

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 150

THE ASSOCIATED PRESS, PETITIONER,

*vs.*

EDWIN A. WALKER.

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[fol. 1537]

## PROCEEDINGS

REVEREND DUNCAN GRAY, JR. 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. Reverend Duncan Gray, Jr.  
Q. Where do you live, Reverend?  
A. Oxford, Mississippi.  
Q. How long have you lived in Oxford?  
A. Since September 1957.  
Q. What is your vocation or occupation, please?  
A. I am a priest in the Episcopal Church, presently serving as Rector of St. Peters Episcopal Church in Oxford.  
Q. How old a man are you, Reverend?  
A. Thirty-eight.  
Q. Had you lived in Oxford before the time that you mentioned that you went there as a priest?  
A. No, sir, I had never lived there before.  
Q. Of what state are you a native of?  
A. Mississippi.  
Q. Where were you raised?  
A. I was borned in Camden, Mississippi, raised there and at Columbus and Greenwood, Mississippi, and graduated from high school at Jackson, Mississippi.  
Q. Who is your father?  
A. Bishop Duncan M. Gray, Episcopal Bishop of the Diocese of Mississippi.  
Q. What is your educational background, Reverend?  
A. As I said, I graduated from high school at Central High in Jackson, Mississippi. I received a Bachelor of Engineering Degree in Electrical Engineering at Tulane University in New Orleans. And then later I went to

Seminary at the School of Theology, the University of the South, Sewanee, Tennessee; received a BD Degree from there.

Q. BD, is that—a—Bachelor of—

A. Bachelor of Divinity.

Q. Now directing your attention to September 30, 1962, at Oxford, Mississippi, did you have occasion to go on the campus of Ole Miss University sometime on the 30th of September, 1962?

A. Yes, sir, I did, on two occasions.

Q. When was the first occasion, Reverend?

A. The first was around 6:00 p.m., when I received a telephone call, long distance call—

Q. I don't believe you can testify as to any long distance call.

Mr. Watts: That is all right, sir. He may.

Q. All right, go ahead.

[fol. 1539] A. As to the occasion of my going there, the mother of an Ole Miss coed had called. She had been hearing news on radio and television, and asked that I go and get her daughter off the campus and have her spend the night with me.

I went to the campus to Ward Hall, where the coed was living. She was not ready at the time and I went up to the Lyceum Building for some 15 minutes around 6:00—between 6:00 and 6:15.

Q. What did you observe at that time, Reverend?

A. Well, at that time the United States Marshals were already ringing the Lyceum Building, the Mississippi Highway Patrolmen, some of them were standing between the Marshals and the crowd that had gathered there. A crowd of predominantly students, as far as I could tell.

The crowd was out on the grass in the portion that is known as the circle. The Highway Patrolmen were in the street there between the crowd and the Lyceum, at that point.

Q. How long did you remain there on that trip, Reverend?

A. I would say about 15 minutes, before I returned to the dormitory and picked up the coed, who by then was ready, and took her back to my house for the evening.

Q. Now, did you later return to the campus on that date? [fol. 1540] A. Yes, sir, I was back on campus I think—I crossed the east—the east bridge about 7:50 p.m., went to the home of a faculty member and watched the President's speech on television which I believe began at 8:00 o'clock.

Q. All right. Now, were you on the campus when the tear gas was fired?

A. Well, this home of the faculty member is actually on the campus but I was not down in the portion of the campus where the tear gas was fired, no, sir.

Q. Excuse me, were you out in the area of the circle when the tear gas was fired?

A. No, sir.

Q. About what time did you get on the campus, or get on the circle, if you did get on the circle that evening?

A. It must have been around 8:25, I would estimate, because it certainly was after the President's speech was completed, and it was a few minutes after that before I left the home.

I imagine about 8:25 when I got to the circle.

Q. For what purpose did you go to the circle, Reverend?

A. We had heard that on the—on the radio and television that violence had broken out on the campus. The Reverend Wofford Smith, assistant chaplain at the University and I were together, and we went down to the circle [fol. 1541] to see if we could go and do anything to calm the students down, or to get them to go back to their dormitories.

Q. All right. Now will you give us, as best you can, what you did or what you tried to do in that endeavor.

A. Well, when we first reached the circle the tear gas was fairly heavy at that point, and so Mr. Smith and I

stepped into the "Y" Building first, the YMCA Building on the campus, and which is just on the edge of the circle. We stayed in there a very few minutes, and then came out and, as we did, there was a car moving down University Circle toward University Avenue, going away from the Lyceum. It had what appeared to be a deputy sheriff's insignia on it, and a Harrison County, Mississippi license plate. The car was moving rather slowly because of the people in the street, and we walked up to the car and Mr. Smith asked the man if he were not a law enforcement officer and he said he sure was.

And we asked him if he would help us to try to calm down the students and bring an end to what was going on, and try and bring some order out of the situation.

He said there was nothing he could do, and he drove on.

Q. And then what did you do?

A. After this we moved out into the circle, the part of the circle down toward the Y Building, and began to stop students who were coming down there carrying bricks and [fol. 1542] bottles and pieces of pipe and sticks and whatever. We would stop the students and ask them to give us their weapons, and ask them to return to their dormitories; try to explain to them that what they were doing was wrong, that they were hurting themselves and the University and the community.

Q. Did you seek to enlist the aid of anybody else in that crusade that night, Reverend?

A. Yes, sir, I asked General Edwin Walker to help us.

Q. Where did you first see General Edwin Walker?

A. I first saw him at a point somewhere between the Confederate monument and flagpole.

The Confederate monument is at the east end of the circle away from the Lyceum.

