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decision about him on behalf of these charges. You have got to feel certain before you can do it. You can't do it because you feel, well, maybe it happened. It could have happened. He probably did go there. You have got to say he was there, and he did it on both occasions.

And when you look at Ben Chavis you have got to say, "Ben Chavis, you conspired to assault police and firemen on the 5th and 6th of February, 1971," before you can find him guilty. And you have got to be able to say, "Nothing I thought about you or read about you or heard about you before has anything to do with that, and nothing that I understand you believe has anything to do with that." You have got to say, "I believe it is Ben Chavis because Allen Hall said it, and Jerome Mitchell said something, and Motor Mouse said something." You have to be able to look at him and his little girl and his parents and all those who care about him and say that.

And you have got to do the same thing when it comes to Marvin Patrick before you can find him guilty. You have got to believe that he did these things that he is charged with. You have got to look at him and be willing to face everybody who cares about him and loves him and say to him,

"You did these things because these three unfortunate souls said it." And that is the decision you will have to live with from now on. Once you make it, you cannot change it.

when  
And/it comes to Wayne Moore you have got to say the same thing. You have got to feel certain beyond a reasonable doubt that he did what they claim he did.

And you are going to have to go further, and you are going to have to look at Jerry Jacobs. You have got to look at them all individually, as you said you would, and make up your minds that Allen Hall could know everything, and everything he said is true. That is what you have got to do. You have got to say, "Jerry Jacobs, I am not convicting you because they paraded all these bullets before me, and I am not convicting you because they brought in all these police and firemen, because they say they shot at. I am convicting you because I believe you did, in fact, do what the prosecution said you did." You have got to make that decision on both charges as it comes to Jerry Jacobs.

And you have got to do the same thing for Connie Tyndall. You have got to feel certain. You have got to

believe it. And you have got to be able to stand up before all and say, "This is what I believe because Allen Hall told me that, and Jerome Mitchell, and little Motor Mouse," vulnerable creatures that they are. They said and so you did it.

And you have got to tell Ann Shephard the same thing when it comes to the charge of accessory before the fact of burning. You have got to be able to do that on the basis of this evidence that came from the witness stand.

And ladies and gentlemen, if there is any doubt in your mind that that happened you are required by law to say, "That each one of these people I have just named that you are not guilty. I am rejecting a case that has been put together in this fashion. I will not accept what witnesses say who have been coached and rehearsed such as these witnesses on the stand. I will not be influenced by anything that I believe that may conflict with anything that I can see that you believe."

The doubt is to be resolved in favor of these people on trial. That is the way our law operates. Many an innocent person has been convicted and sentenced on false perjured testimony and even on mistaken testimony.

So you have got to be sure. You have got to be careful because you might make a mistake.

And if you make that mistake, ladies and gentlemen, if you have some doubt in your mind about it, which is reasonable, and you say, "Well I am going to convict him anyhow because it looks like they did something." You will never be able to change that. You have got to be prepared to live with it from now on. You have got to know that you have affected their lives in this manner for each one of them. And the mere fact that there are twelve people operating together does not absolve anyone from making that decision. You all have to make decisions and you all bear responsibility for whatever verdict that is.

Now, ladies and gentlemen, the law in this case will be given to you by the Judge, and it is very simple after a manner of speaking. The Judge will charge you as to what a conspiracy is, that there has been a meeting of the minds, an agreement, a combining in purport, a confederation to commit a specific, unlawful act; that you have got to find first that a conspiracy existed and that as to each of these individuals they participated in it; and

you have got to find beyond a reasonable doubt at least those two things in connection with the conspiracy as to each one of these people; and you have got to judge them individually.

And as to the burning of Mike's Grocery with an incendiary device, you have got to find first that it was burned, essentially that it was burned unlawfully, that it was burned with an incendiary device, and that each and everyone of these nine young men burned it or by their presence aided and abetted in the burning of it. You have got to find that beyond a reasonable doubt as to each one of these persons before you can find them guilty.

Now, ladies and gentlemen, I could talk more. There are many things I am sure that I have not said, but I cannot say them all. Ultimately the things I say are really just another instance of the trial because ultimately you will make the decision. Ultimately you will decide whether or not the prosecution is going to be able to lay all the troubles of Wilmington on these ten people. Ultimately you are going to decide whether or not Allen Hall, Jerome Mitchell and Motor Mouse are to be believed beyond a reasonable doubt. All I can do, and all any lawyer

can do is to present to you our argument as to how we see these facts, but you make the decision.

Ultimately you will decide whether or not the system of justice that we have in this country will operate fairly when it comes to people who were charged in this kind of a context. Ultimately you will decide whether or not if it is at some point a prosecution gets enough people of you they can go into a mental institution, prison and training school and convict you of something if they choose.

Ultimately you will decide whether or not if at some point you happen to be on an unpopular side of a given issue that you might be prosecuted and possibly convicted because of those beliefs and the manner in which you choose to express them in. Ultimately you will decide whether a young man who happened to be black can come into court and be treated fairly and the color of their skin have no affect on the outcome of this case.

Ladies and gentlemen, I have come to know these young men in the course of our preparing to defend them. I know the individuals that they are. You do not know them personally. But you have seen them come into court everyday and leave and look and listen and look attentively

at what is going on before them, the interest that they have expressed constantly in the trial of this matter. You have seen the look of concern spread on their faces every day for five weeks that we have been here. You have seen that. And you have got to decide their cases. Their defense was in our hands, their fate is in yours. I cannot help but believe that after you have heard all of the arguments in this case, after you have seen all the bullets and cartridges boxes and paper and cotton and mercurochrome, after you have seen the pictures and after you have heard from the State and after the Court has given you the law that when you come to deliberate on these cases you will find each one of these young men not guilty of the charges against him because the State has not proven it; that you will find each of them not guilty because you will reject this kind of a prosecution with this kind of flimsy evidence put together and all geared for a specific purpose.

