

By Mr. Gooch:

Q. Did anyone say anything to him about leading them before he started west? Excuse me.

[fol. 218] Mr. Address: All right.

A. Yes. While Walker was going up to the grove he stopped before he got to the flagpole. He looked it over. People said, "Walker, what could we do?"

Now this was before the speech.

By Mr. Gooch:

Q. Now, let's see if it was.

A. Now this is the way I understood the question—before the speech.

Q. Well, that doesn't say that, does it?

A. It doesn't say when it was, really.

Q. All right. Now let's don't quibble, please, sir, because here is what you have talked about.

A voice somewhere to the left said, "I'll tell you, you sold us out. It was Col. Birdsong."

Now was that on the monument or was that before he got on the monument?

A. That was while Walker was on the monument.

Q. All right.

A. People were screaming, Ross Barnett had sold them out.

Q. People said, "Was it Col. Birdsong, General Walker? Was it Col. Birdsong?"

Mr. Watts: May I inquire where you are reading?

Mr. Gooch: Page 16, the same page. I have been on it for the last five minutes.

[fol. 219] Mr. Watts: You are skipping around. I can't keep up with you.

Mr. Address: Going backwards.

The Court: Just a minute. I don't want any of this business between counsel.

Mr. Watts: I'm sorry. I found it. It's at the top of the page.

By Mr. Gooch:

Q. General Walker said the man was Col. Birdsong. Did that happen on the monument?

A. Yes, sir.

Q. He mentioned something about coming down here to Oxford to a meeting. I'm not sure about that because—  
Now was that on the monument?

A. That was interrupted. The meeting?

Q. No.

A. Oh, when he said this? He said the man was Col. Birdsong. Now this is what I said, said he mentioned something about coming . . . meeting. Now this was in talking with him, there was something mentioned about a meeting in Oxford. Now I didn't get all of that.

Q. Well, Mr. Sweat, if you will take that deposition and look on Page 15, you will see that the question was asked concerning the speech on the monument and then what occurred afterwards.

Is that a fair interpretation of your deposition?

[fol. 220] A. (Reading) Your Governor did not sell you out—

Q. Just go ahead and read it.

A. General Walker did not say anything. He looked out over the crowd, stared down University Avenue. A voice somewhere on his left said, "I'll tell you. . . . Col. Birdsong."

Q. Was that while he was on the monument?

A. Yes, sir, he was still standing on the monument.

Q. All right. Now go ahead.

A. (Reading) People said, "Was it Col. Birdsong. General Walker, was it Col. Birdsong. General Walker said the man was Col. Birdsong."

Q. All right.

A. He mentioned something about coming down here to Oxford to a meeting.

I'm not sure about that because—now this was right after the speech, in talking with him.

Q. All right, the next question follows.

A. Walker stepped off the statue, a crowd of people still around. Walker walked up due west towards the flagpole.

Well, he did. There were a few people around Walker and he did take a few steps due west towards the flagpole.

Q. All right. Then we are talking about after his speech, aren't we?

[fol. 221] A. Right now we are, yes, sir.

Q. All right. The next question: "Could you give us the benefit of your very best estimate of the crowd, not in the whole area, but in the crowd that immediately surrounded Walker?"

A. Now I interpreted this as the crowd around the Confederate statue. And I said fifty people.

But now when Walker stepped off, he lost those 50 people.

Q. They didn't go with him?

A. No, sir, they jeered him, as a matter of fact.

Q. Did anybody—did anybody walk with General Walker toward the flagpole after he made his speech?

A. Yes, sir, I was with him.

Q. Anybody else?

A. Yes, sir, there were a few other people.

Q. How many?

A. There were close to around 15, I would say.

Q. Did you have anything in your hands?

A. No, sir, I didn't have anything in my hands. I was wounded at that time. I couldn't carry anything.

Q. Well, the rest of them were not wounded, were they?

A. No, sir, but they didn't have anything.

Q. They didn't have anything. Now on the speech on the monument, I will give you the page on that in just a [fol. 222] moment.

Page 14, I have asked you the question if Walker, while he was on the monument, didn't say—

Mr. Watts: Page, please?

Mr. Gooch: Page 14, Mr. Watts.

By Mr. Gooch:

Q. "This is wrong but you have a right to protest." You said he made that statement?

A. Yes, sir.

Q. (Reading) He also said, "It is a long way around."?

A. It's a long way around, yes, sir, what we were doing.

Q. Then he said—and I asked you and you say you don't remember. —"keep up the protest." Look at your answer on Page 14, of the deposition, at the top of the page, please, sir.

A. (Reading) You have a right to protest. . . . long way around, he said, keep up the protest.

Well, I might have forgotten that.

Q. Well, now at the time your deposition was taken, that's the statement you made, was it not?

A. Yes, if it's in my deposition—

Mr. Watts: Object to that question unless he reads the entire statement. He just read an excerpt.

The Court: He's asking him if he answered it that way. [fol. 223] The Witness: But here is what else I said. Now by what he implies—

The Court: Just a minute. He hasn't asked you what else you said. He said, "Did you make that statement and at the—at the time of the deposition."

The Witness: Yes, sir, but this is in support of my statement.

Mr. Watts: That's all right.

The Court: That's the answer he's asking you now.

By Mr. Gooch:

Q. I'm asking if Walker said—did you hear him say, "Keep up the protest"?

A. If it's on the deposition, then I said it.

Q. All right. Did you know or see a minister by the name of Duncan Gray that night?

A. Yes, sir.

Q. Did you hear General Walker make any remark to

Duncan Gray to the effect that he, Walker, was ashamed he was an Episcopalian?

A. Yes.

Q. Did you hear the Reverend Duncan Gray ask or implore General Walker to stop the violence on the campus?

A. I didn't hear Duncan Gray ask that.

Q. Did you hear the conversation between Duncan Gray and General Walker?

A. No, sir. All I heard was Duncan Gray trying to get [fol. 224] up on the statue with General Walker.

Q. You didn't see Duncan Gray before that time?

A. Yes, sir, I saw him before that time now.

Q. Did you ever hear Duncan Gray ask General Walker to stop it?

A. No, sir, I didn't hear him say that.

Q. Did you ever hear General Walker say to Duncan Gray, "I wouldn't stop it if I could." ?

A. No, sir, I didn't hear that.

[fol. 225] Q. Did you hear anything that Duncan Gray, any exchange between Duncan Gray and General Walker, except the statement made by General Walker that he was ashamed he was an Episcopalian?

A. I heard that now.

Q. After you heard General Walker say that he was ashamed he was an Episcopalian what happened to the minister?

A. The minister tried to get up on the statue and someone pulled him down. Now, if they hadn't pulled him down the crowd—

Mr. Watts: Just a minute.

The Court: He asked what he did.

The Witness: Well, he tried to get up on the statue and he was pulled down.

By Mr. Gooch:

Q. All right. Just a moment here, Your Honor.

The Court: All right.

By Mr. Gooch:

Q. Do you know what happened to Rev. Duncan Gray when he tried to get up on the monument where General Walker was speaking?

A. Yes, sir, he was pulled down.

Q. By whom?

A. By students at first.

Q. Then by whom?

[fol. 226] A. I don't know. I heard—

Mr. Watts: Don't say what you heard.

The Court: If you don't know, you can't say.

A. I just know he was pulled down by someone in the crowd.

By Mr. Gooch:

Q. All right, just a moment. If you will, here, please, at the time these missiles—I forgot to ask you this: I believe you alluded to it and I want to be sure. I believe you said they broke up the benches?

A. Yes, sir, most of the concrete benches in the Grove were broken up.

Q. When did this occur?

A. This occurred in the early part when it first started.

Q. You got rid of all that ammunition?

A. Yes, sir, people had been—I take that back.

Q. Have you been apprised of a statement made by General Walker before he got to Mississippi to the effect, "Bring your flags, your tents and your skilletts"?

A. Yes, sir, I heard that statement, but I didn't put much faith in it.

Mr. Watts: Now, just a minute.

By Mr. Gooch:

Q. Some people did try to find out where these volunteers were coming from, didn't they?

[fol. 227] A. Yes, sir.

Mr. Watts: Now—well.

By Mr. Gooch:

Q. At the time you saw General Walker did any of the crowd that was around General Walker, and you testified there was a crowd around General Walker—have any missiles, sticks or stones?

A. Now, this is after the speech?

Q. No, before the speech, prior to the time he went toward the flagpole first.

A. I couldn't be sure about that. Probably some of them did, but it was a common thing.

Q. Please refer to page 38 of this witness' deposition, please, sir. It doesn't say what line it is, but it is the next to last question: "At the time this crowd was around him when you first saw him east of the monument did some of the crowd, at least, have in their possession brickbats, stones and sticks?" And your answer?

A. The boys from Hume Hall—

Q. Well, I believe you prefaced that by "Yes, sir."

A. Yes, sir, but they were—

The Court: He asked you if you said that.

The Witness: I said that.

By Mr. Gooch:

Q. You said, "Yes, sir, the boys from Hume Hall did particularly," did you not?

A. Yes, sir.

[fol. 228] Q. And to further accentuate, may I refer you to page 39 of the deposition, the third question up from the bottom of the page. The question: "At the time you first saw him in the crowd that was around him there was some of these surroundees, we will call them, in possession of bricks, stones, sticks and missiles, is that correct?" And your answer?

A. "Yes, sir."

Q. Now, that was when he first came on the campus the first time you saw him?

A. Yes, sir, but that was a common thing for the people to have those things then, because we were still fighting on.

Q. You fought all night, didn't you?

A. Yes, sir.

Q. Now, you stated on direct examination that the first contact you had with Walker personally was after he finished his speech on the monument, I believe?

A. Yes, sir, that was my first personal contact.

Q. All right. Now, tell us again what Walker did when he got off the monument?

A. He stepped off to his immediate right. I was immediately below him. He brushed past me and I fell in right beside him.

Q. And went where?

[fol. 229] A. We walked just a few steps toward the flagpole and stopped, and we chatted around, started talking to him.

Q. And that few steps west would be toward the Lyceum Building and the Marshals?

A. Yes, sir.

Q. May I ask you a question as to your deposition on page 45, the question at the top, "Then Walker, according to your testimony, did not leave the vicinity of the monument for thirty minutes after he finished his speech?" Your answer?

A. "Well, now, I am talking about the time I talked to him when he stepped down off the statue. He did go toward the Lyceum because the smoke had cleared out and this is when we pointed out to him, this is the Lyceum, and that is where I talked with him."

Q. Then prior to the time you had the talk with him in which you bummed a cigarette, as you testified to, Walker did walk with a group?

A. Yes, sir, I was—

Q. Wait just a minute. Toward the Lyceum Building and the Marshals?



A. Yes, sir, but not far enough.

Q. I am not talking about far enough. Did he go toward the Marshals and the Lyceum Building after he finished his [fol. 230] speech?

A. Yes, sir, if he was traveling west he had to go toward the Lyceum Building.

Q. Well, now, will you answer the question?

A. Yes, sir, when he stepped off he automatically was facing the Lyceum Building anyway he stepped. He had to be going toward the Lyceum and the Marshals.

Q. How far did he walk?

A. I would say he didn't get no further than twenty steps.

Q. Twenty steps from the Confederate statue?

A. And those are short steps.

Q. Anybody following him?

A. We were around him. There were still people rioting that didn't even know General Walker was there.

Q. Did any of those boys that walked up with Walker and you, as he walked toward the Marshals or Lyceum Building, have anything in their hands? I believe you said no, did you not?

Mr. Watts: If the Court please—

The Court: Sustained. It is repetition.

By Mr. Gooch:

Q. Then may I ask him a question?

Mr. Watts: Sure.

The Court: Relating to the deposition?

Mr. Gooch: Yes, sir.

[fol. 231] The Court: Yes, sir.

By Mr. Gooch:

Q. On page 45, the bottom question, "Now, tell us, as the group walked there with Walker up near the flagpole did they have in their hands the brick and the stones and missiles that they had been throwing?" Your answer, please, in your deposition?

A. "Some of the boys did."

Q. Read the rest of it.

A. "Particularly that come from Hume Hall because they were the ones that were giving them out down there."

Q. Then, according to your testimony at the time your deposition was taken, the group that went with Walker toward the flagpole, some of them had missiles in their hands?

A. Everybody had something in their hand that night, or during the night.

Q. I am talking about at this particular time.

A. Yes, sir, but you can't be too sure about that, though, sir. Because you are so used to seeing that all night you really don't pay any attention to that. And I gave that on the assumption that most of the people did have something in their hands that night there, and I recall seeing one boy nearly—near Walker with a brick in his hand, but now he got mad and left.

Q. On page 47, the question number 1, 2, 3, from the [fol. 232] bottom, "But Walker did, though, immediately after he finished his speech, go with the group up toward or near the flagpole?" Your answer, please?

A. "Up near the flagpole, and he stopped."

Q. That was what you said when your deposition was taken?

A. Yes, sir.

Q. Is that still the truth?

A. Yes, sir, but he didn't get up to the flagpole.

Q. You said a while ago—I am trying to get your definition of near.

A. Near?

Q. You said he went about twenty steps and that they were short steps.

A. Yes, sir.

Q. Twenty steps from the monument towards the flagpole, if they were short steps, would not be more than about fifty feet, would it, or sixty at the outside?

A. I couldn't say that.

Q. But you know you stepped not quite a yard?

A. We didn't get far past that Confederate statue, because I remember leaning up against a tree down there near it.

Q. You said—a—because—

A. Because—

[fol. 233] Q. Just a minute. You said in your deposition you got near the flagpole?

A. Yes, sir, but not that near to it, like you are pointing.

Q. I was pointing out the flagpole. I am trying to get your definition of near.

A. I consider the wall at the back of the room near.

Q. All right. The last question on page 47, "Question: How long did General Walker remain with the crowd that had gone up there to the flagpole with him at that time?"

A. "He stayed there approximately two minutes."

Q. Is that the answer?

A. Yes, sir. Then we took—

The Court: Wait just a minute. He didn't ask you that. He asked you if you made that answer?

The Witness: Yes, sir.

The Court: Don't volunteer information.

The Witness: I am sorry.

By Mr. Gooch:

Q. Did you ever see a man with a Deputy Sheriff's badge on that weighed around 250 or 275, height approximately 5 feet 11?

A. I saw a lot of Deputy Sheriffs that night but I can't be sure that is the particular one or not.

[fol. 234] Q. Did you see one in the vicinity of Walker most all evening?

A. No, sir.

Q. Do you recall an incident of a fire truck coming on the campus?

A. Yes, sir, I recall that.

Q. Was that after General Walker's speech, or before?

A. I am thinking that that was after General Walker's speech.

Q. Did you—

A. The question—

Q. —excuse me.

A. Go ahead, I am sorry.

Q. Did you go up and inspect the fire truck?

A. Not when the fire truck first got there, no, sir.

Q. Did you go up near where the fire truck was maneuvering?

A. Yes, sir, I was up near where the fire truck was maneuvering.

Q. Did you see General Walker there?

A. No, I didn't.

Q. Where was the fire truck with relationship to the flagpole?

[fol. 235] A. At what time?

Q. At any time.

A. When the fire truck came in they brought it in here and stopped it and the firemen got out and gave it to the crowd, and the fire truck took off right here and stopped and the boys got on it, the West Virginia boys and a few others and they started around, and they brought it around and swept past the Marshals in the tear gas and smoke and let them have it, and then they cut back down through here (indicating) and stopped somewhere in here, out in here.

Q. By "out in here" you are pointing now—

A. It is about north to northeast.

Q. North to northeast of what?

A. Of the flagpole.

Q. And about—

A. I couldn't be sure on this map. If I was on the campus I could point it out exactly.

Q. I realize that, but about how far from the flagpole?

A. Well, I would say one hundred feet.

Q. Is that where the fire truck stalled?

A. No, sir. Now, the caterpillar stalled.

Q. Didn't the fire truck stall?

A. The fire truck might have stalled because they [fol. 236] stopped for a long time.

Q. That is what I am talking about. Where was it stopped?

A. Right up in here somewhere (indicating map).

Q. Was it north of this east and west line of the Circle?

A. North of the east and west line of the Circle? Yes, sir, it was right here (indicating).

Q. Over toward the YMCA?

A. The YMCA, yes, sir.

Q. All right. Did you at any time hear General Walker say anything to the effect that he complimented the crowd on what they were doing that night?