General Walker was there in the circle with a group of men, none of whom appeared to be students. They appeared to be 10 or 12, maybe 15, men with him.

Q. All right. Now had you known prior to that time, or had you heard that General Walker was on the campus?

A. Well, we had heard during the day that he was in Oxford. I understood that he was in the town. Just prior to seeing him I had heard a group of students saying, "Now we have a leader, now we have a leader."

And I had assumed that this was General Walker, although I had not heard his name mentioned.

[fol. 1543] Q. Had you known or heard of General Walker prior to this time?

A. Yes, sir, I had, of course, seen him on television, seen news photographs of him and had read about him certainly in the newspapers.

Q. All right. Now would you give us the gist of the conversation that you might have had with General Walker when you first encountered him there on the campus there that evening?

A. Well, when I first saw him, I walked up to him and asked him to help us try and calm the students down and to put an end to the violence, to ask the students to go back to their dormitories.

Q. Reverend, why did you think that—why did you seek out General Walker for that purpose?

A. Because I knew that he was something of a hero to the students that they identified him with their cause and that I thought a word from him would have a great deal of influence in bringing a stop to what was going on or, at least, moderating it to a considerable extent.

I felt that he could have great influence with many of the students in getting them to call it off and go home.

Q. All right. Now give us the gist of your conversation with General Walker there on that first encounter?

[fol. 1544] A. Well, when I first asked him to speak to the students and to help us bring the rioting to a halt, he said that he was not interested in putting a stop to what was going on.

He said he was there only as an observer and he, also, said that the students have every right to protest.

And I pled with him some more, pointing out to him just what I have said, that I thought he could have a great deal of influence with the students because they did identify him with their cause and he was something of a hero to them. And again he refused. He said he was not interested in stopping it; he was there only as an observer.

I believe at one point he said, "I couldn't stop it if I wanted to but I don't want to "

Q. Now prior to that time if I may interrupt, you stated that you had approached groups that were carrying these rocks, sticks and bottles, et cetera.

Had you had any measure of success in getting them to drop those articles and some of them leave?

A. Yes, we had had success with a great many of them as far as giving up their weapons were concerned.

The general pattern was, so many of these students seemed to be in something of a daze. We would stop them, [fol. 1545] or I would stop them—Mr. Smith was doing the same thing but we were not all in the same area—asked them for their weapons. Many times they would simply hand them over to us and we would throw them out of the way in the direction of the "Y" Building.

Other times they would simply drop them and respond and cooperate, for the most part, rather well at this point.

Now how many of them actually went back to their dormitories, I don't know, sir, but they did give up their weapons, most of them.

Now there were some who did not. I remember one student in particular with a shovel, he refused to and threatened me with a shovel.

At that point, there were a few in the crowd who did not appear to me to be students. Some of them were young, seemed to be perhaps teen-agers but not dressed as students, and I am certain they are not students. Now these did not respond. They would simply brush on by and we had very little luck with them.

But we did have any number of students give us their weapons or drop them when we asked them to.

Q. All right. Now you have detailed as best you can your first encounter with General Walker. Did you thereafter have an encounter with General Walker?

A. Yes, sir. I didn't finish the first encounter.

[fol. 1546] Q. I'm sorry. Go ahead, sir.

A. After I had asked him twice, I believe it was, to help, he finally asked me, "Who are you?"

"What are you doing out here anyway?"

Q. Yes, sir?

A. And I told him that I—I gave him my name and I said that I was Rector of the local Episcopal Church; that this was my home, my community; that I was deeply concerned about the damage being done to it and I was out there to put a stop to it, do anything I could to halt the violence and to get as many students as I could to go back to their dormitories.

And at that point he said, "You are the kind of an Episcopal minister that makes me ashamed to be an Episcopalian."

Q. All right. Now thereafter—did you finish?

A. Well, as far as I can tell. As I can recall, that was the last direct exchange with General Walker. I had some further exchanges with the members of the group that was with him at that time.

General Walker walked away soon after that and I started to follow him but several members of the group stopped me and began to argue with me and say that the students had a right to protest; that the Federal Government was violating their liberties and their rights.

[fol. 1547] And there was one man in particular who seemed to be talking more than the others, a young man, perhaps around 30 years of age, dressed in a suit and tie but he had his tie pulled down at this point.

I remember his making reference to his courses in Constitutional Law and to Judicial Procedures and I assumed at the point that he was a lawyer—I certainly couldn't be sure of that, and by the time this conversation had ended, General Walker had disappeared, or at least to my sight, in the direction of the Confederate monument.

Q. All right. Now, did you thereafter have an encounter with General Walker?

A. Yes, sir, I had gone back to the "Y" Building, standing at the top of the step, when my attention was directed to a crowd that was gathering at the Confederate monument, just to the east of the Confederate monument, and looking in that direction I saw a man who appeared to be General Walker standing at the base of the monument or on the base of the monument, at least at a point where he could be seen above the crowd and I went back—I went to the monument at that point and I think I got there just as he began his speech or address to the students.

Q. Do you recall anything that he might have said in that address, Reverend?

A. The first thing I heard him say was, "I want to congratulate you on what you are doing here this evening."

He went on to say, "You have every right to protest." He said, "Stand fast, firm. There are thousands behind you. You will win in the end."

He continued with criticism of the Federal Authorities. I remember particularly—

Mr. Address: We don't have any objection to repeating what was said but when he says, "criticism, of the Federal Authorities," I think that's a conclusion.

The Court: Do you remember what he said? If you do, state that as near as you can remember?