We ask you only, ladies and gentlemen, to deal justly with the people before you, to let your verdict speak the truth and I feel very close to this case, and I am asking you to do that.

Although you have heard the name Ben Chavis

mentioned in this courtroom perhaps more than any others, everyone of these young men on trial is equally important. Don't condemn one or two or three or four or five or six or seven or eight or nine people simply because you have heard some unfortunate things which you have seen have not been brought out. Don't find it easy to believe Allen Hall, Jerome Mitchell and Motor Mouse because you want to believe them. Weigh what they had to say in the scales of justice, and I believe if you do, those scales will be tipped in favor of the defendants.

All that I have said and all that I can say, ladies and gentlemen, is that we ask you to deal fairly and justly, and we believe that in the end fairness and justice in this case means that you will say to each one of these young men and this young lady after you have deliberated, "We find you not guilty."

I believe that that is what justice, truth and fairness requires in this case, and that is all that we can ask, fairness, truth, justice in this case, equally not guilty. Thank you.

(Conference at the bench.)

THE COURT: We are going to take a recess now until 2:00 o'clock for lunch. May I again caution you

not to discuss these cases among yourselves nor allow anyone to discuss them with you or in your presence. Do not discuss them among yourselves until you have the cases for your deliberation. I again instruct you not to read, view or listen to any account of this trial if such should appear in the press or in the television or on the radio. You go, members of the jury, and come back at 2:00 o'clock.

(The jury was dismissed.)

THE COURT: We will take a recess until 2:00 o'clock.

(The court recessed from 12:45 until 2:10 P.M.)

(Mr. Hunevol summed to the Jury on behalf of the defendant Shephard.)

May it please the Court, ladies and gentlemen  
<sup>is</sup>  
of the jury, my name/Matt Hunevol, if you forgot, from Wilmington. I am the only defense counsel from Wilmington. I represent Mrs. Ann Shephard. You all haven't had much of an opportunity to hear much from me during the course of these five weeks. I have been trailing Mr. Stroud and four other attorneys. When I had an opportunity to speak just about all of the questions had been exhausted. I find myself in much the same position at this time. I would like to comment a little bit about the case. I will try not to be very repetitious, but because of the fact of the multiplicity of it, because of the existence of multiple defendants, I will have to go over some ground that has previously been covered by other defense lawyers.

I will attempt to frame my comments in light of the existence of Mrs. Shephard as a defendant in this case. Mrs. Shephard on August 7 of 1972, approximately three weeks or four weeks before the start of this trial was charged with being an accessory before the fact of the burning of Mikes with an incendiary device on the 6th day

of February.

The State is alleging that she became that accessory. She is not alleging she became an accessory before the fact on the fourth. They are not alleging that she became an accessory before the fact on the 5th of February, 1971, and we all know at this time, and I will stipulate that Mikes burned on the 5th of February and started to burn at sometime around ten o'clock on Saturday evening of that date.

Other defense counsel have commented on the role of the Judge and the State and the defense counsel. I will make a couple of comments on it myself. Judge Martin's role is just about finished. About the only thing he is going to do is charge you all sometime in the next couple of days. Following me, Mr. Johnson will get up, and following Johnson the Solicitor will get up. I, of course, will be the last one to speak for the defense; and I am speaking primarily for Ann Shephard, Mrs. Shephard.

Up here in Pender County, in Burgaw, we are really trying - you are really trying the guilt or innocence of ten people and what has taken place up here is, in fact, ten separate trials. Nineteen separate and distinct offenses

are at issue before you.

Everyone has talked about the presumption of innocence, the question of reasonable doubt, and the Judge is later going to instruct you on it. I am not going to really mention that.

I will comment on the role of the State of North Carolina. The State of North Carolina is the alter ego in theory of every single one of you members of the jury, of Judge Martin, of me, the defense counsel, of W. C. Brown, all the defendants. The State of North Carolina theoretically represents every single person in this courthouse. Many people don't realize, that the burden of the State of North Carolina is, and this is sometimes hard to imagine, not to convict. The burden of the State of North Carolina, their legal and ethical responsibility, is to see that justice is done. And when Mr. Stroud, Mr. Johnson were sworn in as officers of the court and the other defense counsel including myself, we took an oath that we would abide by the Canon of Ethics of the State of North Carolina recommended by the North Carolina Bar Association. And there was a very clear and cogent dictate in the Canon of Ethics that justice is the end in a criminal prosecution, not the

conviction, not the innocence of any of these defendants including my client.

So my role, Becton's role, Ballance's role, Harmon's role, Ferguson's role is not to seek that we get acquittal for our clients. Our responsibility is to defend the constitution of the United States, the constitution of the State of North Carolina and the statutes and laws of North Carolina. And our responsibility in this trial as defense counsel is to force the State, to hold the State to a certain burden of proof, a certain standard of care. And we are the few people, lawyers in North Carolina that have that power.

It is an important responsibility because the power of the State of North Carolina and other states in the United States has been abused in the past, and our responsibility when we represent these people is not only to represent them, but Judge Martins', to represent you, to represent Mr. Stroud, and as defense counsel bastions. We are people who must stand up and force the State to adhere to the standards that have been set up in our Common Law system of Jurisprudence. I'd like you to keep that in mind as you think and consider the matters that are before

you here today.

The reason why I mentioned that the State of North Carolina is not responsible to acquire a conviction is this. That theoretically and philosophically the State of North Carolina is a sterile person. It is kind of an unthinking mask, an unfeeling mask representing the social, political and economic consciousness of the various people here.

