, this isn't Perry Mason. It's impossible under those circumstances.

Let's take the ammunition boxes. Why didn't we get fingerprints off of them? Cardboard, smooth surfaces. Isn't cardboard absorbent? Doesn't it absorb moisture? Isn't ammunition boxes inside the Templeton house with the heat on in the house and with that absorbent cardboard doesn't that do away with fingerprints? After a certain period of time you can't get a fingerprint.

How about firebombs that were found down at Mike's on Friday night and then again on Saturday night? Two of the firebombs had been burned, broken and burned. You know you are not going to get a fingerprint off that. They wouldn't even show that on television.

What about the wine bottle that didn't burst and didn't burn? If it's full of kerosene and gasoline it comes out because the wick wasn't in there. What is the gasoline and kerosene going to do? It's a cleaning agent. It is going to do away with fingerprints.

Then they come and ask you where are the fingerprints. Well now you know where they are. They evaporate. And then I assure you if there had been any identifiable fingerprints you'd have been the first one to find out about it.

Then they go on to characterize Jerome Mitchell, the killer. Mr. Harmon says that Jerome Mitchell admitted robbing Mr. Futch, whom Mr. Hunevol says was previously a Pender County resident. I am sorry Mr. Futch is dead. I helped prosecute that case. I don't see where his being a Pender County resident has anything to do with it. Mitchell admitted robbing the man after he killed him. Is that what Jerome Mitchell testified from this witness stand? Is that what he said? They mislead you on that just liek they did everything else in their arguments. You didn't get one thing straight from them. Jerome Mitchell got up here and testified, and you will recall I tried to bring it out at first, and they objected. Then when they got into it they gave me a chance to bring it out - that he went into the store with Zane

Perkins with a loaded gun to commit a robbery; that Mr. Futch want for his gun and Zane Perkins shot and killed him, Jerome Mitchell never having fired a shot or pointed a gun. That doesn't make him an angel, Lord knows, but it does make him a murderer. He is just as guilty under the law of murder as Zane Perkins was, but I wanted you to know he wasn't a killer. If he was a killer I would have some doubt about his credibility, but he was not. He admitted his part and testified against Zane Perkins at personal risk just like he is doing here. You feel like he is not believable. He is a believable witness. He has nothing to gain by coming up here to testify. He's got 35 years and he's not charged with burning Mike's or assault on emergency personnel or conspiracy to assault emergency personnel.

Then Mr. Hunevol gets up here and says, "Well Jerome Mitchell, now if they had a P A system in that church and if Mr. Ben Chavis was talking over that P A system, Jerome Mitchell outside could have heard it." Of course, this was February, ladies and gentlemen, and the windows were down. He was at the back of the church talking to a fellow in the basement with a brick wall between him and whoever was talking, and he might have heard some sound, but he couldn't tell who was talking and what they were saying. He said sure they could have

heard it if it was on a P A system. - His own client tells you that when she was at the church on Thursday night there were people talking on P A system. She didn't hear half they said, and they were inside the church. Does that make sense as an argument to you?

Then they ask you this futile question.. Again, a desperate move. "Where were you on February 6, 1971? Where were you on February 6, 1971?" Trying to imply how could these witnesses remember where they were February 6, 1971. Well believe me, folks, if you were out firebombing Mike's Grocery or/and shooting at police officers and getting shot back at and running and hiding and screaming and yelling, you'd remember February 6th. And if you were a fireman or police officer out there trying to put out that fire and you were shot at for over 3 hours, you'd remember February 6, 1971. You'd have a reference point just like everyone of these witnesses did if you were going down the street and at 6th and Nun you were shot at and you went in the shop. You would remember February 6, 1971, just as clear as a bell. You'd never forget it.

And if you were Mrs. Jackson and Mrs. McKeithan and your house burned to the ground for no reason, don't you think you'd remember February 6, 1971? You are doggone tooting you would. you'd remember it for the

rest of your life.