A. I beg your pardon. Yes, sir.

He said something about, "This is a long way around to Cuba;" that the Marshals and troops should be in Cuba and not where they were.

I was moving through the crowd at this point, toward the monument. But this was the substance or the essence of what he was saying at that point.

Now once I did get to the monument, the base of the monument, I was much closer to him. I remember very clearly another thing he said. He said, "I have just come



from a conference with the representative of your Governor and he said to tell you that you had been sold out, sold out by the man who led the Marshals onto the campus.”

At this point there were cries from the crowd, “Who? [fol. 1549] Who?” And one or two voices said, “The Chancellor, the Chancellor.”

General Walker paused at some length at this point and it was my impression that he bent over and spoke to somebody standing beside him but when he did raise up again, he said, “The man who sold you out was Col. Birdsong.”

Q. All right.

A. By this time I was on the base of the monument, very close to General Walker, addressing him and asking him once again to try and quiet the students, to ask them to stop the rioting and what they were doing and to go back to their dormitories.

And he turned and looked at me and said to the crowd, “Here is an Episcopal minister that makes me ashamed to be an Episcopalian.”

And I started to speak to the crowd at this point. I was at the base of the mon—at the base of the monument, started to speak to the crowd myself but was pulled down before I had spoken more than a very few words, pulled down by members of the crowd.

I hit the ground on one knee and was then picked up and pushed and shoved and moved through the crowd and out to the edge of it.

By the time I got to the edge of the crowd, I felt that those who were with me then who were pulling me along [fol. 1550] at that point were not hostile but friendly, were trying to protect me.

Q. Then where did you go?

A. Well, at this point, I became aware, first of all, of a man whom I had seen previously with General Walker on our first encounter. A man who appeared to be a law enforcement officer who was one of the ones pulling me away from the crowd at that point, and he spoke to me, identified

himself as a law enforcement officer, and he said, "I am a law enforcement officer and I can't do anything about this. You'd better get on home or you are going to get hurt."

It was, also, at this time that a man came up to me and shook my hand and said that he was a Methodist minister. He said, "I want to thank you for what you are trying to do here tonight."

After this, I moved back toward the "Y", back into the steps at the southern end of the "Y".

Just about the time I got there, two or—two other students, two students—two people who appeared to be students came up to me and asked me to go back to address the crowd again at the monument. They said that they thought the crowd would listen to me.

So I turned around to go back to the monument but by the time we got there, the crowd was breaking up and moving toward the Lyceum, moving around both sides of [fol. 1551] the monument and moving in a general movement of what you might call a charge toward the Lyceum.

Q. Were you able to discern whether or not, who was leading that charge?

A. No, sir, I was not able to tell.

Mr. Gooch: I believe that—

A. I moved into the circle itself, trying to talk to the students that I could reach. The crowd was much, much bigger at this point and I would stop as many as I could and try and ask them to stop and to go back but at this point I had very little success.

The few that would stop at all would stop to argue and curse and many of them with tears in their eyes, were comparing themselves to the Hungarian Freedom Fighters and, in general, though, there was—we had—I had very little luck at this point.

Q. That was now after you had left the monument?

A. Yes, sir, it was after the crowd had moved away from the monument and started toward the Lyceum, into the circle.

Q. I see.

A. And I had moved out into the circle and was giving ground with the crowd, going—trying to stop as many as I could and turn them back. I gave ground, I suppose, and ended up as close as a point about midway between the flag-[fol. 1552] pole and Lyceum, doing this same sort of thing, until the tear gas got so bad that I had to come back to the “Y”.

Q. That was my next question. As that crowd moved toward the Lyceum Building, what, if anything, happened in the way of a tear gas burst?

A. Well, of course, once they got in the vicinity of the Lyceum, close enough to it, well, tear gas was fired in great quantities. That was the reason finally that I turned and came back myself: The tear gas got too heavy for any of us to take it.

[fol. 1553] Q. How long did you remain on the campus, Reverend?

A. The next time—in fact, the only time after the President’s speech that I saw a clock and remember registering what time it was was when I had gone back in the Y Building at about five minutes after 10:00. I made a telephone call to my home at that point. And I know I was standing in front of Dr. Willis’ house at 11:15 p. m. I would imagine I left the Circle a little before 11:00 o’clock, perhaps a quarter of 11:00, and left the campus itself just after that.

Q. Did you see General Walker anywhere after you had had this meeting with him on the monument?

A. No, sir, I didn’t see him again.

Mr. Gooch: Pass the witness.

Cross examination.

By Mr. Watts:

Q. Rev. Gray, will you please pick up the pointer there and walk over to this chart. I am sure you probably will recognize that chart, but just to start you off, the top of

the chart is north, the right is to the east, and of course the left is the west. Here is the so-called Circle, the monument, the Lyceum, the YMCA Building and University Avenue (indicating).

A. Yes, sir.

Q. Now, as I remember your testimony, you testified that [fol. 1554] you arrived about 7:50?

A. I crossed the east bridge, which is right here (indicating) about 7:50, yes, sir.

Q. Since you are definite on the time, you must have checked?

A. Yes, I looked at my watch at that point, because I was afraid we would miss the President's speech.

Q. Were you walking?

A. No, sir, I was in an automobile.

Q. And would you trace your course, please, sir?

A. We turned right here by the Alumni House, we moved along Rose Loop, then moved by Faculty Row, then down Faculty Circle to this point right here (indicating).