So if after I sum up here, after you hear the Judge's charge, after you hear the State of North Carolina and you are convinced in your hearts, minds and souls that the State of North Carolina has not met their burden, has faltered in any respect, Mr. Stroud and Mr. Johnson can go out of this court, and they are required to go out of this court, with the feeling of satisfaction and pleasure. They are not theoretically to be disappointed because the end has got to be a just result, and they are just as interested in that result as are every single one of these defendants here, me, Stroud and Johnson, Judge Martin; all of these people out here. I'd like you to keep that in mind. You owe no allegiance to the State of North Carolina. You are not permitted to identify with the prosecution

of this case. You are bound solely by the facts that came out of that witness stand, the charge of the court and to a certain extent the summations of counsel. I will re-iterate also during the course of this trial I might have sounded like a broken record. I was objecting to everything and the reason, as Mr. Ferguson said, for my objections was not because I am trying to defeat the end object of what we are all here considering, but rather because rules of evidence have historically been set up to prevent prejudicial information, irrelevant information, unsequential information from getting to your attention.

When I objected and when other counsel objected, including the State of North Carolina, it was their opinion that that was not competent and should not be considered by you all.

Now the Judge sometime ruled in our favor, often ruled against us, but we made those objections in good faith. So did the State.

I'd like to mention as did some of the other counsel that in my recitation of the facts here I might not get them all down pat. I might miss a couple, maybe I will throw in some that do not square with your recollection

of what you heard over here over the last couple of weeks. If that is the case, you are to consider your rendition of the facts as you heard them because that is your province. You are the people who are essentially the most powerful group. When you look at the whole periphery of the Administration of Criminal Justice and as a member of that group or as members of that group you are the ultimate arbiters. When

When I am reciting the facts as I am summing up I am not trying to recite them in favor of Shephard or Vereen or any other of these other people. They are just my best recollection of what happened up here.

One more thing before I start considering the facts. I'd like you to keep these three things in the back of your mind. I have tried to characterize the prosecution in this case, and I really haven't come up with a satisfactory characterization. But I have three alternatives that I'd like you to consider, and you can type it in anyone of the fashions that you like or none of the suggestions that I make. And I will characterize this trial as maybe a trial by exhibit. I would characterize this trial as one with a corroborators corroborate to

corroborate, and I would also to a certain extent characterize this trial a solicitorial orchestration, and I think I'd like you to keep those in the back of your minds. Possibly they will have some applicability to what I am going to say. Possibly you will completely disregard them. I'd just like you to store them up for awhile.

The State of North Carolina presented 42 witnesses in the last couple of weeks. The first witness was Lt. Turner. That was on September 26, 1972. He got up there about - I can't recall the time. Wilmington Police Department. He was the gentlemen in the photographic and identification department. I believe he made a total of three appearances during the course of the trial. The first time he got up there the only thing he did was to show, and if I remember correctly, introduce some aerial exhibit that had been taken on April 20, 1972. If I remember correctly I cross examined Lt. Turner, and I believe I asked him four questions. I think the first question had to do with whether or not he had ever seen or heard my client Mrs. Shephard counsel, procure, incite, encourage anyone to do anything at anytime, and all these questions were denied and sustained by Judge Martin. That was the extent of my

cross examination. Lt. Turner never mentioned my client's name, never said she did anything, never said she said anything.

The second witness for the State of North Carolina was Detective Clarence Fredlaw, Wilmington Police Department. Same day. What Mr. Fredlaw did was to identify some of the exhibits that you all have seen, aerial photographs and maps, couple of other things I can't remember. I believe I asked him the same questions on cross examination. They were all objected to and sustained. He didn't say anything about my client.

Third witness for the State of North Carolina was Allen Hall. I'll talk about him later.

Fourth witness for the State of North Carolina was Jerome Mitchell. I'll talk about him later.

Forty-second and last witness for the State of North Carolina was Eric Junious, Motor Mouse or Motor Mouth, or whatever his name is. I'll talk about him a little later.

Fifth witness for the State of North Carolina, October 3, 11:50 in the morning is Merton Weiss. He owned the chinchilla ranch. Mr. Harmon referred to some of the testimony that Mr. Weiss said to the effect that he saw

Chavis out there at his place. Ferguson when he was up there said, "I think I saw Chavis up there." Well that is my understanding of what Merton Weiss said. He said, "I think that I saw Chavis sometime in January of 1971." Weiss is the guy with the white Chevy van. Had John Robinson in his employ, said that Robinson used that truck all the time day and night during the course of his employment. Weiss worked into this thing in this fashion. He knows Becton, Mrs. Becton or Mr. Becton had given them a chinchilla I think at sometime in the past. So that is the connection. There is the corroboration, the alleged corroboration. He says he got a call on some night from Mrs. Becton. He says he can't recall when he got that call. He said it could have been late Thursday night, early Friday morning, late Friday night, early Saturday morning. He can't recall and if you remember Mrs. Becton takes the stand a little later. Decker. I'm talking about Decker. Reba Howard Decker. I am sorry. I don't know where I got Becton from. Anyhow Weiss gets off the stand. I didn't say one word to Weiss. I didn't cross examine him, didn't ask him one question. And did not ask one question in cross examination of 39 of the State's 42 witnesses. There was no need to. Weiss

probably never saw my client before that day on the 3rd and 4th, never mentioned her name, never said she did or said anything. He is only talking about Thursday, the 4th or Friday the 5th. That testimony in no way can corroborate, no way to point any finger, any influential finger, in the direction of my client. It is logically impossible.

I'll stipulate for the record that everything Lt. Turner said was true. I'll stipulate for the record that everything that Mr. Fredlaw said was true. I'll stipulate for the record whatever Mr. Weiss said is true. Mrs. Boston gets up there. Decker, Reba Howard Decker followed him up there. She is the one that works out there at J. M. Fields. She says on that night and, this is important and this is an exact quote to the best of my recollection. She said Robinson comes out there with another guy. You know the van is outside and so forth. This is February 71. She says she can't say for sure. Unquote. She says Robinson bought some bullets. She says she calls up Weiss. She said she can't say for sure when she called him up. It was either late that night or early next morning, but because she can't say for sure whether it was Thursday,

February 4 or Friday, February 5 we don't know when she made that call. And what does that have to do with my client Mrs. Shephard?

