

A. Yes, sir.

Q. Did they have any other type of gun?

A. Tear gas.

Q. Just pistols and tear gas guns?

A. So far as I know those are the only ones that I saw.

* * *

Mr. Gooch: Down to Line 15, on Page 33.

Q. In any of these surges that you talked about did you ever see a flag?

A. Yes, sir.

Q. What sort of a flag?

A. A Confederate flag.

Q. Was it in the crowd or was it leading?

A. I saw several times a Confederate flag toward the [fol. 1260] front of some of these surges.

Q. Could you see who was carrying the flag?

A. No, sir.

* * *

Mr. Gooch: On Page 34, Line 10.

Q. Did you ever see any of these groups in there, surging people, having physical contact with the Marshals? Did they ever cross the street?

A. I didn't see this, no.

Q. Did you have any reports that that had occurred?

A. Yes.

Q. What time of day? Early in the evening or late, or when?

A. Well, it was after the riot had started.

Q. Well, that started while Kennedy was talking, didn't it?

A. Well, Kennedy was talking what? About 8:00 o'clock? It was a good deal later than that.

Q. Was this before General Walker appeared on the campus?

A. I just don't recall whether it was before or after.

* * *

Mr. Gooch: On Page 35, Line 11.

Q. And where was the motion at that time? From out of the oval, or the edge of the street next to the Lyceum?

[fol. 1261] A. Could I just explain this thing?

Q. Yes.

A. The Marshals were standing in an arc around the front of the Lyceum, on the Lyceum side of the street. The demonstrators were standing both in the grove, along the street and some in the street, and this thing was quite spontaneous. There was jeering, there was taunts.

The Marshals were standing their ground, not doing anything, and there was this increase in taunts, then rocks, and later on, I don't recall at what point, this car was wrecked and that is the way the thing started.

But there was an increasing activity and motion.

Q. When the tear gas was fired the State Patrol was there, wasn't it?

A. Yes, sir.

Q. And after the tear gas was when the Patrol left?

A. Yes, sir.

* * *

Mr. Gooch: That concludes at Line 4, Page 36.

Cross examination.

By Mr. Cravens: (Line 22, Page 36)

Q. Mr. Kuettner, when were you first acquainted with General Walker as a public figure? I mean more than personally, but when you had knowledge that there was such a man?

[fol. 1262] A. When he was still in the service.

Q. Was that at Little Rock, or prior to Little Rock?

A. At Little Rock.

Q. Were you at Little Rock covering that story for UPI?

A. Yes, sir.

Q. Did you observe his activities at Little Rock?

A. No, sir. My assignment at Little Rock was writing the story and I did not—I was not ever at Central High School during that time.

Q. But you did know that there was a person called and known as General Walker?

A. Yes, sir.

Q. And at that time he was a public figure and news worthy throughout the State and elsewhere?

A. Yes, sir.

Q. Now you also, or I will ask you whether or not if that image, that public image has continued to this time, to a newsman?

A. Yes, sir.

* * *

Mr. Gooch: Skipping down now—that ends at Line 19.

* * *

Q. Now I believe you mentioned the fact that you were [fol. 1263] in Oxford some few days before September 30th. Did you happen to be in Jackson, Mississippi when Meredith attempted to register in the office of the Trustees in Jackson?

A. No, sir.

Q. You were not present at that?

A. No, sir.

Q. You actually saw, as I understand your testimony, what you called a confrontation of the Lt. Governor of Meredith on the campus of Ole Miss?

A. Yes, sir.

Q. Tell us in your own words just what you saw and the approximate time and date, as you recall, concerning that confrontation.

A. Well, it was several days prior to September 30th, after Meredith had been ordered registered in the University. And the incident that I witnessed was on the date, and I don't remember what date it was, when they had the consultation at the—what corresponds to the center for continuing education there at Ole Miss.

Q. You mentioned "they". Who do you refer to when you say "they"?

A. Did I testify about this before?

Q. You did not.

A. I would have to refresh my memory from the file on this. As I recall now it was the Lt. Governor and the school [fol. 1264] officials.

Q. Were you present when that meeting took place?

A. Yes.

Q. Did you hear what was said?

A. No, sir, it took place inside the building.

Q. Did you see Meredith actually, on campus to attempt to register on that occasion?

A. I don't recall exactly the circumstances. As I recall now he was brought in in a car, and taken in at that time.

Q. Now the Lt. Governor you referred to was Paul D. Johnson, now Governor of Mississippi?

A. Correct.

* * *

Mr. Gooch: Line 16.

Q. What I am really asking you about is the actual confrontation when the Lt. Governor, Paul B. Johnson, actually impeded and obstructed physically the entrance of Meredith to the University. Did you see that?

A. I don't believe that I was the one who covered that. I think Leon Daniel was the man that covered that. This is the best of my recollection now.

Q. At what time did you also know that it was common knowledge from the newspapers, the UPI dispatches and other sources of news, that Federal Courts, both the Dis-[fol. 1265] trict Court in Mississippi and the Fifth Circuit Court in New Orleans, had existing then, injunctions and court orders requiring the registration of Meredith at the University of Mississippi?

A. Yes, sir.

Q. And that was the occasion of the one confrontation that you referred to, in either the Continuing Education

Building or the entrance to the campus when he was physically refused admittance?

A. Correct. There was a lot of back and forth there. As I recall they tried to get him on two or three times.

Q. And he was physically obstructed, as far as his entry to register was concerned?

A. Yes, sir.

Q. And I believe you stated that you knew of the existence of the Court Orders and Injunctions requiring that he be registered at the University of Mississippi?

A. Yes, sir.

Q. And therefore the activities of the school and state officials, as you understand it, were in defiance of the court order, is that correct or not?

A. That is correct.

Q. And that was the situation that was in existence there at Oxford on that Sunday, or Saturday night, September 29-September 30, or September 30th when you arrived at Oxford?

[fol. 1266] A. Yes, sir.

Q. Now you referred in your direct testimony that things were building up very fast when you were talking about what was happening there some time in the morning and in the afternoon of Sunday.

What did you mean when you said, "Things were building up very fast," as to what those things were?

A. There was a great deal of talk in the town about that they are not going to let him come on the campus. There was the interview with the Sheriff. I based my supposition about the building of tension a great deal on what Sheriff Ford told me, and there were a number of—well, there were a lot of people in town. Well, it was just a thing you can pretty much feel; tension building up.

Q. In other words you base it on what Sheriff Ford told you and just through observing the ordinary townspeople?

A. Correct.

Q. And the other people that were crowding into the town?

A. Correct. There were out-of-state cars, there were out-of-county cars, that type of thing.

* * *

Mr. Watts: Excuse me, I am going to just object to this next, just to shorten it. It is obviously hearsay.

[fol. 1267] Mr. Gooch: Cross examination.

Mr. Watts: In other words, this is not part of the res gestae. This is several days before.

The Court: What line are you on?

Mr. Watts: Line 23, Page 41.

The Court: I will permit it, if it was out there.

* * *

Q. There was talk of obstruction of the Court Orders at that time?

A. Correct.

Q. To prevent Meredith by any means from registering at the University of Mississippi, is that an accurate statement?

A. I would say, yes.

Q. And that is what you are referring to, was that feeling, or that sense of tension and animosity and element of revolt being built up against the Federal Court Order that was then in existence, is that correct?

A. Correct, and I also based it on what had happened previously; that there had been this confrontation, there had been tension, there had been physical evidence that they were not going to let this fellow on the campus, and this is the reason we put our telephone where we did.

* * *

Mr. Gooch: Down to the question on Page 18—I mean [fol. 1268] Line 19, Page 42.

Q. What I would like to ask you was, what, in substance, was it that Sheriff Ford told you there in the interview on that Sunday morning?

* * *

Mr. Watts: Your Honor, I object to this. It is hours and hours, a day before this event took place.

Mr. Gooch: Sunday morning.

The Court: What is the line and page?

Mr. Watts: Line 18, through 20. In other words, this is what the Sheriff told this reporter the morning of the riot. At least 10 or 12 hours before the thing happened.

The Court: Sustained.

Mr. Gooch: May I be heard?

The Court: Do you want to make a Bill on it?

Mr. Gooch: I want to say this, General Walker testified what the Sheriff's conversation was.

Mr. Watts: Oh, no, I don't believe he has. The Court sustained your objection.

Mr. Gooch: He did testify on cross examination what the Sheriff told him?

The Court: I am not going to permit that.

Mr. Address: Cross examination? That was invited, Judge.

[fol. 1269] Mr. Gooch: Shall I go on down?

Mr. Watts: This is all the—what the Sheriff told him. It would save a lot of time if you would skip over to Page 45. It is all hearsay down through Line 19, on Page 45, it looks to me like.

The Court: I am going to permit him to read Line 25, Page 43, through Line 13, Page 44; or Line 14.

Mr. Watts: Is that on 44 or 43?

Mr. Gooch: Well—

The Court: Bottom of Page 43.

Mr. Watts: Oh, I see. Yes, sir. At line—

The Court: Line 25.

Mr. Watts: 25. Yes, sir, I think that is all right.

The Court: Through Line 14 on 44.

Mr. Watts: Yes, sir, I think that is right, because that is his own observation.

Mr. Gooch: Line 14?

The Court: Yes, sir.

Mr. Gooch: I see. Beginning with Line 14, Page 43.

* * *

Q. Had you yourself seen or heard of some of these news dispatches or statements that General Walker had made while over in Texas about coming to Mississippi ten thousand [fol. 1270] and strong and bring your flags—

A. I heard these reports. They were being relayed to me second-handed from our people here.

Q. And that was in your mind when you realized that this tension was building up, as well as these other things that you saw there on the campus and in town at that time?

A. Yes, sir.

Q. Included in his statements, I believe, was this, "To come and bring your flag, your tent, your skillet and stand shoulder to shoulder with Governor Barnett." Did you know he made that statement?

A. I remember something to that effect.

* * *

Mr. Gooch: Now it goes ahead and talks about Ford. I guess we will leave that out?

The Court: Yes, sir.

Mr. Gooch: Now Line 20, Page 44.

Q. I believe you have described the initial or the first part of the action of the group just before the tear gas was fired. I believe you said there was a tremendous crowd of people there in front of the Lyceum and in the circle or the oval as we call it?

A. Yes.

Q. And that crowd of people, did it increase or decrease during the course of the night?

[fol. 1271] A. I am sure some people left, but it was a good crowd of people there. I have a suspicion that it was somewhat decreased from what it was earlier in the evening. Because when the violence really got started, the tenderhearted I am sure left.

Q. Now, what actually started out there to be a demonstration of what you say was a throwing of rocks, and I believe you said some lighted cigarettes—

A. There was some lighted cigarettes thrown because a canvas top on one of the vehicles was set fire to.

Q. That was just before the Marshals fired the tear gas, is that correct?

A. Yes.

* * *

Mr. Gooch: I am trying to read this so I won't get in trouble with you.

Mr. Watts: I think that part is all right. I am kind of reading ahead of you. I will scream when—

Mr. Gooch: Okay.

Q. Did you see actually the immediate movement, action, on the part of the crowd that brought on the firing of the tear gas; was it the throwing of any particular missile?

A. I would say it was, to me it was sort of the brink of the explosion from a demonstration into something uncontrollable. In other words, there was the sound of the [fol. 1272] crowd—the sound of the crowd changed from a jeer to a, well, I would call it a snarl. There were more rocks thrown and there was a sort of a surge forward.

Q. Towards the Marshals?

A. In the direction of the Marshals.

Q. And did it appear that the state police were going to be able to control the situation or did they try?

A. I did not see them try.

Q. And at that point, when that surge occurred and the tenor of the noise turned from maybe jeers and other things, to a snarl, was when the tear gas was fired?

A. Correct.

Q. And that had the effect, I will ask you, did that have the effect of moving the crowd back from the Marshals?

A. Temporarily.

Q. Now, when you first saw General Walker, I believe you said it was about nine o'clock, was he walking toward the Lyceum when you saw him?

A. Yes, sir.

Q. And I believe you said two men were with him?

A. Yes, sir.

Q. How were they walking, single file?

A. One on each side of him.

Q. Walking three abreast?

A. Yes.

[fol. 1273] Q. Was there any other group there with him, with General Walker at that time?

A. Not just with him, there were people, you know, walking along.

Q. Behind him?

A. Some behind, some in front.

Q. All moving toward the Lyceum?

A. Yes.

Q. Did these two men, were they holding his arms or anything of that kind when you saw them?

A. As I recall, they were.

Q. They were?

A. Yes.

Q. Then, I believe in your prior testimony you said that you were running in the opposite direction from which he was going?

A. Correct.

Q. In order to make a telephone call?

A. Yes, sir.

Q. After you lost your telephone connection there on the post, then you had to make these runs at periodic intervals to make your reports, is that correct?

A. No, sir, after we established some kind of a headquarters in the Journalism Building, I quit using the telephone pole position because the Journalism Building was [fol. 1274] considerably closer to the scene of action. I did use the telephone pole phone earlier in the evening and then I went back to it later that night and it was at that point that I discovered that the wires had been pulled out.

Q. Was there some antagonism toward the photographers and the press on the campus that night of September 30?

A. Yes, sir.

Q. Was there considerable?

A. Yes, sir.

Q. To what extent did that sometimes show itself?

A. Well, one of the things that happened near the Lyceum was that a television cameraman's car was wrecked.

Q. Did you see that?

A. See the actual wrecking of the car?

Q. Yes.

A. No, sir.

Q. Did you see any antagonism—

A. I was on the opposite side of the crowd from, in other words, the crowd obscured my vision then.

Q. Did I understand your testimony that there was evident antagonism of the, by the crowd towards newspaper photographers and news reporters that night?

A. Yes, sir.

Q. You felt that and knew that as far as you were concerned?

[fol. 1275] A. Yes, sir.

Q. You felt that and knew that as far as you were concerned?

A. Well, I will tell you, the first thing we did was to take off our coats, take off our ties, and pull our shirttails out and try to be as near like one of the demonstrators as we could.

Q. Make yourself as less conspicuous as you could?

A. As inconspicuous as we could.

Q. Now, at the time you saw General Walker coming on the campus at about nine o'clock, had there already been violence that had erupted?

A. Yes, sir, and I don't recall at what stage it was at that time.

Q. Now, I believe in your prior testimony you said that the temper of the crowd, the action of the crowd, its anger and its resentment increased during the night just before it finally subsided, is that correct?

A. Yes, sir.

Q. That was before and after General Walker's speech, the part of it you heard at the monument?

A. Correct.

Q. Were these people that had these weapons that you call it, the wooden staves, the broken bottles, parts of bricks and other missiles, were they making any evident effort to [fol. 1276] hide them or were they just holding them in their own hands?

A. They had them in their open hands.

Q. Anyone on that campus could see that they were armed with dangerous weapons, that is by throwing within fifty or seventy feet of the Marshals?

A. Yes, sir.

Q. You mentioned that you saw no weapons, and by that I understand you to say guns. You mention you saw no guns in the hands of the demonstrators?

A. I did not see any.

Q. At any time during the night, did you hear any guns fired?

A. Yes, sir.

Q. From what direction was it apparently coming?

A. From the east side of the grove.

Q. Away from, in other words, it was not coming from the Marshals, it was coming from someplace other than where the Marshals were, is that correct?

A. Yes, sir.

Q. Could you tell whether that was a .22 fire or shotgun fire or what?

A. It was rifle fire.

[fol. 1277] Q. Sounded like rifle fire?

A. Yes, sir.

Q. And about what time of the night did that occur, if you recall?

A. Oh, as I recall, it was around about eleven o'clock.

Q. Now, the next time after you saw General Walker coming on the campus, I believe you said that he was making a speech at the monument?

A. Yes, sir.

Q. Do you know how many speeches General Walker may have made at the monument that night?

A. No, sir.

Q. I believe you said when you got there he was already speaking?

A. Yes, sir.

Q. And as soon as you saw that it was General Walker, you immediately left to report that he was there?

A. As soon as I got the gist of his conversation that I have in my report.

Q. Now, in your prior testimony I think you said you listened to him from two to three minutes?

A. I would say about that long.

Q. Did you see the Reverend Duncan Gray attempt to talk to General Walker at the monument?

[fol. 1278] A. I have tried to refresh my memory about that and I just can't say that my memory is clear that I actually saw Gray.