A. Would you explain that a little further?

Q. Oh? In connection with—I believe we established in your opinion, at least, a riot was going on there in the Circle?

A. Yes, sir.

Q. Did you at any time hear General Walker compliment the crowd on what they were doing?

A. Compliment the crowd?

Q. Yes, sir.

A. No, sir. I am not quite sure about what you mean on that.

Q. Well, I can't make it much plainer than that. Did [fol. 237] he state to them, "Keep it up"?

A. Well, now, in my deposition—

Q. Or—

A. —in my deposition I stated he stated keep it up. Now, of course, I don't recall saying that, but if it is in my deposition I said it.

Mr. Gooch: That is all, thank you.

## Redirect examination.

By Mr. Watts:

Q. A couple of very short questions. Son, I want you to step down here, please, and re-check these distances. You testified on direct examination it was 125 feet?

A. Yes, sir.

Q. From the flagpole to the Lyceum, and I want to call to your attention the fact that this scale here starts with 100, then goes to zero, then goes to another hundred. I wish you would start here, start with the zero and measure 125 feet.

A. Fifty, seventy.

Q. Now, measure two hundred feet.

A. Two hundred feet?

[fol. 239] Q. Now put this scale up here next to the flagpole and point out to the jury where 125 feet is?

A. 125 feet is right here.

Q. Does that reach to the street, to the west of the flagpole?

A. No, sir.

Q. Now point out to the jury exactly how far it is from the flagpole to the Lyceum Building.

A. Oh, it's—

Q. Measure it first on your paper.

A. It's 200—250 or 300—

Q. Well, let's get it accurate here because you have a scale on your map.

A. It's 250, almost.

Q. All right, sir.

A. Give or take a few feet.

Q. Now you say it's 250 from where to where?

A. From the flagpole to the Lyceum.

Q. All right, sir. Now then at the time you saw General Walker enter the campus, was it possible to walk along University Boulevard to the Confederate monument as you went west?

A. No, sir.

Q. Why?

A. Because we had set up a barricade down there. I [fol. 240] helped build it. We got the material from the construction at Hume Hall and built a light barricade out of planks and barrels and whatever else could be drug up.

Q. In traveling westward from the entrance to the campus, towards the monument, what route was it necessary to take to get past those barricades?

A. You would have to go by the sidewalk.

Q. Was there a sidewalk on either side of that University Avenue?

A. On one side there is a sidewalk.

Q. Which side of University Avenue was the sidewalk?

A. The sidewalk runs down near the new Science Building and the Journalism Building; going toward the Lyceum, it's on your left.

Q. Now you were asked on cross examination by counsel to read the answer to your question, did anyone say anything to him about leading them before we started west. You read a part of it.

I will ask you to read the remainder and the entire answer that you gave.

A. Yes—

Mr. Gooch: I don't believe I asked that question.

Mr. Watts: That's the question you asked, Counsel, on Page 16.

The Court: Are you objecting to the witness answering [fol. 241] it?

Mr. Watts: Perhaps we'd better check the record.

Mr. Gooch: I'm objecting to the preface Mr. Watts made about what I interrogated him about.

The Court: I don't remember that. It's not particularly material as to whether you asked him or not.

If you now want to ask him—

Mr. Watts: Yes, sir, I want to ask him to read his entire answer, to first read—I'll read the question. Did anyone say anything to him about leading them before he started west?

Now read your answer.

The Witness: Yes, while Walker was going up to the grove, he stopped before he got to the flagpole. He looked it over. People said, "Walker, what could we do?" He didn't say anything.

And the people said, "General Walker, will you lead us?" He still didn't say anything.

People by this time were becoming mad at General Walker. They said, "At least you could give us advice." Walker said, "I don't want to obligate myself."

By Mr. Watts:

Q. And read the next—let me read the next question.

Mr. Gooch: Wait a minute. If the Court please, this is [fol. 242] his witness, not mine.

Mr. Watts: But this is his examination, if Your Honor please.

The Court: I will permit him to read it.

Mr. Watts: He asked a part of it and I think—thank you, sir.

By Mr. Watts:

Q. Now the next question is, question, was that language clear to anyone in six or eight or ten feet so they could hear him?

Mr. Gooch: That's objectionable.

The Court: I sustain the objection.

Mr. Watts: Yeah, but I do want him to read the answer.

Mr. Gooch: Wait a minute.

The Court: Well, I won't permit him to read the answer because the question is objectionable.

Mr. Watts: Well, all right.

The Court: I will let him testify as to what he heard, not as to what anyone else could have heard.

Mr. Watts: All right, sir. Let's see, I think the next was on Page 14.



By Mr. Watts:

Q. Now on Page 14 of the deposition, you read a portion of your answer. I will read the question and ask you to read the entire answer.

Question: As best you can remember, outline to us what [fol. 243] you heard him say.

And, incidentally, to make sense out of that, I think we should read the previous sentence: I heard his speech. I was to Walker's immediate right. I was south.

Now read your entire answer, not just a part. Page 14.

A. We had trouble at first understanding what he said, even close up to him, because people were still screaming and yelling.

There was a charge going on about that time, too, and the boys were running back and a salvo of tear gas had been fired and some of it was drifting down.

Walker got up on the statue and started talking and he said something to this effect. I can't quote him exactly now word for word.

He said, we did have a right to protest. He said, "This is wrong but you have a right to protest. It is the long way around."

He said, "Keep up the protest."

Now by what he implied by that, the way I—

Mr. Watts: Just a minute. Just a minute. You can't—that's all right, you can't—that's right, I don't ask—I don't want him to say what he implied.

The Court: I don't want him to read that.

Mr. Watts: That's right.

[fol. 244] (Conference at the bench.)

By Mr. Watts:

Q. Now, son, you said you were knicked in the thumb?

A. Yes, sir.

Q. With what?

A. I think it was a buckshot but I couldn't prove it. It—

Q. Now was that before Walker arrived on the campus?

A. Yes, sir, this was.

Mr. Watts: It's 12:00 o'clock. I believe that's all, sir.

The Court: Are you through with the witness?

Mr. Watts: Yes, sir.

Mr. Gooch: That's all.

The Court: I'm going to excuse him then. All right, we will excuse you.

Ladies and Gentlemen, we will recess until 2:00 o'clock. At 2:00 o'clock, just wait in the jury room and I'll call you out.

(Thereupon, at 12:00 o'clock noon, a recess was taken until the same day at 2:00 o'clock, p.m.)

[fol. 245]

Afternoon Session

CECIL V. COX, JR., called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Watts:

Q. Will you state your name, please?

A. Sonny Cox.

Q. Son, will you lean forward so the mike will fit you.

Where do you live?

A. Marks, Mississippi.

Q. Spell that, will you?

A. The last or the first?

Q. The name of the town?

A. M-a-r-k-s.

Q. How old are you, son?

A. Twenty-one.

Q. Is Sonny your only name?

A. No, sir.

Q. What is your real name?

A. Cecil V. Cox, Jr.

Q. Which name do you go by?

A. Sonny.

Q. Are you a student at Ole Miss?

A. Yes.

[fol. 246] Q. Were you such a student on the 30th of September, 1962?

A. Yes, sir.

Q. Were you on campus that night?

A. Yes, sir.

Q. Do you know where an area on the campus known as the Circle is?

A. Yes.

Q. Were you there that night?

A. Yes.

Q. What was going on?

A. Mass confusion, I'll say.

Q. While you were there did you have occasion to see General Walker?

A. Yes, sir.

Q. I wish you would tell the Jury, please, in your own words from the time you saw General Walker, tell us what General Walker did, what you saw and what you heard. Now do not—I caution you at this time, do not endeavor to tell what anyone else saw, thought or heard, but tell what you saw and what you heard.

A. About nine o'clock I was rambling around about the end of University Avenue, and I saw a small crowd gathering under the Confederate statue. I walked over there and somebody was talking over there, I could see, and a group [fol. 247] of students was yelling, "Oh, go on back, you lost out in Texas, we don't need you here."

I didn't understand what it was, so I walked up closer and this General Walker was up there telling them, "We cannot accomplish anything like this, maybe if we could talk to them, or something to that effect."

Well, the crowd begin to kind of jeer him, and they were

kind of drifting off in another direction. A few stayed with him, maybe 15 or 20.

This other guy with me and I went up there and shook hands with him and he stepped down off the pedestal and we were standing there by the pedestal talking about the general advance and so forth. We talked a few minutes and moved on up toward the flagpole, you might say. We were walking along there and a few students were out in front. They had—they were using a T-shirt, a white shirt for a truce flag, going to try to talk to the Marshals. We walked along there, and a few in front and a few in behind. We got about 20 yards maybe from the street across from the building and we kind of held back and a few students went on up front, and they did begin have a little conversation up there. The Marshals asked them what they wanted. A couple of them said, "Well we want that nigger."

And something happened, I don't know what the occasion was, but the Marshals started firing again and every-[fol. 248] body retreated, and some of them came back and retaliated by throwing bricks and bottles.

And that is the last I saw of General Walker that night.

Q. Had you seen General Walker before he made his speech on the monument?

A. No, sir.

Q. After he made his speech on the monument did he lead a charge against the Marshals?

Mr. Gooch: We object to that if the Court please. It calls for an opinion and conclusion of the witness.

Mr. Watts: All right.

The Court: Sustained.

Mr. Watts: All right.

Mr. Address: If we may approach the Bench.

The Court: No.

Mr. Address: All right, note our exception. We would like to have a bill on it too.

The Court: All right.

By Mr. Watts:

Q. After this speech on the monument, have you told us everything that he did that you saw?

A. Well, that is a general question.

Q. Well, you have attempted, as I understand, to outline what you saw him to do?

A. Yes.

[fol. 249] Q. Is there anything further that he did that you haven't told us about?

A. Well, we walked up there. We were talking.

Q. Hold it right there. As you walked up what gait did he walk?

A. Just a slow rambling gait.

Q. Try to describe as nearly as you can the actions and conduct of the people immediately in his vicinity, I will say within an area of 15, 20 or 30 feet?

A. After he stepped down off the statue?

Q. That's right.

A. From—some drifted off because they were disappointed.

Q. Well now—

Mr. Gooch: —Wait—

Mr. Watts: —I will agree.

The Court: Don't tell why you think they drifted off. You may testify to the fact they drift off, if they did.

A. Well, they drifted off because—

Q. Well, no, don't say "because."

A. Well, they drifted off.

Q. You don't know what was going on in their mind.

A. Yes, sir.

Q. We don't want you to testify to anything that you [fol. 250] don't know. Now then the ones that went on towards the flagpole, or in that direction with General Walker, describe to us how they appeared, how they walked, where Walker was within the group, what was the size of the group, and everything of interest, because these people need to learn what you saw?

A. I will 25 or 30 people were in the group, some in front of some in behind General Walker. He was in the middle of the group.

Some were waving the flag. All of them had their hands up. Most of them had their hands up. They had agreed to try to talk to the Marshals. That was kind of a mutual agreement between the students, I believe.

And they walked on up. A few, as I say, drifted behind and we were almost in the middle all this time.

I left General Walker. I walked five or six yards ahead of him to hear them talking to the Marshals about, "We want that nigger," and something sparked off the Marshals and they started firing again and a little battle began right there.

Q. While you were walking up there and until you left General Walker did any of these individuals around him throw missiles from a position near General Walker?

A. I didn't notice any.

Mr. Watts: That is all.

[fol. 251] Cross examination.

By Mr. Gooch:

Q. Mr. Cox, I believe you did not hear General Walker's speech from the monument?

A. Not all of it. I heard the last of it.

Q. What did you hear him say?

A. I heard him say that "We can't . . ." something to this effect. Now not these exact words but, "We can't get anything accomplished by open warfare. And if we could talk to them maybe we could get this thing settled."

Q. Walker said that?

A. Yes, sir, that is what I gathered from it.

Q. I believe when your deposition was taken over in Marks you said you didn't hear any part of the speech, is that correct?

A. I heard the last part of it.

[fol. 252] Q. All right. Let's see.

A. Mr. Gooch, you will notice, I think—

The Court: Just a minute. He hasn't asked you a question yet.

The Witness: Excuse me.

By Mr. Gooch:

Q. May be there. I just wanted to see.

Now I ask you again, did you hear any part of General Walker's speech?

A. I heard the last part of it.

Q. And what did he say?

A. He was saying something to the effect that we could—"If we could talk to them, maybe we could get more accomplished than by just running around, trying to battle them."

Q. I refer you to page 15, of the deposition of Mr. Cox, the last question on Page 15.

Mr. Cox, I ask you, did you hear any part of General Walker's speech? Your answer, yes, sir, I know I heard him say something but I don't remember what it was.

Mr. Watts: That should be, Mr. Gooch, please, sir, "I didn't remember what it was," as I read it. Maybe I misread it.

Mr. Gooch: All right. But I didn't remember what it was.

[fol. 253] By Mr. Gooch:

Q. Now have you remembered, since your deposition was taken?

A. Well, sir, I didn't remember exactly what words he said but I heard the general idea of what he was saying, when he was getting off.

Q. Well, all I am getting you to do now, in March you didn't remember and now you seem to have remembered. I was just trying to find out why?

A. Well, I think there should be a clause or something in there to the effect that I did remember part of it.

Q. Well, it's not here. That's the reason I was asking you that.

A. Yes, sir.

Q. Now, did General Walker say anything at that time about a truce or did somebody else say something about a truce?

A. Well, he said that we should try to talk to them, I believe, and some other guy grabbed a T-shirt and said, "We will use this for a truce flag."

Q. And you and Walker and several others started towards the Lyceum Building?

A. Yeah.

Q. Was this immediately after the speech on the monument?

A. Yes, sir—well, after we had—we had a little conversation [fol. 254] there while the crowd was kind of separating.

Q. Did you see General Walker get down from the monument?

A. Yes, sir.

Q. And you had a few words there. How long would you say, two minutes, three minutes?

A. Oh, five or seven.

Q. Five or seven minutes. Standing around the monument?

A. Yes, sir.

Q. Then you and General Walker, and you have said some 15 or 20 others, started—

A. Yes, sir.

Q. —started towards the Lyceum Building?

A. (Witness nods "yes".)

Q. Is that correct?

A. Yes, sir.

Q. And you walked—how did you walk from the monument toward the Lyceum Building?

A. Just in a normal gait. We were talking, as you would walk and talk to somebody.



Q. What route did you take?

A. Well, along the sidewalk, the best I can remember.

Q. On the south side of the circle or the north side of the circle?

[fol. 255] A. North, I believe.

Q. All right. Then after General Walker had stepped down from the monument—would you step down here, please, sir? Where is that pointer?

The Court: Take the pointer here with you, Mr. Cox.

By Mr. Gooch:

Q. After General Walker had finished his speech at the monument, do you identify the monument to be at just about where University Avenue splits, University circle goes to the north and University circles around—do you identify that as a part of the campus of Ole Miss?

A. Yes, sir.

Q. Then right here at the fork of University Avenue is where the Confederate statue is, is that correct?

A. Yes, sir.

Q. And that's where General Walker made his talk?

A. Yes, sir.

Q. Now, as I understand you, you had not seen General Walker until just a short time prior to the time he stepped down off the monument, is that correct?

A. That's right.

Q. Now after he stepped down off of the monument and you say he conversed with some group there for a few moments—

A. Yes, sir.

Q. Minutes, maybe?

[fol. 256] A. Yes, sir.

Q. —then you say that something was said about a truce talk?

A. He was getting off the monument then.

Q. All right. He was getting off the monument when the truce talk was mentioned, when there was a mention of a truce talk?

A. Yes, sir.

Q. Then he talked around with the boys or the crowd or whoever it was for a few moments?

A. Yes, with two or three of us.

Q. Two or three. Then you say he started towards the Lyceum Building, is that correct?

A. Yes, sir.

Q. And who all was with him?

A. The names?

Q. No, no, how many?

A. Three was—three of us was right with him, walking with him and talking.

Q. How many were following him?

A. There were some in front and some in back. Maybe ten in front, ten in back. Most of them was to the left side, I'll say.

Q. All right. Then you went north of the east and west line through the circle, is that correct?

[fol. 257] A. Went right along in here, north of the monument.