My client is charged with being an accessory before the fact on February 6. This<sup>is</sup>/either two or one day later in any testimony by this person.

Another interesting thing that doesn't logically fall in the line of sequence, but I'll comment on it now. Allen Hall says when they go out there in that white Chevy van, I believe he said Robinson was driving. I believe that he said that he was on the right hand passenger side. If I recall the testimony correctly and I believe this was verbatim from his second written statement at the bottom of some paragraph, he said that Chavis was sitting in the middle, and I think there was another guy in the car which he identified and another guy which he never identified. I think this is interesting for this reason. All during this trial Allen Hall is getting up here and he is pointing that finger - this trial is all about that man over there with that collar. That is what they are after. Allen Hall said he has taken orders from Ben Chavis all during this thing. Now why is the big man crouched down in a white Chevy van between two

cushioned seats? Why is Allen Hall not laying out there sprawled in the back of the place? Allen Hall is out there in the number one seat. I think that is important. I think you all should consider that. That is where Chavis should be sitting. He is the big man. Robinson is the chauffeur. Chavis is the guy being driven around town. Hall should be sprawled in the back or crouched between two chairs in the middle of that white Chevy van.

Mr. Becton never mentioned the name of Ann Shephard. Never said she saw her or did anything. She is talking about two days before my client is purportedly supposed to do anything.

Next witness gets up the same day 1:30 in the afternoon. It's Smith, Dock Street. He identified a couple of photographs. He said his place was shot up some night. He said on Friday. I'll stipulate, first of all, every thing that Mrs. Decker says. I believe she was telling the truth as far as my client. I have this luxury now. These other people might not want to stipulate this, but I can stipulate this as to Shephard. She is my responsibility here okay.

Tell me what in goodness name does the fact that poor Mr. Smith gets his place shot up February 5 have to do

with my client. Absolutely nothing. No mention of Ann Shephard. I never cross examined Mrs. Decker. I have nothing to cross examine her about. I never cross examined Mr. Smith. He never said anything about my client. I'll stipulate what Mr. Smith said was there.

Mrs. Mary Rebecca Watts, she is the one driving down Fifth Street. I think she had a family in the car. She talked about February 5. She says she is shot at. Okay. This woman's testimony has absolutely nothing to do with Mrs. Shephard. Mrs. Shephard has not been charged. She is not being charged with being an accessory before the fact. Correction. For having conspired to assault any emergency personnel or other personnel, civilian or emergency. Mrs. Watts is saying that it happened. A lot of horrible things happened that weekend, and I'll stipulate that everything the State said happened happened. I agree with her and the State of North Carolina knew about what happened almost simultaneously when it happened, when some guy gets shot up, his house gets shot up, when some lady gets shot going down the street in a car after they get out of the ambulance if the police doesn't have a record to report it to the police they know instantly, they know this. Mrs.

never mentions my client. Again you are only talking about February 5. My client is charged with February 6. No cross examination. There was nothing she said about my client. Okay.

3:15 P.M. Father Jones gets up here. First of all he talks about he just had confessions. Through the rendition about some people coming down Ann Street and you know you remember what he said. He said Love was out there with a gun by the trees okay. This/<sup>is</sup>the important thing. The State will have you maintain that Father Jones is the corroborating witness for this reason. Obviously everything he says about the assault that doesn't have anything to do with Ann Shephard. But if you remember his testimony correctly he said sometime later he goes back in the rectory and he goes upstairs into his bedroom and at some later point in the evening he looks out of that bedroom in the south side of the street, and he sees a red glow in the sunset. I think those were the exact words.

Now the reason that the State maintains this is corroboration is because, well they say because it is later in the night. He sees the red glow therefore the red glow is Mike's burning. Therefore Allen Hall says Mike's burned.

Therefore Ann Shephard is guilty of saying that Mike's burned. Okay. This is the type of reasoning they are using, and it is a very persuasive sort of reasoning, and it is the reasoning on which their whole case is based.

The State of North Carolina's case is based on conjecture, surmised, inference and that is it. Plus these three characters I'll talk about a little later. Father Jones he never says anything about Ann Shephard, say she did or say anything, no sense in me cross examining him. I didn't.

Love gets up to the stand at 3:40 same day. Corroborates some of the things that Father Jones said no mention of Ann Shephard. Nobody says - Love doesn't say she said or did anything. I didn't cross examine him. He doesn't know anything about my client. He is not saying she is guilty of anything.

Next fellow gets up there, Butler. 4:15 on the 3rd. Says he is chairman of the board. I am sure he was. He goes to the church on the 6th, Saturday. Sees several young people in front of the church, mostly on the outside. I think he said he saw a few dozen. I believe he said he saw one old rifle. I believe he identified the guys as

having it somebody by the name of Roderick Kirby. Said he talked to several. Met Chavis for the first time. Said he found a wine bottle and a knife in the church. He asked the people to leave. Okay.

Now why is this testimony important as regards to Ann Shephard? Some of the things I might say in summation might be kind of embarrassing for my client, but do you see Ann Shephard one time you will never forget seeing her. I don't care who it is. It is one of the biggest women I have ever laid eyes on. If you see Mrs. Ann Shephard one time you will never forget it as long as you live. I don't care who you are.

Butler is over there in the church. The big issue here, and I am coming to this a little later. Mrs. Shephard is getting up on that stand and she was saying she was not in that church on Saturday. She was under oath up here and that is her position and her position that she never made the statement that the State alleges she said.

Here you get the chairman of the board of the Gregory Congregational Church going down there on Saturday. All the testimony in this trial points to the fact that the only white people around that church area were the

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Templetons, Ann Shephard and maybe a couple of young white kids. I can't recall any testimony about any white people other than those I mentioned.