Then, as he did all through the trial, Mr. Ferguson comes up here and objects to these parade of photographs. All the State is doing is just parading photographs through here. The State did that and a lot more. Now why does Mr. Ferguson object to all those photographs? Because he know, just like you, that this is going to help put you in a better position of what really happened out there that Friday and Saturday night. And he knows, just like you, that photographs don't lie; and he knows, just like you, that photographs, one photograph is better than a thousand words. Like these two photographs. Now you tell me that is not better than a thousand words. You tell me that is a lie. They can't tell me. Who does that show? This is taken on February 11, 1971, at Steve Corbett's funeral on the Thursday after Mike's was burned on Saturday night, on the Thursday after Allen Hall met and talked with Chavis on Friday night before Mike's was burned.

And Mr. Becton comes up here and says Ben Chavis makes a lieutenant out of Allen Hall; only known him 2 days, but what does that picture tell you? This is at the head of a funeral procession with approximately 3 or 4 hundred people in it; and who is at the head? Ben Chavis. And who is right behind him? Allen Hall. And

they say he is not a believable witness. That is the best evidence you have got of his believability. He was there. He knows what happened. If you can't believe him, you can't believe anybody. What about that photograph? Doesn't that tell a thousand words? Isn't that better than a thousand words? Isn't that the truth?

You have got a march on City Hall that Friday afternoon before Mike's burned on Saturday with all those kids and with Ben Chavis walking back and forth on City Hall. And who do you have down there giving the power sign? Who is it? Eric Junious. Right there. That puts them together and this puts them together. If you can believe he was there with the defendant Chavis, can't you believe he was there that Saturday night and saw these other people? If that doesn't help you to believe it nothing will. He was there and so was Allen Hall and both of them have told you exactly what happened. And that is why, that is why the objection to the parade of photographs. That is why because they can't stand the truth, and there it is right there.

MR. HUNEVOL: We object to this and ask for instructions.

THE COURT: Objection overruled.

SOL. STROUD Continues: Then the argument that Allen Hall says on Saturday afternoon he and Ann Shephard

and all of these defendants were going over to the old Community Hospital and a Community Center over on 11th Street and Jerome Mitchell testifies that he goes by Ann Shephard's house at 5 o'clock. Now if you will recall, now try to recall back now what was said on cross examination. Allen Hall said, "When we were going through these to go over to the Community Center from the Annex, I don't know what time it was." I didn't ask him what time it was, but the defense asked him and asked him and asked him and asked him. "Well could it have been 3 o'clock? Could it have been 4 o'clock? Could it have been 4:30?" And so finally he says, "It could have been 4:30. It could have been before that or after that. I just don't know."

And then they get Jerome Mitchell up there. Said, "What time were you over at Ann Shephard's apartment?"

And he said, "I don't know. In the afternoon after I had been downtown."

"Was it 3 o'clock? Was it 3:30? Was it 4 o'clock?"

And finally when they get to 5 o'clock, he says, "Yes, sir; it was possibly 5 o'clock. I just don't know."

And then they come up here and say, "Well Allen Hall says he was there at 4:30 and then Jerome

Mitchell says he was over at her apartment at 5 o'clock. That is not the way the testimony went. That is not the way it came out.

And then they came up here and tell you why Allen Hall testified that as soon as they left the old Community Center they went straight back to the church. How could Ann Shephard be in her apartment and be at the church? Allen Hall didn't say that. Allen Hall testified that when they left the old Community Hospital they went back to the Community Center; that from there they split up to return to the church and that was that afternoon and sometime later after he had messed around he went back to the church about 7 o'clock. He doesn't know what happened to the other defendants or where they went to. They could have gone home. Maybe she was home that Saturday afternoon. Jerome Mitchell says she was. She said she was. But does that mean she wasn't there that Saturday night? Because Motor House said she was and no question about it. If she wasn't there Saturday night, I was.