Q. You went north of the monument?

A. Yes, sir.

Q. Did you go all the way past the monument?

A. Yes, sir.

Q. You said you got up at about 30 feet of the Marshals, is that right?

A. Well, that's 30 feet from this tree here. Now the Marshals were over here. And this is a street. I'll say that street is 25 feet.

Q. All right. That would have made you about, then, 55 feet, or 45 to 55 feet from the Marshals, is that correct?

A. Yes, sir.

Q. In other words, General Walker and this group, which you estimate, according to you, some 10 or 15 behind him? And three of you right with him—did you all have ahold of the General?

A. No, sir. I shook hands with him right here at the monument.

Q. Was one of you on each side of the General as you proceeded up there?

A. Yes, sir.

Q. You walked up north of the sidewalk that runs east and west through the campus?

A. Yes, sir.

[fol. 258] Q. Past the flagpole? And up within 30 feet of the street in front of the Marshals and Lyceum Building, is that correct?

A. I walked that far.

Q. Now where did General Walker stop?

A. Well, he stopped, I'll say, right here, I guess.

Q. Now you put him there about a fourth of the distance, to be safe, a fourth or a third of the distance between the flagpole and the edge of the street in front of the Lyceum Building, is that correct?

The Court: Answer out.

The Witness: Yes, sir.

By Mr. Gooch:

Q. Then you went on forward?

A. Yes, sir.

Q. And the truce talk turned out to be what, in—you heard somebody say?

A. "We want that nigger."

Q. You want that nigger. That was the truce talk? Thank you. Will you take the stand again, please?

Now did you have anything in your hands as you walked up there with the General?

A. No, sir.

Q. I guess none of the group that was around him had anything in their hands?

A. You mean the immediate group or the 15 or 20?

[fol. 259] Q. Well, any of them that was around him?

A. Some of them did. When they were going to call the truce, they threw them down at the—about when we got to the flagpole. And everybody raised their hands.

Q. As they walked from the flagpole up—from the statue, monument, up as far as the flagpole, they were, or some of them were, armed with missiles?

A. Well, they could have been. I didn't really notice.

Q. You don't know whether they were or not?

A. No.

Q. Now did you see any rock throwing that night?

A. Yes, sir.

Q. About what time did it start, Mr. Cox?

A. About 8:00, 8:15.

Q. And from 8:15, on, can you describe generally what occurred on the campus that night?

A. 8:15, I was in the YMCA Building. Kennedy was making a speech in there. And that's—about 8:00 is when the tear gas was started.

Q. Incidentally, did you hear President Kennedy's speech?

A. Part of it.

Q. Did you hear him admonish or ask the students of Ole Miss not to engage in any violence?

[fol. 260] A. No, sir.

Q. You didn't hear that?

A. (Witness nods "no".)

Q. All right, go ahead.

A. And the tear gas was beginning to drift in the "Y" Building and I moved on out, just looking around.

And as the night moved on, of course, we just—I didn't—I wasn't stationary, in—I was moving around over the general area there.

And, let's see, the National Guard moved in, I don't know what—I can't relate that.

And the highway patrol moved out and the National Guard moved in after that, or something. I don't remember exactly how that was.

Q. Did you see any groups, small or large, rush forward or go towards the Marshals and throw rocks and sticks and bricks?

- A. Yes, sir.
- Q. Did you participate in any of those matters?
- A. I don't want to answer that.
- Q. You just have.
- A. (Witness nods yes.)
- Q. Did those rock-throwing episodes occur almost throughout the night?
- A. Yes, sir.
- [fol. 261] Q. Continuously?
- A. Well, not in one continuous movement. It just was in and out, not very regular.
- Q. Some group would go forward and toss their missiles and retreat and then somebody, some other group would go forward, is that right?
- A. That's about it.
- Q. Now do you know where the ammunition came from, the majority of the ammunition, where it came from?
- A. Well, it came from this new building they had down there. Picked up Coca-Cola bottles over the campus and later they were busting these benches up and taking the concrete from them and throwing it.
- Q. Did you go on the campus the next morning?
- A. Yes, sir.
- Q. What, can you describe what you found there the next morning in the way of rocks and missiles and bottles and glasses and canisters?
- A. And empty tear gas shells.
- Q. Was there a lot of that around?
- A. Yes.
- Q. It looked like a real battlefield, didn't it, Mr. Cox?
- A. It was a battlefield.
- Q. Did you see any cars being burned that night?
- [fol. 262] A. Yes, sir.
- Q. Did you know about a chemistry professor that was beaten up?
- A. No, sir.
- Q. Did you know about a photographer that his car was beaten up and his camera smashed?

A. Yes.

Q. Were you—I won't ask you if you participated. Were you near enough to see the car being beaten up?

A. Yes, sir.

Q. Now, Mr. Cox, in September of 1962, you were in what classification at the University?

A. Junior.

Q. You had been there two years already?

A. No, sir.

Q. Well, had you been there any time or were you a new student?

A. New student.

Q. You had not been on the campus before?

A. No, sir—well, not—I had been on the campus to get an application.

Q. I mean had you matriculated?

A. No, sir.

Q. All right. This was your first year?

A. Yes.

[fol. 263] Q. Do you remember about what day in September you went on that campus?

A. The 17th, maybe. I'm not sure. A couple of weeks before that, almost.

Q. Had you been present when Meredith had been barred from the University by Governor Barnett and Paul Johnson?

A. Yes, sir.

Q. Did that create a resentment in you, one way or the other?

A. Yes, sir.

Q. You favored, I assume, Governor Barnett's and the Lt. Governor's actions in barring him?

A. Yes, sir.

Q. You knew, did you not, that the Court of Appeals had directed the entry of Meredith in Ole Miss prior to the 30th of September, 1962, did you not?

A. Yes, I knew that.

Q. Did you know that the order had been entered by that Court to allow him to be admitted to Ole Miss?

A. No, sir.

Q. Well, now what did you know about the legal procedures involving Meredith being admitted to Ole Miss?

A. Nothing much.

Q. You didn't even know that he was supposed to be admitted under court order?

[fol. 264] A. I heard—I had heard.

Q. You just didn't believe it, is that right?

A. Yes, that's right.

Q. All right. You didn't much want to believe it, did you, Mr. Cox?

A. Well, I don't—has that got anything to do with this case? Could I keep from answering that? You are going back into my life, you know.

Q. Sir?

A. You are going back into my life.

Q. Well, now have you got anything to be ashamed of, in your life, Mr. Cox?

A. No, sir.

Q. Well, why don't we hear about it?

A. It's—get you a string of bologna and I'll tell you about it.

Q. Do what?

The Court: This is argumentative. Do you want an answer?

Mr. Gooch: Yes.

The Court: All right, answer his question.

Mr. Watts: Just answer the question, Mr. Cox.

The Witness: Yes, sir.

By Mr. Gooch:

Q. Now you do recognize that the judgment of courts must be obeyed, do you not, Mr. Cox?

[fol. 265] A. Yes, sir.

Q. Did you feel that you were obeying the order of the court in what you were doing there on the campus there that night?

A. Well, I didn't feel—

Mr. Gooch: You may step down and stand aside. Thank you, sir.

Mr. Watts: Just a minute, before you stand aside.

The Court: Do you have any more questions?

Mr. Gooch: I mean as far as I am concerned.

Mr. Watts: Thank you for the postscript.

Redirect examination.

By Mr. Watts:

Q. Mr. Cox, how old were you when this incident took place?

A. Nineteen.

Q. And you were a Freshman in the University?

A. Yes.

Q. What school were you in?

A. Business.

Mr. Watts: That's all.

Mr. Gooch: I thought you said you were a Junior?

The Witness: Oh, I misunderstood that question. I was a Junior. I'm sorry.

By Mr. Watts:

Q. Were you a Junior when this incident took place?  
[fol. 266] A. Yes, sir. Yes, sir.

Q. And how old do you say you were? Nineteen?

A. Yes, sir.

Q. In what school?

A. Business.

Mr. Watts: I see. Thank you.

The Court: Do you want to make your Bill now, Mr. Address?



Mr. Address: Yes, sir.

The Court: All right, Ladies and Gentlemen, would you step in the jury room, please.

(Jury leaves the courtroom.)

\* \* \* \* \*

[fol. 270] (Jury in; the following proceedings were had within the presence and hearing of the Jury.)

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TALMAGE WITT, called as a witness by the Plaintiff, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Address:

Q. State your name, please?

A. Talmage Witt.

Q. Where do you live?

A. Pontotoc, Mississippi.

Q. Now, most of us folks are not too familiar with Mississippi. What part of Mississippi is that in?

A. That is the north part of Mississippi.

Q. Is that the county seat?

A. I beg your pardon?

Q. Is that a county seat?

A. Yes, sir.

Q. What county?

A. Pontotoc County.

Q. Back in 1962, in the fall of 1962, did you hold any official position over there in Pontotoc County?

A. Yes, sir, I was Deputy Sheriff.

Q. Are you still?

[fol. 271] A. No, sir.

Q. Now, at that time, Sheriff, I direct your attention to September of 1962. Were you at any time in the latter part of September over in Oxford, Mississippi?

- A. I was.
- Q. Were you there on official business or not?
- A. Well, I guess you would say official business.
- Q. What was the occasion of your being over there?
- A. I was called by the Sheriff of Union County.
- Q. When did you first get over there?
- A. About 4:30, I believe.
- Q. On the 30th?
- A. Of September.
- Q. On the 30th of September.
- A. Yes, sir.
- Q. Were there other Sheriffs and Deputy Sheriffs from various counties in Mississippi over there at that time?
- A. Yes, sir, there were.
- Q. Where did you go when you got over there?
- A. I went directly to the campus.
- Q. Had you been over there at any time earlier in the last week or so before that time?
- A. I was there five days and nights.
- Q. Then how long had you been back home before you [fol. 272] went back?
- A. I left Friday afternoon, late Friday afternoon, and returned Sunday.
- Q. What was the occasion of your being over there on that earlier occasion, Sheriff?
- A. We had been asked to go there. The Lt. Governor had met with all peace officers and asked us to try to control students and try to keep down a riot, if we could.
- Q. So they were just pulling in peace officers from all over the state to try to keep it down?
- A. Four hundred and twenty-five of us were there on Thursday.
- Q. At that time was the order being preserved entirely by the officers of the State of Mississippi?
- A. Everything was under good hands at that time.
- Q. When you got over there on the afternoon of Sunday, the 30th of September, 1962, was anybody else over there in an attempt to preserve the peace, besides Mississippi—

Mr. Gooch: I object to that, leading and suggesting. He can say what he did do. As to whether he was trying to preserve the peace or not—

Mr. Address: I think probably preserving the peace might be a conclusion, Judge, and I will withdraw that.

[fol. 273] By Mr. Address:

Q. Were there anybody else besides peace officers of Mississippi there on the campus there when you got there, in any official capacity?

A. I don't think so; no, sir.

Q. After you got there, shortly afterward, did anyone else come in, any other officers?

A. There was quite a few officers came in later.

Q. What kind of officers?

A. Constables, Deputy Sheriffs and Sheriffs.

Q. Was anybody else on the campus that afternoon of the 30th of September besides Mississippi officials?

A. Well, now, there were people there from all over. I couldn't say where they were from.

Q. Let me direct your attention and ask you whether or not there were any United States Marshals there?

A. Oh, yes, sir; yes, sir.

Q. What time of day did they arrive?

A. That—they were there when I got there.

Q. They were there about 4:30?

A. Yes, sir.

Q. You didn't see them come on, they were already there?

A. Yes, sir.

Q. When you got there about 4:30 in the afternoon where were the United States Marshals?

[fol. 274] A. They were at the Lyceum Building.

Q. What were they doing around there? Were they in any kind of a formation?

A. Yes, sir, they were lined up completely around the place I would say four or five feet apart, three or four feet apart.

Q. Were they armed in any fashion?

A. Yes, sir, they had tear gas guns, and had their masks on.

Q. These officers, these Marshals all had masks on and tear gas guns with them?

A. I won't say that they had their mask on when I first got there, but before, just before they turned the gas loose sometime or other they put their masks on.

Q. Now, how long were you on the campus that evening?

A. I was there until 5:00 o'clock and then I left for two hours and came back.

Q. You were there just a little bit, you mean?

A. No, 5:00 o'clock in the morning.

Q. 5:00 o'clock in the morning. You were there constantly from 5:00 o'clock Sunday afternoon until—

A. 5:00 o'clock Monday.

Q. To 5:00 o'clock Monday morning. Now, were there other folks there besides the police officers and Marshals?

[fol. 275] A. Yes, sir, quite a few.

Q. Well, were they men, women, or mixed?

A. Men or women, boys and girls.

Q. Were you—were they townspeople, students or both?

A. Both. They were from everywhere.

Q. And was there any general gathering or smaller gathering?

A. Oh, they were just in small groups all over the campus, the whole campus.

Q. They were not limited to just this area known as the Circle?

A. Oh, no, sir, they were all over the whole campus. Some were sitting in cars and some were sitting on the steps of the places and on the benches on the campus.

Q. What were they doing when you got there?

A. Well, they were just talking and everything seemed like to be building up.

Q. Later on was there any violence?

A. Not until after the gas was turned loose.

Q. Who turned the gas loose?

A. McShane ordered it.

Q. Who was McShane?

A. He was—I don't know how you would say it. He was [fol. 276] the head U. S. Marshal.

Q. How was the gas turned loose?

A. Well, all at once he just said, "Let them have the gas." And when he did, they done just that.

Q. Where were you when that happened?

A. Approximately twenty feet from them, facing them.

Q. Did you get any gas?

A. I did.

Q. Had you been engaged in any violence or anything of that sort toward the Marshals?

A. No, sir.

Q. What were you doing at that particular time?

A. Well, Paul Johnson, our Lt. Governor, had asked us to try to control the students, but that was a man-sized job.

The Court: He asked you what you were doing?

The Witness: I was standing up there in front of the students and spectators was behind us, and we were facing the Marshals.

By Mr. Andress:

Q. Who do you mean by "we"?

A. The Highway Patrol, Deputy Sheriffs, Sheriffs, Constables; any officer Mississippi had.

Q. In other words, the Mississippi peace officers were between the Marshals—

[fol. 277] A. And the students.

Q. And the students and the other people on the campus?

A. Yes.

Q. Will you state whether they were trying to protect the Marshals from the people or the people from the Marshals?

Mr. Gooch: We will object to that if the Court please. He can testify what he was doing.

By Mr. Address :

Q. Now, Sheriff, prior to that evening had you ever known General Walker here?

A. No, sir.

Q. Did you—when did you first see him that evening?

A. Well, now, it is hard to keep up with the exact time. I would say approximately between 8:30 and 9:00 o'clock.

Q. Do you recall when the Highway Patrol moved out?

A. I don't recall when they moved off the campus. Now, they were—within a matter of minutes after the gas was turned loose they left the Lyceum Building. Where they went from there, I don't know.

Q. Now, where was General Marshal—General Walker when you first saw him?

[fol. 278] A. Coming up University Avenue on the south side, fifteen or twenty steps east of the Confederate monument.

Q. And what direction was he heading at that time?

A. He was heading west.

Q. That would be then—can you see this map here?

A. Yes, sir.

Q. That would be along about in here on University Avenue just before it gets to where it spreads into these two parts of University Circle, is that right?

A. Right.

Q. All right. Who was with him when you first saw him, now?

A. Some young—young fellow. I recognize him since I have got up here. Leman or something like was his name, but I recognized him since I got here; and one of our county drunks was walking along at the side with him. He wasn't with him, but he was the one trying to antagonize everything.

Q. Just General Walker then and this young man, one young man walking along?

A. That's right.

Q. How were they walking?

A. Oh, just walking in a normal walk.

Q. I mean, were they hurrying, moving along, or what?

[fol. 279] A. No, sir, just moving along.

Q. Where was the General as far as the street or sidewalk was concerned?

A. He was on the south side walking up the walk.

Q. And from the time you first saw him, did you know who he was?

A. I heard somebody say, "Here comes General Walker, we have got a leader now."

Q. Did you at that time talk to the General?

A. Just a few seconds after that I stepped out a couple of steps to, maybe, pick out which one it was. I asked somebody if that was him with the big hat on and they said it was. I stepped out to see.

