

1 they have one of the most unique things in the  
2 world in Neshoba County and that is the Neshoba County  
3 Fair. Every summer, the doors are thrown open, fifty  
4 thousand people come there to enjoy a family reunion  
5 with their friends, the county fair. Does that happen  
6 in your county where the people sound like they kill?  
7 No, my friends, as I stand here I not only speak for  
8 these defendants around the bar here, but I speak for  
9 Mississippi, I speak for the world for a fair place  
10 of liberty and justice. Now, Ladies and Gentlemen  
11 I would like to direct your attention to a few  
12 things here. This has been a long and burdensome  
13 trial to you, but the liberty of these defendants  
14 bears heavy on my heart, not because they are guilty  
15 but because they've been harassed by the greatest  
16 power on earth, and that is the United States Govern-  
17 ment. My friends how would you feel to be in the  
18 place of these defendants and have the strong arm of  
19 the federal government point its finger at you and  
20 say you are guilty. My friends, this has been going  
21 on for almost three years, and soon we'll pass that  
22 responsibility to you. My responsibility as an  
23 attorney in this case puts a sacred trust to see that  
24 justice is done on behalf of these defendants. Now,  
25 let's go to the record. The evidence that has come

1 from that witness stand, there was a group of people,  
2 forty-one in number on behalf of the government and  
3 told you something about this case, or tried to. The  
4 paid informers have been well paid by our colleagues  
5 but I'll say to you that a man that will sell his  
6 services as an informer is not worthy of belief. Now,  
7 a lot has been said here about Civil Rights by my  
8 Civil Rights Leader, Mr. Doar. I want to direct your  
9 attention, when you get into that Jury to look at  
10 exhibit number 14, that's the jail docket from Neshoba  
11 County Jail, and I would like for you to look down  
12 there on page 179, that's the page marked on this  
13 exhibit number 14, and look down there and see the  
14 name of Joseph Dominique, the name of Richard Cowan  
15 my friends, those people were arrested by Cecil Price,  
16 Richard Willis and Clayton Livingston on the Sunday  
17 night of June 21, 1964. Were? More than six or seven  
18 miles out northeast of Philadelphia and brought in and placed  
19 in jail. Now they talk about that? They came in  
20 here on this witness stand and said that Cecil Price  
21 went out there, Mr. Finis McAdory and Mrs. Finis  
22 McAdory, because it was their niece that was involved  
23 with these two boys. Since it was outside of the  
24 jurisdiction of the city, the Deputy Sheriff, the  
25 Constable and deputized policeman went out there.

1 Keep your feet on the floor and weigh this thing as  
2 I say to you, that if Richard Dominique, or Joseph  
3 Deminique and Richard Cowem were arrested in the Sand-  
4 town community before midnight on the 21st day of June  
5 brought in and placed in jail, how could Cecil Price  
6 be out on Highway 19 near House, between House and  
7 Union, Mississippi. That's a physical impossibility.  
8 For a man to be in two places at once, that just can't  
9 be. Now, Ladies and Gentlemen, let's see here, Mrs.  
10 Davis Watkins, this happened in her vicinity, they  
11 drove in her yard to turn around. She did just what  
12 you or I would do. If something was happening around  
13 on my premises I would want to know what was going on  
14 I would turn on a light too and see what was the  
15 matter. She said she saw it was a quarter to twelve  
16 and there was Cecil Price talking to her. Ladies  
17 and Gentlemen of the Jury, those facts, and those  
18 facts rise high enough for you to say, Cecil Price,  
19 you're innocent. You can't be two places at once.

20 My friends, my Civil Rights Friend, Mr. Doar,  
21 says he is the one charged with this business. Let's  
22 go back there and see. They Highway Patrolman said  
23 they were out East of town approximately four miles  
24 that Sunday afternoon. Mr. Price passed them, and  
25 shortly thereafter, they heard him on the radio

1 calling saying he had a good one. They added great  
2 significance to that. You heard Mr. Poe, government  
3 own witness say, that indicated a speeder, and they  
4 looked up and saw him cut off as he came over the hill.  
5 Ladies and Gentlemen, those are facts that were pre-  
6 sented. Mr. Price had a right, duty and responsibility  
7 to protect the lives of the users of the highway to  
8 apprehend people who violate the traffic laws of the  
9 highways of Neshoba County. What did he do? He  
10 caught them, he stopped them. He didn't stop them  
11 in some out of the way place in the dark hours of  
12 the night. No, Ladies and Gentlemen, he stopped them  
13 right there in town, close to the Methodist Church.  
14 You've got a picture here of where they say he stopped  
15 them, right there at that intersection there. Mr. Poe  
16 said there was nothing unusual about it. As a matter  
17 of fact, one of the Highway Patrolmen drove the Station  
18 Wagon on to the jail. The other two men got in the  
19 Patrol car with him. Ladies and Gentlemen, its the  
20 way you look at something, the way you emphasize it.  
21 I say to you to look at the facts.

22 Now, let's look at another fact of their prose-  
23 cution and their web that they've sought to weave here  
24 around these defendants, and cause to you to focus on  
25 one thing and that is to convict all of these men.

1 They would have you believe that Ethel Glen Hop  
2 Barnett was the ringleader of this. Let's take him  
3 and examine him a little bit. He's a man that is a  
4 native of Neshoba County, he's a man that served his  
5 country during the time of the war, just as many of  
6 you did. He's been elected Sheriff of Neshoba County,  
7 served a term, and he's been re-elected and will go  
8 in in January again. Does that sound like some  
9 outlaw or some criminal? Where was he when they tried  
10 to say he was at some meeting on the 16th of June?  
11 He was at home, working on his house with his family.  
12 They say, how can you remember that? They asked Mr.  
13 Cole Thompson how he remembered that and he told you  
14 he remembered it from his time book. He said, I  
15 worked at night on that job, and his little girl  
16 stated and the boy stated, daddy worked. You asked  
17 Lynda Barnett Graham how she remembered it and she  
18 said she had fallen off a horse, hurt her ankle,  
19 been in the hospital and while she was in the hospital  
20 her daddy and brother moved them out in the country to  
21 their home that they were reworking. She was on crutches  
22 but to make it a fact, we did something to make you  
23 believe. The hospital records were brought in here  
24 to show that we weren't trying to slid over something.  
25 The mother was in the hospital, and those are facts.

1 Ladies and Gentlemen of the Jury, that same Ethel  
2 Glen Hop Barnett, on the 21st day of June, they tried  
3 so hard to put him in this conspiracy, that they  
4 wanted to tie in the 21st day of June. Now, I say  
5 to you, Ladies and Gentlemen, he had a right to  
6 visit his neighbor, Mr. and Mrs. Cannon's father in  
7 law, Mrs. Henry Cannon's father who had a stroke,  
8 to go visit them during the daytime. The whole  
9 family met there after dinner, the children went  
10 somewhere else to swim, and Mrs. Barnett and her  
11 husband went to town and learned Mr. Alex Rich  
12 had died, a friend, he went to the funeral home,  
13 what's unusual about that. His brother, Tommy  
14 Barnett's son was in the hospital. He went by to  
15 see him, what's unusual about that. That boys'  
16 record of his being in the hospital was brought  
17 here for the Court to see. Ladies and Gentlemen of  
18 the Jury, I could go on and on with these witnesses  
19 around here, but I want to say this to you, they  
20 have come here and said that others were guilty of  
21 this conspiracy. They come out with Olen Burrage  
22 and the only thing that they have on him is these  
23 bodies were found on his land some two and a half  
24 miles from his home. Two highways between him  
25 and the place where they found them. His family

1 and his friends told you he was at home. He went  
2 no where and talked to no one except his own family  
3 and his friends that were there. Ladies and Gentlemen  
4 of the Jury, I say to you that that is typical of the  
5 evidence that the government has sought to present  
6 here for your consideration.