Q. Did you hear General Walker say that he, Duncan Gray, made him ashamed to be an Episcopalian?

A. If that is in our news report, I would say yes. I will just have to rely on that from this distance in time.

Q. At any rate, that night on September 30, 1962, from the time you got there until the time you left—incidentally, when did you leave the campus?

A. The next morning.

Q. You stayed over there all night?

A. Yes, sir.

Q. That thing developed from what at first was a demonstration to a full scale riot?

A. Yes, sir.

Q. And that is your language?

A. Yes, sir.

Q. And that is your best way to explain it?

A. Yes, sir, it was a riot.

Q. And it was a dangerous situation?

A. Yes, sir.

Q. For anyone to have been in that circle or in that immediate area, with the rifle fire and the temper of the crowd [fol. 1279] such as it was?

A. Very much so.

Q. I believe in one of your statements you said disorder broke out all over the place?

A. Yes, sir.

Q. And after the riot broke out, it went fast?

A. Yes, sir.

Q. Now, describe as best you can again these, the charges that you said were, had the appearance of a generalized movement toward the marshals. Was it a large group with small factions breaking off and going up further or was it moving in solid front or how did it operate?

A. Well, I would say that the clearest way I could explain it would be that somebody, and I don't know who, would get up a fairly small segment of the whole crowd and charge toward the area from whence the tear gas was coming and at one point, from whence the fire hose water was coming at another point, and there were these groups, one of them would go this way and another one would go from another direction.

Q. All at approximately the same time?

A. Right. No, this went on for a period of time. Then the marshals would fire more gas and the whole crowd would come swarming down and then presently another group would go up.

[fol. 1280] Q. You said swarming down, you mean making a movement toward the marshals, is that what you mean?

A. No, I mean when the marshals would fire their gas, it would disperse the whole crowd temporarily.

Q. They would fall back?

A. Fall back. And then a group would—the only thing I could recall, it would be reorganized, and then somebody would get up courage enough to start back and some would follow them back.

Q. And they would all come in behind and move up toward the marshals?

A. That's right.

Q. Did you see them actually throwing missiles toward the marshals when they got close enough?

A. No, not at that point, no.

Q. Did you at any point see them throw missiles?

A. That was earlier. When you say missiles, you mean rocks and so forth?

Q. That's right.

A. There was a lot of it that went on. Of course, it got a lot worse than rocks before it was over.

Q. Was it noisy on the campus there after this riot was gotten underway?

A. Yes, sir.

Q. Was it difficult for you to hear General Walker completely at the monument when he was making his speech?

A. No, I was close enough to hear the part of it that he said while I was in his vicinity.

Q. Now, I believe in some of your prior testimony, you said that there would be a group of people headed in a certain direction and in front of the group would be a flag, a Confederate flag?

A. Yes, sir.

Q. And was that your description of some of these charges that you have referred to?

A. Yes, sir, there were flags in the forefront of some of these charges?

Q. And to you the word "charge", as I understand it, means a group of people headed in a certain direction?

A. Well, it was a group of people headed with determination toward, in the direction of the marshals.

Q. Toward an objective which was the marshals, is that your statement?

A. That's right.

Q. And that is a fair statement of what it was going on there that night, is that right?

A. Yes, sir.

Q. And I believe you said you never saw General Walker actually be in the forefront or included in any of these charges toward the marshals?

[fol. 1282] A. I did not.

Q. Did you see him at any time move with any group of people toward the Marshals?

A. I did not.

Q. Of course, I will you ask you whether or not it could have occurred and you have missed it?

A. Absolutely.

Q. I believe on your direct testimony you said you didn't know how long it was from the time you left while General Walker was speaking at the monument until you returned to the monument?

A. That's right.

Q. And it covered, you said, as much as twenty-five minutes?

A. Yes, sir.

Q. And, of course—

A. I doubt if it was that long, but it covered more than five or ten minutes.

Q. It covered more than twenty-five?

A. Yes, sir. I know at some points during the night we had difficulty getting phone connections. At some points I had to confer with the people on the desk here, that type thing.

Q. In other words, General Walker could have moved up in a generalized movement toward the marshals on one [fol. 1283] of several occasions while you were at the phone making your calls and you not seen him, is that correct or not?

A. Yes, sir.

Q. Now, that could have occurred when you passed him when you first saw him, if he had moved on up toward the marshals at that time, that could have occurred and you not seen it as I understand it?

A. Yes, sir, because as I said earlier, I was on the way to the phone.

Q. Then it could have occurred, as I understand your testimony, immediately after he completed his speech and while you were making your report, is that correct?

A. You mean by "it," his moving—

Q. His generalized moving with the group toward the marshals.

A. Yes, sir.

Mr. Gooch: Top of page 57, for continuity.

Q. Now, I believe you mentioned the fire truck. Tell us about the fire truck and the hose incident, if you will, and about what time it occurred.

A. Well, it was, I would guess that this too was around, oh, certainly after ten or 10:30 and I have a notion it was between—about eleven o'clock probably. But this fire truck was captured by the mob at some point and then they have just drove the fire truck up and down the street there [fol. 1284] in front of the Lyceum.

Q. You actually saw that then?

A. Yes, sir.

Q. Did they have the hose connected up and were spraying water at that time?

A. Yes, sir.

Q. That was the demonstrators or the members of the mob?

A. Yes, sir.

Q. Where were they spraying the water, in what direction?

A. In the direction of the marshals. Actually, I think their main objective was to try to disperse this gas with the water, so they could get back in the vicinity of the marshals.

Q. How long was that after General Walker's speech?

A. It was sometime after Walker's speech, certainly more than thirty or forty minutes after his speech.

Q. Now, what became of the fire truck, was it seized back by the marshals or did you see it disappear or what?

A. I think that fire truck changed hands three or four times that night.

Q. Now, you mentioned something about the bulldozer incident, what happened on that, tell us about that.

[fol. 1285] A. The crowd commandeered a bulldozer. It was a front-end loader type of equipment, and they tried to use this as an assault weapon and it finally stalled at the curb there and they couldn't get it to going again.

Q. Now how do you mean they tried to use it as an assault weapon, tell us what you mean?

A. I don't want to go into too much detail on that particular thing because I didn't see too much of it, except that I did see the bulldozer moving in the direction of the marshals.

Q. I just want you to tell what you actually saw. That is all you saw was the bulldozer moving in the direction of the marshals?

A. Yes, sir.

Q. Where was it, on Circle Drive or in the Grove?

A. On the drive.

Q. And you didn't see the termination of that incident?

A. No, sir, I saw where the bulldozer stalled.

Q. You mentioned also, I believe, tying down an accelerator on an automobile, did you see that incident?

A. I saw the car headed in the direction of the marshals.

Q. Did it have anyone in it?

A. No, sir.

[fol. 1286] Q. Any driver?

A. No, sir.

Q. Apparently then, it was then driverless and just had been turned loose toward the marshals, is that correct?

A. Yes, sir.

Q. What happened to it, do you know?

A. I believe it hit a tree.

Q. Before it got to the marshals?

A. Yes, sir.

Q. Now, in your prior testimony, starting at Line 2 on Page 33—

A. All right.

Q. Now, you tell there about Walker's statement in the speech. "I want to compliment you all on the protest you make here tonight." He did make that statement as you have testified about before?

A. Yes, sir.

Q. Now, at that time did the students jeer when that statement was made by General Walker?

A. Yes, sir.

Q. In other words, they jeered when General Walker mentioned that long route to Cuba—

A. That's right. The point where I recall the jeers coming was when he made some reference to settling the thing peacefully.

[fol. 1287] Q. Then the cheers came when he told them he wanted to compliment them on the protest they were making here tonight, is that correct?

A. Yes, sir.

Q. Did you hear any shouts at that time that the students made incident to that statement, "I want to compliment you."

A. What do you mean by shouts?

Q. Well, you have got, before I think you said the students shouted, "Let's go, Rebels." Do you recall that?

A. Yes, sir. There were shouts and cheers intermingled.

Q. Did you hear the statements made by the crowd there, "Let's go, Rebels"?

A. Yes, sir.

Q. And the crowd surged forward?

A. Yes, sir.

Q. You heard that statement then and you remember it now?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. Now, did you hear anything about who had let the crowd down as far as letting the marshals on the campus?

A. The Federal Government.

[fol. 1288] Q. Did he say anything about Colonel Birdsong?

A. I believe, yes, Walker said that Colonel Birdsong had sold out the students.

Q. You heard that statement at the monument?

A. He said Birdsong had violated Burnett's orders in letting the Marshals on the campus.

Q. You heard that statement?

A. Yes, sir.

Q. Did that have the effect of infuriating the crowd when he made those statements, General Walker?

A. As I recall, it did.

Q. Now, when General Walker, when you first saw him coming on the campus with the two men abreast holding his arms, as best you recall, he was walking at what type of a gait?

A. Fast.

Q. Fast gait?

A. Yes.

Q. Was his eyes fixed ahead or was he looking right ahead or what was his appearance?

A. Fixed ahead. I would say he was—being I had my own observation—

Q. Yes, that's what I want.

A. I would say he was walking on toward the campus like a man with a mission.

[fol. 1289] Q. Did he appear to be in an emotional state at that time?

A. Yes, sir.

Q. What type of emotion would you say, tense or wrought up?

A. Tense, I would say he was in a state of considerable emotional upheaval.

Q. Did he appear to have the same upheaval when he was leaving the campus, if you noticed?

A. Not the same type.

Q. About the same type?

A. I said not the same type.

Q. What difference did you observe?

A. I don't want to get put into the position of rendering expert opinion about what I feel a man looks like, but he was bone-weary, he was still in a state of great tension, great terrific tension, I would say, than when he came on the campus. But, well, let's just say he was bone-weary.

Q. Then I believe that you have at one time said that General Walker was more than an interested observer when he came on the Ole Miss Campus on the night of September 30, 1962, is that right or not?

A. Yes, sir.

Q. You still subscribe to that?

[fol. 1290] A. I still subscribe to that.

Mr. Gooch: Question, line 11. The last one is line 3.

“Question: Could you estimate the greatest number you saw in any single group?”

“Answer: I just wouldn't. I tell you what this thing reminds me of more than anything, was a bunch of stampeding cattle in that the rider goes over here and runs them around this way and pretty soon they are going off in another direction and another rider pulls them back. So it was ebb-and-flow type of thing. At times there were maybe fifty in a group and at other times there would be three hundred in a group, so, you know, it moved that way.”

Q. Now, is that your best description of the way that crowd looked in the circle that night?

A. Yes, sir, it was an ebb-and-flow type of surging thing.

Q. And as I understand it, cursing and making loud noises?

A. Yes, sir.

Q. Taunting?

A. Yes, sir.

Q. Rebel yells?

A. Yes, sir.

Q. Was it in the neighborhood of a roar, would you [fol. 1291] call it a roar of voices?

A. At times. The roar came like this. The marshals would fire their gas, the crowd would fall back, then the

crowd would begin to surge back toward the marshals and at that point there would be a tremendous roar, pretty much like a footfall crowd roar, as they moved back.

Q. And at the time of those surges and with the crowd roaring like it did, was that best described as a charge toward the marshals or not?

A. I would say yes.

Mr. Gooch: I don't believe the rest of it is admissible. On page 66, at line 13.

Q. Now, I believe at one time you described General Walker's appearance on the campus because he became a focal point of student activity, is that right?

A. I would say he was the focal point of some student activity, yes.

Q. And by student activity, you mean the mob, whether it included students or outsiders that may have come in, is that right?

A. Correct.

Q. Was the crowd drawn to him or not?

A. Some people in the crowd were drawn to him. He was easily recognized.

[fol. 1292] Q. And he was talking in a forceful manner when you heard him?

A. Yes, sir.

Q. Was he talking like a leader at that time?

A. He was, yes, he was giving advice.

Mr. Watts: Go ahead and read the next two while you are at it, next two questions or next question and answer.

Q. Did you hear him give any advice about how to handle the tear gas with sand?

A. No, sir.

Mr. Gooch: Line 23 on page 67.

Q. Now, I believe you said you left during the time that General Walker was making his speech and before he completed it, is that correct?

A. That is to the best of my memory.

Q. Now, after you got back from the Journalism Building, where you made your report immediately after you left the presence of General Walker making his speech, did you sense anything about the nature or tempo of the riot as being changed or different?

A. It had increased.

Q. Now, describe how it had increased.

A. The noise was much louder. I don't recall if the fire hoses had come out at that point, but there was just a general increase in the ferocity of the demonstration.

Q. Was there anything that you noticed about outsiders apparently coming on the campus in greater numbers? What did you notice about that?

A. There were adults who came on the campus, there were other young people with, I saw some Mississippi State sweaters there. You see, what happened was this, that when this trouble started, the radio was full of it, television was full of it, and people from distant points who heard these reports just flocked to the campus, and it took some of them some time to get there.

Q. Now, was the mood of the crowd any different from the time before, just before you heard General Walker make his speech, as to whether it was ugly or what?

A. I can't say whether Walker's speech had anything to do with the mood of the crowd or not, but the mood of the crowd became very ugly as the night wore on.

Q. And General Walker's speech?

A. Yes, sir.

Q. Did you notice anything about any additional weapons and the size of the weapons after his speech or not that was being used?

A. As the riot progressed, the weapons became more plentiful. You saw more of these pointed staves. You saw [fol. 1294] people scrounging around in the underbrush and over by this new building that was going up, collecting big pieces of rock. As I recall, it was about then that I began to see the Molotov cocktails.

Q. Describe what you saw with reference to the Molotov cocktails and where?

A. These were bottles. Some of them were Coke bottles, some of them were beer bottles filled with some inflammable liquid with a rag stuck down in them. Some of them had newspapers stuck down in them. And to ignite these things, you just lit the fuse and threw them.

Q. Were they being thrown toward the marshals?

A. I didn't see any of these being thrown at marshals.

Q. Where were they being thrown when you saw them?

A. I saw some flashes of light going up, up toward the upper end of the Grove.

Q. Toward the Lyceum Building?

A. Yes, sir.

Q. Did you see any of these Molotov cocktails being actually made, that is, the bottles being filled with this fluid that you mentioned?

A. No, sir, the only thing I could say is that at one point I saw some individuals siphoning gasoline out of an automobile parked on University Avenue and the siphon hose [fol. 1295] was in a bottle.

Q. Now, were you on the campus the next morning after daylight?

A. Yes, sir.

Q. At Old Miss?

Mr. Watts: I would like to enter an objection to this, just primarily for the purpose of shortening this thing, all this transaction after on the next day. I don't think it proves or disproves anything in this case.

Mr. Gooch: Well, it has to do with what happened the night before.

The Court: What page and line number?

Mr. Address: 70, line 10.

Mr. Watts: Primarily to shorten it, we will be here . . .

The Court: I think it's admissible.

Mr. Watts: All right, sir.

Mr. Gooch: Line 10, page 70.

Q. Now, were you on the campus the next morning after daylight?

A. Yes, sir.

Q. At Old Miss?

A. Yes, sir.

Q. What was the appearance of the campus?

[fol. 1296] A. It was a military camp.

Q. What was the appearance in the Circle as far as whether or not there was debris?

A. There was debris, there was the wreck, I mean the stalled bulldozer. There were bullet holes in the Lyceum front door casing. There was a heavy odor of tear gas everywhere. The flowers were trampled down, the grass was trampled. Trees had nicks in them, that type of thing.

Q. Were there remnants of concrete benches broken up there?

A. Yes, sir.

Q. Some of the iron, was it still laying around?

A. Yes, sir.

Mr. Watts: If Your Honor please, I am going to again object to the statements here, if there were weapons noticed in the Lyceum Building, way away from any place that—

Mr. Address: Page 71, line 3.

Mr. Watts: He goes on to say a lot of things were taken, confiscated from dormitories down at line 20 and 21, which has no bearing on this lawsuit at all.

The Court: I will overrule you.

Mr. Watts: All right, sir.

Mr. Address: May it go to the whole line there, Judge?
[fol. 1297] The Court: Yes, sir.

Mr. Address: Thank you, sir.

Mr. Gooch: I will have to go back for the continuity.

Q. Some of the iron, was it still laying around?

A. Yes, sir. And inside the Lyceum Building, of course, there was an arsenal that had been collected on the campus

that night, including some of the ugliest weapons I have seen in my life.