Q. Did you introduce yourself to him?

A. No, sir, he walked up and introduced himself and talked to me a few minutes.

Q. At that time what did he have to say about you making him a Deputy Sheriff?

A. He said something about could I, or would I, deputize him. He said, "Not to help in this matter." He said, "I would just like to be safe to be here to observe what is going on."

I said, "I don't have the authority, General, to deputize you myself, even in my own county," and I said, "This is not [fol. 280] my county."

Q. From that time on how long were you in the immediate company of General Walker?

A. Some four to five hours.

Q. At the time you first saw him, was it like daylight or dark?

A. It was dark.

Q. What was the lighting set up there on the campus that night?

A. Well, it was pretty bad. It was—I won't say students, I will just say spectators and students, were breaking out all the lights they could, and it wasn't too light.

- Q. Was there any moonlight that night?
- A. I don't think so.
- Q. Are there trees in the circle there between the monument and the Lyceum Building?
- A. Yes, sir, there are.
- Q. A lot of trees, or few?
- A. Oh, yes, sir, there is some large trees and small trees.
- Q. In the daytime—will you state whether or not that is a shady area?
- A. Oh, yes, sir, it is a shady area.
- Q. Now, after these lights had been put out, was the visibility [fol. 281] bility good or bad?
- A. No, you would have to be close to anybody to recognize who they were.
- Q. Now, during this four or five hours that you were with or close by General Walker, what did he do?
- A. Not one thing more than I done, or anybody else done over there. He was just there looking.
- Q. Will you state whether or not you ever saw him with any kind of missile or anything you could throw in his hand?
- A. No, I did not.
- Q. Did—will you state whether or not you ever saw him moving around at anything faster than a walk?
- A. No, sir, I didn't.
- Q. Well, what was he doing as far as his contact with people in the area was concerned?
- A. Well, he talked to people. People shook hands with him and talked to him and he just milled around there, around the monument out there.
- Q. How close would you say was the closest you ever saw him go toward the Lyceum?
- A. Not past the flagpole.
- Q. And you are familiar with that campus, aren't you, pretty familiar?
- A. Well, pretty familiar, yes.
- [fol. 282] Q. Have you got any idea how far it is from the flagpole to where the Marshals were?
- A. Not over three hundred feet.



Q. Will you state whether or not the Marshals were over on the west side of the driveway or street there in front of the Lyceum?

A. That is where they stayed most of the time. They got chances to get one or two boys singled out by themselves, they would run out and try to capture them.

Q. But the scrimmage line was there at the Lyceum Building?

A. Right there in front of the Lyceum Building.

Q. From the furthest advance point the General ever occupied, would it have been possible for anyone to have thrown anything from that point to the Marshals?

Mr. Gooch: I object to that, if Your Honor please, that's a conclusion.

The Court: Sustained.

By Mr. Address:

Q. Mr. Sheriff, how long were you a Deputy Sheriff?

A. Approximately three years.

Q. During that time have you seen unruly crowds?

A. Repeat that.

Q. During that time have you had anything to do with unruly crowds, rioting and so on?

[fol. 283] A. No, sir. No, sir.

Q. You hadn't had any prior experience?

A. No, sir.

Q. Did you hear the General talking to the crowd from the monument?

A. Yes, sir, I did.

Q. Now, prior to the time that he made this talk to the students from the monument, was that the time that he had gone forward about as far as the flagpole, before he made the speech?

A. One time he walked up just a little piece, just a little piece up there. I don't think he went hardly to the flagpole that time.

Q. Was anybody with him?

A. Not particularly. In other words, there was a large crowd of people there. Nobody particularly was with him. But this one young man, and, of course, myself. When you have a figure like that come to Mississippi, I wanted to watch what was going on, and I watched him.

Q. Was there any time you saw him head west from the monument when he was anywhere other than in the middle of a group of people?

A. No, sir, I didn't see it. In other words, any time he would be walking there would be people in front of him as well as behind him.

[fol. 284] Q. When he made this speech from the monument, what did you hear him say, as far as you remember?

A. I heard him say, "People, violence is not your answer. Cuba is yonderway. Protest all you want to but violence is not your answer."

Q. What kind of reaction did he get from the crowd?

A. Oh, he got boos from some. Some of them said, "What is he here for if he is not going to help us? Why don't he go back to Texas."

Q. Now, did he make any statement as to why he was there?

A. He just told me, he says, "I am just here to observe. I am not here to get in this either way."

Q. Do you remember a preacher coming up to see him?

A. Yes, sir, I do.

Q. Do you remember what he told the preacher about what he was there for?

A. Yes, sir.

Q. What did he tell him?

A. Well, he told the preacher he was just there to see what was going on, that he wasn't there to stop or start anything, that he didn't have anything to do with that.

Q. Did you see him at any time you were with him, did [fol. 285] you see him do anything inconsistent with that statement?

A. No, sir.

Q. Now, do you remember anything else he told them when he was making the speech from the monument?

A. He told them, "Protest all you want to." That they had a perfect right to do that, but violence wasn't the answer.

Q. Did you have anything to do with removing the preacher?

A. I moved him.

Q. What was going on that you moved him for?

A. He kept on jerking at the General's coat and everything and telling him to talk to them and break this thing up and that they would listen to him and go home. He said, "Preacher, I am not here to do that." He says, "I can't have anything to do with this."

And he just kept on at him and I heard three men start telling one of them, one of them says, "If we can get that preacher in the right place we will fix him."

Then when the General got up on the monument to make his speech I was on the right side facing east and the preacher came around on the other side and kept on pulling at him and when he did I walked around there and caught him by the arm and asked him to leave and he said he [fol. 286] wasn't leaving and, of course, according to my size and head, I felt like I could do it, and I just picked him up and carried him out of there.

Q. Did you see him any more, the preacher, after you carried him out?

A. No, I led him out of the crowd, out past the crowd and two men walked up and asked me what was I doing with the preacher and I said, "Well, I am afraid his life is in danger and I am going to get him away from here." And they said, "Well, we are friends of his, can we have him?" And I asked him if he knowed the people and he said he did and so I turned him over to them.

Q. Did you see anyone else touch or lay a hand on the General, as far as he was concerned?

A. Nothing only shaking hands with him.

Q. After the General had told this preacher he wasn't there to break it up or participate in it in any way, did he and the preacher have any kind of exchange about what their denomination was, or anything of that sort?

A. Well, General Walker turned around and asked him, says, "Preacher, what denomination are you?"

He said, "Episcopalian. I am an Episcopalian."

And he said, "You make me ashamed that I am an Episcopalian."

[fol. 287] Q. Did that faze the preacher?

A. I don't know. It didn't bother the preacher.

Mr. Gooch: We object to that conclusion, whether it fazed the preacher or not.

By Mr. Andress:

Q. After the General finished his speech from the monument, Sheriff, what did he do then?

A. He stepped down and just milled around there, around in front of the monument for a few minutes, and, of course, some of them kept on asking him to lead them and everything and he kept refusing to do that.

Q. Just milling around?

A. Yes, sir.

Q. Do you recall any occasion after he had made his speech and gotten down from the monument when he did go back toward the flagpole?

A. I think maybe, oh, maybe three or four minutes after he got down; might have been five, he walked a little piece up that way, approximately to the flagpole, and they turned another charge of gas loose, and he walked back down.

Q. How did he go toward the flagpole? What was his gait?

A. Walking. Just a common walk.

Q. Were people with him?

A. Well, there were people in the crowd. What I mean,

[fol. 288] there were some out front and they were scattered everywhere.

Q. And were any of the people in that group that were walking up there to the flagpole, did you see any of them at that point running?

A. No, sir.

Q. Would you say that they were walking fast or slow?

A. No, just a common walk.

Q. Now, when was the last time you saw the General that night?

A. Oh, somewhere between 1:00 and 2:00 o'clock.

[fol. 289] Q. And after he had made this speech from the monument and after he had made this other walk up towards the neighborhood of the flagpole with these folks, what did he do in between those times until he left the campus?

A. He just milled around there on the—back down next to the monument there.

Q. Was he doing anything differently from the other people?

A. No, sir.

Q. Was there anything that would attract your attention to him other than the fact that you knew he was General Walker?

A. That's all.

Mr. Address: Pass the witness.

Cross examination.

By Mr. Gooch:

Q. Mr. Witt, at the time you went to the campus of Ole Miss—and you said you were over there five days and five nights before Sunday, September the 30th, if I understood you correctly?

A. The five days and five nights included September the 30th.

Q. All right. Now the reason you were over there was

to keep Meredith from entering the University of Mississippi, wasn't it?

[fol. 290] A. That was what our orders was Thursday.

Q. Now when were those orders changed?

A. After Thursday, we was—well, Sunday night we knew he was there. We had the report he had done got there.

Q. Now you said you went over there Sunday night because Sheriff Faulkner, or somebody called Sheriff Faulkner, or called you?

A. Sheriff Faulkner called me, yes, sir.

Q. You didn't get any instructions that night, did you?

A. Nothing only just come to the campus.

Q. Come to the campus. Now when was it somebody told you that you was over there to keep violence down? Did anybody ever tell you that?

A. Our Governor told us to try to keep down violence if we could—

Q. When was that?

A. That was on a Thursday.

Q. On a Thursday?

A. Yes, sir.

Q. But your avowed purpose for being over there was to try to keep Meredith from coming on the campus, wasn't it? That's what you had been there for?

A. That was Thursday.

Q. Did you get any further word from the Governor [fol. 291] after Thursday?

A. No, sir, I didn't directly, no, sir.

Q. Did you get any direct word from the Lt. Governor after Thursday?

A. No, sir.

Q. You were called Sunday to come over there, is that correct?

A. That's right.

Q. And you had received no other orders than the orders that you had had, to keep Meredith from being registered in the University of Mississippi, isn't that correct?

A. Faulkner, I asked him what was I supposed to do

when I got there and he said, "Try to take care of the students and keep them from starting anything."

Q. All right, now you got there about 4:30?

A. 4:30.

Q. And at that time were the Marshals already on the campus?

A. They were.

Q. And did you see any of the sheriffs and constables at that time?

A. Yes, sir.

Q. How many?

A. Well, now that would be hard to say.

[fol. 292] Q. Well, would you say 400?

A. No, sir, there wasn't—the 400 included the highway patrol. And the highway patrol—some of them was there when we got there but I don't think it would be 400 of them at that time.

Q. All right. Now did you take a position up pretty close to where the Marshals were around the Lyceum Building?

A. I was directly in front of the Lyceum Building, just across that little street.

Q. Did you stay there for a considerable period of time after you got there at 4:30?

A. I believe it was approximately 8:00 o'clock when the gas was turned loose and I left then.

Q. You were there then around the Lyceum Building until the gas was turned on?

A. Yes, sir.

Q. Now prior to the time that the Marshals fired their gas, what was the crowd doing insofar as the Marshals were concerned?

A. You mean before the gas was turned loose?

Q. That's right.

A. Well, nothing. Just standing around. Some of them were thumping cigarette butts towards the Army truck.

Q. Were there any pebbles thrown?

A. No, sir, not as I could see.

[fol. 293] Q. Was there any fire caught on one of the vehicles from a match or cigarette—

A. I believe I recall at one time there was a little fire started and somebody jerked a fire extinguisher and put it out.

Q. Were there any abusive words being spoken?

A. Well, now I imagine there was some bad language when I went over there, yes, sir.

Q. Were the Marshals saying anything or were they standing mute?

A. Marshals wasn't saying—I couldn't hear them saying anything at that time.

Q. But there were being some instruments tossed along with pebbles, lighted cigarettes, matches, et cetera?

A. Repeat that question, Mr. Gooch, please, sir.

Q. There were some insults or strong words being tossed at the Marshals in addition to pebbles?

A. Oh, yes.

Q. Cigarettes, and so forth?

A. There was some harsh words said, yes, sir.

Q. It was after these pebbles, as you described them, were tossed and the cigarettes that the first barrage of gas was fired, is that correct?

A. Now your pebbles, I don't know what you are calling pebbles. I only seen cigarettes, cigarette butts thumped.

[fol. 294] Q. You didn't see any pebbles?

A. No, sir.

Q. Did you hear any of the pebbles bouncing off their helmets?

A. No, sir.

Q. Or anything of that sort. Now you say the gas was fired along about 8:00 o'clock?

A. To the best of my recollection, I would say about 8:00 o'clock.

Q. Was it after dark?

A. Oh, yes, sir, just good dusky dark.

Q. And then after the gas was fired, did you go down towards the monument?

A. Yes, sir.



Q. On account of the gas?

A. Yes. And I did run at that time, too.

Q. All right. Now after you had run down to the monument, did you have an occasion to go back up towards the Lyceum Building?

A. We would ease back as far as we could but we couldn't—at that time, the gas was floating towards us and we couldn't get back up there.

Q. Was there a riot going on after that gas was fired?

A. That's when it started.

Q. Did that riot grow in intensity as the night wore [fol. 295] on?

A. It went until 5:00 o'clock.

Q. What all did the students throw at those Marshals?

A. Well, I seen them roll up wheelbarrows of brick and they would go to, somewhere in town and get the coca-cola bottles, sticks of wood; would break up the concrete benches—anything they could find.

Q. And what would they do with them when they picked them up?

A. If they could get up close enough, they would throw them at the Marshals.

Q. If they didn't get close enough, they would throw them anyway, isn't that the—

A. No, they didn't throw them until—they didn't want to waste their ammunition.

Q. All right. And they tried to get up close enough to be effective every time they threw them?

A. They would do their best.

Q. You didn't see any of them throwing unless the thrower had a reasonable opportunity of hitting his mark, is that right?

A. Well, now when the National Guard came through, or any other cars, as far as that's concerned, they tried to take care of them as it came through.

Q. You mean with bricks and stones?

[fol. 296] A. Yes, sir.

Q. And so from—and so forth. Did they do a pretty good job of it?

A. Yeah, I thought they done a good job.

Q. Did they set any automobiles on fire?

A. They burned and destroyed 16 cars.

Q. Was that during the time you were there?

A. Yes, sir.

Q. Between 4:30 in the afternoon and about 5:00 o'clock the next morning?

A. That's right.

Q. Prior to the time you saw General Walker come on the campus, were the students throwing rocks and stones and bricks and sticks at the Marshals?

A. They were throwing them before he got there and after he got there.

Q. Was it obvious to anybody that wanted to look that there was a riot going on at the time General Walker got on the campus?

A. Yes, sir, anybody could have told that.

Q. Were the students actually in the process—I don't mean continuously but in sporadic spurts, tossing their bricks and stones and missiles at the Marshals at the time General Walker got to the campus?

A. Before he got there?

[fol. 297] Q. Yes, sir.

A. Yes, sir.

Q. At the time he got there?

A. Yes, sir, they never did stop hardly.

Q. All right. Then you could plainly see from where you were down around the Confederate monument these charges or rocks and bricks and stones being thrown at the Marshals?

A. I could see them run up there with a brick in their hands.

Q. But could you see the arm movement of throwing?

A. Until they broke out a lot of the lights, I could.

Q. All right. Now there was considerable light in front of the Lyceum Building, was there not?

A. At one time there were. They eventually broke out every light.

Q. Well, I know, but there were some lights under the canopy of the Lyceum Building that stayed on all night, were there not?

A. Some of them stayed on all night but the Marshals had to turn their lights on their cars and jeeps.

Q. You could see the Lyceum Building, or the lights from the Lyceum Building, from the monument, could you not?

A. Well, you could see the lights but within that mist of tear gas, it was hard to see the building. And when it was too thick, you couldn't even see the lights.

[fol. 298] Q. But you could, if you walked up there around the flagpole, see pretty well what was going on around the Lyceum Building, couldn't you?

A. Not too good when the lights was—when that gas was there.

Q. I know, but did the gas lift and then come some more gas?

A. There was plenty of gas turned loose.

Q. That was quite obvious to everybody, both from a sight and a nostril standpoint, wasn't it?

A. Yes, sir.

Q. You stated that you saw General Walker as he approached the campus and I believe you said on the south side of University Avenue?

A. Yes, sir.

Q. And about how far was he from the monument when you first saw him?

A. I would say approximately 15 steps.

Q. Was there anybody at all with him or was he alone?

A. There was a young gentleman with him and this other fellow that I am referring to as Gene Connelly staggered up from somewhere. He wasn't with him but he staggered up from somewhere.