MR. HUNEVOL: Object to that, your Honor.

THE COURT: Sir?

MR. HUNEVOL: Object to the Solicitor saying he was there Saturday night.

THE COURT: Objection sustained as to the Solicitor's remark he was there Saturday night.

SOL. STROUD Continues: Again, see the representation you get? I didn't say I was there. I said if she wasn't, I was.

MR. HUNEVOL: Your Honor, I object to that.

THE COURT: Objection sustained.

SOL. STROUD: Mr. Hunevol gets up here and tells you that Ann Shephard was not charged in this case until August of this year, knowing that that wasn't true.

MR. HUNEVOL: Your Honor, I object and ask for instructions.

THE COURT: Objection overruled.

SOL. STROUD Continues: I have here in my hand two bills of indictment against Ann Shephard.

MR. HUNEVOL: Objection.

THE COURT: Overruled.

SOL. STROUD Continues: May 22, 1972, the same these other defendants were charged before the Grand Jury.

MR. HUNEVOL: Objection.

THE COURT: Overruled.

SOL. STROUD Continues; One of these bills of indictment charges her with conspiring to burn a building with incendiary device, Mike's Grocery Store.

MR. HUNEVOL: Objection.

THE COURT: Just a minute. You gentlemen come

up here a minute.

(Conference at the bench.)

THE COURT: Objection sustained. Members of the jury, you will not consider any referent to indictment.

SOL. STROUD: The point is she was charged and arrested before August, and he knew it.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection; ask for instructions and request a mistrial.

THE COURT: Overruled. Members of the jury, would you step to your room, please? *(Exception No. 1)*
(The jury retires from the courtroom.)

THE COURT: Now, Mr. Hunevol, I understand that the Solicitor is simply answering your argument. The Solicitor did not interfere with your address the whole four and a half hours of it, and I don't remember a single time that he objected to anything. Now, of course, Mr. Solicitor, you cannot insert anything into the evidence that is not in evidence. But you can answer his argument and that is what I understand he is doing, Mr. Hunevol. *(Exception No. 2)*

MR. HUNEVOL: Your Honor, I understand what he is doing is he is introducing evidence before

this jury that is highly prejudicial to charges which he, representing the State, nol prossed before the start of this trial.

THE COURT: But you said she had not been arrested prior to whatever date that was, didn't you?

And he is simply saying she had been arrested prior to August, *(Exception No.*

MR. HUNEVOL: Your Honor, the only thing I did I took a bill of indictment when she was on direct examination. I handed her the bill of indictment. I asked her when she was charged by the Grand Jury with the offense of accessory before the fact of burning Mike's. The only time I referred to that I specifically addressed it to the charge of accessory before the fact.

SOL. STROUD: That is not my recollection, your Honor. My recollection, your Honor, is he said she had not been charged or arrested before August. How can it be prejudicial to her?

The State nol prossed the two cases?

THE COURT: The only thing the injection into the evidence a bill of indictment that is not in evidence. That is what he is objecting to. *(Exception No.*

SOL. STROUD: I won't say anything further to them about it.

THE COURT: Let the jury come back.

(The jury returned to the courtroom.)

THE COURT: Your motion for mistrial is denied. *(Exception No.)*

MR. FERGUSON: Your Honor, I'll join that motion.

THE COURT: Your motion for mistrial is denied. *(Exception No.)*

THE COURT: members of the jury, you will not consider the Solicitor's statement as to a bill of indictment upon which the defendant Shephard was arrested. You will disabuse your minds of that reference and not consider it for any purpose.

SOL. STROUD Continues: Now let's get back to the defense of Ann Shephard very briefly, and I will move on. You will recall first of all Benjamin Wonce taking the witness stand. Benjamin Wonce gets up here, says he knows all the defendants. He went to school with all of them. He was at the church February 2 through the 7; that on Saturday night the only defendant he saw was Connie Tyndall and that was after 12 or 1 o'clock and then I asked him a couple of more questions. And then I said, "Well did you see the defendant Chavis there?"