Q. Now, you mean that had been collected by whom?

A. By officers of some description.

Q. These weapons had been taken away from the mob?

A. Yes, sir.

Q. In general, what were those weapons?

A. Chains, clubs, there was one thing that was a home-made spear that was made by taking what I would think would be about a one-inch auger bit and welding it onto a long piece of pipe which made a spear.

Q. Were there any guns or firearms that you saw?

A. Yes, sir, there was quite a collection of firearms.

Q. Rifles, shotguns or what?

A. Rifles, shotguns, pistols. Now, I might add this parenthetically, that some of these weapons were confiscated from [fol. 1298] dormitories. I know of one case where a student tried to turn in his hunting gun and he was apprehended.

Q. Now, did you see any of the burning cars or automobiles there that night on the campus?

A. I saw, yes, I saw one car that was burning. I can't remember now whether it was the canvas top vehicle. I believe that was it.

Q. Did you see any remnants of burned automobiles the next morning at or near the campus?

A. Yes.

Q. How many, if you could estimate?

A. I think it was only one that I can remember.

Q. Now, the report was that there, that two people were killed that night, is that correct?

A. That's correct.

Q. Was that your understanding?

A. That's correct.

Q. And a good many people were injured?

A. Yes, sir.

Q. Now, going back to your method of reporting that you told us about, that you didn't have time to keep notes, you had to remember the best you could.

A. Yes, sir.

Q. Memorize what was said and then at various intervals [fol. 1299] made a break for your line of communication. Is that a customary way to report news items under the situation you were working under there?

A. Under that kind of situation, it is. I have covered lots of them and that is about the only way you can do it.

Q. Now, did you have occasion to be at or present at an interview with General Walker after the Oxford riots that you have described?

A. I interviewed him here.

Q. At about what time, if you remember?

A. Oh, it was, it seemed to me sometime last year.

Q. That was in the year 1963?

Mr. Address: We think that would be objectionable, all this discussion here some months or years later.

The Court: What is the ground of your objection?

Mr. Address: That it has nothing to do with the case.

The Court: Not relevant?

Mr. Address: Not relevant, no, sir. Page 73, line 6.

The Court: Let's recess until about ten minutes until 4:00.

(20-minute recess.)

[fol. 1300] The Court: Mr. Nuss, have the record show the objection made by the Plaintiff's Counsel, made prior to the recess, is overruled.

Mr. Address: May it go to this entire line about this later matter?

The Court: Yes, sir.

Mr. Gooch: Deposition of Kuettner, of the Associated Press, Plaintiff's witness.

Mr. Cravens: United Press.

Mr. Gooch: United Press, excuse me.

* * *

Q. Now, did you have occasion to be at or present at an interview with General Walker after the Oxford riots that you have described?

A. I interviewed him here.

Q. At about what time, if you remember?

A. Oh, it was, it seemed to me sometime last year.

Q. That was in the year 1963?

A. Yes, sir.

Q. What was the substance of that interview if you recall?

A. As I recall, this was an interview, a press conference that was called on the occasion of Billy James Hargis, who is the head of the, I believe he called it Christian Crusade, and General Walker was making some speeches for Hargis [fol. 1301] at that time and they were here to do one of the speeches and they had a news conference and I covered that just in the role of a newsman.

Q. Now, did you read or see any news from Jacksonville, that General Walker had made a statement down there that it wasn't any riot on the campus on the night of September 30, just a bunch of college boys having a lot of fun?

A. Yes, sir.

Q. Did you read that statement that he made?

A. Yes, sir.

Q. Did you ask him about that statement when he was here in Atlanta?

A. He repeated it at this news conference.

Q. What did he say, the best you recall, at this news conference about that?

A. To the best of my knowledge, I said, he was asked about the occurrences on the night of September 30 and he said, "This was just, this wasn't a riot, it was just a bunch of college boys blowing off steam, having a good time."

Q. He made that statement?

A. Yes, sir.

* * *

Mr. Watts: I would like to read my own redirect, if possible.

Mr. Gooch: Oh, sure, you can read anything you want to.

[fol. 1302] Mr. Watts: Do you want to sit there and answer the questions?

Mr. Gooch: Don't matter to me.

* * *

Redirect examination.

By Mr. Dunaway:

Q. Mr. Kuettner, going back to the first question that Mr. Cravens asked you, when this recess terminated just now, that General Walker was still on the monument speaking when you turned to go back to report to Atlanta. That is correct, isn't it?

A. Yes, sir, the best of my knowledge, it is.

Q. And it was, he asked you about somebody saying, "Let's go, Rebels," was that something that occurred when he admonished them to have no violence and they jeered him, was it after that?

A. I think so. It seems to me that this, "Let's go, Rebels," this was sort of a shout from one or more of these guys while Walker was still speaking.

Q. And did you see any group then leave where Walker was speaking when they had that shout, "Let's go, Rebels"? Did you see any crowd begin to leave the monument and go toward the Lyceum?

A. I couldn't say now that I remember that.

[fol. 1303] Q. Was there more than one person that said, "Let's go, Rebels"?

A. I think it was a single voice.

Q. A single voice?

A. Yes.

Q. And were you ever able to identify them or did you see the individual?

A. No, sir.

Q. Was he near you?

A. Within hearing distance.

Q. I mean physical proximity, was he across the crowd from you or somewhere near you?

A. It was within the crowd.

Q. Within the crowd?

A. Yes, sir.

Q. But after that statement was made, Walker continued to talk and you left?

A. Yes, sir.

Q. Now, when General Walker came on the campus and you first saw him with these two men abreast, three of them abreast, did he speak to you, did you speak to him?

A. I spoke to him. I just said, "Good Evening."

Q. Did you speak to him when he left?

A. Yes, sir.

Q. He said good evening to you then, didn't he?

[fol. 1304] A. That's right.

Q. Do you know whether or not he knew you?

A. I don't think he did at that time.

Q. When you told Mr. Cravens that, something about nothing in these reports as being untrue, these reports, as I understand it, were originated here in this office in Atlanta, based on the information that you and Leon Daniel phoned in?

A. They were written from here, yes.

* * *

Mr. Watts: Now go, please to Page 81.

Mr. Gooch: Wait just a minute.

* * *

Q. And when you say persons were ahead of him and behind him when he first went on the campus, are you saying they were in his party or just persons?

A. They did not appear to be in his party.

* * *

Mr. Watts: The Plaintiff rests.

The Court: Ladies and Gentlemen, will you step into the jury room, please.

Mr. Gooch: I had one thing in connection with the Kuettner deposition.

The Court: I beg your pardon.

Mr. Watts: May I inquire if Counsel has the original [fol. 1305] UPI new release?

Mr. Cravens: Yes, sir.

Mr. Watts: Why don't we identify and offer it?

(Sotto voce conference of counsel outside the hearing of reporter.)

Mr. Watts: We'd better have a conference on this.

(Conference at the bench.)

* * *

Mr. Watts: If the Court please, the court reporter has previously identified Associated Press dispatches that were furnished by counsel for the Defendant. There is a great mass of dispatches here that would take probably the rest of the week to read. We have numbered and identified the specific releases for the court reporter's record here, and at this time I would like to offer in evidence Exhibit 1 through 9-J; and 3, inclusive, of 3-M, and each one of these have various letters. I guess I'd better offer them.

Exhibit 1-A and B. Exhibit 2-A. Exhibit 3-A, B, C, D, E, F, G, H, J, K, L, M.

Exhibit 4-A, B, C, D, E, F, G, H, I, J, K,—down through S; down rather not to but through S.

Now Exhibit 5-A through J.

Exhibit 6-A through I.

[fol. 1306] Exhibit 7-A and B.

Exhibit 8 and Exhibit 9.

Also, we have Exhibit 10. 11 is the plat. Then I do not know if we formerly offered Exhibit 11, which is the plat.

The Court: What about 10?

Mr. Watts: 10 is a news report which we do offer. There is no letters with 10.

Exhibit 12, I think we have offered that. Let's see. And we have 13.

The Court: 13 is in. I admitted those

Mr. Gooch: We do object to them, if the Court please. I haven't checked through them, but I assume my objection—at least I move an objection unless the matters he has introduced have been encompassed within the Pleadings.

The Court: I will admit them with the understanding that they must have been encompassed within the Pleadings.

Mr. Watts: Incidentally, if Your Honor please, I do not in these releases find copies of the releases furnished to me which include news reports of November 21 and January 21 and 22nd, 1963. Are they in this stack?

Mr. Address: They are not in these.

[fol. 1307] Mr. Watts: They are not?

Mr. Address: No, sir.

Mr. Watts: I will need to identify them and offer them separately.

The Court: All right.

Mr. Watts: I have them right here in my briefcase. If Your Honor please, might we take about a five-minute recess?

The Court: Do you have anything to offer after Mr. Watts rests, when he gets through with this?

Mr. Gooch: I don't know. I am waiting to see what he offers on November 21st and 22nd.

The Court: All right.

Mr. Watts: The last one was 13. Here is 14 and 14-A.

(Plaintiff's Exhibits 14 and 14-A, were marked for identification.)

Mr. Watts: If it please the Court, Exhibits 14 are the Associated Press news releases under date of November 21, 1962. And Exhibit 14-A is the release under date November 22, 1962.

Exhibit 15 will be the Associated Press releases under—I am unable to tell the exact date, but these are the releases that include the Stubblefield report, that have the

Associated Press identification on them which I, at this [fol.1308] period in the lawsuit still don't understand. So we will just mark that as Exhibit 15.

(Plaintiff's Exhibit No. 15, was marked for identification.)

The Court: Is 15 in several parts?

Mr. Watts: Well, there are several pages. Really ought to be stapled together.

Mr. Cravens: 15 is the Stubblefield report?

Mr. Watts: As far as I know. At least that is what you gave me.

Exhibit 16 is the Associated Press release under date of January 21, 1963. 1-21-63.

Exhibit 16-A is the AP release under date of January 22, 1963.

Mr. Gooch: The objection will still be the same, although I don't know for sure. My protective objection is, only if they are encompassed within the pleadings.

The Court: All right, I will admit Plaintiff's 14, 14-A, 15 and 16, if they are within the pleadings.

Mr. Watts: Yes, sir. The Plaintiff, with that rests.

The Court: All right.

The Plaintiff has rested.

Mr. Gooch: I would like to take up a matter with the [fol.1309] Court.

The Court: All right, Ladies and Gentlemen, I have some matters which will probably take 30 minutes anyway, so I think I will just go ahead and let you go home this afternoon rather than have you wait in the jury room, so as far as you are concerned at this time we will be recessed until 9:00 o'clock, tomorrow morning. At that time be back in the jury room.

(Jury out.)

(Following proceedings were had outside of the presence and hearing of the jury.)

The Court: I believe I will take this up in chambers.

* * *

(Thereupon, at 4:20 o'clock, p.m., an adjournment was taken until Tuesday morning, at 9:00 o'clock, a.m., June 16, 1964.)

[fol. 1312] Proceedings

Mr. Watts: If Your Honor please, we have a witness here who is a member of the Mississippi Highway Patrol. I had expected to hold him over here and use him on rebuttal, but he tells me that conditions are such that he cannot possibly stay, and I would like to ask the indulgence of the Court to use him very shortly this morning.

The Court: I will let you re-open. Just one witness, now.

Mr. Watts: Yes, sir, just this one witness, and I will cut him as short as I possibly can.

Let the record show, please, sir, that the Plaintiff requests leave to re-open, to offer the testimony of a witness, Gwinn Cole.

(Jury enters the Jury Box.)

The Court: Good morning, Ladies and Gentlemen. I have permitted the Plaintiff to re-open his case, to offer one witness, so this is the Plaintiff's witness.

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

[fol. 1313] Direct Examination.

By Mr. Watts:

Q. Will you state your name, please?

A. My name is Gwinn Cole.

Q. Mr. Cole, where do you live?

A. Jackson, Mississippi.

Q. Do you hold or have you held any official position with the State of Mississippi?

A. I have.

Q. What is that position?

A. I am assistant director, Bureau of Identification, Mississippi Highway Patrol.

Q. And for how long have you worked with the Highway Patrol?

A. Eighteen years.

Q. Mr. Cole, did you have any training to qualify you for the duties you perform?

A. Yes, sir.

Q. Now, are you a regularly appointed and acting officer in the Highway Patrol?

A. Yes, sir.

Q. What is the brief nature and extent of this training that you acquired to be an officer?

A. Well, I am a graduate of the FBI National Academy in Washington and I am a qualified ballistic expert and [fol. 1314] I am a qualified fingerprint expert.

Q. And have you had practical experience in performing those duties?

A. Yes, sir, I have.

Q. Over what period of time?

A. Over the past eighteen years.

Q. Were you on the Mississippi University campus on the night of September 30th, 1962?

A. I was.

The Court: Pardon me just a moment. Pull microphone over in front of you, please, sir.

By Mr. Watts:

Q. In what capacity were you there?

A. I was there as an official and an assistant to Col. T. B. Birdsong.

Q. Was he the Chief of the Highway Patrol?

A. He was Commissioner of Public Safety and, of course, he's got a chief directly under him.

Q. Was he on campus that night?

A. Yes, sir.

Q. Did you see him?

A. Yes, sir.

Q. And who else was there when the Highway Patrol—

A. Well, the Chief of the Highway Patrol was there and about sixty uniformed men and about twelve plainclothes investigators, including myself.

[fol. 1315] Q. Did the Highway Patrol have a briefing by its officials that night and receive orders?

A. Yes, sir.

Q. From that briefing and those orders, what did you learn as to the situation and what your directive was?

A. Well, we had—

Mr. Gooch: We object to that. It would be hearsay on the part—

The Court: Sustained. It would.

Mr. Watts: The briefing itself was.

By Mr. Watts:

Q. Did you have a mission that night to perform as a member of the Highway Patrol?

A. I did, sir.

Q. What was that mission?

A. We had information that there was about forty thousand Federal troops—

Mr. Gooch: If the Court please, we object to that as hearsay.

The Court: He asked you as to your mission.

Mr. Watts: Yes, sir.

The Court: What you were required to do.

A. My mission was—

Mr. Gooch: Just a minute. We move that answer be stricken from consideration of the Jury.

[fol. 1316] The Court: It's stricken and the Jury is instructed not to consider it.

A. My mission were there to keep down any violence that might occur on the campus that night.

By Mr. Watts:

Q. Did you have occasion to be out north of town, north of Oxford?

A. Yes, sir, I did.

Q. And was there any type of military installation out there?

A. Yes, sir.

Q. Did you see that installation?

A. Yes, sir.

Q. Did you know what it was for?

A. Yes.

Q. Did you know the nature and extent of the preparations incident to that installation?

A. Well—

Q. Well, within limits. I know you didn't know the details of them.

A. Yes, sir.

Q. Was that a Federal or State installation?

A. It was a Federal.

Q. And what was your knowledge as to the purpose of it?

Mr. Gooch: Object to that, if the Court please.

[fol. 1317] It would have to be hearsay.

The Court: Sustained.

Mr. Watts: Well, all right, sir.

By Mr. Watts:

Q. What relation did your mission have with the use of these troops or the projected use of troops?

A. Well, our mission then was to keep down any violence, to not—so that the Federal Government wouldn't

have any excuse by bringing the troops on the University campus.

Q. And did you organize your group and prepare to perform that mission?

A. Yes, sir.

Q. At what place on the campus was that done?

A. That was in front of the Lyceum Building, at the University.

Q. At what time?

A. That was about 6:00 p. m. in the afternoon.

Q. And pursuant to that directive, what was done?

A. Well, the Marshals, United States Marshals, lined up in a circle around the Lyceum Building and we stationed our patrolmen on the other side of the street, between the Marshals and the crowd of students who had gathered on the grass beyond the street—on the other side of the street from the Marshals. And we had them lined up there. [fol. 1318] Now, were the Marshals—to shorten this a little, were the Marshals east of the Lyceum and forming a ring around it?

A. Yes, sir.

Q. And were your Highway Patrolmen in a line to the east of the Marshals?

A. They were.

Q. And where were the students with respect to the Highway Patrol?

A. They were east of the Patrolmen.

Q. Roughly, how many Patrolmen were there?

A. Well, at that time there was approximately sixty Patrolmen and we had them coming in from all over the State; thereafter, they come in . . .