Q. Now, what is that point?

A. This is the home of Dr.—Mr. and Mrs. James Silver.

Q. Dr. Silver?

A. Yes, sir.

Q. Now, to identify Dr. Silver, Dr. Silver, whether it be right or wrong, we are not involved in that, but he had taken a very active part in an effort to advance the cause of integration, hadn't he?

Mr. Gooch: If the Court please, I object to that.

The Court: Sustained.

[fol. 1555] Mr. Gooch: I ask the Court to instruct the Jury not to consider it. That is not part of the case.

The Court: Ladies and Gentlemen you are so instructed. We are not trying an integration case.

By Mr. Watts:

Q. That's right. Well, you then did go to Dr. Silver's house?

A. Yes, sir, I had gone to Dr. Willis' house, who was a member of my congregation. We were to watch the President's speech on TV there, but when we found their television set broken, then we went over to Dr. Silver's house. The Silvers were not there.

Q. And what time did you leave there, Reverend?

A. It was shortly after the President's speech was over. I would say fifteen or so. I imagine the speech didn't last more than seven or eight minutes.

Q. Then, were you afoot when you left, or did you go in a car?

A. I started out on foot, along with Rev. Wofford Smith, Dr. Willis, and one other faculty member, Dr. Fortenberry. We were picked up somewhere near around this intersection of Faculty Row and Faculty Circle, picked up in a car, and were driven to a point approximately along about the law school here, Lamar Hall.

Q. All right, sir. Trace your course from there on.

[fol. 1556] A. From there on we moved down Grove Loop, the Rev. Wofford Smith and I going together. The two faculty members dropped behind a bit. We came down Grove Loop to the edge of the Circle here, then, as I said a moment ago, we stepped into the Y.

Q. All right, sir. And how long were you in the Y?

A. Just a very few minutes at that point.

Q. Say five minutes?

A. I doubt if it was that long. Three, maybe.

Q. Where did you go from there?

A. I started out this door of the Y, and it was right about in here that the automobile with the Deputy Sheriff was passing, and we encountered him at this point (indicating).

Q. All right, sir. That is when you talked to him seeking his aid as an officer in quieting down what you were seeing?

A. Yes, sir.

Q. Incidentally, at that point and by that time, what were you seeing? What was going on out in front of you?

A. Well, of course, by then around this part of the Circle—

[fol. 1557] Q. By “this part of the Circle” you are pointing to the northeast quadrant?

A. Yes, sir.

Q. Now, that Circle, by sidewalks, is divided roughly into four quadrants?

A. Yes, sir.

Q. Northeast, southeast, northwest and southwest?

A. Yes, sir.

Q. And the two on the west are somewhat larger than the two on the east—

A. No.

Q. As you were, the two on the east are somewhat larger than the two on the west?

A. Yes, sir.

Q. I was looking at it backwards?

A. Yes, sir.

Q. Then when you are saying, “This area,” you mean the northeast quadrant?

A. Of course, this was the point that was most visible to us at this point and I remember that many students were running up, or many members of the crowd—

Q. Yes.

A. I don't want to use that term too loosely.

Q. All right.

A. But people, anyway, were moving back and forth [fol. 1558] most of them carrying weapons of some sort, I mean bricks or bottles, coke bottles, pieces of pipe, concrete and things such as that. A number of them were moving toward the Lyceum. They were moving in all directions at this particular point when we first moved out there.

We concentrated on those that ran in this area, right at that time, those who had weapons, and were running in a

general northwest direction, trying to stop them and take their weapons away from them and ask them to go back to their dormitories.

Q. And I believe you said that the lads would frequently look somewhat dazed?

A. Yes, sir, as we would stop them the ones who seemed to be students did—they more or less were cooperative and they would give their weapons, drop them where they were, and, as I say, I don't know how many went home.

Q. At least they would drop their weapons and took off?

A. Yes, sir.

Q. And at that point you seemed to be having some effect on some of them?

A. With some. Of course, we were catching a very small portion of the crowd.

Q. These lads had obviously been through a lot of tear [fol. 1559] gas, hadn't they? Weren't their eyes inflamed?

A. I couldn't notice their eyes at that point. I imagine they were, like I was.

Q. Well, your eyes were a little smarty, too, weren't they?

A. Yes, sir, they were smarting.

Q. Now, about what period of time would you say you remained there in the northeast quadrant?

A. Right in the northeast quadrant?

Q. Yes, sir.

A. I don't know the exact length of time. We were moving during this period, after we moved into the circle, we moved out into here, generally. At the beginning we were in here.

Q. By "here" you mean closer to the flagpole?

A. Still in this northeast part.

Q. Now, this right here (indicating) is the flagpole?

A. Yes, sir.

Q. If I get your picture right, you started out in the northeast part, the northeast quadrant?

A. Yes, sir.

Q. You remonstrated there a while with the students?

A. Right.

Q. And gradually worked your way down southwest-  
[fol. 1560] ward, somewhat closer to the flagpole?

A. No, sir, I didn't go—at this point I was close to the flagpole. I worked my way more in this direction.

Q. Right.

A. In the southeast part of the Circle. I remember, for example, sometime I was right about here (indicating) and watching the Highway Patrol pull out. At least the Highway Patrol cars; seemed to be about fifteen cars at that point pulling out here.

Q. Now, let's get the time of the action absolutely straight because we are getting down to the critical part of the operation.

A. I understand.

Q. As I understand, about 8:20 or 8:30 when you appeared at the YMCA Building you moved down into the northeast quadrant of the Circle and spent some little time there remonstrating with students, gradually worked your way down so that you worked on across this sidewalk, and as of about this time the Highway Patrol pulled out and you were down in the southeast quadrant?