"Yes, he was there."

"Didn't you say just a minute ago that Connie Tyndall was the only defendant that was at the church?"

He said, "Well I must have been mistaken."

Well he was, but he said none of the other defendants were there.

Then he was cross examined about Friday night. "Were there any defendants there Friday night?"

"No, sir; none of the defendants were there Friday night." Ann Shephard admitted being there Friday.

Now then Mr. Hunevol gets up here and in his summation says essentially the same thing i am going to say, that Benjamin Wonce was not a good witness. From what he said he didn't see anything and didn't know anything. Mr. Hunevol's own words.

Then Mr. Hunevol asked you if you feel that he was lying; and, of course, obviously he was lying. I think it was obvious to everybody in the courtroom, even Mr. Hunevol who put him up there. "If you feel that he was lying, don't hold it against my client, Ann Shephard. Hold it against Benjamin Wonce." So you are talking out of both sides of your mouth. On one side you are saying, "Here is Benjamin Wonce. He is believable witness. Listen to his testimony and believe it." And on the other hand and out of the other side of his mouth, "But if you don't believe it, don't hold it against my client, Ann Shephard." Wants his cake and wants to eat it, too. It just doesn't work that way. It's got to be one way or the other.

Now Mr. Taylor - we all remember Mr. Taylor -

about the Liberation Club. Mr. Huenvol gets up here and says the man would say anything anybody wanted him to. And he did. And yet he tries to tell you that the man got the chronology right. Well if he is confused on part of it, couldn't he be confused on all of it, and most likely he is?

Even on cross examination by the defense attorneys who put him up there, he came out and said that the furniture store had moved out the first of February. And then later said, no, it was there after February. And then he'd say one thing to me - I finally got it straight again or at least I thought I got it straight. But I am not sure of what the man knows and you are not either. And yet he is a believable witness? I am not saying he is going to get up there and lie. He just doesn't know what he is talking about.

And then Mr. Huenvol says, "If Ann Shephard was a perjurer she wouldn't admit to having firebombs made in her apartment." Well you will recall that on cross examination I was holding some statements in my hand and I asked her if she knew Michael Peterson, and I asked her if she knew Cornel Flowers, and she said, "Yes." And I asked her if they weren't in her apartment on February 9, 1971, and she said, "Yes." And then I asked her, "Didn't you make firebombs at your apartment?"

and she said, "Yes." The reason she said yes and answered that question truthfully was because she knew I had the statement. She's known it all along. That is why she answered that question truthfully. She knew I had the statement, but she didn't know we had ERic Junious, and that is why she lied about Saturday night because she didn't think she was going to get caught. Thought the State had put up everything it had. ERic Junious put her there on Saturday night. She bandaged his finger after he smashed it in the door. She took him to Rev. Templeton's house so they could work on his finger. Then he was sent to the hospital for Xray. So when she knows you have got the witnesses she tell the truth. When she thinks you don't, she lies.

That is basically it as to the comments that I wish to make or wanted to make to the surmations of the defense attorneys.

Now let me very briefly, folks, and if you will bear with me, I want to go through the State's evidence and try to tie it together for you. I think I can probably get through faster, get through it faster than I think I can now.

Now let's try to keep things in order. Let's start with Friday night. Friday night Allen Hall says he goes to Gregory Congregational Church about 5 o'clock,