Q. Now, explain to the Jury, please, Officer, just what the activities of this group of students was or were before tear gas was fired.

A. This bunch of students had ganged up there on the grass in front of the Lyceum Building across the street, and, of course, they were heckling the Marshals, thumping

cigarette butts and about the biggest thing that I saw thrown was an egg up aside of one of the GI trucks—just general student misbehaviour, I would call it.

Q. Now, Officer, are you trained in the use of or in anti-[fol. 1319] mob tactics?

A. Yes, sir.

Q. And riot tactics?

A. Yes, sir.

Q. And as a part of that training, do you understand the purpose and the nature of employment of tear gas in such a situation?

A. I do, sir.

Q. Will you tell to the Jury what is the proper way of employing tear gas under those circumstances?

Mr. Gooch: If the Court please, we object to that as wholly irrelevant and immaterial—

The Court: Sustained.

Mr. Gooch: —to any issue in this case.

The Court: I am not going to permit him to testify to that kind of an opinion.

Mr. Watts: All right, sir.

By Mr. Watts:

Q. With the students out there as you stated, was there any physical contact at all between students and Marshals?

A. No, sir.

Q. All right, sir. Will you tell the Court and Jury what occurred and just endeavor to re-live this situation, Officer, and project to this Jury just what you saw.

[fol. 1320] A. Well, about, somewhere just before, say, from 6:00 p. m. in the afternoon, the Marshals lined up there and we officers, like all officers do, chatting with the Marshals. There were some from Texas and Oklahoma and all over the United States and naturally we were talking to them. They were friendly towards us.

James P. McShane, the Chief United States Marshal, at about 8:00 p. m., I was talking to him in front of the

Lyceum Building and, of course, the students would begin to come in from the week-end, from the ballgame, and they was all gathering up there more or less to sight seeing, I would call it.

And Mr. McShane, after we had, some of them would keep pushing, want to get down in the street and our Patrolmen would keep pushing them back on the grass.

So, just all out of a blue sky, Mr. McShane walked out in the street by the side of me—

Mr. Gooch: We object to what Mr. McShane may have done or what he may have said, if the Court please.

The Court: Overruled.

Mr. Gooch: Note our exception.

The Court: You may proceed.

Mr. Gooch: It's hearsay and—

A. Mr. McShane says, "Let's 'em have it, gas." And the [fol. 1321] Marshals fired directly into the group of Highway Patrolmen, in the back, wounded some, and directly into the students. And the gas was fired directly into the wind, which, in our opinion, is the wrong way to use it.

And all the students had to do is run back out of the gas into the wind and they would come back. Some of them disbursed and some of them would come back, two or three, and they just kept firing gas into them and finally broke them up into small groups.

Q. Now, for what period of time after the gas was fired did the students stay dispersed?

A. What period of time after the first volley was fired?

Q. Yes, sir.

A. Well, they would, I would say, five to ten minutes, they was going to their dormitories. We was telling them to get to their dormitories and somebody was going to get hurt, and, of course, the majority of them did go to their dormitories, but a few would group over on the right and a few over on the left and come back and throw rocks and brick at the Marshals.

Q. How far were you from McShane when he gave that order?

A. I wasn't but about two or three feet.

Q. And in what manner did the Highway Patrolmen [fol. 1322] employ their tear gas weapons? Were they on a curved or flat projectory—

As you were, strike that.

Mr. Gooch: This is wholly irrelevant and immaterial to any issue in this case.

The Court: How is it material?

Mr. Watts: If Your Honor please, the counsel at great length on cross examination—I'm sure he will on his, in his evidence—and I'm laying out the true facts to show just what happened precipitated this riot; that Walker had nothing to do with it whatsoever; that the entire build-up and the cause, proximate cause of the entire violence and riot was the wrongful act of firing—

The Court: Mr. Watts, I don't see that it is material at all.

Mr. Watts: All right, sir.

Mr. Address: They have gone into it rather at some length on cross examination, Judge.

Mr. Watts: We appreciate the opportunity of being able to put on the witness at all, sir, so I will try to hold it just to the facts.

By Mr. Watts:

Q. Now, then, Mr. Cole, you say for a period of five or ten minutes, the students were out of contact with the Highway Patrolmen?

[fol. 1323] A. Yes, sir.

[fol. 1324] A. Yes, sir.

Q. And did I understand you to say then, did they follow the gas back?

A. Yes, sir, they would follow the gas back up. After the first volley was fired, they would run out of the gas and then they would come back and, of course, after the first volley was fired the majority of them—we kept hollering telling them to get to their dormitories and get out of the way, and the majority of them left and would go to

their dormitories, but there were a few that kept staying there, and they would run out in different parts of the campus and on top of buildings, and around behind bushes, and what have you, and run back, and they would get a chance to throw rocks, and take off again.

Q. Was there ever—do you know what a charge is?

A. Yes, sir.

Q. Was there ever after that point, and within 10 or 15 minutes, a large charge of all the students?

A. No, sir.

Q. As they came back and this gas would dissipate, what size crowd would build up?

A. Oh, four or five, maybe six in a group, run up and throw rocks, and then take off to the bushes again.

Q. What size did the entire crowd build up to that was there across from the Marshals?

[fol. 1325] A. Well, there never was any large crowd after that first volley of gas.

Q. Where would they go, where did the big crowd go?

A. A lot of them went to their dormitories.

Q. Now were you out in the street at all times after this first volley?

A. Yes, sir.

Q. Were there rocks and missiles being hurled after the gas was fired?

A. Yes, sir.

Q. Did you have a helmet or anything on?

A. No, sir.

Q. How were you able to avoid the missiles?

A. Well, I would just try to get behind one of the Marshals that had on a helmet.

Q. And did any of the rocks or missiles fall close to you?

A. Yes, sir.

Q. How close?

A. Well, two or three feet, and they would hit our cars. We would get behind the cars, too.

Q. Mr. Cole, tell the jury just what the visibility was from the time they—the first mass of tear gas was fired?

A. Well, I would say after it was fired, the first volley, [fol. 1326] it was fired, and the wind was blowing and the gas would rise off the ground, and of course it would look like a fog underneath this gas.

And you could see approximately 100 to 110 feet underneath the gas.

Q. Do you know where the flagpole was?

A. Yes, sir.

Q. Could you from time to time see the flagpole?

A. Yes, sir.

Q. Could you see a single individual who was close enough to the Marshals to throw a rock?

A. Oh, yes.

Q. Could you see him in the actual throwing?

A. Yes.

Q. And what would the Marshals do when those lads would run up there and throw things?

A. Well, they would fire another round of tear gas at him, if they couldn't get ahold of some—some of them had their guns in their hands to try to scare them off.

Q. Now at this point where were you with respect to the front steps of the Lyceum Building?

A. Right in front of the steps, just off the sidewalk in the street.

Q. And could you at all times except when the tear gas had just been fired make out the outline of the Lyceum [fol. 1327] Building?

A. Yes, sir.

Q. All right, sir. Now had you known General Walker prior to this incident?

A. Yes, sir.

Q. Where did you first—where did you meet him?

A. Well, I had read about General Walker a lot and I had saw him on television, his pictures in magazines, and then I had met him one time at Jackson, Mississippi.

Q. How long did you visit with him when you met him?

A. Well it was just a short while, in a group there that was talking to him.

Q. Was there anything distinctive about his headgear?

A. Yes, sir.

Q. Would you step over here to the chart, please, sir, and bring that little pointer there with you.

To orientate the area here, this street is University Boulevard, this is the circle, here is the Confederate monument, the flagpole and the Lyceum Building (indicating).

A. Yes, sir.

Q. Would you take the pointer and point out to the jury where you were at the time the tear gas was fired?

A. Right there (indicating).

Q. What was the furthest you got away from that [fol. 1328] point for the next—strike that.

How long were you in that area?

A. I was in that area until approximately 9:50 or 9:55.

Q. All right, sir. Did the Highway Patrol pull out from this area in front of the Marshals immediately after tear gas was fired?

A. Yes, sir.

Q. Where did they go?

A. They went off the campus—I mean down to the bowling—to the gymnasium, right over here (indicating).

Q. I see. The gymnasium?

A. Yes, sir.

Q. Did they later get in their cars and pull clear off the campus?

A. Yes, sir.

Q. What time did that occur?

A. About 9:30.

Q. Where were you when that happened?

A. In front of the Lyceum Building on the porch, or steps.

Q. From your testimony then, you stayed in that area until about 9:50 or 9:55?

A. Yes, sir.

Q. Take the stand, please, sir. At any time from the [fol. 1329] time gas was first fired until the Highway Patrol left were you out of the area for any period of time?

A. No, sir. After 9:50 or 9:55, I got on my radio to see where the officers went, and so they told me—

The Court: Just a minute.

Q. Oh, yes, don't say what they told you.

The Court: Just describe what you saw.

Q. Did you go in the Lyceum Building at any time?

A. Yes, sir.

Q. When and how often?

A. I went in there about two minutes after the gas was fired, and I come right back out about a minute after I went in there, and saw that my commanding officer wasn't wounded any way, and then I came right back out.

Q. Who did you see inside the Lyceum?

A. I saw Mr. Katzenbach and Mr. McShane, who fired the gas.

Q. Was Katzenbach the lawyer from the Department of Justice?

A. Yes, sir.

Q. All right, sir. As you stood out there in front of the Lyceum was your visibility such that you could see an individual moving across the north side of the circle from a point approximately at this sidewalk, and approaching the Lyceum? Could you see a man?

[fol. 1330] A. Yes, sir.

Q. That far away?

A. Yes, sir.

Q. Could you see a man well enough to where you could identify him as to what type clothes, and particularly what kind of hat he had on?

A. Yes, sir.

Q. If a six foot man with a big white hat had appeared in this area here (indicating), could he have escaped your observation?

A. No, sir.

Mr. Gooch: We object to that as a conclusion on the part of the witness, and move that the answer be stricken.

The Court: Sustained. The jury is instructed not to consider it.

Q. Tell us what the visibility was with respect to being able to identify a man six feet tall who had on a big white hat, from the position you were, and that man being in a position just east—as you were—just west of the north-south sidewalk? Tell us what you could have seen?

A. I could have seen well enough to identify him.

Q. What do you mean? Could you have seen him well enough to tell if he had somebody ahold of him by each arm?

A. I sure could.

[fol. 1331] Q. And could you have seen to this point well enough to where you could have identified, we will say, as many as 100 men behind him, if that had occurred?

A. Yes, sir.

Mr. Gooch: I object to that as a conclusion on the part of the witness.

Mr. Watts: That is not a conclusion.

Mr. Gooch: I have a right to object.

Mr. Watts: I have a right to answer.

The Court: Overruled.

Let me do the ruling, Counsel.

By Mr. Watts:

Q. Yes, sir, I am sorry.

Now, Mr. Cole, I wish you would brief the court and jury, please, as to exactly what you saw in this area in front of you from the time the gas was first fired until 9:30.

Mr. Address: 9:50.

A. Yes, 9:30. Well, directly in front of it I could see two or three students run up ever once in a while out of the bushes, like I say, and throw rocks at the Marshals, and I could see a few over here on this side run out. They were hollering and carrying on, and, of course, every time some would run out from behind the buildings, the Marshals would shoot at them with tear gas, and they would run

back, and—but I never saw over six or eight in one bunch [fol. 1332] at any time run up and throw rocks at them.

Q. Did, at any time from 9:30—from 8:00 o'clock until 9:30—from 8:00 o'clock until 9:30 did any group of people approach the Marshals with three men out in front of them, one with a big white hat on, and the other two on each side holding him by the arm, and as many as 50 people behind, immediately behind them?

A. No, sir, never did.

Q. Was there at any time a charge—strike that.

Was there at any time ever a movement toward the Marshals from that direction of as many as 1,000 people, any time all night?

A. No, sir, never was.

Q. Now are you familiar with the time that the Highway Patrol pulled out?

A. Yes, sir.

Q. How did they pull out?

A. In their automobiles.

Q. Did some of them go to the top of the circle?

A. Yes, sir.

Q. And from and after the time they pulled out until you left there at 9:50 or 9:55, was there any large movement of the crowd from the direction of the circle toward the Marshals that resulted in the throwing of a large number of rocks, bricks or missiles?

[fol. 1333] A. There were not.

Q. Prior to the time they moved out, what was the biggest group that ever approached the Marshals and threw rocks?

A. I would say not more than seven or eight.

Q. Now was that an organized activity, or was it sporadic?

A. It was not organized. No organization whatsoever.

Q. From and after the Highway Patrol left until you left at 9:50, what was the biggest single group that came out and threw missiles towards the Marshals?

A. Not more than seven or eight.

[fol. 1334] Mr. Watts: I believe that is all.

Cross examination.

By Mr. Gooch:

Q. Mr. Cole, you said that you knew what "a charge" was. These people that come out there, the six, seven and eight, and would throw at the Marshals, is that a charge?

A. A charge?

Q. Yes, sir.

A. I wouldn't call that a charge, no, sir.

Q. In other words, the group that came forward and threw the rocks, they weren't charging?

A. No, sir, I wouldn't call that a charge. I would just call it a disorganized group of students.

Q. Doing what?

A. Throwing rocks.

Q. But that wouldn't be a charge?

A. No, sir, I wouldn't call that a charge.

Mr. Gooch: That's all. Thank you, sir.

The Court: All right, I am going to excuse this officer.

Mr. Watts: Yes, sir, I would like to have him excused. He has to return to Mississippi. Thank you, Officer.

Mr. Address: We rest, now, Judge.

Mr. Watts: Plaintiff rests.

[fol. 1335] Mr. Address: Thank you.

(Sotto voce conference at the Bench, wherein Defendant renewed its motion made at the close of Plaintiff's prima facie case, the record to be completed later.)

Mr. Gooch: Could you give us about five minutes?

The Court: Yes, sir. Ladies and Gentlemen, step into the Jury room. The defense will start in a few minutes. We will give you about a 5-minute break now.

(Short recess.)

Mr. Gooch: Dean Love, will you come around, please, sir?

LESTON L. LOVE, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. Leston L. Love.

Q. Where do you live?

A. At the University of Mississippi.

Q. Are you connected with the University of Mississippi?
[fol. 1336] A. Yes, sir.

Q. In what capacity?

A. Dean of the Division of Student Personnel and Professor of Education.

Q. How long have you been connected with the University of Mississippi?

A. Since October, 1949.

Q. What is your educational background, Dean?

A. I hold the Bachelor's and Master's Degrees from Oregon State and the PhD. from Ohio State.

Q. On September 30th, 1962, were you an official in the same capacity you have testified about with the University of Mississippi?

A. Yes, sir.

Q. Do you recall prior, the times, any times prior, briefly, to the 30th of September, 1962? Of a Court battle over the admission of James Meredith to the University of Mississippi?

A. Yes, sir.

Q. Prior to September 30th, 1962, had the Courts ruled, the Federal Courts, the Circuit Court ruled or not that Meredith was to be entered on the campus of the University of Mississippi?

A. Yes, sir.

[fol. 1337] Q. Prior to September 30th, 1962, had Gov. Ross Barnett or anyone acting in concert with him effec-

tively blocked the entrance of Meredith to the University of Mississippi?

A. Yes, sir.

Q. And how had that been accomplished, Dean?

A. Through the—the last one was that—through that doctrine of inter position and then Gov. Barnett barred entrance to the campus at one time and barred entrance to the Board of Trustees at another time and the Lt. Governor barred his entrance at one time, as I understand it.

Q. Was that physically barred?

A. I don't know what you mean by "physically barred."

Q. Well, were they present, these men that you are talking about—

A. Yes, sir.

Q. —present and refused to allow him to come on the campus, is that correct?

A. That's my understanding.

Q. Now, there has been much said about the September 30th, 1962, and I don't want to go into a lot of repetition. Were you present at any time on the campus on the University of Mississippi on September the 30th, 1962, when Federal Marshals were there?

[fol. 1338] A. Yes, sir.

Q. Do you know about what time the Federal Marshals got on campus that afternoon?

A. Approximately 4:00 o'clock in the afternoon.

Q. Did you go to the campus—I believe you lived on the campus. Did you go in the area where the Marshals were located?

A. Immediately after they arrived.

Q. And where is your office on the campus of Ole Miss?

A. In the Lyceum Building, first floor.

Q. Would you describe, as best you can, to the Jury the scene you saw when you arrived at the Lyceum Building somewhat after or around 4:00 o'clock p. m. on September the 30th?