Q. Just the two of them, so far as you know?

[fol. 299] A. Yes, sir.

Q. As he got in closer to the monument, did anybody group themselves around him?

A. Well, there was a few walking up to him to shake hands with him and talk to him.

Q. Was anything said about, "Here is General Walker," or "Here is our leader"?

A. Yeah, I heard some of them say, "Here comes General Walker."

Q. Did they say, "Here is our leader"?

A. Said, "Yeah, we've got a leader now."

Q. Hear any of them ask him where his volunteers were?

A. I don't recall that now for sure, no, sir.

Q. All right. After he had been greeted there, did you go to him or did he come to you?

A. Well, I believe he walked up in the crowd where I was at. There was a, eight or ten of us standing up there, the crowd, and he seen my badge. We had orders to put our badge out on our coat and a white rag around our arm.

Q. All right. He walked over to you, did he?

A. Shook hands with me and introduced himself and said, "I would like for you to deputize me, so I can help in this matter." He said, "I'm just here to observe."

Q. Now what did he exactly say? What did he exactly say?

[fol. 300] A. He said, "I would like for you to deputize me while I'm here so I won't, nothing will happen to me."

He said, "I'm not here to help in this matter in neither way but," he said, "I would just like to be on the safe side."

Q. Are you sure he said all that to you?

A. Well, Mr. Gooch, it's hard to remember everything that was said back that far.

Q. That's right, I know that, and I'm referring somewhat here to your deposition which was taken in March.

Now is your recollection better now than it was on March the 13th, 1964? I am asking you if it is?

A. Well, now I remember him walking up to me and shaking hands and say, "I would like for you—"

The Court: That wasn't his question, sir. His question was, is your recollection better now than it was on March the 13th of 1964.

A. Well, now I wouldn't say that it was.

By Mr. Gooch:

Q. All right. I recall, and we will get to it in a moment, that you said that what transpired between you, that you shook hands and he asked you to deputize him. That's all he said. And that you told him that you did not have the authority to deputize him, let alone in that county, but you were from a different county and couldn't deputize him if you wanted to?

[fol. 301] A. That's right.

Q. Now that's what I understood you to say in substance in March. I don't believe you mentioned anything about so he would be on the safe side or any of that sort of thing. We will get to that in a moment, though.

Now what is your best recollection now?

A. He shook hands with me and asked, "I would like for you to deputize me."

Q. All right.

A. And I told him, I says, "General, I don't have the authority to deputize you in this county, much less than my own," and I said, "This is not my county."

Q. Now that is substantially what was said between the two of you there?

A. As best as I can recall, yes, sir.

Q. All right. That's the later version and is now what you say you think happened?

A. Yes, sir.

Q. Now after he asked you to deputize him and you declined, what did he do?

A. Are you asking me a question?

Q. Oh, yes. What did he do after he asked you to deputize him, what did he do then?

A. Well, he just milled around there by the monument a while there.

[fol. 302] Q. Then what did he do?

A. Then he walked up a little closer. I heard him say something about, "We'll walk up a little closer and see what's going on."

And he walked up somewhere in the neighborhood of the flagpole.

Q. Did anybody go with him?

A. Well, not particularly go with him. Now the young man that was with him, walked with him, and then of course there was some behind him that just watched him as he walked up there.

Q. And you say nobody particularly went with him?

A. I don't think they called themselves going with him.

Q. I'm not talking about what they called themselves. I'm asking you if a number of people followed General Walker up towards the flagpole?

A. Well, there was some went in front of him and some went behind him, yes, sir.

Q. All right. Would you attempt to fix the number that was behind him?

A. Well, I don't really—somewhere in the neighborhood of three or four hundred.

Q. Now that's when he went up towards the flagpole the first time?

[fol. 303] A. I believe—yes, sir.

Q. Some three or four hundred went along behind him?

A. Well, no, let me back up on that just a little bit, Mr. Gooch.

Q. Well, go ahead, back up, either way you want.

A. I don't see that three or four hundred followed him because that dark, it would be hard for me to tell how many people followed him.

Q. Yeah.

A. I would say there was that many people behind him at that time in that area right down there.

Q. Well, were they just standing there or were they moving towards the flagpole with him?

A. Some people didn't move at all. Some people sit around on the benches. Some sit on the steps and didn't move.

Q. And some of them moved along with him up towards the flagpole, is that correct?

A. Some moved in front of him and behind him, yes, sir.

Q. All right. Now did you say how far he got on that occasion? Did he get up near the flagpole?

A. Somewhere close to the flagpole. I don't recall of him ever walking past the flagpole.

Q. Now did any incident occur with respect to Reverend Gray, this preacher that you referred to? I don't know [fol. 304] whether you mentioned his name as Gray or not. Was it Duncan Gray?

A. I don't know what his name was.

Q. Well, a preacher, anyway?

A. Yes, sir.

Q. You referred to him as "a preacher"?

A. Yes, sir.

Q. Did any conversation occur between General Walker and Reverend Duncan Gray or this preacher at the time he went up to the flagpole the first time with this crowd following him and on his way back?

A. Well, that was just before he went on the flag—up on the monument to make a speech.

Q. Uh-huh.

A. As he started back, the preacher kept nagging at him and pulling his coat, to try to stop the crowd.

Q. What did the preacher ask him to do?

A. He said, "General," he said, "This crowd will listen to you. Talk to them and have them go home. This is no good."

Q. Did he ask him to stop the rioting?

A. Yes, sir, he said, asked him to stop the rioting.

Q. What did the General reply?

A. He told him, he said, "I didn't come here—" He said, "I couldn't stop it if I wanted to." Said, "There's nothing [fol. 305] I can do."

Q. He said he wouldn't stop it if he could?

A. No, sir, he didn't say that.

Q. He didn't say that. All right. Then you say General Walker went back down around the vicinity of the monument. Now was there something said about him making a speech?

A. They kept on at him to make a speech.

Q. Now did the preacher attempt to get General Walker, while he was making his speech on the monument?

A. One time he came around on the left-hand side, which was the north, the way I was facing, to reach to him again. That was after I heard him be threatened and I walked around in front of General and caught him and drug him out in there.

Q. You are anticipating me. Did the preacher, as you refer to, did he ask General Walker while he was on the monument to try to stop the riot?

A. I don't recall of him getting to say nothing to him because when he reached up to catch his britches leg, that's when I reached and grabbed him.

[fol. 306] Q. So you got the preacher out of there, is that correct?

A. Yes, sir.

Q. All right. How many people would you say was on the campus there in the Circle—the Circle, now, and as distinguished from the campus, at the time General Walker was making his speech out there on the monument that night?

A. You mean in the Circle, or in the whole area around there?

Q. That whole area around the Circle, the flagpole, the Lyceum Building and the monument.

A. When I first got there I would say 400 people, in the whole area.

Q. How many was around the monument while he was making his speech?

A. Mr. Gooch, that is going to be hard to say. Somewhere in the neighborhood of one hundred people, maybe.

Q. All right. Now, tell me again what you heard General Walker say?

A. Well, I heard him say, "Violence is not the answer. Cuba is yonderway." And he pointed to the southerly direction. He told them, "Protest all you want to." They



have that right. And I heard him say something about help is on its way.

[fol. 307] Q. "Help is on its way", you heard him say to the crowd, "Help is on its way"?

A. Something like that, yes, sir.

Q. All right. Now, what happened after he finished his talk on the monument?

A. He got off and talked around there to a few other people, milled around there a little bit, say four or five minutes, and he walked up toward the flagpole again.

Q. When he walked up toward the flagpole again now, that was the second time he had gone toward the flagpole, is that right?

A. Yes, sir.

Q. When he walked up to the flagpole again did anybody follow him?

A. Well, there were people there walking. I don't know whether they called themselves following him or not.

Q. All right. And was he in front—a—

A. No, sir.

Q. —of anybody behind him?

A. Well, he had to be in front of somebody that was behind him.

Q. All right. They were not in a single bunch in one pile, were they?

A. No.

[fol. 308] Q. They were not walking completely abreast, were they?

A. No, sir. I would say there were as many in front of him as there were behind him.

Q. All right. We will get down to that in a little while. Now, did he make any remarks as he started up there, this second trip toward the flagpole?

A. I don't remember him making any remarks about anything. He talked to people, shook hands with people as he went along, you know. In other words, he didn't walk directly toward the flagpole. He was walking awhile criss-crossing around and shaking hands and talking.

Q. How many would you estimate were in the crowd that went up that time?

A. That is still hard to say, Mr. Gooch. Like I say, there were people in every direction.

Q. How many would you say?

A. In whole area?

Q. No, around General Walker at the monument, when he started and you went with him toward the flagpole?

A. Well, I don't know how far from him you would have to say was around him. In other words, naturally, there was people, some in front and behind him, but they were scattered out for a quarter of a mile from him all during the time he was there.

[fol. 309] Q. Now, you stated on direct examination that you never saw General Walker doing anything, that, I believe you said, nobody else did. Did you make a statement like that?

A. Yes, sir, but I thought that over a little bit.

Q. Yes, sir.

A. I seen some of the rest of them lead some of the violence and I didn't see him doing that. I will say this, I didn't see him doing anything more than I done.

Q. Did you throw anything towards the Marshals?

A. No, sir.

Q. Did you go towards the Marshals?

A. I went in the Marshals' building.

Q. I mean did you go up there with him up towards the Marshals?

A. No, sir, not particularly. I tried to watch the students, what they were doing, while they were in—while they were engaged in that kind of stuff, yes, sir.

Q. Did any of these crowd, or whoever it was that went with General Walker toward the flagpole, on either occasion you have testified about him going to the flagpole, have anything in their hands in the way of missiles, rocks or stones?

A. I seen some of them in the crowd with bricks in their hands.

[fol. 310] Q. Were they following along beside General Walker?

A. No, sir, the ones with the bricks would be more or less in front of him and out at each side.

Q. And out at each side?

A. Yes, sir.

Q. As they got up to this flagpole, could you see any of them throw the rocks?

A. They couldn't throw from the flagpole on up there. They would try to work on up close.

Q. Did you see any of them throw a—

A. Not down at the flagpole.

Q. I mean in the group with General Walker. Did you see any of them throw?

A. Not at the flagpole.

Q. I mean in the group with General Walker?

A. No, sir, not that group.

Q. Any group?

A. I did later when they tried to work on up closer when the gas would go down.

Q. You said General Walker said, "Violence is not your answer." Or did he say, "No violence is intended?" Do you know which he said?

A. Yes, sir, I sure do.

Q. What did he say?

[fol. 311] A. He said, "Violence is not your answer, Cuba is yonderway."

Q. He did not say, "No violence was intended?"

A. No, sir, I didn't hear him say that.

Q. He said, "Cuba is yonderway."

A. Yes, sir.

Q. He said, "Protest all you want, you have got a right to do that"?

A. Yes, sir.

Q. Then did he say this: "Protest all you want to, they might run out of gas, help is on its way, thousands are coming"?

A. I believe I remember hearing some statement like that, yes, sir.

Q. You testified before that is exactly what he said.

A. Well, yes, sir, I heard that.

Q. He said that while he was on the monument?

A. I believe that's right, yes, sir.

Q. All right. Did you hear him tell the students that Birdsong had sold them out?

A. No, sir. The main reason he got up there to make the speech, some of the students—

The Court: Wait just a minute. You tell what you saw and what you heard and don't give us what somebody else [fol. 312] may have done.

A. All right. He got up to make the speech. He didn't say Birdsong sold them out. He told them Gov. Barnett hadn't sold them out. He said, "I have heard Birdsong is the one that sold you out."

Q. Well, I quote again from page 24 of your deposition when you said, "Gov. Barnett did not—didn't sell you out, Birdsong did."

Do you remember making that statement?

A. Yes, sir, I do.

Q. Now, you say there was never a large crowd following Walker toward the flagpole?

A. No, sir.

Q. Are you saying there wasn't, or you didn't say that?

A. I am saying they weren't following him after he made his speech and wouldn't lead them the crowd more or less got irritated at him.

Q. The first time he went up before he made the speech, did anybody follow him up then?

A. Some came along, yes, sir.

Mr. Gooch: All right, could we have a recess before I finish with this witness?

The Court: Yes, sir. Ladies and Gentlemen of the Jury, let's recess until 3:30.

[fol. 313] Mr. Address: After the Jury is out, could I make my Bill?

The Court: Let's get it done now, yes, sir.

(Jury out; the following proceedings were had outside the presence and hearing of the Jury.)

Mr. Address: Sheriff, each time you saw General Walker over there that evening, did you ever see him leading a charge?

A. No, sir, I did not.

Mr. Address: That is all.

The Witness: I may get a little scared up here in front of all these people and the Judge and everything.

Mr. Address: That is all.

The Court: All right, we will recess.

(Short recess was had.)

[fol. 314] The Court: Mr. Watts is getting the original depositions. He will be here in just a minute.

All right, Mr. Gooch.

By Mr. Gooch:

Q. Mr. Witt, I don't know whether you would agree with a description such as this or not, but on this particular night, were you nattily dressed?

A. Well, I had my dress pants and coat on.

Q. Well, would you consider yourself to be nattily dressed?

A. Well, I hadn't thought of it either way but I guess you would say yes.

Q. All right. Are you a portly man?

A. Well, now, that's a matter of opinion.

Q. Let's see if we can get it in the record, then. How tall are you, Mr. Witt?

A. About five, eleven.

Q. And how much did you weigh on September the 30th, 1962?

A. About 275.

Q. All right, sir. Now, Mr. Witt, do you remember when your deposition was taken over in Oxford, Mississippi, by Mr. Watt, on the 13th of March, 1964?

A. I don't remember the date but I remember giving the deposition, yes, sir.

Q. Do you recall, also, that there was some cross examination [fol. 315] at that time after Mr. Watt had finished—

A. I do.

Q. —examining you?

A. Yes, sir.

Q. Now read along with me here. So we will get the continuity, I am reading from the deposition of Mr. Witt that was taken by Mr. Watt, Counsel for General Walker, on the 13th day of March, 1964, in Oxford, Mississippi.

Mr. Witt, if I—

Mr. Watts: Might I inquire what page, please, Mr. Gooch?

Mr. Gooch: Page 29.

Mr. Watts: Is this my examination or your cross examination?

Mr. Gooch: Cross examination, Mr. Watts.

The Court: Cross.

Mr. Address: Judge, at this point, I would like to interpose an objection for this reason: The way you impeach a witness is to ask him the same question and then if you get something different, then you can go ahead and read what he says before, and not the way that Counsel has been doing it.

I have let it go along but I do think we ought to do it right, and, therefore, I would like to make an objection to it until the proper predicate is laid.

[fol. 316] The Court: Overruled.

Mr. Address: May it go to the entire line here?

The Court: Yes.

By Mr. Gooch :

Q. To get the continuity, this question was asked: "Mr. Witt, I understood on the afternoon of September 30th, 1962, you got a call and did the call come to you or did it just come to the Sheriff's office?"

Your answer, "It came to me," is that correct?

A. That's right.

Q. It came to you personally?

A. Yes, sir.

Q. And that was Sheriff Faulkner from New Albany?

A. Yes, sir.

Q. And the answer was, "From Union County, yes, sir." Was that your answer?

A. Yes, sir.

Q. "Did he tell you why he wanted you to come to Oxford?" And your answer, "He told me to come over there."

Mr. Watts: Just a minute, please, Mr. Gooch. You skipped.

Mr. Gooch: "He told us to come over there."

Mr. Watts: Right.

By Mr. Gooch :

Q. "I believe it was Friday afternoon, that if we didn't get called back, not to come back until Monday," is that correct?

[fol. 318] A. That's right. Or until we was called.

Q. "Question—"

A. Or until we was called.

The Court: Right now he is just asking you whether or not what you said in this deposition was said at the time you gave that deposition.

The Witness: Yes, sir.

By Mr. Gooch :

Q. Now at the time you gave this deposition, you were under oath as you are today; did you understand it at the time?

A. Yes, sir.

Q. "Question: I see. You had been over here previously?" And your answer, "Yes, sir, I had been here five days and nights." Is that correct?

A. Yes, sir.

Q. "You had been over here five days and nights?"

A. "Yes, sir."

Q. Is that correct?

A. Yes, sir.

Q. "Were there a lot of officers over here at that time?"

"Answer: Yes, sir, I believe they estimated down here at the Army Building that there was sheriffs, highway patrol, constables, and so forth, 425 men."?