A. Yes, sir. Well, I had been in the southeast quadrant once earlier too, because I believe a light standard was there, when I had tried to get some students to quit breaking out the lights there.

[fol. 1561] Q. All right, sir.

A. Now, I was down in the east end most of this time, not close to the flagpole at this point. And at one point I was back in the Y during this period of time.

Q. For what period of time?

A. Again it is hard for me to say exactly, sir. But several minutes.

Q. All right.

A. And in one instance I remember specifically in connection with that visit, was stopping some students inside the Y Building who—well, one student particularly, who had



bricks in his hand, and speaking to him and taking the bricks from him and dropping them in the wastebasket in the Y. I was in the Y that time several minutes. How long, I wouldn't be able to say.

Q. Would you say more or less five, or approximately five?

A. I would say probably five, somewhere around in there.

Q. Now, then, Rev. Gray, you had met General Walker in the Circle?

A. Yes, sir.

Q. Would you put your pointer as nearly as you can to where you met General Walker?

A. Well, as best—as best I can remember, it was between [fol. 1562] the flagpole and the monument.

Q. All right.

A. I think it was perhaps closer to midway between, right about in here (indicating). The Grove—the Circle was fairly clear at this point. The tear gas was heavy up towards the Lyceum. Most of the crowd had backed away. There was considerable concentration back down in here, and General Walker and his group of perhaps ten or twelve or fifteen men stood out rather clearly at that point.

Q. Now, then, let's endeavor as the very best your recollection will permit to fix the time when you saw General Walker there in the southeast quadrant, with the time you saw the Highway Patrol leave?

A. You mean which came first?

Q. If you can, yes.

A. Well, my recollection is, sir, that the Highway Patrol—watching the Highway Patrol leave came before I saw General Walker.

Q. Would you say shortly before or could you fix any kind of a time bracket at all?

A. Certainly it was not too long before, but I couldn't give an exact time.

Q. Now, at the time the Highway Patrol left, did you hear any outcries by the students, "Governor Barnett sold us out, what are they leaving us for," or anything to that effect?

[fol. 1563] A. No, sir, the crowd that was gathered along each side of this University Circle, this part over in here, were cheering when the Highway Patrol pulled out.

Q. They were cheering the Highway Patrol?

A. Cheering the Highway Patrol for leaving.

Q. For leaving?

A. This was my impression, anyhow.

Q. Anyhow, they were cheering?

A. And they were pulling out.

Q. But you didn't hear anyone say they were cheering them for leaving?

A. Well, no, sir.

Q. Well, now, isn't it a fact that shortly after they left, or about the time they were leaving, many of the students were talking and spontaneously sounding off, "Well, Ross let us down, we have been betrayed," or something to that effect?

A. No, sir.

Q. You didn't hear that?

A. No, sir.

Q. All right. If you didn't hear it, you didn't hear it.

Now, then, from the time you encountered General Walker right here at this point. Let's work backward and you tell [fol. 1564] us, starting from meeting General Walker and talking to him, and work your course backward to the YMCA, and tell us in as much detail, because this is critical, if you can possibly remember just what you saw and what occurred?

A. To get these things in exact chronological order is a little difficult,—

Q. I understand.

A. Mr. Watts, but I can tell you a number of things that happened in the period of time before I saw him.

Q. Well, let's—excuse me. Let's try to do it this way, if you can.

A. Yes, sir.

Q. You have a very distinct recollection of meeting General Walker?

A. Yes, sir.

Q. In other words, you can mentally close your eyes and go back and relive that experience. Could you?

A. Yes, sir.

Q. As nearly as you can from the time of that experience, I wish you would follow the same process of recollection and try to project to the Jury, and extend back just what occurred from the time you and General Walker were talking in this vicinity (indicating) until you worked your way [fol. 1565] back to the YMCA.

A. This is moving backward?

Q. Yes, sir, moving backward.

A. This happened prior to that time?

Q. Yes, sir.

A. I remember, of course, that I was standing approximately here when I saw General Walker.

Q. Yes, sir.

A. My recollection is that I had come from this section of the Grove, I mean the Circle, to that point. Because it had been over here that I had watched the Highway Patrol leave. I remember that very distinctly. I had been over talking to some of the students here, and my recollection places this as being before seeing General Walker. I know I had been back—I also remember that when I heard the students saying, "Now, we have a leader, now we have a leader . . ."

Q. That's right.

A. That this was down again in this general area closer to the monument. It was at a point where I would say perhaps—along the walk here, or in this general area to the south (indicating), but I was moving in this direction (indicating).

Q. Uh-huh.

A. And so that I would say that I remember hearing the [fol. 1566] students say this here (indicating), my recollection being this was just very shortly before I saw the General himself.

Q. Uh-huh.

A. So, that, reconstructing it again, I imagine it was moving back in this direction when I turned back in the direction of the Grove—of the flagpole and the Circle and saw him.

Now, I had also been in the Y, as I say, earlier. This second visit to the Y is hard for me to relate to this whole sequence we are now talking about, but apparently it must have been prior to my going over here to talk to the—I mean, where I was talking to the students in this street.

I know I was in the Y several minutes there, as I said.

Q. And then, meanwhile, working your way backward from the encounter with Walker timewise to your first appearance in the YMCA, you have pretty well summarized it, now. Did anything else happen prior to that, and working your way on back to the YMCA?

A. To get the time sequence here—

Q. That's right.

A. Prior to what?

Q. You are working your way back.

[fol. 1567] A. Yes, sir.