A. The Lyceum Building, which is a large building, was surrounded by Federal Marshals standing shoulder to shoulder, completely surrounding the building.

A large number of Highway Patrol were also on the campus near where the Marshals were at that particular time. When I got there I went through that group immediately into the building.

Q. All right. Did you observe at that time whether or not there were any students or persons other than Marshals and Highway Patrolmen in the area of the Lyceum [fol. 1339] Building?

A. Very few at that time.

Q. All right. Now, describe generally what occurred after the time you got to the Lyceum Building that afternoon?

A. In the building at the time I got there, there were several Federal officials, officials of the Justice Department, in the building.

The Director of the State Highway Patrol was there, the Chief Marshal was there. I would say half a dozen Justice Department officials.

I was there. And Mr. Hugh Claik (phonetic), the director of development, came about the same time I did.

Q. All right. Now, did you have occasion to go back out in front of the Lyceum Building after your first entrance into the building?

A. Many times during the—in the next several hours.

Q. Now, you observed a moment ago that when you got there, there was a small group of students in front of the Lyceum Building?

A. Not even in front. Sort of off to one side at that particular time.

Q. All right.

[fol. 1340] A. Just a very few, as I recall it.

Q. Now, as time went on, what happened to the crowd? Did it increase or decrease?

A. It increased pretty rapidly.

Q. Now, getting down to somewhere around 7:00 or 7:30, in that vicinity, did you have occasion to be back out in front of the Lyceum Building where you could observe the crowd?

A. Yes, I went out and into the crowd at various times, surrounding there, trying to talk the students in the group into leaving and going to their dormitories, getting away from there.

Q. What was your response, Dean?

A. I wasn't very effective.

Q. All right. Do you recall the event of gas being fired that night?

A. Yes, sir.

Q. Do you know where you were when the gas was fired?

A. I was in my office at that time—or in the office adjacent to it, rather.

Q. Prior to the time that gas was fired on that evening, detail as best you can what you observed the students, or whoever they were out in this area, doing with respect to the Marshals.

[fol. 1341] Mr. Address: We would like to have the time fixed, Your Honor.

The Witness: I'll do the best I can on time because I didn't keep a log of it.

A. Perhaps the best way would be to start with this: That in the early stages there were relatively few students. Then there was a sort of a pep rally-type of yelling, and so on, waving of some flags. That's the best way I know how to describe that.

It was, I would say, relatively good-natured; that was the sound of it.

And as time went on, the crowd got louder and the character of the sounds they made, they sounded more—"vicious" isn't quite the word, perhaps—

Mr. Address: I believe this is calling for opinion, Your Honor.

The Court: Overruled.

Mr. Address: All right.

The Court: You may proceed, sir.

Mr. Gooch: Go ahead.

Mr. Address: May it go to the entire line, Your Honor?

The Court: No, sir. You make the objection.

Mr. Address: As to what it sounded like?

The Court: You make the objection whenever you think [fol. 1342] it is necessary.

A. The noises became louder and there were some more people out there and the—gradually, as time went on, the crowd was getting up closer to the Marshals, sort of crowding out into the street, so they were getting up not very far from them.

And there was, as I went out there at various times, I would hear remarks that were rather obscene made.

And eventually, there began to be little things thrown, not much, and began to be more up along to the time of the firing of the gas. And it was getting pretty rough before the gas was fired.

Q. All right. Now, I believe you stated that you were not in, out in front when the gas was actually fired. Could you see from your office window the front of the Lyceum Building?

A. Yes, sir.

Q. All right. Now, prior to the time that the gas was actually fired, do you know whether or not there had been any casualties to the Marshals?

A. A few came into the building. There was no one, as far as I recall, no one seriously hurt before that time but I did see, oh, two or three or four or five people with abrasions, apparently had been hit with something. And I heard that they had been—

[fol. 1343] Q. Were they Marshals?

A. I think so.

Q. Yes, sir.

A. I would say yes, they were.

Q. All right. Now, after the gas was fired, can you give a description of what happened out there in the Circle?

A. Well, the gas was fired over a long period of time.

Q. I am talking about right after the gas was fired.

A. I was not out there immediately after the gas was fired, but that drove the crowd back a ways, and then they would surge back up about to the edge of the street there, the width of the street in front of the Marshals.

And the crowd was increasing. And it was becoming pretty loud, pretty boisterous and pretty angry.

Q. At the last time you were out in the front of the Lyceum Building immediately prior to the time gas was fired, would you be able to then estimate the number of persons that were not Marshals or Highway Patrolmen that were in that Circle?

A. It's difficult to do and if you think about around the whole building and if you think about those who were back a little ways, without being too sure of myself at all, of [fol. 1344] course, I would say that maybe 1500 people.

Q. All right, sir. Now, after the gas was fired, did you observe the crowd after that as it would come in back toward the—you said surging forward toward the Lyceum?

A. Yes, I was out not just once but many times after that gas was fired, in and out of the building and watching that.

Q. Would you say, based on your best judgment, that the crowd decreased or increased after the gas was fired?

A. I would say for a time that it probably increased.

Q. All right. Would you say for how long a period of time or would that be just an estimate?

A. It would certainly be just an estimate and I hesitate to answer because I'm not certain.

Q. All right. Now, this crowd that was out there, were they all participating in these throwing of things at the Marshals or was there a lesser group that was participating in that?

A. I would say there was sort of three rings out there:

One was a front line group that was pretty active and pretty angry and participating very much in the riot—very, very actively participating.

[fol. 1345] There was a group back of them that seemed

not to be participating, more just wanting to be up to see what was going on. They were up pretty close.

And then farther back, I think there were just spectators, pretty largely spectators farther back in many of the areas.

I went through that group at one time, talking to that hard-corps group, trying to get them to disperse, went into that second group, got some of them to leave. And I never did move on back to those that I thought were just spectators.

[fol. 1346] Q. Now the situation as you have described it, was that before the gas was fired?

A. Before and after.

Q. Now after the gas was fired did you have occasion to go out there in the—in front of the Lyceum Building?

A. Several times.

Q. What did you observe there that was happening in that circle, Dean Love?

A. Well, of course, there was movement going on out there. I could see—a couple of times I saw small groups moving up from further away toward the center, more toward the center of activity, and the gas would be fired, and the crowd would move back. Sort of back and forth movement, part of the time.

Q. Did you observe anything being thrown at the Marshals by any of this crowd?

A. Yes, sir.

Q. Dean, how long did that situation exist, where some of them would break away from the crowd and come up and throw at the Marshals?

A. I really don't know because I was occupied inside the building so much, and my concern was with the group immediately up there, rather than those back. Anything I observed back there was more or less casual. I saw some movement but paid no particular attention to it.

[fol. 1347] Q. Did you make every effort, any effort, Dean, in your capacity as Dean, to try to stop the riot?

A. Yes, sir.

Q. What did you do? Was it successful or not?

A. I didn't have—I tried to get ahold of a loud speaker so I could talk to them, but I was unable to get one.

Q. All right. Now, how long did you remain in the Lyceum Building that night, Dean?

A. I left there one time to go to the Union Building to meet with the student body president and the cabinet, and the leaders in the student government, who were having a meeting. That was about 8:30 at night, and I was gone about 20 or 30 minutes at that particular time.

Q. Was a meeting of the student cabinet held at about 8:30 that night?

A. The time was set for exactly 8:30. I remember that very clearly.

Q. Did you attend that meeting?

A. I attended that meeting.

Q. It would be hearsay and not admissible as to what went on at that meeting, but as a result of that meeting, did the student leaders do anything that you know of?

A. The public address system that is available there at the student union building was manned constantly trying [fol. 1348] to get the students not to come down in the area. It was located in a position that it couldn't reach those out in front of the Lyceum Building. They wouldn't be able to hear it. It was to keep others away.

Then after that some of the student leaders went out into the crowd and tried to talk people away.

Q. Did they have any success?

A. I don't know.

Q. All right. Now during the—I believe I asked you what time you left the Lyceum Building that night, or the next morning. Do you remember?

A. It was about 2:00 o'clock in the morning.

Q. Now during the time you were in the Lyceum Building there—strike that question.

At the time that you went outside the Lyceum Building and observed this crowd were you able to discern whether or not the group was composed entirely of students, or were there some outsiders there?

A. There were outsiders.

Q. Dean Love, you have worked with college age and college looking students for a long time, haven't you, Dean?

A. Yes, sir.

Q. And having been in that business are you pretty well able to tell what is a student and what is not?

[fol. 1349] A. If the extremes are great enough you can tell.

Q. Now during the time you remained at that Lyceum Building that night, were there any casualties brought into the Lyceum Building?

A. A good many.

Q. About how many?

A. There were a few real serious ones. The first one we thought was going to die on the floor right there. One Marshal.

And then there was one with a broken leg, and then somebody with a shot in the back that wasn't serious. Somebody that had been hit in the head, and then I would say they ranged down from those.

The number was pretty large. I don't know how many.

Q. Would you estimate about how many people were brought in there suffering from some sort of casualty?

A. You mean just anything?

Q. Yes, sir.

A. I would have to say I am not sure of my answer but I would say 50.

Q. All right, do you know whether or not any person was brought in there under arrest?

A. Yes.

Q. Did you have any idea of the number of those persons?
[fol. 1350] A. There were one hundred—about 160 people arrested. Not all of them were brought into the Lyceum

Building. I think the number brought into the Lyceum Building must have been 75 or 80 or 90.

Q. Of the number who were arrested did you make any check to determine what percentage of those arrested were students as compared to outsiders?

A. Yes, sir.

Q. What was that?

A. About 25 of this 160 who were placed under arrest were University of Mississippi students.

Q. The rest of them, I assume, were outsiders?

A. Some college students from other places.

Q. All right. Now, Dean, how had you gone over to the Lyceum Building that evening?

A. I was at the Chancellor's house, which is on the campus at the time the Marshals came, and I drove over in my car from his house.

Q. Where did you park your car there, Dean?

A. Almost directly in front of the Lyceum Building.

Q. Did anything happen to your car that night?

A. Certainly did.

Q. What?

A. It was hit with tear gas cannisters and all the glass knocked out, and burned some on the inside; I mean from [fol. 1351] the tear gas. And the chrome was torn off.

Q. All right, did you go home in your car, or walk home?

A. Neither. I was taken out the back way by one of the men who was there in the Lyceum Building who knew a way that he could get out.

Where my car was parked I didn't choose to drive through what I would have had to have driven through.

Q. Was the rioting still going on, when you left there that morning?

A. Seriously.

Q. Did you ever hear that General Walker was on the campus that night?

Mr. Address: I object to what he heard, Your Honor.

The Court: Overruled.

Mr. Andress: Hearsay.

The Court: You may answer.

A. Yes.

Q. Do you remember about what time it was?

A. I would say it was in the neighborhood of 9:00 o'clock, something like that.

Q. Dean Love, did you keep up with the—or was there any way to determine the comparison of the tempo of the crowd that night?

[fol. 1352] A. I am not sure that I know quite what you mean.

Q. I am talking about the violence and the intensity of the violence.

A. It became much greater as time went on.

Q. Directing your attention to somewhere around 9:00 o'clock, would you be able to state whether or not the intensity of the violence increased after that?

A. Yes, I thought it did. I know that it did. Though the students gradually began to disappear. It was not too long after that.

Q. You say the students began to disappear. Did anybody take their places?

A. More people—more people came in. The total size of the crowd dropped, but it began to be—it was not so much of a student crowd, but there were—I would say by 10:00 or 10:30, that a pretty large share of the students who had been out there were gone.

Q. But there were others?

A. Yes.

Q. Now did you hear any reports of firearms, or firearms reports that night?

A. Yes, I did.

Q. Will you describe that to the jury, please.

A. Well, when I stepped out of the Lyceum Building I heard a bullet whistle by my ear. That was imbedded in [fol. 1353] the front of the building there.

There were several bullets in the course of the night that were imbedded in the front of the Lyceum Building.

Q. Would you be able to fix the time at about what time this bullet whistled past your ear?

A. I am not certain. It was not early. It was along 10:00, 11:00, 11:30 or 12:00, something like that.

Q. It didn't make too much difference to you about time at that moment, did it, Dean?

A. That was my least concern.

Q. Now were you able the next day to determine how many bullet holes or bullets, evidence of bullets coming into that Lyceum Building were visible?

A. I would say that on the front of the Lyceum in the woodwork there, oh, seven or eight or ten bullet holes, and then one went through a window and then two windows were cracked, apparently from spent shotgun pellets.

Q. There is some water there if you care to wet your throat, Dean.

You retired from the Lyceum Building to—at 2:00 a.m. Did you return there the next morning?

A. At 8:00 o'clock.

Q. Now can you describe generally the state of the campus, and particularly from in front of the Lyceum Building eastward toward the monument, when you got there the [fol. 1354] next morning?

A. I walked through the campus the next morning from my home, which I suppose is half a mile from the Lyceum Building. And as I reached what we call the grove, which I suppose would be the far side of the grove, oh, 300, 350 or 400 yards from the Lyceum Building—

Q. Can you stop right there just a moment. The grove has been used interchangeably by the witnesses in this case. They have used the word grove, and circle. Will you step down here with me just a moment.

On Plaintiff's Exhibit 11—it is a scaled map of the University of Mississippi, and I see up here to what I would say would be the northeast of the Lyceum Building a large place entitled "the grove," is that what you refer to as the grove?

A. Yes, sir.

Q. That is not what we have been referring to as the circle where the monument and the flagpole is?

A. That is correct.

Q. I say are they synonymous?

A. No.

Q. In other words this is the grove up here to the north-east?

A. Two entirely different things.

Q. You are talking now about the grove?

[fol. 1355] A. Yes.

Q. Have your seat, please, sir. You had gotten from your home on the way to school to the grove?

A. Yes.

Q. What did you see there?

A. One of the things I happened to observe was that quite a few—I guess cement seats out in the grove, and those were all broken up and most of them were missing, apparently been broken up to use for ammunition.

Mr. Address: That is a conclusion, purely, Judge.

The Court: Sustained.

Q. Just say what you saw, Dean. The benches were broken up?

A. I am sorry. Those seats—most of them had been pretty well broken up in there. Then as I got up nearer the circle the—of course there was lots of tear gas around there still, but I was still able to see through some of that, and the whole place—the first thing I saw was several burned cars around the circle. And I don't know, six, maybe. And they were badly burned, and I saw my own sitting over there and saw that it was damaged, and one of my staff member's car was right by mine and it was damaged and around in the circle there there was, oh, kind of debris, I guess you would call it, broken up bricks and glass and many things like that, and tear gas cannisters [fol. 1356] there. It was really a very badly cluttered up place.

Mr. Gooch: Please mark this as a Defendant's exhibit. I don't know what it is. I believe it is 18. Defendant's Exhibit 20.

(Thereupon, Defendant's Exhibit No. 20, was marked for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked Defendant's Exhibit 20, and can you recognize any of the items you see in that picture?

A. Of course the building is the Lyceum Building, the main one in the background. And this picture must have been taken the next morning.

Mr. Address: Now just a minute, Your Honor.

Mr. Gooch: He can tell what it is.

Mr. Address: He says, "Must have been taken the next morning." Either it was or wasn't.

The Court: Ask him if he saw it.

By Mr. Gooch:

Q. To get out of this, Dean Love, does that picture depict the scene in front of the Lyceum Building that you saw around 8:00 o'clock on the morning of October 1, 1962?

A. Yes, sir.

Mr. Gooch: We offer it in evidence, if the Court please.

The Court: Defendant's Exhibit 20, is admitted.

[fol. 1357] Mr. Gooch: Mark this Defendant's Exhibit 21.

(Thereupon, a photograph was marked Defendant's Exhibit No. 21 for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked as Defendant's Exhibit 21. Can you or not identify this as a scene that you observed in the early morning of October 1, 1962?

Mr. Watts: If we can be looking at the others, it will save a lot of time.

A. Yes, sir.

Mr. Address: This hasn't been identified, Your Honor, as to where it is. It is a scene the following morning.

The Court: I am going to overrule that, if he is offering it.

Mr. Gooch: I am offering it in evidence, if the Court please.