A. "Yes, sir."

Q. Did you make that answer?

[fol. 319] A. Yes, sir.

Q. Was it true?

A. Yes, sir.

Q. "Question: 425 officers had assembled here at Oxford and had come to the University for a number of days?"

Your answer, "I don't know if it would have been the same crowd every time. That was on Thursday. The day he was supposed to have come in here, they estimated 425."

A. Right.

Q. "Did that include the highway patrol?"

And you answered, "Yes, sir," is that correct?

A. Yes, sir.

Q. "The highway patrol, peace officers, sheriffs and deputies?"

And you answered, "Yes, sir," is that correct?

A. Yes, sir.

Q. "Why were they here?"

And you answered, "That was the day he was supposed to come in here, on Thursday, Meredith.

"Question: And what was the purpose of the officers being here when Meredith came in?"

And you answered, "To stop him from getting in".?

A. Yes, sir.



- Q. "Question: To stop him from getting in?"  
 You answered, "Yes, sir." Is that correct?  
 [fol. 320] A. Yes, sir.
- Q. "To prevent him from getting on the campus?"  
 And you answered, "That is right"?
- A. Yes, sir.
- Q. "Question: That was what you understood was the purpose that you all were assembled here for?"  
 And you answered, "Yes, sir."?
- A. Yes, sir.
- Q. Is that correct?
- A. That's right.
- Q. "And that was the object that you had in mind, to prevent Meredith from getting on the campus and enrolling in the University?"  
 And you answered, "Yes, sir."?
- A. Yes, sir.
- Q. And you said—is that correct? "The court reporter can't get your nod."  
 And you answered, "Yes, sir." But they did disarm us," is that correct?
- A. That's correct.
- Q. "Question: They did what?"  
 "Answer, they had taken our guns on the Thursday now. They had taken our guns away from us.  
 "Question: Who did that?"  
 Your answer, "The Lt. Governor, Paul Johnson." Was [fol. 321] that answer correct?
- A. That's right.
- Q. "Question: But you still, after your guns were taken away from you, you were still here as I understood it, and as your orders and directions were, and the information given you from the officers in charge, you were still here for the purpose of preventing James Meredith getting on the campus and enrolling as a student at the University?"  
 And your answer, "Yes, sir."?
- A. Yes, sir.
- Q. Well, is that correct?

“Question: After you got the call from Sheriff Faulkner on September 30th, you came on to Oxford, is that correct?”

Your answer, “Yes, sir.”?

A. Yes, sir.

Q. Was that true?

A. That’s right.

Q. “Did you go directly to the campus of the University?”

Your answer, “Yes, sir.”?

A. Yes, sir.

Q. Correct? “Did you say who was with you at that time?” You answered, “Cecil Payne,” is that correct?

A. Right.

[fol. 322] Q. “Now Cecil Payne is another Deputy Sheriff of Pontotoc County?”

And you answered, “Yes, sir”?

A. Yes, sir.

Q. Is that correct? “Now when you got on the campus at the University, the first tear gas had not been fired, had it?”

And you answered, “No, sir.” Was that correct?

A. That’s right.

Q. “And when you went up to the Lyceum Building just what was the situation that you observed there at the Lyceum?”

You answered, “The Marshals were in front of the Lyceum Building and we had gathered up on both sides. Our orders was to try to control the students and to keep them from doing anything violent.”

Did you make that answer to that question?

A. I did.

Q. Now the rest of it—well, we will go on with it.

“There is a street that runs in front of the Lyceum Building?”

You answered, “Yes, sir,” correct?

A. Yes, sir.

Q. "And you officers were out in the street in front of the Lyceum Building?"

"Answer, just across the street, we were just on the [fol. 323] curb back from the street."

"Question: Now the students and the crowd, you said you didn't know whether they were all students or not, but the crowd was assembled over in this circular area that is called the circle right across the street from the Marshals?"

And you answered, "Yes, sir"?

A. Yes, sir.

Q. "Question: Now when you first got there, what would you estimate the number in that crowd was then?"

You answered, "When I first got there just around 400 or 500 people, when I first got there." Correct?

A. Yes, sir.

Q. "500 people?" And you answered, "Yes, sir." Is that correct?

A. Yes, sir.

Q. "Now did that crowd constantly grow?"

And you said, "Oh, yes, sir," is that correct?

A. Yes, sir.

Q. "As the night went on and the whole crowd on campus grew, didn't it?"

And you answered, "Yes, sir"?

A. Yes, sir.

Q. "Between the time when you first got there, which you estimated at 4:30, and the time of the first tear gas [fol. 324] which you estimated at 6:00, I believe that is correct?"

And you said, "That is just a guess"?

A. Yes, sir.

Q. Was that your answer?

A. Yes, sir.

Q. "I understand that is just a guess, approximately."

You answered, "Yes, sir."

"Were you there all the time?"

And you answered, "Oh, yes, sir, I was there until 5:00 o'clock the following morning." Was that correct?

A. That's right.

Q. "Sometime along there the highway patrol left, didn't they?"

"Answer: Yes, sir, shortly after the gas was released, they left, I would say, within five minutes." Is that correct?

A. That's correct.

Q. "And most of the law officers left?"

And you answered, "Yes, sir"?

A. Yes, sir.

Q. "Question: In fact you were just about the only law officer that stayed on there, weren't you?"

And you answered, "Me and Jim Garrison was the only ones that I remember," is that correct?

A. That's correct.

[fol. 325] Q. "Question: Jim Garrison, that is the Deputy Sheriff from Lafayette County?"

"Answer: Yes, sir.

"Question: And you are the only two law officers that remained there on the campus to try to help that night?"

And you answered, "The only ones I could see, yes, sir"?

A. Yes, sir.

Q. Was that correct?

A. That's right.

Q. "Now just prior to the time the first tear gas was fired, the crowd had gotten a little unruly, hadn't it?"

And you answered, "Oh, yes, sir." Is that right?

A. Yes, sir.

Q. "Question: There was a good deal of cursing going on, wasn't there?"

And you answered, "Yes, sir." Was that correct?

A. Correct.

Q. "And you heard a lot of profanity?"

And you answered, "Yes, sir"?

A. Yes, sir.

Q. "And the crowd was getting to what you would call restive, they were unruly, weren't they?"

And your answer, "At that time before the gas was turned aloose, they had thumped cigarettes and cigar butts [fol. 326] and they had struck matches and thrown on top of the canvas of the Army trucks and some of them at the Marshals"?

A. Right.

Q. Was that correct?

A. That's correct.

Q. "Question: Trying to set the things afire?"

And you said, "Well, I don't know." Is that correct?

A. Correct.

Q. "Did any of this canvas, these canvas tops, catch afire?" You answered, "At one time I recall that the canvas did sort of blaze up just a little bit and somebody put it out with one of the extinguishers."

Did you make that answer?

A. Yes, sir.

Q. Is that correct? "Do you remember the occasion when a photographer came in, he and his wife in a car, and they took their car and broke up the camera, that happened before the tear gas was fired, didn't it?"

And you answered, "No, sir. I didn't see any cars destroyed until after—" He—is that correct?

A. That's correct.

Q. "Question: I don't mean the car was destroyed, his camera, his Kodak was destroyed, do you remember seeing that before the tear gas was fired?"

[fol. 327] Answer, "No, sir, I don't remember that." Was that correct?

A. Yes, sir.

Q. "You say the crowd had grown unruly before it was fired, now after the tear gas was fired, then the crowd really got violent?"

And you answered, "Yes, sir"?

A. That's right.

Q. Is that correct? "In other words, there is no way of describing it except it was just a riot, just a mob, a violent mob, that is what it was, wasn't it?"

And you answered,—

A. Yes, sir.

Q. That was right?

A. Yes, sir.

Q. "Question: This violent mob was undertaking then to do anything they could and any harm they could do to the Marshals and to the property there on the campus, wasn't it?"

You answered, "Yes, sir."

Mr. Address: This is all repetitious. He's been through this.

The Court: We have gone through this. What is the purpose?

Mr. Gooch: I am trying to get the continuity. I'm getting down to where I consider it impeachment.

[fol. 328] The Court: All right.

Mr. Address: Pretty long as a preface, Judge.

Mr. Gooch: I was just trying to make the continuity but I will skip over.

By Mr. Gooch:

Q. Now you have previously testified that they were getting bricks and stones and sticks from whatever source available, have you not?

A. Right.

Q. And were they getting a considerable number of them at the new Science Building down there at Hume Hall?

A. I presume that's where they were coming from. I couldn't say where they was coming from.

Q. All right. On Page 38, "Question: Now this whole crowd out there—" It's the third question on Page 38.

Mr. Address: Line 9?

Mr. Gooch: Well, mine isn't lined, Mr. Address, so I will have to call it the best way I can.

By Mr. Gooch:

Q. "Question: This whole crowd out there, you say it wasn't organized, but that whole crowd or group of people out there in that area which you have estimated at least one thousand, they were participating in this thing, weren't they?"

Answer, "I wouldn't say, Mr. Smith, that everybody was throwing, but the crowd would go together as long as they could."

[fol. 329] "Question: And that happened not just once or twice, that happened numerous times?"

Answer, "That happened all night long until 5:00 o'clock."

Is that correct?

A. That is wrong. I remember giving the statement but I misunderstood the question and answered it wrong.

Q. All right.

A. If you will go on and read, you will find that somebody in the crowd asked me then to mark a circle where this thousand people was at. And it's completely around, surrounding the whole area.

Q. All right. All right. And the last question on the page, "And the ones in front would throw at the Marshals, wouldn't they?"

And you answered, "Yes, sir," is that correct?

A. When they would get up close, they could, yes, sir.

Q. "Now that was taking place before and at the time General Walker got there, wasn't it?" That's Page 39.

You answered, "Yes, sir," is that right?

A. Right.

Q. "And in those crowds that you say they would all surge up that way, some of those crowds that would surge up that way in your judgment would amount to one thousand people?"

[fol. 330] And your answer, "Yes, sir."

A. I was wrong on that, Mr. Gooch.

Q. All right. Now, how many were there?

A. I don't know. The thousand people included the people sitting in their cars, on the concrete benches that the campus had there and on the doorsteps and everything, and I don't know. I would say 15 to 50 people sometimes maybe would go in a crowd.

Q. All right. You are wrong then, you say you were wrong when you said a thousand people, you were wrong to the extent of the numbers, is that correct?

A. To the extent of number following in any group. Some of them never got out of their cars.

Q. Going down to one, two, three, four, five, the sixth question, "Now when General Walker got there, I believe you say that you didn't know him?"

And you answered, "No, sir"?

A. Right.

[fol. 331] Q. You had heard of him? Answer: "I heard of him." Question: "You knew who he was?" And you answered, "Yes, sir," is that correct?

A. When they pointed him out to me, yes, sir.

Q. All right. The one, two, third question on page 40, "But you did know he was a national figure and recognized as a prominent man?" And your answer, "Oh, yes, sir." Is that correct?

A. Yes, sir, that is correct.

Q. The last question on page 40, "How far, when you first saw him there, how far would you say he was from the monument, approximately?" And you answered: "Not over forty feet."

Is that correct?

A. That is correct.

Q. "Do you know how long he had been standing there before you saw him?"

Answer: "Well, no, sir, I heard the students say 'here comes General Walker' and they said, 'we've got a leader now.'"

Is that correct?

A. That's right.



Q. "When General Walker came on campus and the word began to get around, the word just went over the crowd, didn't it?"

[fol. 332] And your answer: "Yes, sir."

Right?

A. Right.

Q. "It was just like a wave going out over that crowd, 'General Walker has gotten here', and is that right?"

And your answer: "Yes, sir."

Is that right?

A. Yes, sir.

Q. "And that made an impression on that crowd, didn't it?"

And your answer: "Yes, sir."

A. Yes, sir.

Q. "And you could tell the difference in their attitude and their demeanor when he got there and they figured that they had a leader? It made a difference, didn't it? There was more enthusiasm, wasn't there?"

And your answer, "It looked like it, yes, sir."

A. Yes, sir. I am wanting to back up on one thing right there.

Q. Yes, sir?

A. After he made his speech I believe the biggest majority of them turned against him, after they found out he was not going to lead them. They didn't think too much of him then.

Q. All right. The next question: "And this crowd be- [fol. 333] came enthusiastic and they began to say 'General Walker is here, our leader is here', and when you heard that you began to look for him, didn't you?"

Answer: "I moved to one side where I could see him, naturally. I was like the students, I wanted to see what he looked like."

Is that correct?

A. That is correct.

Q. "You had on your Deputy Sheriff's badge, didn't you?"

Answer: "Yes, sir."

A. Yes, sir.

Q. On top of page 42—before we get to that question I will ask you again, did you go to General Walker or did General Walker come to you?

A. I will say General Walker walked to where I was standing.

Q. All right, that is what you said in your deposition, "And when you walked down to General Walker, or walked down towards him, did he come to meet you when he saw that Sheriff's badge?"

Answer: "He came to me."

Right?

A. Right.

Q. Question: "He came to you?"

[fol. 334] Answer: "Yes, sir."

Is that right?

A. Yes, sir.

Q. "How far did he walk to get to you, when he saw you?"

Answer: "Just a few feet west of the monument."

Is that correct?

A. Yes, sir.

Q. "And so you and he did stand there for a little space of time and talked, didn't you, when he was asking you—"

Answer: "He introduced himself to me and shook hands with me and he said he would like for me to deputize him and I told him I didn't have the authority to deputize him, even in my own county, and this wasn't my county."

A. That is correct.

Q. That is what you testified to on your deposition?

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. That is correct there?

A. Yes, sir.

Q. The other matters you threw in are not correct?

Mr. Watts: If Your Honor please, I object to that. That is argumentative and an improper question.  
[fol. 335] The Court: Sustained.

By Mr. Gooch:

Q. "So he was standing there talking to you at that time?" That is the next question, and you answered: "Yes, sir."

A. That's right.

Q. All right. The first question on page 43, "You never did talk to him personally any more that night?"

And your answer: "No, sir."

Is that right?

A. That's right.

Q. "What happened then, when you and him stood there and talked a little bit and he asked you to deputize him and you told him you couldn't do it, you and he shook hands, just what happened then?"

Answer: "Students kept on begging him to lead them and he told them he wasn't over there to participate in none of the violence or anything and he said, 'I am just over here to observe', he said, 'let's walk up closer to the front, I'll walk up closer to the front and see if we can see what is going on'".

Was that your answer?

A. Yes, sir.

Q. Question: "Now, that was before he made the speech?"

Answer: "Yes, sir, he just walked a little piece up that [fol. 336] way and then when the gas turned aloose, he came back down and that is when he got on the stand and made his speech."

Did you make that answer?

A. Yes, sir.

Q. Question: "Now, when he walked up that way, you know where the flagpole is out in the middle of the Circle?"

And your answer: "Yes, sir."

Is that correct?

A. Yes, sir.

Q. "When he walked up to the flagpole, that was when he had the first encounter with the preacher, Duncan Gray, didn't he?"

And your answer: "Yes, sir, when he was coming back from the flagpole down to the monument."

Is that correct?

A. Yes, sir.

Q. And question number two on that page 44, "And you heard that conversation in which the preacher was begging Walker to help them break this up and get the students to break it up and go back home?" And your answer: "Yes, sir, I heard that."

Is that correct?

A. Yes, sir.

[fol. 337] Q. Is that correct?

A. Yes, sir.

Q. Question: "And the preacher was telling him, didn't the preacher say to him, 'General, these boys will listen to you, please help us break this up and ask them to quit this and go home.'"

And your answer: "He did."

Is that correct?

A. Yes, sir.

Q. Question: "And Walker then said, 'I am not here to break it up, I didn't come here to break it up, I couldn't break it up if I wanted to?'"

And your answer: "That is right."

A. Yes, sir.

Q. Is that correct?

A. That is correct.

Q. Question: The last one on page 44, "In that speech, among other things, you heard him say, did you not, that 'you got a right to protest, protest all you want to, they may run out of gas, and help is on the way, thousands are coming,'"

And your answer: "Yes, sir."

Is that correct?