Q. You saw Walker here?

A. Yes, sir.

Q. Just before you saw him you said you had been strolling along in here (indicating).

A. I had seen him from approximately here (indicating).

Q. You think you had walked down here near the monument and walked back up, occupied this position here, and had seen him.

Now, prior to that, as I understand, you had been working around in this northeast—northeast quadrant, along in here, remonstrating with the students, taking bricks and rocks and bottles from them, and endeavoring to quieten them down?

A. This is when I first came out of the Y?

Q. Right.

A. Yes, sir, right after we stopped the Deputy Sheriff.

Q. All right. Now, working it again the other way, we have you coming out of the Y, spending about less than five

minutes, coming on out, seeing the officer, or watching him leave. You drove—walked on down with Rev. Wofford Smith, down to the northeast quadrant, you spent some time down there, then you walked back here, walked back to this [fol. 1568] point, saw General Walker at this point, and talked to General Walker?

A. The only thing we left out there was the second visit to the Y.

Q. That's right, and in here sometime you said approximately five minutes that you were in the Y?

A. Yes, sir.

Q. All right, sir. Now, then, had General Walker come striding up University Avenue, met the leaders of the mob in a position near the Confederate monument, conferred with them a few minutes, held up by the portly dressed—portly well-dressed man that approached the group, two leaders of the mob, one waving a big Confederate flag, and each taking him by the arm, and they positioned themselves in front of 1,000 people in the vicinity of the Confederate monument, walked in a charge across the northeast quadrant of the Circle, arrived at a point just northwest of the Lyceum—flagpole, veered off to the left and rushed forward, through the missiles, the tear gas was fired, and they all raced back—had that occurred from the time you arrived at the YMCA and from the time you met General Walker here you undoubtedly must have seen it, wouldn't you?

A. Unless I was in the Y at the time, or perhaps down in this part of the Circle (indicating).

[fol. 1569] Q. Yes.

A. Now, there was some time in the Y, and there was the time here (indicating). I know that there had been a very heavy volley of tear gas fired just before I saw General Walker here, because this Circle had cleared out pretty well then, when he was out there with the group, when I first saw him.

Q. From the time you were walking down in here, went back over here, and saw General Walker, you didn't hear

any comment among the crowd that Walker had led a charge, did you?

A. No, sir, I didn't hear that he had led a charge, no, sir. I heard the comment, "Now, we have a leader."

Q. "Now we have a leader," and that was when you were in the vicinity of the flagpole?

A. No, not the flagpole.

Q. Strike that, I mean in this vicinity (indicating).

A. Yes, sir.

Q. Now, then, in terms, you were there and you are endeavoring to relive that dramatic incident that I have outlined, 1,000 people following General Walker and two men in a charge against the Marshals across the northeast part of the Circle, they would have had to run over you to make that kind of a charge, unless it would have been in the five [fol. 1570] minutes you were in the YMCA?

A. The 1,000 people is the only thing, I believe, I would have seen 1,000. Now, there were lots of things going on that I couldn't see. I didn't know about during that period. But a crowd that included a thousand people—if they had all moved at once across the Circle.

Q. You must have seen them, if that had occurred?

A. Again, it depends on the size of the crowd, and it depends on whether I was in the YMCA, or perhaps down in this area (indicating).

Q. And from your knowledge of the students and from your observation of what was going on out there, if General Walker had led that charge during the five minutes you were in the YMCA you know that there would have been complete bedlam when you got back out there, wouldn't there?

A. Of course there was bedlam pretty well all the time.

Q. I know, but in other words, there was a lot of sporadic activity, wasn't there?

A. Yes, sir, quite a bit of activity along before then.

Q. Now, in your deposition previously taken in this case, I asked you questions and—I asked you questions at that time?

[fol. 1571] A. Yes, sir.

Q. Wasn't it your testimony then that prior to the speech on the monument, there was no concerted activity that you saw, it was all sporadic, by groups of five or ten and so forth?

A. What I was trying to do was compare that with what took place after the speech on the monument and I said this, and I will say it now, that I saw nothing that involved the numbers before the speech at the monument—

Q. That's right.

A. That I saw after the speech at the monument.

Q. That's right.

A. After the speech at the monument, there seemed to be more coordination, or let's put it this way, they were moving more as a unit. There were more people involved. Now, there were a number of charges and advances on the Lyceum prior to the speech on the monument, but they were not of the magnitude that came after the speech.

[fol. 1572] Q. And didn't you previously testify that they were of a sporadic nature?

A. You asked me about if that word would be adequate and I said, "In a sense," as I recall.

Q. Yes, sir.

A. My testimony there. That certainly, by "sporadic," if we mean that it was not of the same magnitude as what happened after the speech, yes, sir.

But this did not mean that there were not groups that moved in the direction of the Lyceum.

Q. All right.

A. And did attack the Marshals.

Q. I didn't say that.

A. —before that, yes, sir.

Q. The previous testimony as I understood it, was—

A. Yes, sir.

Q. —that you said before the speech on the monument, there were small, disorganized groups with apparently no unified leader, or words to that effect, wasn't that your concept of it?

A. Again, in terms relative to the size—

Q. Right.

A. —of after the monument, the charge after the monument.

Q. Now will you take your seat, please, sir.

[fol. 1573] A. Yes, sir.

Q. Now Reverend Gray, was there not a lull in the rioting shortly before General Walker mounted the monument and shortly before the Highway Patrol left?

A. Well, as I said, when I saw General Walker the first time out in the circle, there was a lull at that point in the sense that the tear gas was pretty heavy up around the Lyceum. The crowd had moved back and was—a number of them were concentrated around the monument and even to the east of the monument so that at that point, there was—we could call that a lull, a lull presumably brought about by the tear gas.