The Court: It is admitted.

Mr. Gooch: Will you mark this as Defendant's Exhibit 22.

(Thereupon, a photograph was marked Defendant's Exhibit No. 22 for identification.)

By Mr. Gooch:

Q. Dean Love, I hand you what has been marked as Defendant's Exhibit 22, and ask you if you recognize any of the elements shown in that picture?

[fol. 1358] A. They look like, very much like—

Mr. Address: Now if the Court please, we think the answer to that is yes or no.

The Court: Mr. Address, the proper time to object is after the exhibit is offered, not while he is trying to identify it, so you are overruled at this time.

Mr. Address: All right, sir.

A. This is a picture of the scene along in the late afternoon of September 30th.

Q. 1962?

A. Yes, sir.

Q. Can you observe the Lyceum Building in that picture?

A. Yes.

Q. Can you observe the Marshals?

A. Yes.

Q. Can you observe the students or onlookers in that picture?

A. I would say students and onlookers.

Mr. Gooch: We now offer in evidence Defendant's Exhibit 22.

Mr. Address: We object to it because it has not been properly identified, Your Honor.

The Court: Overruled. It is admitted.

[fol. 1359] (Thereupon, photographs were marked Defendant's Exhibit Nos. 23, 24, 25, 26, 27 and 28, inclusive, for identification.)

By Mr. Gooch:

Q. Dean Love, I now hand you what has been marked as Defendant's Exhibit 23, and ask you if the items portrayed in this picture are familiar to you?

A. Yes, sir, they are.

Q. And when did you see the scene such as is depicted in that picture, Dean?

A. The first time on the morning of October 1st, in the neighborhood of 8:00 o'clock.

Mr. Gooch: We offer in evidence Defendant's Exhibit No. 23.

Mr. Address: We object to it because it has not been properly identified.

The Court: Mr. Gooch, the witness hasn't testified as to where the picture was.

By Mr. Gooch:

Q. All right, can you identify it as to the location of the items as depicted in Exhibit 23? Was it on the campus of the University of Mississippi?

A. It was on the campus of the University of Mississippi and on the circle, in the circle.

The Court: Defendant's Exhibit 23, is admitted.

[fol. 1360] Q. Dean Love, I hand you what's been marked as the Defendant's Exhibit 24, and ask you if you can

identify the content of that picture as to location and time, if you observed the pictorial matters that are depicted in that picture?

A. This is on the Circle again and I observed this and the other cars on the morning of October the 1st at approximately 8:00 o'clock for the first time.

Mr. Gooch: We offer in evidence Defendant's Exhibit No. 24.

Mr. Address: We object, as it has not been properly proven.

The Court: Overruled. Defendant's 24 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked for identification as Defendant's Exhibit 25. I'll ask you to look at that photograph and tell me whether or not you can identify the building and the scene as it is depicted in that picture?

A. The building in the picture is the Lyceum Building and the scene there is as it appeared when I went to the building early in the morning of October the 1st, about 8:00 o'clock.

Mr. Gooch: We offer Exhibit No. 25 in evidence.

Mr. Address: We object to it as not being properly [fol. 1361] proven and not being relevant.

The Court: Overruled. Defendant's 25 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked as Defendant's Exhibit 26, and ask you if you can identify the matters depicted in that picture, as to time and location?

A. That would be after dark. It's a picture of the Lyceum Building taken from north of it and this would have been after dark on the night of September 30th or even conceivably early in the morning of October the 1st.

Mr. Gooch: All right. We offer in evidence Defendant's Exhibit No. 26.

Mr. Address: No objection.

The Court: Defendant's 26 is admitted.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked Defendant's Exhibit 27 and ask you if you can identify the matters as shown in that picture, as to time and location?

A. This is the front of the Lyceum Building and, of course, it's a picture that was taken after dark. There isn't enough detail here that I would know how to estimate the time.

Q. Would you say it was a picture taken after dark on the evening of September the 30th, 1962?

[fol. 1362] A. Yes, or, again, I would say it could conceivably have been real early on the morning of October the 1st.

Q. Was it during the darkness?

A. During the darkness.

Q. All right.

Mr. Address: No objection—have you offered it?

Mr. Gooch: Oh, no. I now offer in evidence Defendant's Exhibit 27.

The Court: It's admitted.

Mr. Address: No objection.

By Mr. Gooch:

Q. Dean Love, I hand you what's been marked Defendant's Exhibit 28, and I'm not sure as to whether or not it is a duplicate of one issued earlier.

Will you look at that and see if that's a duplicate of a picture that has been introduced prior?

A. This one has not been introduced prior, I feel positive. This is in front of Carrier Hall.

Q. All right, sir. And what does that depict?

A. It's on the Circle.

Q. And did you observe a scene such as that when you arrived there on the early morning of October the 1st, 1962?

A. Yes, sir.

Q. Does that scene identify any permanent campus ob-
[fol. 1363] ject?

A. The principal object is Carrier Hall, the Engineering Building, which faces the Circle—well, south of the Circle.

Q. Does the Carrier Building face north toward the Circle?

A. Yes.

Q. And in about what distance from the, shall we say, crosswalk that intersects the campus in a north and south direction?

A. Fifty-seventy-five yards, perhaps.

Q. Will you step down a moment to the map just to identify Carrier Hall? On the map here, I believe that Carrier Hall is depicted as almost straight away with the north and south walk that intersects the Circle on the south of the circle, facing north, is that correct?

A. Correct.

Mr. Gooch: We now offer in evidence Defendant's Exhibit 28.

Mr. Address: It's not been properly proven and we object to it on that ground, that it's not properly proven and not relevant.

The Court: Overruled. Defendant's 28 is admitted.

Mr. Gooch: I will pass the witness for cross examination.
[fol. 1364]

Cross examination.

By Mr. Address:

Q. Dr. Love, were you personally present at the time that Meredith was barred from the campus?

A. No, sir, I wasn't.

Q. All you know about it, then, was what you heard?

A. That's right.

Q. Where were you on the campus when the Marshals arrived?

A. At the home of the chancellor of the University.

Q. How did you know the Marshals were arriving?

A. I saw them drive past—we saw them drive past his residence.

Q. You mean you had no advance notice that Marshals were going to arrive on the campus?

A. No, I didn't mean that. We knew maybe an hour before.

Q. How did you receive the information that the Marshals were going to arrive on the campus?

A. Mr. Hugh Cleeg, the Director of Development, was also at the Chancellor's home and was in telephone communication with some member of the Justice Department; I'm not sure who it was.

[fol. 1365] Q. Were you having a conference of the top University brass over there at the Chancellor's house, because of this situation at this time?

A. Yes.

Q. And the Chancellor, of course, Chancellor Williams, is his name, isn't it?

A. (Witness nods "yes".)

Q. He's the head of the University?

A. Yes, sir.

Q. And who would be second in command?

A. The Provost of the University would be second in command.

Q. Who was the Provost?

A. At that time it was Dr. C. H. Haywood.

Q. He was there?

A. No.

Q. Where would you rank in the chain of command, Dr. Love?

A. There is the Chancellor and three major divisions—four major divisions of the University: The Business, the Academic, the Development, and the Student Personnel. I am head of the Student Personnel Division.

Q. So you would be one of the next echelon, just below the Provost, is that right?

A. Yes.

[fol. 1366] Q. And were the heads of all these other divisions there at this conference that Chancellor Williams had when the Marshals arrived?

A. No.

Q. So you had Mr. Cleeg and Chancellor Williams and yourself, and who else was there?

A. That's all.

Q. Now, I wonder if you would mind taking your pointer there and showing where Chancellor Williams lived? Up on Faculty Row, is it, that I believe is over here?

A. Sorority . . . I have to get—

Q. Here is Sorority.

A. Here is the Chancellor's residence (indicating).

Q. That's the Chancellor's residence down there just north of the Grove.

A. Yes.

Q. And where do you live, please, sir?

A. I live right there (indicating).

Q. You live at the one that is marked number 25, up on Sorority Row, farther north; is that right?

A. Yes.

Q. Now, did the Marshals, when they came in, come up off of old Highway 6 and down Sorority Row?

A. That is new Highway 6.

Q. Oh, new Highway 6? I thought the by-pass was south [fol. 1367] of town here. That is new Highway 6. They came off of new Highway 6, then, and—pardon me—they came off of new Highway 6 and down Sorority Row and around the Grove, Loop and University Circle, until they got in front of the Lyceum, is that correct?

A. I don't know the de—it would just have to be that way. I didn't actually see them.

Q. But, at any rate, they did come past the Chancellor's house here in Sorority Row, close to the Grove?

A. That's correct.

Q. Did you hear the rumble of the truck—thank you, if

you will sit down again—did you hear the rumble of the trucks as you were there?

A. I don't know whether I heard the rumble of the trucks or just happened to be looking out of the window.

Q. Were you watching for the trucks?

A. No, I wasn't. We were in a little study that faces out onto the road there.

Q. Well, all three of you knew that the Marshals were coming?

A. Yes.

Q. Did you know where they were coming from?

A. No.

Q. Now, that evening or right after they arrived on the [fol. 1368] campus—what time did you say they arrived?

A. About 4:00 o'clock.

Q. And you, then, went over to the Lyceum after they arrived?

A. Within a very few minutes afterwards.

Q. You drove over, I believe you said?

A. Correct.

Q. And had the trucks, the transport trucks, the personnel carriers, left the area or were they still in front of the Lyceum?

A. There were some still in front of the Lyceum. I'm not sure how many.

Q. About how many Marshals were there at that time?

A. I would say several hundred. At least they were standing shoulder to shoulder essentially around the, completely around the Lyceum Building.

Q. At that time did you know Mr. McShane?

A. You mean before they came?

Q. Yes.

A. No, I did not.

Q. And had you been in conference with him?

A. No.

Q. Did you know Mr. what's-his-name? Katzenbach.

A. Katzenbach?

Q. Katzenbach.

[fol. 1369] A. I did not.

Q. What is his first name, do you know?

A. Nicholas, d-e, capital B.

Q. Nicholas B. Katzenbach?

A. Small d-e, capital B. I don't know what it stands for.

Q. He's an American citizen?

A. As far as I know.

Q. Now, when you went into the Lyceum, besides Nicholas de Katzenbach, what other Federal officials were in there?

A. Mr. McShane, the Chief Deputy Marshal was in there. A man by the name of Guthman.

Q. Gutman?

A. Guthman, G-u-t-h-m-a-n (spelling), I believe is the way it is spelled. He was a public relations officer for the Justice Department.

Q. Public Relations Officer? All right, go ahead.

A. There was a Mr. Shlei.

Q. Shly?

A. S-h-l-e-i (spelling). And Mr. Dorr, I believe, was in there.

Q. D-o-r-r (spelling)?

A. I think that's the way it is spelled. I'm not certain.

[fol. 1370] Q. Is that the crop?

A. As far as I recall it, for the Federal officials.

Q. That's five men. You have said there were six of them.

A. Well, I may have been wrong in saying six and there have been another one whom I don't recall.

Q. Who was in charge?

A. Mr. Katzenbach.

Q. And Mr. Nicholas de Katzenbach is a what? Assistant Attorney General of the United States?

A. I believe his title is Deputy Attorney General, Deputy United States Attorney General.

Q. All right. Now, I believe you stated that at the beginning of the evening, this was pretty much a pep rally-type of thing?

A. That's the way it sort of sounded to start out with.

Q. And later on, you said that it became more vicious. Would you say that it eventually turned into a mob?

A. Yes.

Q. Now, at what point did it cease to be a pep rally or Halloween-type thing and become a mob?

A. It was a continual—I wouldn't know when to say it was one or the other.

[fol. 1371] Q. Well, with reference to the firing of the first volley of tear gas into the crowd, when would you say that the change from pep rally into mob occurred?

A. It had occurred before that.

Q. It had occurred before that?

A. I would say so.

Q. Would you say that the firing of the volley of tear gas into the group accentuated its unhappiness?

A. Nobody was happy.

Q. The firing of the tear gas, however, do you know whether the public relations officer of the Justice Department had anything to do with the firing of the tear gas?

A. I wouldn't know.

Q. You don't know whether or not that was considered part of the public relations duties?

A. I don't know.

Q. Well, did it improve the public relations as between the students of the University of Mississippi and the Federal Marshals?

A. The whole situation was deteriorating steadily and I don't know how to say what did what, really.

Q. But you didn't see anything more of the pep rally-type thing after the tear gas was fired, did you?

A. That's correct.

[fol. 1372] Q. And do you know approximately when that tear gas was fired?

A. Somewhere around 8:00 o'clock or a few minutes after.

Q. Were you inside at that time listening to the President's speech or looking at the President's speech?

A. I was doing—I was inside and I was doing neither. I don't remember exactly what I was doing, but I just simply heard it fired and didn't know what it was at first.

Q. Did you hear the President's speech?

A. No.

Q. You didn't look at it?

A. No.

Q. Would you say that the tear gas was fired before any effect, before the President's speech could have had any effect on the people that were around?

A. The people who were around certainly were in no position to hear the President's speech or to see it on TV, those who were around the building. I don't even know what time the speech was given.

Q. Do you know whether there were the usual bunch of portable transistor radios that the students had with them?

A. I really don't know.

[fol. 1373] Q. Now, when was it that you made an attempt to get a large loud speaker for the crowd?

A. I tried two or three times and we even tried to get one of our own brought in, which we were unable to do. But they couldn't get in there.

And it was along, I would hate to say when, 8:00 o'clock, 9:00 o'clock, some such time; I am just not clear about the time.

Q. Would you say that it was before that first volley of tear gas was fired?

A. I know we talked about it before that time, if we could get one, and couldn't.

Q. Well, now, why couldn't you get one, Dr. Love?

A. Well, we thought we would be able to get one from the people who were there. They thought they had one there and they didn't. And we were on—we were not expecting this and we, they said we didn't have any equipment in the building at all of that sort.

Q. The Marshals didn't have any loud speaker or communication system there?

A. They had none that I could get. They used none.

Q. Well, did they have one there?

A. I didn't see one.

Q. Did you ask them if you could use one to try and quiet the crowd?

[fol. 1374] A. Yes, yes.

Q. Did they refuse to let you have one?

A. It wasn't a case of refusal. There was some comment to the effect that it was not operational at the time.

Q. There was, however, a loud speaker that the Marshals had there with them; is that right?

A. I had never saw it.

Q. Did they tell you that there was one but it was not operational?

A. Yes, something to that effect.

Q. Who told you that?

A. I have no idea which one it was.

Q. Well, was it—you don't know whether it was Mr. Nicholas de Katzenbach or not?

A. I feel it was not he, but I don't know who it was.

Q. And if you had had an operational loud speaker there prior to the time the tear gas was fired, do you believe that perhaps you could have some influence on the crowd?

The Court: Just a minute.

Mr. Gooch: If the Court please, we object to that as improper cross examination.

The Court: Sustained.

[fol. 1375] Mr. Gooch: Calling for an opinion and conclusion.

By Mr. Address:

Q. Now, Dr. Love, you are in charge of student personnel?

A. Yes.

Q. And as the man in charge of student personnel, the relations between the University authorities for the maintenance of discipline of students are in your charge?

A. Yes.

Q. And it is your responsibility to quiet and calm students from causing any trouble on the campus?

A. If I can.

Q. And did you want to attempt to do that that night and in pursuance of your duties?

A. Oh, of course.

Q. And was it your opinion that you could do something about it?

A. I was completely uncertain. I wanted to try anything that I thought might work.

Q. And did you, in the said pursuit of your duties, feel that if you had had a loud speaker system—

The Court: I just sustained an objection to that, counsel. It's not coming in.

Mr. Address: I have laid a predicate for it.

The Court: No, you haven't. You may proceed.

Mr. Address: All right, sir. We would like it for the [fol. 1376] Bill subsequently.

By Mr. Address:

Q. Now, are there loud speaker systems on the campus of the University of Mississippi?

A. That's correct.

Q. Did you make any attempt to get one of those?

A. Yes.

Q. And what prevented that?

A. That was after the tear gas was fired and things were so very rough and we simply couldn't get it in.

Q. Did you receive any assistance from the Marshals or these five Federal officials there about getting a loud speaker in from anywhere else on the campus?

A. I don't think we asked them; that we tried to get on the telephone and see if we could get one brought in that was available on the campus at some distance off.