7 Ladies and Gentlemen, when a person's liberty is  
8 sought to be taken away from him, he be convicted and  
9 sentenced to the penitentiary to serve, I say to you  
10 its serious, they are entitled to every deliberation,  
11 you put yourself in their place, consider these facts  
12 and circumstances.

13 Now, Ladies and Gentlemen I would like to point  
14 out to you that his Honor On the bench will instruct  
15 you as to the law, that the indictment that has brought  
16 against these men is no evidence against him as to  
17 the admission of any crime and is not to be considered  
18 as evidence. They start out with a clean slate just  
19 as pure and clean as the driven snow, and the burden  
20 is upon the government to prove their guilt beyond  
21 every reasonable doubt, and if the government has  
22 failed to do that from the evidence or from a lack  
23 of evidence then it is your responsibility to return  
24 a verdict of not guilty, not guilty, not guilty. I've  
25 come to the close of this trial, my time is nearly up.

1 I'll have nothing further that I can say in behalf of  
2 these defendants. The United States Government will  
3 have the last say, the law provides it, but I ask  
4 you to search your hearts, your souls, and your minds  
5 when you go into that jury room to consider this case  
6 don't be swept away by the government attorneys, paid  
7 government witnesses, paid government informers who  
8 have caused these people to suffer. Ladies and  
9 Gentlemen of the Jury, this burden is about to be  
10 shifted on your shoulders and in this great land of  
11 ours you don't need a Washington Attorney to come  
12 down here with his book crammed full of speeches  
13 to read to you and tell you what to do, tell your  
14 hearts and your souls what you should do, you know  
15 what to do, you know liberty, freedom, honor and  
16 trust will say to you, not guilty, not guilty eighteen  
17 times, then Ladies and Gentlemen of the Jury, we'll  
18 lift up our heads, look on ahead to tomorrow, hold  
19 our heads high, look everybody in the eye and say  
20 Neshoba County is honorable, these defendants are  
21 innocent, the world can go home, but when people are  
22 charged with crime in Mississippi they must bring proof  
23 of facts, they must bring proof of facts before  
24 Mississippi people will vote guilty. I say to you,  
25 Ladies and Gentlemen, go into that Jury room, after



1 you've heard the instructions from His Honor on the  
2 bench, and vote your convictions, and bring back in  
3 this room a verdict of not guilty for each of these  
4 defendants, send them home to their families, and  
5 we'll be satisfied.

6 MR. HAUBERG'S ARGUMENT:

7 May it please the Court.

8 BY MR. ALFORD:

9 Excuse me, Mr. Hauberg; Ladies and Gentlemen of  
10 the Jury, we represent Cecil Ray Price, Mr. Glen  
11 Lavelle Burrage, Mr. Edgar Ray Killen, Billy Wayne  
12 Posey, Lawrence Andrew Rainey, Jerry McGrew Sharpe,  
13 Herman Tucker, Richard Andrew Willis, and Ethel Glen  
14 Hop Barnett. Thank you.

15 BY MR. HAUBERG: ARGUMENT:

16 May it please the Court. Ladies and Gentlemen of  
17 the Jury, you have been a very attentive jury to  
18 listen to this testimony since Monday of last week.  
19 On behalf of the Government and citizens of the State  
20 of Mississippi, I want you to know that we appreciate  
21 your kind attention. You've listened attentively  
22 to all of this evidence and before long this case  
23 will have been submitted to you for your decision and  
24 my duties connected with it will be at an end. One  
25 thing, that we are interested in, and I know that

1 each of you are interested in is liberty and Justice  
2 and that means liberty and justice for all. Some of  
3 the attorneys that have argued on behalf of the defer  
4 dants, have raised certain questions, some of which  
5 are immaterial for me to try and respond to, and I  
6 wouldn't have a chance to do so in the limited time  
7 that I have. Now, we all know, and we are all proud  
8 of our jurisprudence which we have, which allows you  
9 Members of the Jury, to consider the evidence along  
10 with the instructions which the Court will give you  
11 from the bench to use, as sole judges of the facts  
12 in this case to make your decision. Let's just see  
13 though, what the burden is that was placed on the  
14 government in this case. This case comes to you  
15 through the means of an indictment, its not brought  
16 by me individually, and its not brought by any  
17 individual of the United States but returned by a  
18 Federal Grand Jury, selected from the box of good  
19 lawful citizens from where? The State of Mississippi,  
20 our own neighbors sitting on the grand jury returned  
21 a true bill against these that are named in the  
22 indictment. Included in that group was one Travis  
23 Barnett. Now, after the evidence had been in, Mr.  
24 Doar, announced this morning to you, that we thought  
25 you should return a verdict of not guilty as to

Travis Barnett, he said it because we do not feel the evidence was sufficient to submit it to you after all the evidence was in. Now let's talk about what we are required to prove in connection with the charges here against all of these individuals here on trial today. This indictment is a conspiracy indictment and a portion of it reveals that three law enforcement officers are involved. Willis, Price and Rainey. But it gives the dates of the commencement of the conspiracy and tells you about how long it was continuing, and then it names 19 individuals, in that they conspired together with each other and with other persons to the grand jury unknown, to injure, oppressed, threaten, and intimidate Michael Henry Schwerner, James Earl Chaney, and Andrew Goodman, each a citizen of the United States in the free exercise and enjoyment of the right and privilege secured to them by the Fourteenth Amendment to the Constitution of the United States, not to be deprived of life, liberty without due process of law by persons acting under color of law of Mississippi. Then the next paragraph, concluding paragraph of it, indicates that it was a part of the plan of persons of this conspiracy that the defendant Cecil Price while having these three individuals in custody in the jail in Neshoba County

1 would release them from custody at such time that he,  
2 Price, and they named eight of them there, there were  
3 nine of them in there, and Travis Barnett, but eight  
4 individuals Arledge, Doyle Barnett, Alton Wayne Robert  
5 Jimmy Snowden, James E. Jordan, Billy Wayne Posey,  
6 Jerry McGrew, where they could and would intercept  
7 Schwerner, Chaney and Goodman upon their leaving the  
8 area of Neshoba County and threaten, sought, shoot  
9 and kill them. Now, the fact that that is an indict-  
10 ment, there is no evidence there, but we did bring  
11 you evidence and we certainly want you to consider  
12 that evidence because you are to determine the truth  
13 in this case. The Court, I believe, will instruct  
14 you that sympathy has nothing to do with the trial  
15 of this case. The Court will instruct you on reason-  
16 able doubt, and I wish you would listen to that  
17 instruction when the Court gets into it because that's  
18 what the law is of this case, is reasonable doubt.  
19 You don't have to look around to hunt for doubt, but  
20 everytime you hear that instruction discussed by the  
21 Court, you will notice the Judge will say a reasonable  
22 doubt. That word reasonable becomes important and  
23 each one of you as reasonable men and women, I know  
24 will listen to those instructions, and then from  
25 the evidence which you have heard will determine the

verdict of this jury.