Q. Well, and when the Highway Patrol left, too, that caused somewhat of a lull in the activity next to the Marshals, didn't it?

A. I was not aware of it, sir. I saw the Highway Patrol pulling out University Circle in front of the Engineering Building. They were at that point a long way from the Marshals.

Q. Did you see in your press or learn of the United Press report that during a lull in the rioting, General Walker mounted the Confederate statue and begged the troops (sic) to avoid their violence and was met by one massive jeer; did you see that United Press report?

A. I don't recall having done so, sir.

[fol. 1574] Q. You have heard about it many times, haven't you?

A. About being greeted with a massive jeer?

Q. About Mr. Al Kuettner's report that during a lull in the rioting, General Walker mounted the Confederate statue and begged the students to avoid their violence and he was met by one massive jeer; haven't you heard of that news report?



A. No, sir, I really haven't.

Q. Well—

A. Haven't saw that.

Q. Wasn't there actually a lull in the rioting just about the time the Highway Patrol left?

A. I don't tie this to the departure of the Highway Patrol. Certainly when General Walker was making his speech at the monument, the crowd, most of the crowd was gathered back at the monument.

Q. Uh-huh.

A. Listening to him. But—and if that had been a lull, yes, they had withdrawn from the circle—not all of them necessarily but a large number had moved back to the monument at the time General Walker spoke to them.

Q. In other words, at all times during that evening, there were groups of students in contact with the Marshals; that is, they would gather together, get their rocks and their bottles and things and run up and throw them.

[fol. 1575] Now that went on continuously, even during the speech, didn't it?

A. That I don't know, sir, because I was down at the monument with the crowd and looking at General Walker and standing there. I wasn't watching the Lyceum. This is a long ways from the Lyceum. I didn't—couldn't tell what was going on at the Lyceum right at that point.

Q. You didn't see the Lyceum then from where you were near the monument?

A. Well, certainly, you could see the lights of the Lyceum from the monument because it was lighted very well.

But the point I was making is, I was not looking at the lights—at the Lyceum. The Lyceum stood east; I was coming from the "Y", which is north of the monument. I was looking at General Walker and the crowd that was gathered at the monument and then moving through the crowd.

I could not describe to you what was going on at the Lyceum while the speech was going on because I was—I was watching—I was looking in another direction. I was looking at General Walker.

Q. Could you hear tear gas still being fired up near the Lyceum before, during and after the speech?

A. I don't recall tear gas being fired during the speech but I couldn't be absolutely certain of that.

Again, I was pre-occupied with what was going on right [fol. 1576] in front of me. I certainly remember tear gas being fired in great quantities after we, after the—after the speech, when the crowd moved toward the Lyceum, certainly the tear gas had been fired in quantity just prior to the time that I saw General Walker, because this is what had seemingly cleared out the circle, that so many had moved back.

Q. Did you hear General Walker state this or this in substance: "No one came here for violence. Violence is not the answer. Your real enemy is in Cuba, that way," and he pointed toward Cuba?

A. No, sir, I didn't hear that. I testified to what I did hear. I remember a reference to Cuba but it was more in the nature of, "This is the long way around to Cuba. The Marshals ought to be in Cuba, not here."

Q. Did he say, "the Marshals", or "the troops"?

A. Marshals and troops.

Q. Or do you remember?

A. Of course, the troops were not on the campus at that point. They were—

Q. They were where?

A. Presumably still in Memphis and around about but, I mean they had not come onto the campus at that point.

Q. But actually you knew, didn't you, by that time they were in a staging area about 15 miles north of town?

A. I knew there—I knew they were—I didn't know they [fol. 1577] were that close, no—except, of course, I knew the local National Guard Unit, they were down—

Q. Of course, when you saw General Walker over there between the monument and flagpole, you went over, had this talk with General Walker.

Now at that time you had been in there remonstrating with students and walking back and forth through that tear

gas for a considerable period of time, hadn't you—at least 20 or 30 minutes, maybe 40?

A. Yes, off and on.

Q. And weren't you somewhat excited at that time yourself by all of these events and violence that was going on?

A. I was certainly worried, yes, sir.

Q. And didn't you come up and catch General Walker by the arm, or do you remember, or take his arm?

A. Not that I recall, no, sir. Not that I recall. I walked up to him and addressed him as General Walker.

Q. Did you stick out your hand and shake hands with him?

A. Not that I recall.

Q. You didn't like him very well, did you, Doctor, or Reverend?

A. That had nothing to do with it at this point. I just went up and asked him to help us because I knew that he could be of help. I knew the students would listen to him. [fol. 1578] Q. Well, you had read quite a bit about him?

A. Yes, sir.

Q. Had he represented a concept that you bitterly disapproved of, didn't he?

Mr. Gooch: If the Court please, I object to the form of that question. We are not talking about integration in this case.

The Court: Sustained.

Mr. Watts: I wasn't talking about integration at all.

Mr. Gooch: All right, it has that implication and I move the jury be instructed not to consider that question for any purpose.

The Court: The jury is—

Mr. Andress: I would like to say something on it. We can ask things of this sort to show bias and prejudice. It certainly would go to bias and prejudice of the witness.

The Court: Overruled. Ladies and Gentlemen, you are instructed not to consider the last question and answer of the witness.

Mr. Watts: Anyhow, Reverend Gray, you didn't go up and stick out your hand and shake hands with him?