sees Ann Shephard, Marvin Patrick and others standing on the outside. He goes over to Rev. Templeton's house and asks for Chavis. No, he goes over to Rev. Templeton's house and Chavis is talking on the phone or getting ready to talk on the phone and Hall says he will be back in a minute. He goes down the street a minute, comes back and he asks for Chavis. This is in Rev. Templeton's house. While in Rev. Templeton's house he sees the medical supplies on the table. Wonce admitted in C A P S he sees a Tupoeware of plastic container of ammunition on the table. He talks to Chavis, his name, how old he is, what he does and Chavis says, "Let's go upstairs. So they go upstairs into the bedroom that Chavis was using during the stay at the Templeton's. Upstairs he observed James Earl Grant in the front room with a rifle with a scope on it sitting at the windows facing Nun Street, either a guard or a sniper or something. But he is there. And Chavis and Hall started talking. They start talking about the black people in Wilmington and the white people. And Chavis talks about a black girl student who was beat up by a white boy, but he wasn't arrested. And that black man couldn't get justice in Wilmington; that he, Chavis, was going to do all he could for the black people in Wilmington so that they could get everything they want. And to show

the crackers that they couldn't run over the black people.

Chavis goes on to tell him that this would be a time for revolution; that the crackers would have to come to beg and goes on to explain the Chicago Strategy to him. This is a strategy where you set a building on fire and when police officers and firemen come there to attend the building you are in ambush, you are in position with the weapons to shoot at them, try to keep them in their cars, try to kill them.

Hall and Chavis go back downstairs. Downstairs to Ann Shephard, Marvin Patrick, Connie Tyndall and some others. Chavis starts talking about needing money to make firebombs to last for a week. Hohn Robinson, Johnny Robinson, comes in and says, "Well, we need some money to buy ammunition with, too." And so Chavis starts collecting the money. He gets money from Ann Shephard, Allen Hall and some others. They then go outside of Rev. Templeton's house, and out there Chavis gives instructions to a group of people that are there concerning how to approach and how to leave the area of the church. to always use the password, "Rabbit" and who will ever forget Eric Junious coming up here and testifying, saying that after he saw Mike's burning and after he heard the gunfire coming back from the hospital that he ran all the

way to the church saying, "Rabbit, rabbit, rabbit, rabbit"; that Chavis says that if cars come into the area if you come into the area in a car, roll your window and say, Rabbit." If cars come in with lights on and don't halt and don't halt when they are demanded to halt, then shoot them.

Then at this point Chavis sends George Kirby and Marvin Patrick to two stores downtown, a pawn shop and gun shop to break in and use ammunition, gun powder or anything else they can get; that at this time Chavis, Hall, Robinson, James Earl Grant and a 5th fellow Hall couldn't identify gets into this white van and he describes the van. He says it is a van with side doors on it, back doors, just a front seat, cargo area in the back with chairs in it, tape deck, curtains around the windows; and he identified the window, says that is the van.

Later Mr. Merton Weiss comes in, employer of John Robinson, and identifies the van and says, yes, that is the van John Robinson was using during this period of time. They all get into the van go out Oleander Drive. On the way out there Chavis is telling Robinson to get .22 ammunition, shotgun shells and to try to get the ammunition without registering for it. If you have to register for it not to get it.

The get out at Fields. Hall and Robinson get out.

Chavis give Robinson the money to buy the ammunition. Chavis and Grant and the 5th fellow stay in the van. They go in, Hall and Robinson, buy the ammunition, come out, Chavis is driving, gets the van heading to go. They leave and go to a service station, buy some gasoline in a container, 5 gallon Army type gasoline container; take it back to the church for firebombs.

To corroborate this we had Sarg. Bloomer who had previously testified that on Thursday, that Thursday night, before the Friday night that they are talking about now that he was on surveillance with Det. Brown and Det. Herring up here around 8th Street up near the ball park, 8th and Nun, And while they were there that Thursday night they saw a white van drive up here beside the side door of the church which is right here and look and unload things from that van. And that on that same night 3 or 4 young blacks come out of the church, come over here and shoot out the lights, come down and aim the guns where they were and go back to the church. You have got the corroboration of the van being at the church.

Now Mr. Merton Weiss comes in here to testify for the State and he says that John Robinson worked for him at the Chinchilla farm in Wilmington; that he worked for him from November of '70 to March of '71; that he had put a tape deck in the van; that the photographs