Counsel for the defendants have made quite a number of arguments and I will try in the balance of my allotted time to cover some of those. They talk to you about alibis, yes, you know when neighbors and friends come in and speak for you some of them trying to do you a favor, and they are, but I wonder how many of you can remember what you did on Father's Day back in 1964? Even some of the witnesses that the defendants produced in this courtroom were unable to tell you what day Father's Day came on in the year 1965, or 1966. It is true that some of the witnesses did come up and testify where they were, that's what they said they did, but when they talk about this lady that was looking after the little child, the two month old child of Mr. Herndon, really that's not an alibi. Herndon, on that date of June the 21st, didn't go up there to Philadelphia, to Neshoba County, but called people from his place, and that's in the evidence, and it would have been very simple for him to have brought supper over to his trailer where his little girl, this little child was. The lady that was taking care of the little child didn't undertake to tell you that she watched and saw Herndon all of that day and all of that evening because he was working there at the Long-

1 horn Drive-Inn and she was some little distance away  
2 in this trailer looking after the child. You will  
3 notice that she didn't say anything at all about June  
4 16th episode at the Bloomo School. She didn't say  
5 anything at all about him bringing them any supper  
6 that night. Remember, that was the night that Herndon  
7 went up to the Bloomo school, with a number of others.  
8 With Akins. Akins was up there if you will remember  
9 the testimony. Harris was up there, Roberts was  
10 up there, Killen was up there, Posey was up there, and  
11 Hop Barnett was up there. Then there were two or  
12 three others from Meridian that went up there. So  
13 that was the night where they went out to Mt. Zion  
14 church and where Roberts came back with blood on his  
15 hands. They didn't have any alibi on that occasion.  
16 Now to mention an alibi for Hop Barnett on June the  
17 16th. That time book that that man had was not Hop  
18 Barnett's time book, it was his own time book. He  
19 was busy working there. There was ample time for  
20 Hope Barnett to have gone to that meeting to have  
21 gone out there and then come back. He could have  
22 gone after the work had been completed, but he was  
23 out there, and he was seen out there, and he went  
24 out to the Mt. Zion Church, in fact of the business,  
25 he was the one that reported that there were a lot

of guards out there. Now, let's go a little further. Some talk was said about Beatrice Cole by some of the attorneys. And the only thing that the lawyers would have you to believe is what someone told her what to say. Did they ask her that while she was on the stand? You saw her when she was on the stand and you have a right to see these witnesses when they come up here to testify. You have the right to see everyone of the witnesses that come up and testified in this courtroom, and you have the right to see their attitude, their -----

BY MR. WEIR:

If the Court please, we move for a mistrial.

BY THE COURT:

Overruled.

BY MR. BUCKLEY:

Your Honor, I would like to note this as to all of the defendants.

BY THE COURT:

Well as to all of the defendants, it's overruled.

BY MR. HAUBERG:

Now, when you talk about the facts of this case, your thinking about libery and justice. What is liberty and justice? Certainly everyone of the defendants are entitled to have every right of

1 preserved, preserved by the Constitution of the  
2 United States, that's how we operate the system of  
3 courts that we have, but we are fortunate that you, as  
4 a group of jurors, from Mississippi are actually  
5 sitting in the trial of this case. What kind of  
6 liberty and justice did they give Schwerner, Chaney  
7 and Goodman? When Price arrested them, he arrested  
8 Chaney for speeding and you will have the ticket  
9 there showing that, it shows CORE or Congress of  
10 Racial Equality as the owner of the automobile, they  
11 didn't get that until after they had found out from  
12 some radio conversation, something about where or  
13 whose tag that was on the automobile, whose name the  
14 tag was registered in, but, each one of those indivi-  
15 duals had a right of liberty and justice. Did they  
16 get it? There was no evidence that they found any  
17 guns on their person when Price arrested them. He  
18 arrested Chaney for speeding and put the other two  
19 in jail for investigation and they were discharged  
20 according to the testimony of a witness, and not a  
21 paid witness, Mrs. Minnie Herring. They were not given  
22 the benefitt of any trial, having a lawyer represent  
23 them in a courtroom, have any charge against them,  
24 presented in the proper manner where they could make  
25 a defense. They were released around 10:30 and you



1 heard the testimony of the events in connection with  
2 all of those, incident that happened with reference  
3 to their arrest.

4 Now, let's go a little further. There has been  
5 a massive amount of testimony, you've heard a lot of  
6 witnesses, and the lawyers have criticized the witnesses  
7 brought here by the government. The witnesses that  
8 came into this courtroom and they swore to tell the  
9 truth. Now, you may not like paid informers, but  
10 let me tell you this. My good friend, Tom Hendricks,  
11 when he mentioned his length of service with the  
12 F. B. I. he knows of his own general knowledge, that  
13 paid informers are used in many many cases, that the  
14 only way sometimes to break open cases of many types  
15 of violence is to pay them. Now, let's say these  
16 paid informers, you wouldn't believe them under oath,  
17 let's talk about that just for a few minutes. If  
18 there was one paid informer that came in here to  
19 testify without any corroboration, without anything  
20 to back him up, it wouldn't be nearly as strong as  
21 the evidence that we brought you here. We brought  
22 you a lot of witnesses, oh they would have you believe  
23 that all of these F. B. I. Agents is a paid informer  
24 and if Mr. Hendricks had gone far enough in his  
25 argument that his next statement might have been

1       stated that jurors who are getting paid for coming  
2       here might be paid jurors. Now, you know there is  
3       nothing to that. Let's look at these paid informers?  
4       Were they corroborated? Did the government just  
5       produce just one paid informer without corroboration,  
6       oh no. When you talk about the paid informer, you  
7       must consider whether or not there is any corroboration,  
8       although you may believe a paid informer without  
9       corroboration. We have corroborated these witnesses  
10      with other witnesses. Are you going to believe that  
11      Neshoba native, Mrs. Minnie Herring, when she got  
12      up and testified as to what had happened there at the  
13      jail that night, are you going to disbelieve her?  
14      Some of the evidence brought by the government from  
15      some of these paid informers, are you going to dis-  
16      believe the Highway Patrolman Poe? Who corroborated  
17      the government's witnesses in many respects? About  
18      Pascy coming down there to Pilgrim's Store, about  
19      Cecil Price chasing Chaney and Schwerner in the  
20      station wagon, are you going to disbelieve Poe, because  
21      he corroborates government witnesses? I just don't  
22      see how you can do that. Are you going to disbelieve  
23      all of these other witnesses that the government used.  
24      Hatcher was not a paid informer. He testified. Mr.  
25      Pettus was not a paid informer, he testified. Are

1 you going to believe or disbelieve all of those?  
2 Lofton was a witness and he testified. All of these  
3 witnesses testified, and corroborated the government's  
4 testimony and they weren't government witnesses.  
5 Then you had Miller corroborating Dennis, Dennis  
6 corroborating Miller, Dennis corroborating Jordan,  
7 Miller corroborating, and Hatcher corroborating them  
8 in many respects. You are not limited to one witness  
9 who was a paid informer. You all think about that  
10 because that is important.

11 BY THE MARSHAL:

12 Seven minutes left, Mr. Hauberg.

13 BY MR. HAUBERG:

14 Thank you.

15 You know when I was a small boy down on a farm  
16 in Lincoln, County, Mississippi, one of the first  
17 thing I remember my parents teaching me was a complete  
18 respect for law and authority. You know when the  
19 law fails a disrespect for law comes in, it is an  
20 awful and terrible thing, but I have always respected  
21 the law and then when incidents through the years  
22 would occur, I would always think about it, what  
23 my parents taught me, and you know when June the 21st,  
24 1964 came and incidents occurred in Neshoba County  
25 shame and disgrace was brought upon your neighbors

1 and my neighbors, and the good citizens of the  
2 State of Mississippi by those incidents which occurred  
3 up there. We have a lot of pride in our great State,  
4 we want to hold our heads high, and I know that is  
5 what we are going to do when we consider the evidence  
6 in this case. Before I finally close there is one  
7 thing that I needed to mention. They talk about  
8 reputation, let me get that in. They talk about Judas.  
9 I know you remember the story better than I do.  
10 Remember when Jesus Christ was down by the Sea of  
11 Galilee, and there with his twelve disciples, and  
12 among them was one Judas Iscariot, now, you know  
13 reputation is what people say about you, what were  
14 the people down there saying about Judas Iscariot?  
15 They said, "Look, what a fine upstanding man he is,  
16 he has a good reputation." But what did Judas Iscariot  
17 do? He betrayed Jesus Christ. Reputation, what  
18 people say about you, but what you are down in here  
19 is what counts. Now, I have to hurry on with this  
20 other matter, let me just briefly run over the people  
21 who were at these various places here.