A. Correct.

Q. "When he said that, when he said, 'Protest all you [fol. 338] want to, you've got a right to protest, keep it up, they may run out of gas, help is coming, thousands are on their way,' that pleased the crowd, didn't it?"

And what did you say?

A. Well, yes, sir.

Q. Well, you answered: "I would say so."

And the next question: "And they cheered and clapped and cheered and hollered, didn't they?"

And your answer?

A. "Yes, sir."

Q. Now, the last question on page 45: "About the time he said that, when he said that, was that about the time the preacher came up to him again?"

And your answer: "The best I can remember, Mr. Smith, the preacher came up to him just as he got upon the stand and he never did quit following him, and when he got upon the stand, he reached up and caught him by the leg and begged him again."

Question: "He begged him to stop it, or asked him to stop it?"

Answer: "Yes, sir."

That was your answer?

A. Yes, sir.

Q. Did that happen?

A. Yes, sir.

[fol. 339] Q. Did that happen at the monument?

A. Up at the monument was the last time he caught his britches leg.

Mr. Watts: Judge, this is all repetition.

Mr. Gooch: Wait just a minute, it is not repetition. He has denied some of these statements on cross examination.

The Court: I know it, counsel. I will not sustain it.

Mr. Watts: All right.

By Mr. Gooch:

Q. "The preacher was still begging him, General Walker, to intercede with the students and ask them to stop their rioting and quit what they were doing and go back to their dormitories?"

And your answer: "That is right."

A. I am going to back up on that a little bit. The preacher didn't have but one word to say to him and I don't think General heard him then. The three men, that is when I got him.

Q. You say what you testified to over there in Mississippi is in error?

A. That is an error on that part, yes, sir.

Q. The next question—you answered, "That is right." And the next question, "That is what he was doing, wasn't it?"

[fol. 340] And you answered: "Yes, sir."

Do you want to back up on that?

A. Now, repeat that question.

Q. That alludes to the same question, that the preacher was asking Walker to stop the rioting. You said that was right. Now, do you say that is wrong?

A. He didn't talk to him while he was on the monument.

Q. All right. Question: "And General Walker then said—is that when he asked him what denomination he was?"

And your answer: "Now, the best I can recall it was just before he got on the stand, or as he was going to the monument, he turned and asked him 'What denomination are you, preacher?' He said, 'Episcopalian'. He turned around and looked at him and said, 'Well, you make me ashamed that I am an Episcopalian.'"

Question: "In fact, when the preacher was begging him to help or to try to get them to stop it, then did he use this language, 'Here is an Episcopalian preacher that makes me ashamed I am an Episcopalian'?"

And your answer: "Well, in those words or something like 'You make me ashamed I am an Episcopalian', I don't remember just exactly the words."

Is that correct?

[fol. 341] A. Yes, sir, that is correct.

Q. Now, on the top of page 47, Question: "Didn't you say on direct examination that everywhere Walker went the crowd followed him?"

And you answered: "Oh, yes, the crowd as well as myself. I watched him every move he made to see what was going to happen."

Did you make that answer?

A. I made that but I want to back up from that.

Q. You want to back up from that?

A. A full crowd never did follow him.

Q. All right. Did some follow him?

A. There were some in front and some behind him.

Q. Well, did some of them follow him?

A. Yes, sir.

Q. All right. Question: "People wanted to see what he was going to do and what he was going to say and when he went up toward the flagpole the first time, and before he made his speech, did the crowd go up along with him then?"

And you answered: "Oh, yes, sir." Did you make that statement?

A. I made that statement.

Q. Is it true?

A. It is not true that they all followed him.

[fol. 342] Q. Did some of them follow him?

A. Of course, some was behind him, yes, sir.

Q. All right. The next question: "It was quite a big crowd, wasn't it?"

And you answered: "Yes, sir."

Is that right?

A. It was a big crowd in area, yes, sir.

Q. Was a big crowd following him?

A. Not no big crowd was following him.

Q. All right. Was a little crowd following him?

A. Yes, sir, there was a small crowd come up.

Q. Question: "And then he got right up just about to the flagpole, didn't he?"

And your answer: "I don't recall just how far he got, he got up there until they charged the gas."

Is that correct?

A. That is correct.

Q. Question: "In other words, there was such a crowd following him when he went up toward the flagpole that first time that the Marshals turned alose tear gas down there, didn't they?"

Answer: "Yes, sir, but there were students ahead of him, in other words, the students were all up in front of all of us when we went up there."

You made that answer?

[fol. 343] A. I did.

Q. Is it correct?

A. Correct.

Q. "But there was quite a crowd following him and they turned alose the tear gas?"

And your answer: "Yes, sir."

Is that correct?

A. Correct.

Q. That is a correct answer?

A. Repeat that question one more time.

Q. "But there was quite a crowd following him and they turned alose the tear gas?"

And you answered: "Yes, sir."

A. No, sir, I still say that would have to be wrong there. There wasn't no large crowd ever followed him.

Q. "Now, we will get back to the speech. After the preacher had begged him to try to help stop it and he said 'You make me ashamed I am an Episcopalian', then you say some of the students were saying, 'Barnett has sold us out, Barnett has sold us out.' And do you remember that when that happened that General Walker said, 'You have been let down but not by Barnett,' and he leaned over and whispered to a young man standing there beside him and then



raised up and said, "The man who let you down or sold you [fol. 344] out is Birdsong'."

And your answer: "I do."

A. Yes, sir.

Q. Is that true?

A. That is true. I remember that. But I didn't put one statement there I should have put, and he raised back up and said, "I understand you have been sold out by Birdsong."

Q. Well, now, you were under oath when this deposition was taken in Mississippi.

A. Yes, sir.

Q. There was just a bunch of us there in the Courtroom, Mr. Watts, Fred Smith and myself? I believe that was all that was there on your deposition?

A. I think so, yes, sir.

Q. You were not excited, were you?

A. No, sir.

Q. "Do you remember he leaned over and whispered to this young fellow?"

And you answered: "I do."

A. I do.

Q. "Then he rose back up and said, 'The man who sold you out is Col. Birdsong,?'" And you answered: "Yes, sir."

Is that true?

[fol. 345] A. Yes, sir. No, sir, he said, "I have been told Birdsong is the one that sold you out."

Q. You didn't say that when your deposition was taken?

A. No, sir. I done some thinking since then.

Q. Did you do any thinking before?

A. I done some, but I didn't know I was going to get in Court on this thing.

Q. You did know when your deposition was taken it might be used in Court, didn't you? Or did you know that?

A. I didn't think about it either way.

Q. "After this statement of the preacher it looked to you like the crowd was going to hurt the preacher, didn't it?"

And your answer: "I heard three men threaten him, or three people, I don't remember what age, but they were above students age."

A. Yes, sir.

Q. This is not read from the deposition, but you did take the preacher away from there?

A. Yes, sir, I did.

Q. As you testified?

A. Yes, sir.

Q. Now, you got him away from there to protect him, [fol. 346] didn't you?

A. Absolutely.

Q. Now, the one, two, three, fourth question on page 49, "Now, at the time that Walker was making his speech there was quite a crowd around the monument listening to him?"

And your answer: "Yes, sir."

Do you want to change that?

A. No, sir. No, sir, there was a crowd around.

Q. Quite a crowd?

A. They were parked in cars and they could hear him from the buildings on both sides.

Q. How many would you say was around him, aside from the deposition, when he made the speech?

A. Three or four hundred, somewhere in there.

Q. From the deposition again, the one, two, three, four, fifth, "Would you have any idea how many were circled around that monument listening?"

Answer: "There was 400 or 500 anyhow."

A. Well, there could have been that many, yes, sir.

Q. Question: "And a lot of them still had their bricks and their sticks and their bottles in their hands?"

Your answer: "Yes, sir."

A. Yes, sir.

[fol. 347] Q. Is that correct?

A. Yes, sir.

Q. Question: "And you could plainly see those things in their hands?"

Answer: "Yes, sir."

A. Yes, sir.

Q. Is that correct?

A. Yes, sir.

Q. Question: "After he got through with the speech there he stepped down off the monument and started up that walk towards the Lyceum Building in—and the Marshals?"

And your answer: "Well, yes, sir, he walked that way."

Is that correct?

A. No, sir, I would like to change that a little bit. He didn't get directly off the monument and walk directly up that way. There was three or four or five minutes he milled around before he started that way.

Q. But he did walk up toward the flagpole?

A. Yes, sir, he did walk up toward the flagpole, yes, sir.

Q. All right. The next question: "And as he walked up that walk, just right after he finished his speech, wasn't it?"

And your answer: "Yes, sir."

[fol. 348] Do you want to change that?

A. Well, it was a few minutes after he made his speech.

Q. All right. Question: "When he stepped down, he did talk to two or three people for just a minute after he stepped down off of the monument, didn't he? And then they started up that way?"

Answer: "I don't recall him stopping and talking to no individuals, no, sir."

Did you make that statement?

A. I don't remember him talking to no particular one. People were still shaking hands with him, yes, sir.

Q. All right. "You just don't remember?"

Answer: "No, sir."

Question: "At numerous times that night people would come up and catch hold of Walker and say something to him?"

Answer: "They begged him to lead them several different times."

You made that statement?

A. Yes, sir.

Q. Was that correct?

A. That is correct.

Q. "And several times you saw people who would get ahold of him and attract his attention?"

[fol. 349] Answer: "Yes, sir."

Is that correct?

A. I don't remember—no, sir, they didn't get ahold of him. They shook hands with him.

Q. I am referring now to your questions and answers asked you in Oxford, Mississippi.

A. I didn't recall them getting ahold of him. They were shaking hands with him. As far as getting ahold of him, I didn't see nobody do that.

Q. You did say, didn't you, "I don't recall them catching ahold of him that way. They just walked up and would tell him 'General Walker, lead us. You can lead us and we could get something done.'"

A. Yes, I heard some of the students say, "If you will lead us we can get something done."

Q. All right, the second question on—

Mr. Watts: If Your Honor please, at this point I must object to reading this thing out of context.

Mr. Gooch: I will just read it all.

Mr. Watts: He gets in the middle of it, gets down to where the witness is going to testify and then he stops.

Mr. Gooch: We will offer it all.

The Court: Mr. Watts, on redirect examination you may offer what you think may be admitted, but I can't tell Mr. [fol. 350] Gooch how to cross examine.

Mr. Gooch: I will go ahead and read it all. I will put it in. I have no objections to it. "At numerous times that night . . ." the fourth question on page 50: "At numerous times that night people would come up and catch hold of Walker and say something to him?"

Answer: "They begged him to lead them several times."

To be absolutely correct, "And several times you saw people who would get ahold of him and attract his attention?"

Answer: "Yes, sir."

A. They would shake hands with him.

Q. Question: "Catch him by the arms and try to attract his attention and begging him to do this and to do that?"

Answer: "I don't recall them catching ahold of him that way, they just walked up and would tell him 'General Walker, lead us. You can lead us and we could get something done.'"

Is that what happened?

A. Yes, sir, that's right.

Q. Question: "You wouldn't say that they didn't catch ahold of him?"

[fol. 351] Answer: "It would be hard for me to say either way, because like I say, I couldn't be right beside him all the time. I was curious to see what was going on, myself."

Did you make that answer?

A. I did.

Q. Is it true?

A. It is true.

Q. "You just wouldn't know one way or the other?"

Answer: "That is right."

Now, did you make that statement?

A. Now, that is no way of knowing on which question you asked me that.

Q. Whether they caught ahold of him or not?

A. While I was in sight of him I didn't see nobody catch ahold of him.

Q. I asked you if you made that statement under oath?

A. Yes, sir.

Q. Question: "Just immediately then after he finished making his speech, he stepped down off the monument and did you hear him say anything as he stepped down?"

Answer: "No, all I heard him say, the main thing I heard him say that stuck with me, he said, 'Violence is not the answer,' he says, 'Cuba is yonderway.' He said, 'Protest [fol. 352] all you want to'."

Question: "That was his speech?"

Answer: "Yes, sir."

Is that true?

A. Yes, sir, that's right.

Q. Question: "I am talking about after the speech was over."

Answer: "No, I don't recall hearing none of his conversation then."

Is that right?

A. That's right.

Q. Question: "After his speech was over, he stepped down and started right up that walk toward the flagpole and the Lyceum Building?"

Answer: "He walked in that direction, yes, sir."

A. No, not immediately after he got off the thing.

Q. I am talking about did you make that statement?

A. Yes, sir.

Q. Now, do you want to change it?

A. He didn't go immediately, no, sir.

Q. All right. The answer you gave, "He walked in that direction, yes, sir," and the next question: "And the Marshals?" And you said, "Yes, sir."

Now, did he walk toward the Marshals?

[fol. 353] A. After he got through milling around he walked toward the flagpole.

Q. Question: "And this huge crowd followed him, didn't it?"

Answer: "They followed him and, of course, some of them run ahead of him and throwed things."

You made that statement when your deposition was taken, didn't you?

A. Yes, sir.

Q. Is it true?

A. It is not true it was a large crowd following him. I mean there was a large crowd in the area.

Q. Is it true some of them followed him and run up there and throwed things?

A. Some followed him.

Q. And they threw things?

A. The ones in front did. He never got close enough for them to throw over him to the Lyceum Building?

Q. Check me and see if I am right. "They followed him and, of course, some of them run ahead of him and threw things."

A. That is correct. The ones that run ahead.

Q. All right.

A. That's right.

Mr. Watts: That's right.

[fol. 354] Q. Question: "As they went on up there, as he started out, this crowd come in behind and alongside, and as they got on up there some of them got ahead and ran on up and through?"

Your answer: "Yes, sir."

Is that correct?

A. Yes, sir.

Q. "And they went on up and they went past the flagpole a little ways before the tear gas drove them back?"

Answer: "Yes, sir, they would get as close as they could."

Is that correct?

A. That is correct.

Q. Question: "And Walker went on past the flagpole?"

Answer: "Yes, sir."

Is that correct?

A. I made a mistake on a little bit of it. I don't believe he ever crossed the line on the flagpole.

Q. All right. "How far past the flagpole would you say Walker went before the tear gas drove him back?"

And you answered: "Oh, just a very few feet."

Now, is that true or untrue?

A. I don't believe he ever walked past the flagpole.

Q. You did say that on the deposition when it was taken?

[fol. 355] A. I did, yes, sir.

Q. "But he did go on and now at that time, if I understand, it is your estimate that this crowd that was follow-

ing him and out on each side of him, that stood out there, would be 1,000 or more people?"

And you answered, "I would say at least 1,000."

Did you make that statement?

A. I made that remark but I was still wrong about—in other words, I asked you all—You all asked me the question. I understood it wrong.

[fol. 356] Now I'm talking about the thousand people was in the whole area. In other words, I was—somebody asked to mark on the map where it was and I did.

Q. Well, now do you think that question is unfair?

A. I just answered it wrong. I misunderstood the exact meaning of it.

Q. Misunderstood it?

A. In other words, there was a thousand people in the area.

Q. "And when they got up there in the vicinity of the flagpole and Walker passed the flagpole and this crowd all spread out there, those that could throw at the Marshals, didn't they?"

And you said, "Oh, yes, sir."

Is that right?

A. The ones that could throw at them did.

Q. "They threw everything they could at the Marshals, and the tear gas got so heavy that they then fell back?"

And you answered, "Oh, yes, sir, but the wind had changed and blowed the gas back toward the Marshals. You could get a lot closer then than you could at one time."

Did you make that answer?

A. I made that statement.

Q. Is that true?

A. Well, now that's not involving Walker going past [fol. 357] the flagpole.

Q. Oh, yes, it is.

A. No, sir, he never got past the flagpole.

Q. All right. Now, you say that he didn't, but you did say that in Oxford, didn't you?



Mr. Address: Now, Judge, he's arguing with the witness.

The Court: Just a minute.

Mr. Gooch: Look at this thing and you will see it.

The Court: It will be up to the jury to determine the effect of the answer.

Mr. Address: That's right.

The Witness: I done a lot of thinking after I give that and studied that thing out.

By Mr. Gooch:

Q. All right. "Question: And some of those that got up to where they could throw, when the tear gas was fired, some of them ran back and others walked back, is that right?"

Answer, "Some of the kids would run, yes, sir." Did you make that statement?

A. Yes, sir.

Q. Is that true?

A. That's true.

Q. "Some of them were running?"

Answer, "Yes, sir." Is that true?