The State's own testimony is persuasive evidence that Ann Chavis was not at that church. Here is Butler going on over there. He is saying Roderick Kirby is there. He is saying Templeton is there. That man is saying that Chavis is there, and he is saying other young people are there, a couple of dozen. If the State of North Carolina believed the State of North Carolina they don't bring people up here unless they talk to them for a considerable length of time. They are not fools. We talk to our clients, too, but before they put anyone up on that stand they know what he is going to say. It would have been the easiest thing in the world for the State of North Carolina to say when they are talking to Butler, "Well was Vereen there? Was Tyndall there? Was this person here? Was Ann Shephard there?" And they probably said that. I don't know for certain. They probably said that because this would be evidence. This would be evidence from an impartial witness, someone who could care less about the outcome of this trial, someone with no interest whatsoever. And Butler doesn't say one

word about Ann Shephard, and believe me if Ann Shephard was there why does he say Roderick Kirby? Doesn't have anything to do with this trial. Why doesn't he say Ann Shephard was there? The reason he doesn't say Shephard was there is because Shephard was not there.

Butler says some other stuff. Saw Mikes on fire that night. Oh, this is even more important. This is even more important. Butler, the chairman of the board of Gregory Congretional Church, goes back there the next day and gets into the parsonage and what does he say? He said Ann Chavis was back there cooking chickens. Now don't you know if Ann Shephard were at that church on Saturday, February 6, 1971, don't you know he is going to put her there? If he can come in there on Sunday, the 7th, and put her cooking chicken in the back of that parsonage he is going to say she was there on Saturday, and you all know it, and the State of North Carolina knows it. I never cross examined Mr. Butler.

The State of North Carolina helped my argument. The State of North Carolina has helped everyones argument by putting up people like Allen Hall, Jerome Mitchell and Motor Mouse or Motor Mouth.

Another important thing about this, and this is

another tactic that the State of North Carolina has used all through this trial. They are not trying February 5 and February 6, and this is a point that either Mr. Harmon or Mr. Ballance brought out. They are trying every horrible thing that happened in Wilmington over a four, five or six day period. And they have brought to your attention through any device at their finger tips many, many things which were highly, highly explosive and prejudicial in hopes that they would muddy the water, cloud your mind and force you to convict these people.

When they are talking about Sunday Buter goes in there Sunday, the State of North Carolina knows what he is going to say when he gets up there on the stand. They know Butler is going to say that that man saw Ann Shephard in there cooking chickens on Sunday afternoon. What does Sunday afternoon, February 7, 1971 have to do with the charge of becoming an accessory before the fact on February 6, 1971? I submit to you it has absolutely nothing to do with it.

Here is another piece of inference, another piece of conjecture, something else that they are trying to force you to surmise and infer that because she was there the day

after cooking chickens, therefore she was there on Saturday saying about the crackers or the hunkies, depending whose version you listened to. I didn't cross examine Butler. He didn't say anything that hurt my client. Mr. Butler is one of the big helps to my client. I appreciate the help that the State gave me believe me I am going to mention this probably a little later on in my argument.

Every single one or a goodly number of us today are taxpayers. I help pay Mr. Stroud's salary, help pay Mr. Johnson's salary as do they both, you all do, too. I want you to keep this in the back of your mind as you are considering these matters. The State of North Carolina has unlimited resources. The State of North Carolina through a telephone call from Mr. Stroud he has got the complete, the ultimate authority in the Fifth Judicial District, the Solicitorial District, of law enforcement. As I understand his function, here is a number one representative from Robert Morgan's office, the Attorney General for the whole State of North Carolina, and those fellows, they can get on their phone and they can get everyone in the alcohol, tax and firearms department. They get a hundred people if there are a hundred people up there. They can get everyone on the

New Hanover Sheriff's Department. They can get everyone on the Wilmington Police Department. They can get everyone in the SBI, the State Bureau of Investigation, and they have. They have in this trial. They have used them all. Every law enforcement, every scientific piece of machinery that the State of North Carolina has, those two gentlemen right there have access to by dialing a number. They can tie up with W. C. Brown. He says, "Listen here," calls up Mr. Fredlaw, Chief Williamson, "I need W. C. Brown on this case for six months or ten years, full time." And he has got him and he got him. That is how long they have been on this case.

Before I get into these facts a little more deeply, well I am to stick to these facts.

Twelfth witness for the State of North Carolina, Mike Poulos, gets up there October 5, 1972, Thursday. Mike Poulos says his place burned. Well I know his place burned. Everyone knows his place burned. I stipulate his place burned. I'll stipulate when it burned and where it burned. He doesn't say anything about Ann Shephard. I didn't cross examine him. I know it burned. I feel sorry for him.

Right after that Mrs. McKeithan, she is one that

is a tenant of Mikes. Her place burned. Right after that Henrietta Jackson, the same day lived next to Mrs. McKeithan. Mrs. Fennell rented from Mrs. Fennell, her house burned. None of these people say anything about my client, Mrs. Shephard. They say their place burned. Another horrible thing that happened in Wilmington and there is not a person here to the best of my knowledge who doesn't regret it, who doesn't empathize with Mike, the other property owners and the people who lost all their personal possessions.

Fifteenth witness didn't cross any of these witnesses. No need to cross examine any of these witnesses. They didn't say anything about my client. Next is either Sgt. Bloomer, Wilmington Police Department. He testifies on October 4. Park on Nun. This guy loading and unloading stuff on the church. Said two of them had guns. Said some guns were pointed towards the cops. The reason why that is important, the reason why I bring it up right here no evidence whatsoever that this has anything whatsoever to do with my client, Ann Shephard. No. Says on Friday, February 5 he is parked on the Fifth and Nun 8:00 or 8:30. Saw a bunch of guys heading towards him at the church. Three of that group breaks away, heads toward the house at Fifth and

Nun. Some lit a bomb, threw it, ran back to Sixth and Nun. He is in a detective car, leaves the area again, only talking about the 5th of September - February. No mention of my client. He goes on the 6th of February, 1971 at 9:00 o'clock, same location. Group comes down Nun toward Fifth, throws a bomb, drives up to the area of the bomb, draws fire from the concrete pipe at the intersection of Sixth and Nun. He was in the car about five minutes, bird shots. He goes to the north side of Fifth and Nun, heard loud shots from just above him. Genes gets shot. Okay. What that means is this. I don't dispute that happened. I am confident it happened. I'll stipulate this happened. I think that is what he is saying. He shoots up here around this area and he retreats. He goes back here. I'll comment on this a little later.