Q. Tell me, is the Lyceum Building the general offices of the administrative officers of the University?

A. Yes, sir, the major officials have their office there.

Q. What other major officials were present in the Lyceum that night, Dr. Love?

A. Mr. Cleeg was there for a period of time and then he had to leave to get with the Chancellor and try to do some other things. And then I called in three or four of my men to come in to help.

[fol. 1377] Q. By "three or four of your men," you mean your assistants in the Department of Student Personnel?

A. Correct.

Q. Were there any State officials there other than as distinguished from University officials?

A. The Director of the Highway Patrol was in there for a period of time.

Q. That would be Col. Birdsong?

A. Yes.

Q. And did you see his assistant, Officer Cole, that was here this morning?

A. Not as far as I can recall.

Q. Did you know him before?

A. I am not sure. The name was very familiar, but I am not sure whether I know him personally or not.

Q. Now, you were, then, the highest official of the University that was present in the Lyceum after—well, even before Mr. Cleeg left, weren't you?

A. Well, I wouldn't say I was higher than Mr. Cleeg.

Q. No. Well, all right. After Mr. Cleeg left, you surely were?

A. I guess that's correct.

[fol. 1378] Q. And then as far as the University was concerned in that situation there, you were Senior in command?

A. Within that particular segment, with the Chancellor and others working in other areas.

Q. Well, now were you issuing as—being in command, were you issuing instructions as to people working there with you, or were you completely under the control of the Federal Officials?

A. Not under the control of the Federal Officials at all. We were trying to telephone and get communications and figure out what we could do.

Q. Now—now when you left about 2:00 o'clock, you said 2:00 o'clock in the morning, any particular reason why you left at that time?

A. Well, sort of a personal reason. I had the flu that day, and I was utterly exhausted. And I knew I had to be there at 8:00 o'clock the next morning.

Q. You certainly had a fine cure for the flu that night. There was still, I believe you said, serious rioting going on?

A. That is correct.

Q. Did you leave some of your assisting personnel there in charge?

A. I did.

Q. I believe you stated there were about 160 people [fol. 1379] arrested that night. Do you know how many of those people were ever prosecuted?

A. No, I don't, it—except that it wasn't very many.

Q. Wasn't very many. Do you know how many had charges filed against them?

A. I don't know.

Q. You say there were about 25 students. Were any of them prosecuted through University channels?

A. Yes.

Q. How many of them?

A. About eight or ten.

Q. And how many of them were disciplined?

A. All of them were disciplined.

Q. To what extent?

A. Some were placed on disciplinary probation, which was just the strongest warning that could be given that if they ever did anything again, they would be gone.

Q. How long were they placed on this disciplinary probation?

about 1500, were mostly students, weren't they?

A. I am not at all sure that they were.

Q. And eight or ten were placed on probation and told not to do it again?

A. These were turned over by the—out of those who were taken into custody the Justice Department turned over statements about them, and those where they were able to substantiate them, were.

Q. Now there is one thing I want to get straight in my mind. About 8:30, you met with the student counsellor, is that right?

A. With the president of the student body and his cabinet, and other student leaders.

Q. Cabinet. Pardon me.

Cabinet. That about 20 or 30—

The Court: Is that a good stopping point?

Mr. Address: As good as any.

(A 15-minute recess was had.)

Q. Dr. Love, you say it was about 8:30, when you met with the student cabinet?

A. Yes, sir.

Q. And that lasted about 20 or 30 minutes?

[fol. 1381] A. Something like that.

Q. And then was it the understanding that the members of the student cabinet were going to get out and mill in the crowd?

A. Some of the boys were going to go out. There was no agreement that everybody go. Some of them said they were going to go.

Q. Some of them were going to go out and mix and mingle with the crowd?

A. To try to get them to disperse.

Q. That would be about 9:00 o'clock?

A. Approximately that.

Q. And you testified that the intensity of the crowd increased right after 9:00 o'clock?

A. It was certainly increasing along through there.

Q. Of course you have no personal knowledge of what the leaders of the student council actually did when they got out there among the students, do you?

A. If you mean did I actually hear them, I would have to say I don't know.

Q. You don't know whether they actually calmed them or incited them?

A. Well—

Q. You were not there?

A. I wasn't there.

[fol. 1382] Q. But immediately after 9:00 o'clock, after this meeting broke up and the student leaders were going out among the crowd, you did testify there was an increase in the intensity of the crowd?

A. That's right.

Q. Now may I see the pictures in evidence. I believe they are up here.

In this Defendant's Exhibit 20, what were the buses doing on campus at 8:00 o'clock in the morning, Dr. Love?

A. I have no idea.

Q. You did see them there yourself when you first went on the campus at 8:00 o'clock?

A. I wasn't conscious of them. I don't know now whether the buses were there then or not.

Q. In other words you don't know whether at 8:00 o'clock those buses actually were there?

A. I don't know about the buses, no.

Q. Now, sir, Carrier Hall that is shown in Defendant's Exhibit 28, that is off at a fair distance from the Lyceum, isn't it? A quarter of the way around the circle?

A. Which isn't very far.

Q. Uh-huh, but it is quarter of the way around the circle?

A. Just about.

[fol. 1383] Q. There had been no Marshals there, had there?

A. Not as far as I know.

Q. By the way, had Chancellor Williams been out there on the campus with the students during this—the events of the night?

A. It is my understanding that he was. I didn't see him.

Q. Had he been out there in the afternoon about the time the Marshals came?

A. I don't know what time he came up, but he was out late during the evening some. He was on what you might call the back side of the crowd and I was in the front side, primarily at the Lyceum Building.

Q. Defendant's Exhibit 22, can you place approximately what time of day that was taken, please, sir?

A. Well, because of the size of the crowd I would say that it would have to be sometime after 5:00 o'clock, and of course, before dark. I wouldn't be able to pinpoint it exactly.

Q. Was there ever a rope or anything of that sort put up to separate the crowd from the Marshals, or the Highway Patrol?

A. Not to the best of my knowledge.

Q. The Highway Patrol is present in this picture, is it not? You see some of the Highway Patrolmen, don't you? [fol. 1384] A. Those (indicating) may be, right in there. I couldn't tell for sure.

Q. You mean there where there is sort of an open space between the Marshals and the crowd, that may be the Highway Patrol, is that right?

A. I am looking at the backs and I am thinking they may be.

Q. Were you present in the Lyceum Building after the tear gas was fired when there was quite a hassle between the Highway Patrol, Col. Birdsong, and the Marshals about their firing tear gas into the backs of the Highway Patrol?

Mr. Gooch: If the Court please, we object to that as an unfair question based on facts not shown to exist. Not proper cross examination.

The Court: Sustained.

Q. Was there an argument between the Highway Patrol's representative, Col. Birdsong, and the Marshals about the firing of the tear gas?

A. I did not hear it.

Q. You didn't hear it. I am going to hand you the Defendant's Exhibit 27, and ask you—that is a Marshal there in the picture, isn't it, a Deputy Marshal?

A. I suppose. It is difficult for me to tell on this one. This is one it is hard for me to tell just what it is.

[fol. 1385] Q. What has he got around his neck? Can you tell?

A. I just really don't know. I looked at this and I can't tell.

Q. Is that typical of the visibility and the identifiability of people there after dark that night?

A. The front of the Lyceum Building was very well lighted.

Q. Was there anything else in the circle area that was very well lighted after dark that night?

A. That was the most well lighted area, was in the front of the Lyceum. There were lights around the other buildings, but not as bright.

Q. I hand you Defendant's Exhibit 26, which also shows the lighted front of the Lyceum Building. Is that picture fairly typical of the visibility and the identifiability of people there that night?

A. I would say it is not. There was much more identifiability than this. This is a very dark print.

Q. More identifiability in the dark areas than they were in the light areas by the Lyceum?

A. Now what is that question?

Q. They are not identifiable—more identifiability in the dark areas than in the light areas around the Lyceum?

A. It was lighter than this picture would indicate out away from the Lyceum, is what I am trying to say.

[fol. 1386] Q. Have you seen these pictures before today?

A. Yes.

Q. When have you seen them?

A. Day before yesterday.

Q. Who is Black Starr? Do you know?

A. I don't know.

Q. You don't know who took these pictures?

A. No.

Q. Was there anybody taking pictures for the University out there that night?

A. I don't think there was on that particular night.

Q. Do you know whether the Public Relations Department section of the Department of Justice was taking any public relations pictures out there that night?

A. They weren't that I know about.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 17, for identification.)

By Mr. Address:

Q. Dr. Love, I hand you what has been marked for identification as Plaintiff's Exhibit 17, and ask you to take a look at that, please, sir. Now would you say that that is the way the Lyceum and the Marshals looked there in the afternoon of the 30th, before it got dark?

A. In the very early stages, yes.

Q. You would say that is a correct representation of [fol. 1387] the scene?

A. Oh, around in the neighborhood of 4:00 o'clock, or not too long thereafter.

Mr. Gooch: No objections.

Mr. Address: We offer in evidence the Plaintiff's Exhibit 17.

The Court: It is admitted.

By Mr. Address:

Q. The Plaintiff's Exhibit 17, was before the Highway Patrol got there, wasn't it?

A. I don't know. I would say probably not. The Highway Patrol was there very early.

Mr. Address: Mark this 18.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 18, for identification.)

By Mr. Address:

Q. I hand you what has been marked for identification as the Plaintiff's Exhibit 18, and ask you to take a look at that. Was that the way the Highway Patrol was employed in front of the Marshals, between the Marshals and the crowd?

A. I would say not after—not after a period of time. There were more than that, and they tended to be across the street.

Q. But in the early stages would you say that was a correct representation?

A. This—I just don't know about that.

[fol. 1388] Mr. Address: We offer in evidence the Plaintiff's Exhibit No. 18.

The Court: It is admitted.

By Mr. Address:

Q. Of course you would recognize Chancellor Williams if you saw him, would you not?

A. I believe I would.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 19, for identification.)

By Mr. Address:

Q. I hand you Plaintiff's Exhibit 19, and ask you whether that is a picture of Chancellor Williams some place out there on the campus talking to some of the students, probably students, I would say?

A. Well, I don't know whether it is on the campus or not because there is nothing I can identify. That is Chancellor Williams talking to these—I suppose them to be students.

Q. You can't tell from the walk and the trees and so on whether that is in the circle?

A. No, sir, I just can't. I don't think there is enough there for me to tell.

Q. Could be but you are not sure?

A. Could be. I just don't know.

Mr. Gooch: If the Court please, I think it would be proper to try to fix some period of time as to the picture. [fol. 1389] The Court: If you are objecting to it I will sustain it.

Mr. Gooch: I will object to it unless they show what time it was.

By Mr. Address:

Q. Do you know—is this a daylight picture?

A. It is a daylight picture.

Q. And did you know whether Chancellor Williams was out there in the afternoon of the 30th, among the students at the same time you were?

A. I think he got out there later.

Q. But it was still daylight?

A. Yes.

Mr. Address: We re-offer it.

A. Yes, but I don't know, I don't know that it was even taken that day.

Mr. Address: We re-offer it.

The Court: Is the only objection as to time?

Mr. Gooch: Yes.

The Court: All right, I will overrule the objection and admit it.

Mr. Gooch: What I am talking about, the time the picture was taken, whether on that day or some other day, or what is the picture.

The Court: I thought you meant the time of that day. [fol. 1390] Mr. Gooch: No, sir, the time the picture was taken I don't know whether it was a week before or a week after.

The Court: All right. I will sustain the objection.

(Thereupon, a photograph was marked Plaintiff's Exhibit No. 20, for identification.)

By Mr. Address:

Q. Now Mr.—Dr. Love, I hand you what has been marked for identification as Plaintiff's Exhibit 20, and ask you whether that is a correct representation of the way the Marshals appeared there on the steps of the Lyceum, on the afternoon of the 30th of September?

A. That is the way they appeared—at first I wasn't sure that was the steps of the Lyceum, but I would say that it is now, yes.

Mr. Gooch: No objection.

Mr. Address: We offer in evidence Defendant's Exhibit 20.

The Court: You mean Plaintiff's Exhibit.

Mr. Address: Yes, Plaintiff's Exhibit 20.

By Mr. Address:

Q. Now as far as those two pictures taken during darkness were concerned, Dr. Love, you said you couldn't estimate what time of night they were taken, but it was after dark and before the following morning?

[fol. 1391] A. Yes.

Q. Sometime during the night of the 30th of September—1st of October?

A. Yes.

Q. Do you know who took those pictures?

A. No, I do not.

Q. How long did it take the tear gas to clear off of the circle?

A. Days and days and days.

Q. Did it remain as a cloud that interfered with visibility, or did it just get to the point you could smell it as you passed through?

A. Just smell it. It cleared off as far as the cloud was concerned very quickly.

Q. Still there the following morning?

A. No, the cloud, as I recall it was gone, but certainly the smell was there.

Q. Now the Lyceum Building, tell me, is that the center—the headquarters of the whole university?

A. I would say it is, yes.

Q. It have any particular meaning to the student body, traditional, anything of that sort?

A. It is sort of a symbol of the University.

Q. And of the State?

A. I wouldn't go that far.

[fol. 1392] Q. What is the name by which the football team of the students of Ole Miss is known, just like we have our Texas Longhorns, what is the name by which Ole Miss is known?

A. We have the Ole Miss Rebels.

Q. Known as the Ole Miss Rebels?

A. Yes, sir.

Mr. Address: I believe that is all.

Mr. Gooch: No further questions.

The Court: I am going to release Dr. Love.

Mr. Address: Do you have any further questions?

Mr. Gooch: No.

Mr. Address: I do have one more.

By Mr. Address:

Q. Dr. Love, did you know a newspaperman named Van Savell?

A. No, I did not.

Q. Do you now?

A. No, I do not.

Q. Never made his acquaintance at all?

A. Never.

Mr. Address: That is all.

Mr. Gooch: No further questions, thank you, Dean.

The Court: All right. I will release you.

JOHN E. KING, called as a witness by the Defendant, having been first duly sworn, testified as follows, to-wit:

[fol. 1393] Direct examination.

By Mr. Gooch:

Q. Please state your name to the Court and jury.

A. My name is John Edmond King, Jr.

Q. Where do you live?

A. I live in West Point, Mississippi; known as Jack King.

Q. How old are you Mr. King?

A. I will be 42, August 6th.

Q. Do you have an occupation?

A. Yes, sir.

Q. What is it, please, sir?

A. I am manager of two radio stations, WROB in West Point, Mississippi, and WAMY in Amory, Mississippi.

Q. Are those towns close together?

A. Yes, sir, about 30 miles apart.

Q. Where is West Point, Mississippi from Oxford?

A. It is approximately 90 miles southeast.

Q. How long have you been manager of these radio stations?

A. I have worked for them—WROB since it went on the air in '47. I have been manager since—I was made manager in 1950. I was called back into service two years, and resumed managership in 1952.

Q. Do you have an educational background?

[fol. 1394] A. Yes, sir.

Q. What is it, please, sir?

A. I am a graduate of the Electrical Engineering School at Mississippi State.

Q. All right, now, what do you do—what are your duties generally, or specifically, in these radio stations?

A. I am station manager of WROB, in that I direct all its operations. I am general manager of WAMY. I have a local manager on the scene, but I am over him.

Q. Do you do any news gathering yourself?

A. In the course of normal operations I have done and continue to do all phases of broadcast. I started out there as an announcer. I have a First Class radio and telephone license with the FCC. I am the chief engineer.

On special events coverage, I have done quite a bit during my time, though basically I am not a reporter.

Q. How long have you lived in West Point?

A. Since I was six years old.

Q. Do you belong to any organizations there?

A. Yes, sir, I am a member of and Past President of the local Rotary Club. I am a member of the local Episcopalian Church, and Past Senior Warden.

Outside of local organizations, I am a member of the Mississippi Broadcasting Association, and was Secretary for this past year.

[fol. 1395] Q. All right, sir, directing your attention to September 30, 1962, do you recall that date in your mind?

A. Oh, yes, sir.

Q. Do you know where you were on that date?

A. Yes, sir.

Q. Would you please give us a chronological account of your activities, say, beginning at noon, September 30, 1962.

A. Of course, most of the time leading up to that, as well as I recall, I first went to the campus at the University of Mississippi on the day that they were expecting the confrontation between the Highway Patrol and the Federal Marshals.