22 I go back and mention Bloomo School on June the  
23 16th, 1964, who was there? Akin, Herndon, Harris  
24 Roberts, Killen, Hop Barnett. You know that's the  
25 occasion where Roberts, Posey, Hop Barnett and some

of the others went out to the Mt. Zion Church. Now, who were down there where the boys were killed, where these three Civil Rights Workers, who didn't get justice in the court, they had no one to represent them in the court and were deprived of their constitutional rights. Price, Roberts, Jordan, Posey, Sharpe, Arledge, Snowden and Doyle Barnett. You heard Doyle Barnett insofar as he is concerned as to his participation in it. Who went down in the dam the night the bodies were buried, that night the bodies were buried? There was Roberts, Jordan, Posey, Sharpe, Arledge, Snowden, Doyle Barnett and the dozer operator, Herman. And do you recall what they did after that, they went on back up to this place to either a garage or a warehouse and that's when Doyle Barnett put his tag back on and they went on back into Philadelphia. Now, who was down there at Akins' place on June the 21st? Just before they all left to go to Philadelphia? Down at Akins place, Akins' place of business. Akin was busy, Akin didn't go that day because he was too busy, he had that other man sitting back there in his back office to talk about his job, but Akin was moving in and out.

BY MR. HENDRICKS:

We object, if the Court please, nothing was said any-

1 time about that, we move for a mistrial.

2 BY THE COURT:

3 Overrule your motion. Counsel on both sides have  
4 a very wide latitude in exercising a wide, sound  
5 discretion of common sense and common judgment and  
6 its not proper for the Court to intercede in argument  
7 and I'm telling you again, your motions are overruled.

8 BY MR. HAUBERG:

9 There was Akins, Roberts, Jordan, Snowden, Arledge  
10 Harris, Doyle Barnett and up from Neshoba was Killen  
11 and Sharpe. Now, I want to mention this other thing.  
12 I believe the Court will instruct you that any act or  
13 any statement of any one of these co-conspirators  
14 made during the period of conspiracy and before it  
15 has terminated or ended, anything that one of these  
16 co-conspirators did, anything that they may have said  
17 in furtherance of this conspiracy is admissible  
18 into evidence against the other co-conspirators, even  
19 though the other co-conspirator was not present at  
20 the time he made it. So, if Akin helped them get  
21 together that evening and go up there and what they  
22 did up there would bind Akin down here. Akin had  
23 been up there before that time. Now, in a few  
24 minutes, you will have this case submitted to you.  
25 Some of this is circumstantial evidence, but I believe

1 the government has proved to you, beyond a reasonable  
2 doubt, the guilt of these other defendants, leaving  
3 Travis Barnett out of it, and I believe, that you,  
4 as Members of this Jury, think so to in the back  
5 of your conscious. It's your decision, whatever  
6 you decide will be the decision in this case as to  
7 the guilt or innocence of these men, but it is  
8 something which you have to determine in your own  
9 hearts and in your own minds. We have brought you  
10 the evidence, the cold evidence and shown you what  
11 happened there, you've heard it and I believe when  
12 you go into that jury room and carefully consider it  
13 all you will return a verdict of guilty as to these  
14 main defendants. Of course, you have some of them  
15 that are not in it as much as others, but if there is  
16 a conspiracy that is an understanding or agreement,  
17 you don't have to sit down and talk about a conspiracy  
18 but if one act is done in furtherance of a conspiracy  
19 that binds the others.

20 BY THE MARSHAL: Time is up, Mr. Hauberg.

BY THE COURT:

21 I'll extend your TIME FIVE MINUTES. You had only  
22 half the time that the others had, so I'll extend  
23 your time five minutes if you want it you may have it.

24 BY MR. HAUBERG:

25 If the Court please, I believe we'll submit it

1 without further argument.

2 BY THE COURT:

3 All right.

4 (Whereupon the Court took a recess at 2:30 R. M.  
5 for fifteen minutes)

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13 BY THE COURT:

14 I want to be sure that everybody on the jury under-  
15 stands me and if my voice seems to fade out before it get s to  
16 you at anytime just please raise your hand. Everybody hear me  
17 all right?

18 Members of the Jury, at the outset let me express to  
19 you on behalf of all of us here our appreciation for your  
20 services as jurors.

21 You have listened patiently to all of the evidence  
22 and to the arguments of counsel, and we have come now to the  
23 point where this case is about to be entrusted into your hands.

24 This is an important moment. It may be said to be a  
25 dedicated moment in the contemplation of a civilized society.



1 The fact that any person charged with a crime has an absolute  
2 and unquestioned right in this country to be confronted with  
3 his accusers in open court and to cross examine those accusers  
4 through counsel of his own choosing, and to be judged by an  
5 impartial jury of his peers, after a fair trial is of supreme  
6 and profound significance in the life of our nation and in the  
7 life of each of us individually.

8 The determination and administration of justice under  
9 the law is one of the most sublime achievements of man, and is  
10 the capstone of our governmental structure and the touchstone of  
11 our democratic way of life. Where true justice is done, all  
12 of us grow in strength and spirit, and whenever any violence is  
13 done to the administration of justice we are all, to that  
14 extent, weakened and impoverished, for injustice to any one  
15 person at any time in any case gnaws at the vitals of justice  
16 for all.

17 Your important function here today is to determine  
18 justice under the law in this particular case and thereby to  
19 nourish and sustain the vitality of the ideal of justice under  
20 the law for all.

21 In making your determination your prime responsibility  
22 is to apply the law as this Court at this time in this case  
23 gives it to you. This Court is entrusted and charged with the  
24 responsibility of correctly advising the jury as to what the  
25 law is and the jury is charged with the important responsibility

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1 of applying that law to the facts as the jury determine the  
2 facts to be. Your paramount function is to judge the facts in  
3 issue and you are the sole judges of those facts.

4 No factual references by the Court or by counsel are  
5 binding upon the jury if they differ from your own recollection  
6 in your own good conscience. This Court has not expressed, nor  
7 have I intended to intimate any opinion with respect to any  
8 factual issue in this case. If any expression of mine has  
9 seemed, or any future expression of mine should seem, to  
10 indicate to you any opinion on my part relating to any question  
11 of fact in this case, I now instruct you to disregard such  
12 expression as it would be unintentional. You are the sole  
13 judges of all questions of fact submitted to you and of the  
14 credibility of all of the witnesses in the case.

15 Your authority, however, is not to be exercised  
16 arbitrarily. It must be exercised with sincere judgment and  
17 sound discretion and in accordance with the rules of law I  
18 state to you in this charge.

19 You have heard the testimony and received the evidence  
20 and heard the arguments of counsel and the Court will presently  
21 instruct you as to the rules of law which you will use and apply  
22 to the evidence in reaching your verdict in this case. It is  
23 these rules of law which you swore that you would so use and  
24 so apply in reaching your verdict here.  
25

1 Although you as jurors are the sole judges of the  
2 facts, you are duty bound to follow the law as stated in the  
3 instructions of the Court and to apply the law so given to the  
4 facts as you find them from the evidence before you.