Genes testimony Mr. Becton commented on it. It kind of pulls me how Genes ever got shot. Genes is over here. No question in my mind but that he got shot thirty or so feet, I thought he said, from the edge of the house. Mr. Becton's or someones recollection was fifteen feet from the intersection. He gets shot and he is facing north and he gets shot in the left thigh.

Sgt. Bloomer got up here on the diagram. He said he was right here exactly in this position, north side of Fifth and Nun. He pointed right up into this area here. Said that is where the blast came, the loud, loud blast. Mr. Ferguson pointed out the importance of that testimony. If you remember all that business about the rotating accidents of Sixth and Nun, I think he was finally pinned down on cross examination when he stated that up until February 18, 1972, when he made that statement he was under the impression that it moved back and forth. He said in February he knew it was stationary. In March at the preliminary hearing he knew that the intersection of Sixth and Nun was stationary. On the trial on direct examination, direct testimony as Mr. Ferguson says, this comes down to corroborating the policemen, not the policemen corroborating Hall. Hall says he comes down in here. He's got to come down in here so the shot can come in this area and show us. Hits Genes facing north behind the tree. Gets hit in the left upper thigh. He's got to come from that area and on February 6 on Saturday night when this happened or whenever it happened, Allen Hall has got to be down here to know this happened, the inference

being that Chili he could run there. I think that is the testimony. Chavis purportedly calls him that. But gets up here on direct examination, put himself right down where that shot comes from. That shot cannot come from any other location because there is no physical way for Officer Genes to get shot over here unless he's shot by one of his own men. That shot has to come from there, and Allen Hall must be down there. So he puts himself down there.

On cross examination by me, as I best recall, he admits at the preliminary hearing and at the preliminary hearing he is under oath just as he was up here, that on four separate and distinct occasions he admitted that he never went beyond the intersection of Sixth and Nun, never sat foot beyond the concrete pipes at the intersection of Sixth and Nun, unequivocal admission of an outright lie. But Allen Hall, Allen Hall knew that is no lie. Allen Hall wasn't telling any story. Allen Hall would leave you to believe that he was confused down there at the preliminary hearing, he was all shook up. He didn't know what he was saying. But I'll have you remember that Mr. Stroud was down there at the preliminary hearing in March of 1972. Mr. Stroud was down there. You heard Mr. Stroud hold forth

he is the finest around. Down at the preliminary hearing there was a judge, Judge Gilbert Burnette. If an improper question was asked Judge Martin - Judge Burnette, they don't let it get in. They don't let it get in. If that judge thought that question was improper, if they thought Allen Hall was under too much pressure that question, that answer would not be in. It would be out and stricken. But to him it is all Ferguson's fault because I think he was under cross examination by Ferguson. Ferguson is the culprit. Ferguson is the one that should be up there. He probably - I am surprised Ferguson isn't indicted.

Mr. Ferguson brought this up. I'll comment on it in just a little while. Again I'll caution you. I am just to the best of my ability trying to remember what the facts are. I might be blowing the ball game. But I think I have a pretty fair memory. Another real important point. Remember what Genes says. Bloomer said the something. Almost. Very shortly after Genes gets shot everyone pulls out. I believe the testimony was that Sgt. Bloomer gets in automobile in his squad car and goes someplace. There was something said about a couple of seconds. I don't remember whether it was a cross or direct how long it takes to get

from here up to this area. I do remember to the best of my ability, I remember Sgt. Bloomer said he went almost immediately to Sixth and Ann and I believe if my memory serves me correctly he said when he got up there he saw flames. And I'd like you to consider the comments of Mr. Ferguson. How can this be physically possible? How can this happen? Everyone up there who purportedly are down there assaulting those emergency personnel - don't get me wrong. I am convinced there was someone down there assaulting the emergency personnel. There was someone firing on those people, and it is a shame. But out of all those people who purportedly were down there lined up along both sides of the area between Fifth and Sixth on Nun, people up at the intersection scurried back to the church. I think at that time they are running around, Hall out on the porch, Hall is a lot of other places. Here is Chavis makes a speech. Kirby makes a speech, goes out to be the lookout with Chavis and Corbett. They come back to the church. I think they go to the back of the thing. They hand out the firebombs and the whole bit.

Now don't you know that sort of stuff has to take time? And it has got to take a lot of time. They get

the firebombs according to Hall. They meander. They don't run down that alley way behind the church, the path that goes back there. I think someone got up there and said it was three hundred or so many feet.

Hall's got to make his scene down here. The confrontation with Father Jones. Get Chavis in that, get Corbett in that. Corbett can't come in and deny anything. He's dead. Chavis denies it by his presence not taking the stand. I don't know how long it takes to do all that, but someones got to be confused. It's got to be Sgt. Bloomer. It's got to be Officer Genes, but most probably it is Allen Hall. Most probably it's Allen Hall. I think the point about the statement, the February 17 statement/<sup>of</sup> Father Jones' is really important on this point.

The State of North Carolina had that statement and I think it is possible to reasonably infer that that statement was shown one day later up at Cherry Hospital in the mental ward to the two principal witnesses. I don't know. Maybe they didn't. Bloomer didn't say anything. Bloomer gets up to the church and I think he testifies about the dragging of the body and he stays up there for a little while and everyone hears small arms fire.

I stipulate the body was dragged. I stipulate Corbett was shot. I stipulate shots were fired. I stipulate everything about that.

I believe these officers, I think they are telling the truth as far as my client is concerned. Virtually all of his testimony concerns the assault. None of this business about an assault has anything whatsoever to do with my client. I didn't cross examine him. I didn't say anything that would hurt my client.