[fol. 358] A. Yes, sir.

Q. "After that happened and at that time, when that was going on, you could still see the blazes and smoke from some of these cars that were burning?"

Answer, "They were burning them all night." Is that correct?

A. Correct.

Q. "They were burning them all time and that was going on, and at that time there was whooping and yelling and cursing and all that sort of thing going on?"

And you answered, "Yes, sir." Is that correct?

A. Correct.

Q. "In other words, just as you described in a moment ago, it was a violent mob?"

You answered, "Yes, sir."?

A. Yes, sir.

Q. The next to the last question on Page 53: "And you would say that this one thousand people that surged up there at the time Walker walked up past the flagpole, that was a violent mob, wasn't it?"

And you answered, "Yes, sir." Is that correct?

A. No, sir, that's not correct. I give it but I—

Q. Wait a minute. Did you make that answer?

A. I made the statement, yes, sir.

Q. Now you say that isn't correct?

[fol. 359] A. That's right, I misunderstood the question.

Q. You misunderstood the question?

A. That's right.

Q. All right. "Question: When the tear gas was fired and got heavy, and you fell back, where did you go then?"

Answer, "I came back down next to the monument.

"Question: And what did you do then?"

Answer, "Just prowled around."?

A. Yes, sir.

Q. "Question: After that, now, after that charge when Walker went up past the flagpole with this violent mob behind him and alongside him and they threw their missiles and you fell back, that wasn't the end of what happened there that night, they continued these waves of surging up there at the Marshals and throwing their missiles?"

Answer, "They threw things all night, yes, sir, until 5:00 o'clock." Is that right?

A. All except him going past the flagpole.

Q. "Question: That continued to go on until 5:00 o'clock the next morning?"

You answered, "Yes, sir," is that right?

A. Correct.

Q. "And the crowd remained large out there, didn't it?"

And the answer, "It got larger, yes, sir."

A. Right.

[fol. 360] Q. "Question: Would there be any way that you could estimate after Walker went up past the flagpole with this violent mob alongside and behind him, would you

have any way to estimate how many more charges or waves that mob made that night towards the Marshals?"

Answer, "No, sir, I would not."

Is that correct?

A. That's correct.

Q. "It was numerous though?"

Answer, "Yes, sir, it was several of them."

"And they didn't lessen in intensity, did they, they still stayed violent and aroused, that is right, isn't it?" And you answered, "Right."?

A. Yes, sir.

Q. Let me ask you this question: Do you remember, in connection with the protest that General Walker spoke of, that in connection with it, that he hollered, "Good. Good. Keep it up." Do you remember him making a statement like that?

A. Yes, sir; yes, sir, I remember it.

Q. Well, tell us what General Walker said.

A. Well, in reference to the protest, he said, "Good. Good. Keep it up."

Q. All right. On Page 56, "Do you remember a young man coming up to him and asking, 'General, what can we [fol. 361] do to counteract this tear gas?'" Do you remember that question being asked the General?

A. I don't remember being asked directly, the General. I remember somebody coming up and asking—he didn't ask no individual, how—what can you do to counteract tear gas?

Q. All right. Look on Page 56, at the question: "Do you remember a young man coming up to him and asking, 'General, what can we do to counteract this tear gas?'" Your answer, "I remember some of them asking him something or what they could do to smother the tear gas out, yes, sir."

Do you remember that now? You made that statement, didn't you?

A. Well, I must have.

Q. "Question: And what did he say?"

"I remember hearing him say that sand or water would do it." You testified to that in Oxford, didn't you?

A. I believe I did. But I remember hearing somebody say that.

Q. "Question: That sand or water would do it?"

Answer, "Yes, sir.

"Question: And do you remember him saying, 'But where can you get sand?', or 'Have you got any sand?'"

And you answered, "No, I don't remember that."

And you didn't remember him making that last one, is that right?

[fol. 362] A. No, sir, I don't.

Q. But you do remember him being asked what would counteract the gas, do you not?

A. I don't remember asking him the question. I remember somebody asking, "How can you put out tear gas."

Q. Well, you don't deny that you—

A. No.

Q. —that you say here that you heard them ask him, do you?

A. Well, I can't deny it, no, sir.

Q. All right, sir. Next question, "You do remember him, though, when they asked him how to counteract it, he said sand or water will do it?"

And you answered, "Yes, sir." Did you make that statement?

A. I made that statement.

Q. "Did you see them making their Molotov cocktails that night, putting gasoline in bottles and setting a wick afire?"

"Yes, sir, I seen that but I didn't know what it was at that time. That is the first time I had ever heard of that.

"Question: Do you remember seeing General Walker standing over in the vicinity where they were making those things and lighting them and blowing them up?"

[fol. 363] Answer, "I remember seeing General Walker when they were throwing them, yes, sir." Did you make that statement?

A. Yeah, I remember seeing him, yes, sir.

Q. "And he wasn't very far from where they were doing that, was he?"

Answer, "I don't recall just how far. I remember him standing in the crowd." Is that correct?

A. There was a crowd around there, yes, sir.

Q. All right, on Page 58, recross examination, by Mr. Smith, addressed to you, Mr. Witt:

"But he did go after his speech up past the flagpole with at least 1,000 members of a violent mob behind him or alongside him?" And you answered, "Yes, sir."

A. I answered, "Yes, sir," but I misunderstood the question. I don't mean there was a thousand people in front of him. There was a thousand people in the area and some of you all should have a map or something where I marked a circle on that after it was over.

Q. "Question: And that did happen?"

Answer, "Yes, sir"?

A. Yes, sir.

Q. Did you make that statement?

A. I made that statement.

Q. You say now that's not right?

[fol. 364] A. There never was a thousand people following him.

Q. "Question: And they were armed with sticks and stones and bricks and they threw their bricks and missiles when they got up close enough to the Marshals?"

Answer, "The people did, I didn't see General Walker with nothing in his hands."

A. That's correct.

Q. Now you have said in answer to some of these questions here, Mr. Witt, that you didn't understand the questions when they were submitted to you, is that correct?

A. That's correct. Sometimes you would ask five questions in one thing for one answer and that's a little hard to give it like you want it.

Q. That's conceivable. Now in connection with your thinking about this matter, prior to the time you gave your

deposition in Oxford, Mississippi, on March the 13th, 1964, had you done any thinking about the incidents on the campus of Ole Miss on September the 30th, 1962?

A. Repeat that one more time, Mr. Gooch, please, sir.

Q. Prior to the time you gave your deposition, had you tried to recollect in your own mind some of the things that went on or most of the things that went on, on the campus at Oxford on the night of September 30th, 1962?

A. I never did give it too much thought until I gave you all that statement there.

[fol. 365] Q. All right. Would you recognize your signature?

A. Yes, sir, I sure would.

Q. I hand you what purports to be a statement—

A. Yes, sir.

Q. —which purports to bear your signature on each page?

A. Yes, sir.

Q. Is that your signature on each page?

A. That's my signature and that's my statement.

Q. And is this the statement?

A. Yes, sir.

Q. Did you make this statement?

A. I did.

Q. Did you, in making this statement, tell the truth as you knew it at that time?

A. The best I knew how.

Q. Do you think at the time you made this statement that the matters that you put in that statement were true to the best of your knowledge and belief?

A. Well, I told it the best I could think it right then.

Mr. Gooch: We would like to offer in evidence, if the Court please, the statement of this witness, for impeachment purposes.

The Court: That's Defendant's Exhibit 1.

[fol. 366] Mr. Gooch: Yes, sir.

(Defendant's Exhibit No. 1, was marked for identification.)

Mr. Watts: Is there a copy anywhere?

Mr. Gooch: No, sir. It's the only one I have.

Mr. Address: We would like to see it.

The Witness: I have a copy.

By Mr. Gooch:

Q. Do you have a copy?

A. I sure do.

Q. Would you furnish that to Mr. Watts?

The Court: Do you have it with you?

The Witness: No, sir, I don't have it with me.

The Court: Let him see that copy you are offering so he can read it now.

Mr. Gooch: What copy?

The Court: I mean the original so he can read it.

By Mr. Gooch:

Q. You were furnished with a copy of that statement?

A. Yes, sir. I asked for one.

Mr. Address: Judge, this is all repetition, with the exception of one paragraph here which covers a matter which is not in issue, not relevant to anything in issue. Outside of that, everything is purely repetitious.

The Court: You are offering it for impeachment purposes only?

Mr. Gooch: That's correct.

Mr. Address: Take that paragraph out and we have not got any objections to it.

Mr. Gooch: I can't take anything out of a man's statement. He made the statement or he didn't. He said he made the statement. I'm not going to take anything out of it.

(Conference at the bench.)

Mr. Address: Other than that, Judge, it's purely duplicative of the deposition.

The Court: I will admit all of the statement except the second paragraph on Page 4. The paragraph actually consists of only one sentence.

Mr. Address: I wonder, Judge, if you would take a pencil and mark that.

The Court: We just done it.

Mr. Address: So there won't be any mistakes made about it, put a circle around it.

The Court: There won't be any mistakes made about it, Counsel, I will tell you that.

[fol. 368] Q. You did say you did receive a copy of this statement?

A. Yes, sir.

Q. Have you at any time heretofore disavowed this statement to anybody?

A. No. I have let people read it. I have read it to people.

#### DEFENDANT'S EXHIBIT 1

Mr. Gooch: "Statement of Talmadge Witt of Pontotoc, Mississippi."

"I am Talmadge Witt, 42 years old, I live in Pontotoc County, Mississippi, and I am a deputy sheriff under Sheriff John H. Moore of that county, and have been serving as such deputy since March 1, 1960. I was acting as such deputy on September 30, 1962, and was called by Sheriff Faulkner of Union County to come to Oxford, Mississippi, getting that call about 3 p. m. on the 30th day of September, 1962. Shortly after receiving this call I went to Oxford with Cecil Payne, another deputy from Pontotoc County. We went directly to the campus of the University of Mississippi and arrived there sometime around 4:30 o'clock p. m.

When I got on the campus of the University, the United States Marshals were already around the Lyceum Building, that is, a building with big white columns in front, facing in an easterly direction. There was a paved roadway in [fol. 369] front of the building, and the marshals were lined up along the side of the roadway next to the building;



on the other side of the roadway, and all out in front of the building, were some men and boys and girls, with the roadway between them and the marshals. The crowd out in front of the building was not as big then as it was later, but it gradually grew larger from then on. When I got to this place there was a number of highway patrolmen and other officers in the roadway, between the marshals and the crowd, keeping the crowd back from the marshals, and I joined them and helped to do this.

The crowd grew larger as time passed, and the lights were turned on, on the campus. At this time there was not as much disorder as there was later, there was some loud talk, and some of those in the crowd would throw or flip lighted cigarettes and matches towards the marshals and on the cloth top of some of the army trucks which were there. It is difficult to remember the exact time that events happened, but after I had been there about an hour and a half to two hours, and at a time when I was standing across the road in front of said building, the marshals fired the first blasts of tear gas and the crowd scattered and ran away, and I, of course, went some distance away, also, but still stayed in the area down in front of the Lyceum Building. For some time, after the first tear gas was fired, the [fol. 370] crowd simply milled around, many of them armed themselves with bricks or pieces of broken bricks, rocks, sticks, coca cola bottles and anything that they could get their hands on, and when they could get close enough, they would throw these things at and towards the marshals, and the tear gas would drive them back. The crowd did not seem to have any definite leadership at that time, and simply milled around, hollering, yelling, shouting and talking among themselves.

Somewhere along during this time it seemed that all of the State Highway Patrolmen left the campus, as did also some of the law officers, that is, sheriffs and deputy sheriffs, but I stayed on to render any assistance that I could. Sometime around 8 o'clock p. m., or a little later, I began to hear different ones say, "here comes General Walker." I did not

know him prior to that time, and when I first saw him he was walking towards a Confederate monument which was several hundred yards in an easterly direction from the marshals at the Lyceum Building. People in the crowd around General Walker began to say different things. Several of them began to say, "we have got a leader now," or "here is our leader." I had on my deputy sheriff's badge, and shortly after General Walker arrived in the territory of the Confederate monument, he came up to me, shook hands and said: "I would like for you to deputize [fol. 371] me to help in this matter." I told him that I did not have authority to do that, that I was a deputy sheriff and was not a deputy in that county.

I was close to General Walker all of the time, from the time when he first arrived, until a considerable time thereafter.

Some few minutes after this, various people were asking General Walker to lead them and to make them a speech and tell them what to do, and after awhile he got up and on the side of the Confederate monument and made a talk. I cannot recall all the things he said, but I do remember his saying these things: "Violence is not the answer, Cuba is that way," and pointed south. He said: "Protest, protest, all you want to, you have a right to protest, and they may run out of gas." He said: "Help is on the way, thousands are coming."

A preacher had been following General Walker around asking him not to lead the crowd, but to get them to stop what they were doing. This preacher said to Walker: "They will listen to you and do anything you say, please get them to stop and go home," and Walker said: "I am here to watch what happens, I am not interested in stopping it," and then Walker asked the preacher what denomination he was, and the preacher replied "Episcopalian," and Walker said: "You make me ashamed that I am an Episcopalian." About this time I heard some serious [fol. 372] threats made against the preacher by people in the crowd, after Walker said what he did to him, and I

was afraid the preacher was going to be hurt, so I took him by the arm and pulled him and carried him out of the crowd. Two men came up to the edge of the crowd and stated that they were friends of the preacher, and asked me what I was doing with him. I told them that someone was going to hurt him if he did not leave, and I suppose they left with him, as I never saw them any more.

After some of the crowd had asked Walker if he would lead them, he stepped down from the side of the monument and said: "Keep protesting and see if we can get closer." He then started towards the marshals and the crowd was armed with sticks, rocks, coca cola bottles and other things, as I have heretofore stated. They seemed to have anything that they could get their hands on, and when they got close enough, they would throw towards the marshals. When the front of this crowd, which General Walker was with, got in about 200 feet of the marshals, they fired another blast of tear gas, and the crowd ran back, with General Walker with them. At all times during this, I was near or in sight of General Walker and stayed in sight of him until about 5 a. m. the next morning.

On a number of occasions Walker would walk towards the marshals, or in that general direction, and whenever he [fol. 373] did, a large crowd would fall in behind and follow him. In fact, wherever Walker went, the crowd followed. During the time after the first march towards the marshals with Walker in or near the lead, I heard different statements, many of which I cannot remember, but at one time, in talking with a group about the protest they were making, he said, "good, good, keep it up." I heard people asking how to snuff out or counteract the tear gas, and Walker told them to use water, and right after that they got a fire truck and hose and began to try to use that to stop the gas. I saw a group making Molotov cocktails. They were taking coca cola bottles and putting gasoline in them and putting some kind of wick in them, setting the wicks afire, and they would then throw this towards the marshals. I did not hear Walker say anything about the

Molotov cocktails, but I did see him in the vicinity of where they were being made. During all of this time, when Walker was there, and at the time when he was telling them to continue to protest, the men and boys in the crowd were armed as I stated before, they were throwing the Molotov cocktails, they were setting automobiles afire, and I personally counted sixteen automobiles that were burned. There was a new building going up near the scene of the rioting, and the students and others would get bricks over there, I saw them roll wheelbarrows up loaded with bricks, [fol. 374] and they would break them up and take them in their arms when they went towards the marshals. Many of the lights were broken out around the campus, especially around the flagpole that was between the Confederate monument and the Lyceum Building.

In reading over the foregoing, I notice it appears that what the preacher first said to Walker about stopping the rioting, was said after he got on the monument, and this is not correct. It was before Walker got upon the monument that the preacher was urging him to try to stop the rioting and get them to go home, and it was before he got up on the monument that Walker replied, "I am here to watch what happens—I am not interested in stopping it." It was after he got on the monument or about the time he got on the monument to make the speech that he asked the preacher what denomination he was, and the preacher replied "an Episcopalian." I simply wanted to add this to my statement in order to clear it up.

This the 25th day of November, 1963."

[fol. 375] That is Defendant's Exhibit 1. That is all with this witness.

Mr. Address: Just a minute, Mr. Witt.

Redirect examination.

By Mr. Address:

Q. Mr. Witt, have you been a witness before in cases some time?

A. Not like this, no, sir.