5 You are not to single out one instruction alone as  
6 stating the law but must consider the instructions as a whole.

7 Neither are you to be concerned with the wisdom of  
8 any rule of law. Regardless of any opinion you may have as to  
9 what the law ought to be, it would be a violation of your sworn  
10 duty to base a verdict upon any other view of the law than that  
11 given in these instructions of the Court.

12 You have been chosen and sworn as jurors in this case  
13 to try the issues of fact presented by the allegations of the  
14 indictment and the denial made by the not guilty pleas of the  
15 accuseds in this case. You are to perform this duty of  
16 deciding these disputed issues of fact without sympathy, bias  
17 or prejudice as to any party or person in this case. The law  
18 does not permit jurors to be governed by sympathy, prejudice or  
19 public opinion. The accused and the government and this Court  
20 expect that you will carefully and impartially consider all of  
21 the evidence, follow the law as stated by the Court and reach a  
22 just and proper verdict in this case regardless of any  
23 consequences.

24 The law presumes a defendant to be innocent of crime.  
25 Thus a defendant, although accused, begins the trial with a

1 "clean slate"--with no evidence against him. And the law  
2 permits nothing but legal evidence presented before the jury  
3 be considered in support of any charge against the accused.  
4 So the presumption of innocence alone is sufficient to acquit  
5 defendant, unless the jurors are satisfied beyond a reasonable  
6 doubt of the defendant's guilt from all of the evidence in the  
7 case.

8 A reasonable doubt is a fair doubt based upon reason  
9 and common sense and arising from the state of the evidence.  
10 It is rarely possible to prove anything to an absolute  
11 certainty. Proof beyond a reasonable doubt is established if  
12 the evidence is such as you would be willing to rely and act  
13 upon in the most important of your own affairs. Stated  
14 inversely, proof of guilt beyond a reasonable doubt is not  
15 established if a doubt as to the guilt be such as to make a  
16 reasonable person hesitate to act. A defendant is not to be  
17 convicted on mere surmise, suspicion or conjecture.

18 A reasonable doubt may arise not only from the evidence  
19 produced, but also from any lack of evidence. Since the burden is  
20 upon the prosecution to prove the accused guilty beyond a  
21 reasonable doubt of every essential element of the crime  
22 charged, a defendant has the right to rely upon failure of the  
23 prosecution to establish such proof. A defendant may also rely  
24 upon evidence brought out on cross examination of witnesses for  
25 the prosecution. The law does not impose upon a defendant the

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1 duty of producing any evidence.  
2 A reasonable doubt exists in any case, when, after  
3 careful and impartial consideration of all of the evidence, the  
4 jurors do not feel convinced to a moral certainty that a  
5 defendant is guilty of the charge.  
6 I will not undertake to define a reasonable doubt  
7 further than to say that a reasonable doubt is not an unreason-  
8 able doubt--that is to say, by a reasonable doubt you are not  
9 to understand that all doubt is to be excluded; it is impossible  
10 in the determination of these questions to be absolutely certain.  
11 You are required to decide the question submitted to you upon  
12 the strong probabilities of the case, and the probabilities  
13 must be so strong as not to exclude all doubt or possibility of  
14 error, but as to exclude every reasonable doubt.  
15 It is the law that a reasonable doubt means an actual,  
16 substantial, real doubt arising from the evidence or the absence  
17 of sufficiently satisfying evidence to satisfy your minds to a  
18 moral certainty. A reasonable doubt is not a mere possible  
19 doubt, a speculative or conjectural or fanciful doubt. If you  
20 have only that sort of doubt of the defendant's guilt, then you  
21 should convict him or them. If, on the other hand, you do have  
22 a real, actual, substantial doubt of his guilt, that would be a  
23 reasonable doubt, and it would be your duty to acquit any such  
24 defendant in this case.  
25

1 In trying this case, you should not hunt for doubts  
2 with the view of finding some excuse or explanation for your  
3 verdict; nor, should you indulge in such doubts as are merely  
4 conjectural, but the doubts which ought to make you pause and  
5 hesitate must be reasonable doubts, and they must arise out of  
6 the evidence, or from the want of evidence in this case. You  
7 are not required by law to absolutely know that the defendants  
8 are guilty of the crime with which they are charged beyond every  
9 reasonable doubt before you could convict them; and you should  
10 not hesitate to find that any such defendants are guilty  
11 because you are able to say, outside of the evidence, that such  
12 defendant might have been innocent; but after carefully  
13 considering all of the evidence in this case, if you believe  
14 from the evidence beyond a reasonable doubt that any such  
15 defendants are guilty, you should discharge your duty under  
16 your oaths and under the law and say so by your verdict. On  
17 the other hand, if the evidence (Including the testimony, all  
18 circumstances and reasonable inferences which may be drawn  
19 therefrom) fails to show that the defendants or any two or more  
20 of them are guilty beyond every reasonable doubt and to a moral  
21 certainty, are not guilty beyond every reasonable doubt and to a  
22 moral certainty then you should acquit any such defendants.

23 An indictment such as we have here against these  
24 defendants is but a formal method of accusing a defendant of a  
25 crime. It is not evidence of any kind against the accused and

1 does not create any presumption or permit any inference of  
2 guilt against either defendant or accused.

3       There are two types of evidence from which a jury may  
4 properly find a defendant guilty of an offense. One is direct  
5 evidence such as the testimony of an eye witness. The other is  
6 circumstantial evidence, the proof of a chain of circumstances  
7 pointing to the commission of the offense. As a general rule  
8 the law makes no distinction between direct and circumstantial  
9 evidence, but simply requires that before convicting a defendant  
10 the jury be satisfied of the defendant's guilt beyond a reason-  
11 able doubt from all of the evidence in the case.

12       In a case where two or more persons are charged with  
13 the commission of a crime the guilt of the accused may be  
14 established without proof that all of the defendants did every  
15 act constituting the offense.

16       Whoever commits an offense against the United States  
17 or wilfully aids, abets, counsels, commands, induces or  
18 procures its commission is punishable as a principal, and who-  
19 ever wilfully causes an act to be done which if directly  
20 performed by him or another would be an offense against the  
21 United States is punishable as a principal.

22       Every person who thus wilfully participates in the  
23 commission of a crime may be found to be guilty of that  
24 offense. Participation is wilful if done voluntarily and  
25 purposely and with specific intent to do some act that the law

1 forbids; that is to say, with bad purpose either to disobey or  
2 to disregard the law.

3 In order to aid and abet another to commit a crime it  
4 is necessary that a defendant wilfully, knowingly and intention-  
5 ally associate himself in some way with the criminal venture  
6 and that he wilfully participate in it as in something he  
7 wishes to bring about, and that he wilfully seek by some action  
8 of his to make it succeed.

9 The defendants in this case are charged by this indictment  
10 with having violated an act of congress known as 18 United  
11 States Code Annotated, Section 241. Specifically, the  
12 defendants on trial are charged with a conspiracy with each  
13 other under color of law to threaten, oppress, intimidate  
14 Michael Henry Schwerner, James Earl Chaney and Andrew Goodman  
15 in the free exercise and enjoyment of their vested rights under  
16 the Constitution of the United States. That statute reads as  
17 follows: "If two or more persons", now this is the statute, and  
18 incidentally all of the instructions here will be oral, so you  
19 will carry only so much and such part of these instructions  
20 with you to the jury room as you can remember. You will not  
21 have written instructions as you do in the State Court. This  
22 Act of Congress of Federal Statute which this indictment is  
23 drawn is 18 United States Code Annotated, Section 241, which  
24 reads as follows: "If two or more persons conspire to injure,  
25 oppress, threaten or intimidate any citizen in the exercise or



1 enjoyment of any right or privilege secured to him by the  
2 Constitution or Laws of the United States, or because of his  
3 having so exercised the same, or if two or more persons go in  
4 disguise on the highway or on the premises of another with  
5 intent to prevent or hinder his free exercise or enjoyment of  
6 any right or privilege so secured he shall be punished" and in  
7 accordance with the statute which is of no importance to the  
8 jury as I will later advise you.