Sixteenth witness Chipps gets on the stand next, 5th October. He sees Mikes burning. Sees the flames in the windows. This is the night before. He sees a black male behind one of the houses. He testifies someone is crouched behind some '59 Pontiac and runs into a house after somebody hollered to him. Later on he helps erect barricades at Fifth and Nun. Again you are talking about February 5, 71. My client, Mrs. Shephard, they are saying that on February 6, 71, that is sometime on February 6 she became an accessory. This evidence doesn't have anything to do with my client. Chipps on 6 February, 6:30 to 7:00 o'clock A.M. he goes to the church, removes barricades, sees a bunch of people in the corner. He supposedly identified

at 170 feet as Reverend Chavis.

I can't recall whether any of the other officers have testified about this. It could be, ladies and gentlemen, that my client is guilty of these charges. It could be. I don't know. I haven't the slightest idea in the world. I wasn't out there at the church. Mr. Stroud wasn't out there. Mr. Johnson wasn't. None of the defense counsel was out there. It could be Rev. Chavis is guilty of some of the crimes they say he is guilty of. But doesn't it seem a little odd according to the testimony that Allen Hall, Ben Chavis has got to be one of the most vicious people who ever set foot on the soil of this state if, in fact, he did what Allen Hall said he did. But isn't it sort of inconsistent with the conduct of Chavis telling them to shoot at women and children, kill the Templeton's if they tried to make a phone call, kill the person, burn that person. Yet Officer Chipps is up there saying that Rev. Chavis is out there ushering these people back in the church. Isn't that sort of inconsistent if Rev. Chavis was there?

I am not defending Rev. Chavis. That is not my responsibility. But it seems to me that there is some kind of inconsistency in this sort of conduct.

Gurganus gets up there testifying. He is the seventeenth witness. Friday Sixth and Ann Mikes on fire. There is a guy across the street everytime he moves that is lowering his gun on him and firing at him. Gurganus shoots back. Gurganus hears a lot of small arms fire. Testifies about the Pontiac again. I didn't cross examine this guy. He doesn't say anything about my client. He is talking again about the 5th. He is talking about assaults.

The eighteenth witness, October 5, David Boswell, Wilmington Fire Department, gets the call 6:45. Goes to Mikes. See a fire in the window. Says he hears shots. Again Friday night not when my client is charged. I didn't cross examine him either.

Nineteenth witness. 3:00 o'clock. Lt. - looks like Core. I don't remember him. He is with the Wilmington Fire Department. He says on the 5th he goes into Mikes. There are flames. Put it out. Hears shot. Stays in the building fifteen minutes. No mention of Ann Shephard. No testimony that she said or did anything. No cross examination. It is not needed.

Mr. Fredlaw gets up. I think this is the second time he gets up there. 3:05. Says he is on duty on the 5th. Goes to that area as a result of heavy radio traffic.

Hears small arms fire. Says he got there about 7:00 o'clock. Stayed about five or ten minutes. Went away and I think he came back sometime later. Stayed until midnight. No testimony against my client. No cross examination.

21. October 5; 3:30, R. C. Henderson testified about the 5th. Goes to Mikes, hears shots, small arms, sees fire, goes to Sixth and Nun. There is a shotgun blast, hits side of the car, no mention of Shephard. None of these witnesses are saying she said or did anything. I don't cross examine either. No need to.

Twenty-second witness. Sgt. Genes. He testifies he is out on Sixth. I mentioned a little bit about him before. He says he was shot in the left thigh and so forth. That is straight out assault on emergency personnel. Nothing to do with my client. I didn't cross examine him.

Same day, Hollifield gets up there, Wilmington Police Department. He is talking about the 6th. Gets to Fifth and Nun, shots hit his car. He hears a large crack. That is the crack that gets Sgt. Genes. Later on he goes to Mikes. He sees the cops going from house to house. He is testifying creeping along and so forth. That is <sup>the</sup> Mitchell or Corbett killing, whatever you want to call it. They corroborate that to death. No one is saying anything about

my client. No one is saying she said or did anything or was any place. Yet they would have you believe that all of this was evidence of her guilt.

Twenty-fourth. October 5. Shaw gets up. This is probably the most lucid testimony in the whole trial. I am sure it happened just as it happened. He testified he gets up to that corner. Then he goes around the thing, creeps up, hopscotches with himself, gets up there. There is a confrontation. Mitchell is killed. Another horrible thing happened that weekend. They bring in all sorts of exhibits, photographs of shotgun shells, shotgun, testimony about blood pumping out of jugular veins, horrible horrible testimony.

I'd like to ask you all what can that possibly have to do with the case of the State of North Carolina against Ann Shephard. Again she is charged with being an accessory before the fact of the burning of Mikes. I didn't cross examine him.

Twenty-eighth witness Williams. He says the same thing. He says, yes, Shaw did everything Shaw said he did. No cross examination. No mention of Ann Shephard.

Twenty-sixth. October 6. 10:15. Detective

Wollak gets up there on the 6th February. He hears Mikes is burning. Goes and stays there to assist firemen. No cross examination.

Twenty-seventh. 10:30 in the morning. Detective Russell gets up there. He says he is at the hospital when they bring in Sgt. Genes. No, he said he took Sgt. Genes to the hospital. When he is over there Mitchell comes in. I think he says he gets a shotgun shell and a billfold from him.

Twenty-eighth. October 6. Fredlaw gets up. I believe this is the third and last time for Fredlaw. 10:30 in the morning. He said on February 6 he was at Mikes. He corroborates the others as to Mikes. The fire as to what Shaw and Williams do. He says he sees a long object running back and forth on the street on Sixth Street between Ann and Nun. He says he sees fellows, guys in the woods shooting at firemen as they break through the tin shack. No cross examination. Nothing to do with my client.

October 6. 10:50 A.M. Glisson gets up there, says he gets the alarm at 10:10, gets out there shortly thereafter on Saturday night. Stays there four hours. No mention of Shephard. No cross examination.