Q. Would that have been—

A. Which never did come off.

This was, I believe, the previous day.

Q. All right.

A. When that did not come off I went back to West Point, Mississippi, and got some additional equipment which I thought I might need, and returned to the campus of the University.

It is very difficult to tell exactly what time that I did get on the campus. I have been told—

Mr. Address: Now we will object.

Mr. Gooch: Don't say what you have been told.

The Court: Sustained.

[fol. 1396] A. I am sorry.

Q. Just tell the best you can what you did on September 30th. Did you go to the campus?

A. Yes.

Q. Do you have any estimate of about what time you arrived there, based on the sequence of events?

A. Based on the sequence of events, I would say that I arrived at the Oxford Radio Station about 7:00 o'clock.

[fol. 1397] Q. All right.

A. And must have gotten on the campus, oh, sometime between 7:30 and 7:45 p. m.

Q. All right. What did you do when you first went on the campus, Mr. King?

A. I drove on the campus and went to what I believe they call University Circle, which is where the Lyceum Building is at one end of it. I drove around the right hand part of the Circle and got as close as I could with my automobile and parked it on the Circle itself, and I estimate that I was able to drive somewhere between seventy-five and one hundred yards within to—within that distance of the Lyceum Building, and parked my car.

I left my car—

Q. Did you see anything significant when you got there?

A. Of course, the—at that point, the focal point of everything that was taking place was the Lyceum Building.

Q. What did you see there, Mr. King?

A. And you could even see from my automobile the fact that the Marshals were ringing it and that a large crowd had gathered in front of them.

Q. Did you go into that crowd?

A. I left my car and followed the road. At that time the Federal Marshals were ringing the Lyceum Building itself. [fol. 1398] The students were—I say "students"—the people that were there. At that time most of the gates were closed and it was probably students on hand.

But the crowd was separated from the Marshals by almost the width of the street itself. But it did leave a cleared area for the whole length of the Lyceum Building, between the Marshals and the crowd.

Q. All right.

A. So, I traveled the length of the Lyceum Building between the two groups.

At the time I went through there, the Highway Patrol was in position, keeping the two separated and was in process of trying to move the crowd back out of the street and up onto the curb itself.

But I was able to make my way the length of the Lyceum Building between the two groups.

Q. Did you observe any activity there between the group out on the grass and the Marshals?

A. I observed students using a can of spray paint on one of the Army trucks which had brought the Marshals to the scene.

There was a great deal of shouting going on. I did not see any violence, I did not see anything being thrown or any physical contact between the two groups.

Q. All right. Did you proceed on, then, in some direction? [fol. 1399] A. Yes, I continued on around the Circle to the next building, past the Lyceum Building, which I understand is the Chemistry Building, and I went into this building, going in the front door, looking for a telephone so that I could call back to my radio station and give them a report of what I had seen.

Q. The Chemistry Building is south of the Lyceum Building, is it not?

A. It continues—I started around the right hand side of the Circle and as you face the Lyceum Building, the Chemistry Building is to the left of it.

Q. All right. Did you go in the Chemistry Building?

A. Yes, sir.

Q. For what purpose?

A. I was looking for a telephone to call back to my radio station.

Q. Were you successful in getting a 'phone call through?

A. No, sir, there was a telephone in that building but another reporter was using it and indicated that he had no intentions of giving it up.

Q. All right. How long did you remain in the Chemistry Building?

A. Just guessing, I would say maybe fifteen minutes. [fol. 1400] The only reason that I—I continued to look to see if there was another telephone. I found none. And it was while I was in this building that the tear gas barrage was fired by the Federal Marshals.

Q. Did you actually see the barrage fired?

A. No, sir.

Q. All right. After you were unsuccessful in your 'phone call, where did you go then?

A. I continued on around, I went out the back entrance of the Chemistry Building, continuing in the same direction around the left hand side of the Circle and came to the next building, which I understand is the Carrier Building, or the Engineering Building.

Q. That building, I believe, is almost due south of about the center of the Circle, is that correct?

A. Yes, sir, it's to the left of the center of the Circle, yes, sir.

Q. All right. Then, did you enter that building?

A. Yes, sir.

Q. And what did you do there?

A. Again I entered it by a back entrance. In the hallway I met some gentleman who evidently was on the faculty and asked him if he could tell me where I could get a telephone and he let me in one of the offices on the front side of the building.

[fol. 1401] Q. All right. Were you able to use the telephone then?

A. Yes, there was a telephone there. I was able to get an operator and call back my initial report to my radio station from that point.

Q. Do you have any estimate of how long you were there at that time?

A. Again, here, I would guess in the neighborhood of fifteen to twenty minutes. It took me some few minutes to get my telephone circuits, to make my call, make my report.

The room in which I was in was on the front side of the building and I stayed in that room and was able to look out the window and observe some of the action that was taking place.

Q. What did you see as you looked out the window there, Mr. King?

A. At this time during this period, it seems that there was intermittent tear gas barrage—barrages which were being fired. Each time it was done, the crowd would move back or with the gas and getting out of range and as the wind would blow the gas back in toward the Marshals, then the crowds would generally come in behind it and so there was this ebb and flow of people as the gas was released by the Marshals.

[fol. 1402] Q. Did you see any activity on the part of the crowd toward the Marshals?

A. Only the fact that they would follow in behind the tear gas. At this point, I don't believe that any of them were able to get close enough for the throwing of objects—which took place later—because the tear gas was quite thick.

Q. Did you see any objects in their hands?

A. Not at this time, no, sir.

Q. All right. After you had completed your call in the Carrier Building, what did you do then?

A. It had been expected that there would be tear gas used and so I had brought with me a gas mask and I was at that time, thought it would be a good idea to get back to my car, if I could, and get the gas mask because tear gas was very concentrated at that point.

Q. All right, sir.

A. So, I again went out the back of the Carrier Building and continued around behind—

Q. Could you step down here to this large, enlarged map on the wall, which is Plaintiff's Exhibit 11, and show the Jury the route you took when you left the area of the Carrier Hall?

A. I came out the Carrier Building, I believe, at this entrance here (indicating), continued around behind the [fol. 1403] Chemistry Building, continued behind the Lyceum Building.

Q. May I stop you there for a moment? Had you felt the sensation of any gas at the time you—

A. I had been quite severely gassed, I guess you would call it. Of course, no personal damage, but certainly plenty of tears, all the sensation—

Q. Trace your movement from the Carrier Building?

A. And continued on past, from the Carrier Building, behind the Chemistry Building, circled the Lyceum Building and tried to—my car was parked along here (indicating), and I tried to come between these two buildings, reaching my automobile.

Now, the wind, as I recall, was generally blowing at this direction and, of course, the greatest concentration of tear gas seemed to be in this area (indicating), and it was impossible to reach my car. I could not get through the tear gas.

I went as far as I could and finally had to go back.

Getting out of the tear gas, I continued to go with the wind at that time until I wound up here at the Student Union Building.

Q. Now, the Student Union Building on that map is west and a little bit north of the centerline of the Circle; sir, is that correct?

[fol. 1404] A. Yes, sir.

Q. All right. Did you go in the Student Union Building?

A. Yes, sir, I went in the Student Union Building and stayed there some few minutes. I cannot estimate—it must have been fifteen minutes or possibly longer. I tried to use a telephone there, but at that point I never could raise an

operator and so I did not make a call, but I was in there a long enough period to at least try.

Q. All right. After you left the—did you leave the Student Union Building?

A. Yes.

Q. And where did you go then?

A. At that time, since the tear gas was blowing at this general direction (indicating), I thought it was—would be best to get upwind of it, hoping that as the tear gas would move, that eventually I could get back to my car.

And so as I came out of the Student Union Building I retraced basically the same route I had taken getting there and came behind the Chemistry Building, behind Carrier Hall and eventually wound up at this end of the Circle (indicating).

Q. “This end of the Circle,” are you referring now to the monument on the east end of the Circle?

A. On the east end of the Circle, yes, sir.

[fol. 1405] Q. Take your sheet, Mr. King. What did you observe as you approached the monument there on the east end of the Circle?

A. The first thing that I observed that caught my attention was a man appealing to General Walker. I later learned that it was Duncan Gray. I did not know him personally at the time.

And he was making an appeal to General Walker to stop—he says, “General Walker,” he says, “They will listen to you. Please make them stop what they are doing.”

And in reply to this, General Walker turned to him and said, “I am sad for you. Go make your spiel somewhere else.”

Q. Did you recognize General Walker at that time?

A. Yes, sir.

Q. Had you seen him before?

A. I had seen him on television, I had seen pictures.

Q. All right. Now, have you detailed as best you can the dissertation between Rev. Duncan Gray and General Walker at that time?

A. There was additional conversation between the two. It was taking place at the time I walked up. And evidently it seems that I must have gotten there near the end of it because this last comment by General Walker, I believe, [fol. 1406] was the last comment that I heard. With that, he turned and walked away.

Q. Where did he go?

A. He walked off. I could not tell you what direction it was. He walked off in some direction in the same general area, I mean, he did not walk a long ways off. He just moved off from the point at which Duncan Gray was.

Q. Was anybody around him at that time?

A. Yes, sir, there were groups that were gathering whenever he would be recognized. It would be those who would come up to where he was standing and at this point he was watching the action which was between us and the Lyceum Building.

Those who were gathering around him were telling him stories of injuries that had been reported taking place, Highway Patrolmen that had been gassed and struck by the tear gas shells.

It was reported that there was a girl that had been severely gassed and they were telling him about the various things that had been taking place.

Q. All right, what did he do then?

A. He listened, listened very quietly to what they were saying and finally he turned to them and says, "You are doing all right." He said, "Riot, riot. You are getting news [fol. 1407] all over the country." He says, "Now you have got casualties," sir.

Q. All right. Did you see him do anything thereafter?

A. Several of them who were in the vicinity called to him to make a speech and he first said, "This is not the time nor the place," but there were continued calls for him to make a speech and finally he agreed to do so.

A. All right. Did you listen to his speech or any portion of it?

A. Yes, sir. I was there during the duration of his

speech. I moved with him. I recognized the importance of his being there and as he moved in these different points, I stayed very close. I was never more than just a very few feet from him.

Q. Did you know at that time that he was a former Major General of the United States?

A. Yes, sir.

Q. All right. Now, did he get—did he make a speech?

A. Yes, sir.

Q. And from what position?

A. Standing at the base of the statue. There was a slightly raised portion of the—as well as I remember, there was a curbing built around the statue and it was filled, [fol. 1408] giving him a slightly raised position to the rest of the crowd.

Q. Did you listen to his speech?

A. Yes, sir.

Q. Are you able to recollect now what you heard him say in that speech at that time?

A. Yes, sir, I took notes on his speech. I had a small note pad which I was able to hold on the side of my leg and I was writing on it without actually looking at what I was writing.

I was not holding a pad up in front of me writing, but I was taking down key phrases, as best I could, during his speech.

Tuesday following, I took these notes and sat down and typed up a compilation of the content of my notes, plus the bare memories that I still had of what took place, and I do have his speech typed up as best I can.

Q. Do you have those notes with you that you took that night?

A. Yes, sir.

Q. Would you produce them, please, sir?

You have made available to me some slips of paper that look about two by, say, three inches?

A. Approximately, yes, sir.

Q. Or maybe one and three quarters. With some writing

[fol. 1409] on it. And there are a series of these notes, is that correct?

A. Yes, sir, those are the actual notes that I took that night.

Q. Were these notes that you took that night, were they actually taken by you at the time you were listening to General Walker's speech on the monument?

A. At the actual time he was talking, yes, sir.

Q. Then later on, did you type up those notes into the form of a statement?

A. Yes, sir.

Q. Do you know who has seen those notes and that statement since the time you typed them up?

A. Yes, sir, I have made a copy of these notes for a Mr. Sullivan. I have his full name here somewhere, I believe. Mr. Sullivan is the private investigator who identified himself to me—

Mr. Watts: Just a minute, if Your Honor please. I object to hearsay statements between this man and Sullivan.

The Witness: I am just stating that I gave—

The Court: Just a minute. Don't interrupt when there are objections made.

The Witness: I'm sorry.

The Court: I will sustain it.

[fol. 1410] By Mr. Gooch:

Q. I want to ask this question, and don't answer it until the Court has ruled:

Did Mr. Sullivan identify himself to you—

Mr. Watts: Just a minute, Mr. Gooch. Come forward.

The Court: Wait, let him finish his question.

Mr. Address: The question is going to be pretty identifiable as hearsay.

Mr. Watts: If the question is a statement, the war is over anyway. Mr. Gooch will be testifying.

(Conference at the Bench.)

By Mr. Gooch:

Q. All right. You stated that you have made these notes available to a Mr. Sullivan?

A. Yes, sir.

Q. Anybody else?

A. I have made these notes available to Mr. Lynn Smith, who is an FBI investigator.

I have made these notes available to Mr. Fred Smith, an attorney from Ripley, Mississippi.

I have made these notes available to Mr. Tom Tubb, who is an attorney in West Point, is on the Board of Trustees of the Institutions of Higher Learning in Mississippi, or was at this time.

And I have made these notes available to Mr. W. F. Miner, a representative of the Times Picayune who is in [fol. 1411] Jackson, Mississippi.

Q. All right. Now, using your notes to refresh your memory, can you tell the Court and Jury what you heard General Walker say on the monument that night?

Mr. Address: If the Court please, we would like to see the notes that he's using to refresh his memory before he testifies from them.

The Court: He isn't offering them.

Mr. Address: No, sir, but if he uses them to refresh his memory, we are entitled to look at them before he uses them for that purpose.

The Court: I think you might be—

Mr. Gooch: Have a look.

The Court: Do you have any objection to them looking at the entire file?

Mr. Gooch: Not at all.

The Court: These notes.

[fol. 1412] Q. Thank you. I don't remember what the last question was. I believe I asked if he would take his notes and refresh his memory and tell as to what he heard

General Walker say on the monument on the night of September 30th, 1962.

I believe that is the question. Do you understand the question?

Mr. Address: If the Court please, he is not taking his notes, he is taking a letter which he wrote some 60 days or more later.

A. I beg your pardon.

The Court: Just a minute. Let him make his objection.

Mr. Address: The yellow pages are a letter written December 10, 1962. They are not his type-up notes he made two days later, but a self-serving letter, and we object to his using that letter written 70 days after the occurrence to refresh his memory. The notes made at the time, we have no objections to, but we do object to his using the letter.

The Court: Overruled.

Mr. Address: Note our exception.

The Court: You may proceed to answer the question.

A. What I am reading is a letter, we have photostatic copies. Each time I would write—

[fol. 1413] Mr. Address: Now—

A. —I am sorry. I will just answer the question.

By Mr. Gooch:

Q. Take your notes and testify if you can as to what you heard General Walker say on the monument.

A. From the notes that I have?

Q. Yes.

A. General Walker state, "I want to compliment you on your protest. You have a right under the Constitution. I did not come to see violence but any blood you see tonight is on the hands of the Federal Government and the Agencies thereof."

Mr. Address: If the Court please, he is not testifying,

he is reading a letter not in evidence. The letter, if it is admissible in evidence, would be the best evidence. He was asked to testify, using notes to refresh his memory, not to read a letter that he wrote sometime later.

The Court: Overruled.

Mr. Address: Thank you. Note our exception.

The Court: You may proceed.

A. He continued, "I have just been informed by a representative of the Governor that the fact that these people are on the campus is due to a sell-out; that there were definite orders that the Marshals not be allowed on the campus, but were allowed on the order of a certain official." [fol.1414] In response to cries of "Who sold us out, General?" General Walker said, "Birdsong."

The General went on to say, "I am only telling you what has been reported by an official representative of the Governor."

General Walker then said, "Do not expect violence, but you can continue to protest until Meredith is not admitted. This is a long route to Cuba."

At this point the Reverend Duncan Gray again approached the General. Then this is his speech, and said, "General, stop it, you can."

And someone moved in and Duncan Gray was almost pulled into the crowd. Someone moved in from the opposite side of the crowd from where I was standing and escorted Duncan Gray off to one side.

At this time it is not in my notes but—

Mr. Address: He has answered the question, Your Honor. There is no question before the house.

By Mr. Gooch:

Q. Go forward, please.

Mr. Address: Wait.

A. Continuing—