9 Now the indictment in this case you will have with  
10 you in your jury room. This indictment is against all these  
11 defendants on trial. Its been read to you by counsel and I see  
12 no reason to read it again, but this is the indictment and it is  
13 drawn in three paragraphs against all of the defendants and  
14 you will have this seven page document as the indictment with  
15 you in the jury room to read and consider.

16 Now this indictment, members of the jury, is not  
17 evidence or proof of anything against these defendants in this  
18 case. These defendants as you will notice from the indictment  
19 are not on trial for the crime of murder. They are on trial  
20 here only on the crime of conspiracy, which is a crime under  
21 the laws of the United States. They are on trial here only on  
22 the accusation of conspiracy to deprive citizens of their civil  
23 rights in violation of Federal Law. They are not here on trial  
24 for any other offense against the United States and you will  
25 judge them for their guilt or innocence only of the charge of

1 conspiracy.

2           The punishment provided by law for the offense  
3 charged in the indictment is a matter exclusively within the  
4 province of the Court, and is not to be considered by the jury  
5 in arriving at an impartial verdict as to the guilt of  
6 innocence of the accused.

7           A conspiracy is a combination of two or more persons  
8 by concerted action to accomplish some unlawful purpose or to  
9 accomplish some lawful purpose by unlawful means, so a  
10 conspiracy is a kind of partnership in criminal purpose in  
11 which each member becomes the agent of every other member.  
12 .The gist of the offense is a combination or agreement to  
13 disobey or to disregard the law.

14           Mere similarity of conduct among various persons  
15 and the fact that they may have associated with each other,  
16 and may have assembled together and discussed common aims and  
17 interests does not necessarily establish proof of the exist-  
18 ence of a conspiracy.

19           However, the evidence in the case need not show  
20 that the members entered into any express or formal agreement,  
21 or that they directly, by words spoken or in writing, stated  
22 between themselves what their object or purpose was to be, or  
23 the details thereof, or the means by which the object or  
24 purpose was to be accomplished. What the evidence in the case  
25 must show beyond a reasonable doubt, in order to establish

1 proof that a conspiracy existed, is that the members in some  
2 way or manner, or through some contrivance, positively or  
3 tacitly came to a mutual understanding to try to accomplish a  
4 common or unlawful plan.

5 The evidence in the case need not establish that all  
6 the means or methods set forth in the indictment were agreed  
7 upon to carry out the alleged conspiracy; nor that all means  
8 or methods which were agreed upon were actually used or put in  
9 operation; nor that all of the persons charged to have been  
10 members of the alleged conspiracy were such.

11 What the evidence in the case must show beyond a  
12 reasonable doubt is that the alleged conspiracy was knowingly  
13 formed, and that one or more of the means or methods described  
14 in the indictment were agreed upon to be used in an effort to  
15 effect or accomplish some purpose or object of the conspiracy  
16 as charged in the indictment; and that two or more persons,  
17 including one or more of the accused, were knowingly members  
18 of the conspiracy as charged in the indictment.

19 One may become a member of a conspiracy without full  
20 knowledge of all of the details of the conspiracy. On the  
21 other hand, a person who has no knowledge of a conspiracy, but  
22 happens to act in a way which furthers some object or purpose  
23 of the conspiracy, does not thereby become a conspirator.

24 Before the jury may find that a defendant, or any  
25 other person, has become a member of a conspiracy, the evidence

1 in the case must show beyond a reasonable doubt that the  
2 conspiracy was knowingly formed, and that the defendant or  
3 other person who is claimed to have been a member knowingly  
4 participated in the unlawful plan with the intent to advance or  
5 further some object or purpose of the conspiracy.

6 To act or participate knowingly means to act or  
7 participate voluntarily and intentionally, and not because of  
8 mistake or accident or other innocent reason. So, if a  
9 defendant, or any other person, with understanding of the  
10 unlawful character of a plan intentionally encourages, advises  
11 or assists for the purpose of furthering the undertaking or  
12 scheme, he thereby becomes a knowing conspirator, a participant,  
13 in such conspiracy.

14 One who <sup>knowingly</sup> joins an existing conspiracy is charged with  
15 the same responsibility as if he had been one of the originators  
16 or instigators of the conspiracy.

17 In determining whether or not a defendant, or any  
18 other person, was a member of a conspiracy, the jury are not  
19 to consider what others may have said or done. That is to say,  
20 the membership of a defendant, or any other person, in a  
21 conspiracy, must be established by the evidence in the case  
22 as to his own conduct, what he himself knowingly said or did.

23 The defendants are charged with violating Section  
24 241 of Title 18, of the United States Code, which I read to  
25 you a moment ago. This statute was enacted many years ago by

1 Congress to provide punishment for persons who conspired to  
2 use violence against or otherwise injure, oppress, threaten or  
3 intimidate citizens of the United States in the exercise of  
4 their rights under the Constitution or laws of the United  
5 States.

6 The words of this statute in so far as they are  
7 pertinent in this case are as follows, and I read that to you.

8 You will note that this offense contains the  
9 following elements, and I analyze it for you. First, two or  
10 more persons must conspire; second, the purpose of their  
11 conspiracy must be to injure, oppress, threaten, intimidate one  
12 or more persons; third, one or more of the intended victims of  
13 the conspiracy must be a citizen of the United States; fourth,  
14 the conspiracy must be directed at the free exercise or  
15 enjoyment by such citizen of a right or privilege secured by  
16 the Constitution or laws of the United States. If each of  
17 these four elements is present, a violation of the statute has  
18 occurred.

19 I will now explain each of these elements in more  
20 detail. A conspiracy is a combination or agreement or an  
21 understanding between two or more persons by concerted action  
22 to accomplish some unlawful purpose or to accomplish a lawful  
23 purpose by unlawful means; thus a conspiracy is a kind of  
24 partnership in crime, or a partnership for criminal purposes  
25 in which each member of the conspiracy becomes an agent of

1 every other member of the conspiracy. The essence or gist of  
2 the conspiracy is a combination or agreement either to violate  
3 or disregard the law.

4 Mere similarity of conduct among a number of people  
5 and the fact that they may have been associated with each  
6 other, may have assembled together and discussed common aims  
7 and interests does not necessarily establish proof of the  
8 existence of a conspiracy, however it is not necessary to show  
9 that the members of a conspiracy have entered into any written  
10 or formal or expressed agreement, or that they directly either  
11 by word spoken or in writing stated between themselves what  
12 their object or purpose was to be, or the details of it, or the  
13 means by which the object or purpose of the conspiracy was to  
14 be achieved.

15 What the evidence must show in order to establish  
16 proof that a conspiracy existed is that the members in some way  
17 or in some manner or through some contrivance either positively  
18 or tacitly came to a mutual understanding to try to accomplish  
19 a common and unlawful plan.