Thirtieth witness. 11:05. J. D. Rhodes, Wilmington Fire Department. 2:06 at Mikes he hears the shots. He says a couple of other things that have nothing to do with my client. I didn't cross examine any of these people.

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

(The jury retired from the Courtroom.)

(The Court recessed from 3:30 until 3:40 P.M.)

(The jury returned to the jurybox.)

(Mr. Hunevol resumed his summation to the jury.)

Ladies and gentlemen, this is the longest trial Ferguon has ever been in and the longest trial I have ever been in, probably the longest trial I will ever be in. I will be up here a little while longer. I just hope you bear with me.

The first time Mrs. Shephard has ever been in court is during this trial, and we haven't taken too much of your time and hopefully we won't take much more of your time. I am sure you understand that you would wish someone that you knew was involved in a criminal process that the people sitting in judgment of her or you or someone you

knew would give them as much attention as I would like you to give my client, Mrs. Shephard. It is a one shot deal. It is like the Schlitz Ad. There is no second time around.

Thirty-first witness. October 6, 72. 11:00.

J. D. Benton, Wilmington Fire Department. He says he is called out of bed 11 or 11:30 at night, goes to Mikes, hears shots in the woods, goes to the firehouse, hears other shots, pulls back to the garage. Again no mention of Shephard, no cross examination by Hunevol.

Thirty-second witness. Same date. 11:50. R.C.

Jordan, Wilmington Fire Department. He said he is called from off duty status at 11:00 o'clock at night, goes to Mikes, hears the shots, corroborates again. No mention of Shephard. No cross examination. No need for it.

12:00 o'clock Mr. Outlaw, Wilmington Fire Department. He gets to Mikes. He is one of the nozzle men. He hears the shot. No mention of Shephard. No cross examination by Hunevol.

Thirty-fourth witness. I am getting near the end. Only a couple more. October 6. 12:10. Lt. Eason, Wilmington Fire Department he is the head of the number five company. He gets out there. He sees them dragging

something. He is a fireman. Again no mention that Shephard did anything, says anything.

Thirty-fifth. Captain Corbett gets up. 12:00, 12:20 P.M. Corbett testifies as to what happened on the 8th. That is Monday. He says he gets out there to the church. Now mind you this over forty-eight hours or two days, not over forty-eight hours but two days after my client is charged with being on February 6, 1971, with being an accessory before the fact of the burning of Mikes. Captain Corbett gets up there, goes to the church to search, searches the house, too. Testifies as he gets up to the church with all the tank and flack jacket. You heard Mr. Ferguson address himself to that. Says he is met by Bryant. Bryant says there is no need for you to give me a search warrant or something like that. They go in the church about thirty minutes later. Butler comes up and lets him in the parsonage. Again no mention of - before I finish he says he goes to the loft. He sees the chairs in the semi-circle. He sees, I think, shell casings on the floor, windows open. No mention of Ann Shephard. Never says she said or did anything. No cross examination. Didn't feel there was any need to.

October 6. 3:00 in the afternoon. Lt. Turner. Remember this is the fellow who is the first man also the thirty-sixth man, photograph and identification expert, second time he gets to the stand, says he goes to the basement of the church, works in a semi-counter clockwise thing, works around the basement of the church. He sees a stove, he sees a horse. Takes a lot of pictures. He sees shotgun shells both empty and loaded, I believe, and he takes a lot of pictures. He testified something about a dynamite plate and that is introduced into evidence.

There goes number sixty-seven again talking about February 6, 1972. Every single device he pointed out was not a device that would be used to burn a church. What he is really talking about is shotgun shells, things that would blow up things, bullet shells, bullet boxes. I think that is the sum in substance of what he testified to. Again he is talking about a period of time two days later. My client again charged with accessory before the fact of burning of Mikes.

Thirty-seventh. October 9. Sgt. T. C. Hobbs. Now he is the fellow, as I best recall, who introduces everything. All sorts of exhibits. Especially as related

to in the church. In the parsonage, all the medical supplies, the bullet boxes in both places. The bullet boxes and bullets found on the ground, scissors, all that sort of stuff. Again, of course, no mention of Shephard, no word said she said or did anything.

Thirty-eighth witness. McNew, Wilmington Police Department. Now if you will remember correctly I believe McNew was the liaison officer. I believe McNew was the person who found in the further front recesses of the church on February 8 the dynamite and he testifies, I think, about the dynamite and the blasting caps. No, what he says was that on February 8 he goes there assigned to be liaison with the National Guard, but was not until Tuesday the 9th of February, that he discovers any blasting caps or any dynamite. Again my client charged three days before something happened. Nothing to do with the stuff he is testifying to.

2:15. Mr. Brittner he is the ATF man, Alcohol, Tax and Firearms man. He is assigned to Wilmington on the 8th and 9th of February. He has background explosives. He testifies about the blasting powder and the dynamite split in half, whatever it was, leaking of it, making it

sensitive and so forth. That is what he says. No mention of Shephard. No cross examination of any of these people.

Fortieth witness is Lt. Turner. Turner gets up there and says, yes, this is a picture of the dynamite. That is the third and last time he gets up there.

9 October. 2:45 P.M. Pickler, Wilmington Police Department, New Hanover Sheriff's Department. He says he is out there on the 11th taking pictures of Jordan Funeral Home. He takes a picture of Hall and Chavis. Here we are talking about five days after my client purportedly committed the crime of being accessory before the fact of burning of Mikes. None of those people did I cross examine. None of those people said anything about my client, as the State will strenuously argue that they did.

Now one case for the State of North Carolina is Motor Mouse, Allen Hall, Jerome Mitchell. As far as my client is concerned Motor Mouse and Allen Hall. I would hope that you would remember as you consider what I am saying up here in summation everything that all of these people have said. I believe that you all are enjoying a luxury that few people in the State of North Carolina have ever experienced. I think that the caliber of the arguments