20 The second element of the offense is that the plan  
21 of the conspirators be to injure, oppress, threaten or intimidate  
22 one or more citizens of the United States. The words injure,  
23 oppress, threaten or intimidate are not used in any technical  
24 sense, but may cover a variety of conduct intended to harm or  
25 frighten other persons. Suffice it to say, that the types of

1 conduct described in the indictment here of assault, shooting  
2 and killing are all covered by the statute. Other types of  
3 conduct such as whippings, beatings, pursuing in automobiles  
4 and threatening with guns are also covered by the statute. If

5 it was a part of the plan of the conspiracy that any  
6 of these means be used in accomplishing its purpose then the  
7 conspiracy, if there were one, was one to injure, oppress,  
8 threaten or intimidate within the meaning of the statute.

9 It is not necessary for the proof to show that all of  
10 the means or methods agreed to or that each defendant partici-  
11 pated in every means to carry out the conspiracy or that all  
12 such means or methods were actually used or put into effect.

13 It is necessary, however, that the evidence  
14 establish beyond a reasonable doubt that one or more of the  
15 means or methods described in the indictment was agreed on to be  
16 used in an effort to effect or accomplish the object or purpose  
17 of the conspiracy, if any, as is charged in the indictment.

18 The third element of the offense is present if one  
19 or more of the individuals against whom the conspiracy is  
20 directed is a citizen. It is a sufficient statement of the law  
21 of citizenship that you understand that a person born in this  
22 country is a citizen. The indictment charges that the  
23 conspiracy was directed against Michael Schwerner, James Chaney  
24 and Andrew Goodman. It is not necessary for the government to  
25 prove that all three of the persons named as victims in the

1 indictment were the object of a conspiracy. It is necessary,  
2 however, for the government to prove beyond a reasonable doubt  
3 that the purpose of the conspiracy was to interfere with a  
4 constitutional right of one or more of the persons named as  
5 victims in the indictment and that he was a citizen.

6 The fourth element of the offense charged against the  
7 defendants is that the conspiracy was directed toward the  
8 exercise of rights secured or protected by the Constitution or  
9 laws of the United States. A right which is described in the  
10 indictment is a right not to be deprived of life or of liberty  
11 without due process of law by persons acting under color of laws  
12 of the State of Mississippi. Under color of laws means that it  
13 was a part of the plan of the alleged conspiracy that one or  
14 more of the alleged conspirators would use his official position  
15 to further the aim of such conspiracy.

16 Each and every citizen of the United States has a  
17 right not to be deprived of his life or liberty by persons who  
18 may be assisted by law enforcement officials who use their office  
19 and power to further the aims of such conspiracy.

20 A conspirator need not join a conspiracy at its  
21 inception. Each person joining a conspiracy is taken to adopt  
22 and is bound by the prior acts and statements made in further-  
23 ance of the common objective. He must have knowledge of the  
24 conspiracy and its essential objective. He need not know the  
25 identity or number of all of his confederates.



1           You are further instructed that any acts or  
2       declarations of any co-conspirator, made in furtherance of a  
3       conspiracy and before its termination, are binding upon him and  
4       are proof against all co-conspirators, even though some of the  
5       various acts and declarations occurred out of the presence of  
6       some of the co-conspirators.

7           You are further instructed that you may consider any  
8       evidence of any actions of any co-conspirators in attending a  
9       meeting at the Bloomo School in Philadelphia, Mississippi, on  
10      June the 16th, 1964, and any participating in any subsequent  
11      incidents at the Mount Zion Church, in determining the intent  
12      and motive of those alleged conspirators with respect to the  
13      matters charged in the indictment.

14          You are further instructed that before any person  
15      can become a member of any conspiracy he must first knowingly  
16      enter into the conspiracy and knowing the object and purpose of  
17      the conspiracy.

18          The proof need not show that the members of the  
19      alleged conspiracy did any act or thing to further or accom-  
20      plish any object or purpose of the agreement or arrangement or  
21      understanding. Nor is it necessary for the proof to show that  
22      any of the accused actually adopted, or followed, or adhered  
23      to any course of conduct of any others.

24          What the evidence in the case must show beyond a  
25      reasonable doubt, in order to establish the offense charged in

1 the indictment, is that the conspiracy alleged was knowingly  
2 formed, and that one or more of the accused knowingly became a  
3 member of the conspiracy at the inception or beginning, or  
4 afterwards, during the existence of the conspiracy. As stated  
5 before, the success or failure of conspirators to accomplish or  
6 achieve any object or purpose of the conspiracy is immaterial.

7 The gist of the crime charged in the indictment is  
8 knowingly making or arriving at an agreement, or arrangement,  
9 or understanding, in conspiring to deny or deprive one or more  
10 citizens of the United States of their constitutional rights;  
11 that is to say, what the law forbids is the act of knowingly  
12 becoming a party to or member of a conspiracy such as charged  
13 in the indictment.

14 Two essential elements are required to be proved in  
15 order to establish the offense of conspiracy as charged in the  
16 indictment.

17 First, that the conspiracy described in the indictment  
18 was knowingly formed, and was existing at or about the time  
19 alleged; and,

20 Second, that the accused knowingly became members of  
21 the conspiracy as charged.

22 If the jury should find beyond a reasonable doubt  
23 from the evidence in the case that existence of the conspiracy  
24 charged in the indictment has been proved, then the conspiracy  
25 offense charged is complete, and it is complete as to every

1 person found by the jury to have been knowingly a member of the  
2 conspiracy, regardless of whether such person knowingly became  
3 a member at the inception or beginning of the conspiracy, or  
4 afterwards during the continuance of the conspiracy.

5 As stated before, the burden is always upon the  
6 prosecution to prove beyond a reasonable doubt every essential  
7 element of the crime charged.

8 You are further instructed that it is not unlawful  
9 to be a member of officer of the Ku Klux Klan in that mere  
10 membership in a lawful organization is not evidence in itself  
11 of an unlawful conspiracy; and if you believe from the evidence  
12 that any particular defendant in this case was a member of the  
13 Ku Klux Klan this evidence alone is not sufficient for a  
14 conviction of any defendant on a charge of conspiracy, unless  
15 you believe from the evidence in this case beyond every reason-  
16 able doubt that the Ku Klux Klan referred to in this case was in  
17 itself an unlawful conspiracy formed or existing within the  
18 Southern Judicial District of Mississippi between January the  
19 1st, 1964 and continuing to on or about December the 4th, 1964,  
20 and that the defendants were knowingly members thereof during  
21 said period of time for the unlawful purpose of conspiring  
22 together to deprive Michael Henry Schwerner, James Earl Chaney  
23 or Andrew Goodman of life or liberty without due process of law,  
24 and that in addition thereto such conspiracy, if any there were,  
25 must have been formed, contrived or exercised under color of

1 law, and in confederation with law enforcement officials  
2 unlawfully conspiring with said defendants at some time during  
3 said period of time charged in the indictment.

4 You are further instructed that membership in an  
5 organization is not any evidence of guilt by association, and  
6 the Court further instructs you that as a matter of law that  
7 there can be no guilt of one defendant by association with  
8 another defendant unless he wilfully and knowingly associates  
9 with the other person in relation to the crime involved.

10 You are further instructed that the burden of proof  
11 is upon the United States of America to prove beyond every  
12 reasonable doubt that each defendant, in order to find the  
13 particular defendant guilty, knowingly and wilfully participated  
14 in an unlawful plan with the intent to advance or further some  
15 object or purpose of an unlawful conspiracy, and in addition  
16 thereto the burden of proof is upon the United States of America  
17 to show that an unlawful conspiracy existed for the specific  
18 purpose of depriving Michael Henry Schwerner, James Earl Chaney,  
19 or Andrew Goodman of life or liberty without due process of law  
20 and that each defendant possessed initially, or acquired a  
21 specific intent to deprive either of the aforementioned persons  
22 of their life or liberty and that the same was done under color  
23 of law.

24 A statement made outside of court by one defendant  
25 in this case is not to be ~~considered~~ considered as evidence against

1 any other defendant not a party to such confession.

2           The Court instructs you for certain of the defendants  
3 that they are not required to prove that they are innocent, and  
4 this would be as to all defendants, or not guilty because the  
5 law presumes that they are innocent or not guilty, and requires  
6 the jury to so presume, and this is not a mere form to be  
7 disregarded by this jury, but is a material substantial part of  
8 the law and should never be disregarded by this jury, but  
9 should be ever kept before this jury now and throughout your  
10 entire deliberation in this case, and before you can vote to  
11 convict any defendant in this case, every single juror on this  
12 panel must vote on your oath that the United States of America  
13 has proven said defendant guilty beyond every reasonable doubt  
14 and to a moral certainty that he is guilty, and if a reasonable  
15 doubt arises in the mind of any single juror on this panel as  
16 to the guilt or innocence of any defendant involved, that it is  
17 the sworn duty of said juror to so vote and never yield his  
18 verdict as long as a reasonable doubt exists in his mind as to  
19 the guilt or innocence of the defendant involved and this is  
20 true whether the said reasonable doubt arises from the evidence  
21 or from the lack of evidence.

22           You are further instructed that there can be no  
23 furtherance of a conspiracy, if any, that has ended, and  
24 therefore you are instructed that any declaration or statement  
25 of any person reputed to have been a part of an alleged

1 conspiracy do not bind any other co-conspirators after the  
2 alleged conspiracy, if any, has ended.

3 You are further instructed that before you can  
4 consider any act done or thing said by a co-conspirator against  
5 another defendant you must first believe beyond a reasonable  
6 doubt from the evidence that an unlawful conspiracy existed and  
7 that the particular defendant under consideration was knowingly  
8 a member of such conspiracy, and in addition there to you must  
9 further believe from the evidence beyond a reasonable doubt  
10 that the statements and acts of the co-defendants, if any, were  
11 made or done knowingly during the continuance of such  
12 conspiracy, if any, and in furtherance of some object or purpose  
13 of the conspiracy, if any, otherwise, any admission or  
14 incriminatory statement made or act done or said to have been  
15 done or done outside of court by any other defendant may not  
16 be considered as evidence against any particular defendant who  
17 was not present and heard the statement made, or saw the act  
18 done.

19 You are further instructed as to the defense of an  
20 alibi, that is, that they were somewhere else at the alleged  
21 time of the commission of the alleged crime charged, that  
22 certain named defendants are not required to prove beyond every  
23 reasonable doubt such defense to entitle them to a verdict of  
24 not guilty. That would apply as to all of the defendants. It  
25 is sufficient if the evidence on that point raises a reasonable

1 doubt of their presence at the time and place and if you  
2 entertain a reasonable doubt as to whether the above defendants  
3 were at the place of the commission of the alleged crime, or  
4 were at another place, as testified about, then it will be your  
5 sworn duty to find them not guilty.

6 A confession is an admission by a defendant of all  
7 the facts constituting the crime charged. The very nature of  
8 a confession requires that the circumstances surrounding it be  
9 subjected to careful scrutiny in order to determine surely  
10 whether it was voluntarily and understandingly made.

11 If the evidence does not convince beyond all reason-  
12 able doubt that a confession was made voluntarily and  
13 understandingly, the jury should disregard it entirely. On the  
14 other hand, if the evidence does show beyond a reasonable doubt  
15 that a confession was in fact voluntarily and understandingly  
16 made by a defendant, the jury should consider it as evidence  
17 only against the defendant who voluntarily and understandingly  
18 made the confession.

19 You are further instructed that during the course of  
20 this trial you have been instructed to ignore the testimony of  
21 certain witnesses insofar as that testimony relates to any  
22 defendant who was not alleged, in that testimony, to have made  
23 the particular statement which was the subject of the testimony.

24 The Court hereby again instructs the jury that you  
25 are to ignore that testimony insofar as it relates to those

1 defendants and that you are not to consider such testimony in  
2 making up your verdict.

3 An accomplice is one who unites with another person  
4 in the commission of a crime, voluntarily and with common intent.  
5 An accomplice does not become incompetent as a witness because  
6 of participation in the crime charged. On the contrary, the  
7 testimony of an accomplice alone, if believed by the jury, may  
8 be of sufficient weight to sustain a verdict of guilty, even  
9 though not corroborated or supported by other evidence.  
10 However, the jury should keep in mind that such testimony is  
11 always to be received with caution and weighed with great care.

12 You should never convict a defendant upon unsupported  
13 testimony of an accomplice, unless you believe any such  
14 unsupported testimony beyond a reasonable doubt.

15 The testimony of an informer, or any witness whose  
16 self interest or attitude is shown to be such as might tend to  
17 prompt testimony unfavorable to the accused, should always be  
18 considered with caution and weighed with great care.

19 A witness may be discredited or impeached by  
20 contradictory evidence, or by evidence that at some other time  
21 the witness has said or done something, or failed to do some-  
22 thing, which is inconsistent with the witness' present  
23 testimony; or by evidence that the general reputation of the  
24 witness for truth and veracity is bad in the community where the  
25 witness now resides or has recently resided; or by evidence



1 that the witness has been convicted of a felony.

2 If a witness is shown to have knowingly, wilfully and  
3 corruptly testified falsely concerning any material fact in  
4 this case you have a right to distrust such witness' testimony  
5 in other particulars, and you may reject all the testimony of  
6 any such witness, or give it such credibility as you may think  
7 it deserves.

8 If you believe that any witness has been impeached  
9 and thus discredited, it is your exclusive province to give the  
10 testimony of that witness such credibility, if any, as you may  
11 think it deserves.

12 If you believe from the evidence in the case that  
13 there is a probability of the innocence of the defendants, then  
14 there is a reasonable doubt as to their guilt, and the jury  
15 should return a verdict of not guilty.

16 You are further instructed that the jury cannot  
17 convict any defendant in this case on conjecture, surmise or  
18 suspicion, but the proof of guilt of any defendant in this  
19 case must be proven by competent evidence beyond every reason-  
20 able doubt and to a moral certainty before you can render a  
21 verdict of guilty.

22 The defendants in this case are not on trial for any  
23 criminal act or conduct not alleged in the indictment in this  
24 case.

25 It is your duty to give separate, personal

1 consideration to the case of each individual defendant. When  
2 you do that, you should analyze what the evidence shows with  
3 respect to that individual, leaving out of consideration  
4 entirely any evidence admitted solely against some other  
5 defendant or defendants. Each defendant is entitled to have  
6 his case determined from his own acts and statements and the  
7 other evidence in the case which may be applicable to him.

8 If the jury believes any witness has knowingly,  
9 wilfully, corruptly, sworn falsely about any material matter in  
10 this case, you have the right to disregard such testimony of  
11 such witness, in whole or in part.

12 Where a defendant has offered evidence of good  
13 general reputation for peace and violence, or as a law-abiding  
14 citizen, the jury should consider such evidence along with all  
15 the other evidence in the case.

16 Evidence that a defendant's general reputation for  
17 peace and violence, or as a law-abiding citizen, has not been  
18 discussed or, if discussed, those traits of defendant's  
19 character have not been questioned, may be sufficient to  
20 warrant an inference of good reputation as to those traits of  
21 character.

22 Evidence of a defendant's reputation, as to those  
23 traits of character ordinarily involved in the commission of  
24 the crime charged, may give rise to a reasonable doubt; since  
25 the jury may think it improbable that a person of good character