A. Not that I recall.

By Mr. Watts:

Q. Well, if you had, you probably would recall it, don't [fol. 1579] you think?

A. I should think so.

Q. And did I understand you to say that General Walker said at that time, "You are the kind of an Episcopal minister that makes me ashamed of being an Episcopalian"?

A. Yes, sir, that was toward the end of our conversation.

Q. That's right. That's right.

A. Yes, sir.

Q. In other words, you went up to him at that point between the flagpole and the monument, and you asked him to stop, and he said, "I can't. I'm just an observer," or something to that effect.

Q. And then you talked with him a little more and he said, "You are the kind of Episcopal minister that makes me ashamed of being an Episcopalian"?

A. Yes, sir.

Q. All right. Now, at that time, as a matter of fact, there is—there are two very definite schools of thought in the Episcopal Church—let me finish the question—the so-called liberal and the so-called conservative groups and there is considerable conflict between them, isn't there?

Mr. Gooch: If the Court please—

The Court: We are not going to get into that. I'm not going to permit anything like that at all.

[fol. 1580] Mr. Address: May we have our Bill on that?

The Court: Yes.

By Mr. Watts:

Q. Now then Reverend Gray, what was the meaning to you when he said, "The kind of Episcopal minister," what did that mean to you?

A. Well, since I had just been telling him why I was out there, I said I was there to do whatever I could to stop the violence, to get the students to go home and quit what they were doing, and when I—I had just finished describing what my purpose of being there was, which was to do everything I could to calm the students and to curtail the violence, and it was in that context immediately after my having said that that he said, “You are the kind of minister that makes me ashamed of being an Episcopalian.”

My interpretation was that, as he had said, the students had a right to protest and that we ought to let them protest and keep going and that I shouldn't be out there trying to stop them.

Q. That was your impression. In other words, that was the impact it had on you, what he said?

A. Yes, sir.

Q. Now what was your impression of the fact that he said he was there only as an observer and couldn't stop it if he wanted to?

A. Well, my impression, I, of course, continued to urge [fol. 1581] him to speak to them because I thought he could be very helpful in this respect.

Q. You saw him doing nothing at any time other than observing, did you?

A. He made a speech, of course, to the students. I saw him make that.

Q. How did that speech affect you? Did that speech indicate to you that he was trying to lead the crowd in adverse action toward the Marshals?

A. Well, it certainly impressed me that it was further inflaming or inciting the students, telling them, congratulating them on what they were doing. He was encouraging them, telling them to stand fast, be firm, that there were thousands behind them.

This certainly had the effect of encouraging what already amounted to rioting. It was a riot.

Certainly, to tell them that they had been sold out by the man who led the Marshals onto the campus. This was,

also,—this would serve also to further inflame or incite them.

Q. But the point is, you got no impression and have so testified, have you not, that Walker was going to lead the students in any kind of activities against the Marshals?

A. I did not hear that, sir. Remember, I was pulled down from the monument some time before the incident at the [fol. 1582] monument was completed so that I was—there may have been many things said after I was pulled down from the monument, I don't know about that, and taken away.

Q. Now refreshing your recollection a little from your deposition which was taken on May 11, 1964—

A. I beg your pardon, sir. It was taken in February, I believe.

Q. That's what I thought. Oh, this is the wrong one. No wonder I couldn't find it. I couldn't find where Mr. Kuettner said what I thought you said. Thank you, sir, for helping me out there.

Your deposition was taken on February the 4th, 1964?

A. Yes, sir.

Mr. Watts: Do you have a copy of that, Mr. Gooch?

Mr. Gooch: Yes.

Mr. Watts: Might he have it, please, to save me running back and forth?

Mr. Gooch: What page?

Mr. Watts: Page 59.

By Mr. Watts:

Q. Now, Reverend Gray, refreshing your recollection from your deposition, I'll ask you if this wasn't your recollection on February the 4th:

“Question: After the speech was finished, did you hear General Walker say or did you get the impression that he [fol. 1583] had advised the students that he did not intend to lead them in any actual violence?

“Answer: No, sir, I didn't.

“Well, you certainly did not have the impression that he was going to lead them in acts of violence such as a charge on the Marshals, did you?”

“No, sir, I didn’t have the idea that he was going to lead them.”

Now, that was your impression at that time, was it not? Yes or no.

A. Yes, sir.

Q. All right, sir. Now would you turn, please, to Page 41. “Did you see a rather heavy-set man around him at that time?”

“Yes, sir.

“How far was he from General Walker?”

“I don’t know, he was right with him, standing right beside him. I recall seeing him right in the group.

“Now then Reverend Gray, was there any change in the character of these charges by the students from before General Walker’s speech and after?”

“Yes, sir.

“What was that change?”

“Well, after the speech, why, the charges involved far more people, and before the speech, it was just an action by [fol. 1584] groups of people, they were not all working together.

“Question: You mean there was no concerted action at all before General Walker’s speech, in other words, it was just a group of people that would move forward at one time, is that right?”

“Yes, sir.”

Would you prefer to read that? Go ahead and read that.

A. (Reading) I am not sure about the last, though, that there was no concerted action at any one time, I’ll say this, if you would compare what happened before—” Before that. I think that means before the speech.

Q. Yeah.

A. “With what happened after the speech there at the monument and what happened before, certainly what hap-

pened after the speech at the monument involved more people moving in the charge toward the Lyceum than had been before the speech." Is that—

Q. No, go ahead and finish it.

A. "But before the speech, there was those groups moving as a group, not as the entire crowd, they would, some of them would move there and some here and advance to where they could throw their weapons and then run back to form again, but I did not have the feeling, as many people [fol. 1585] moved all at once together before the speech as they did after the speech. There is no question about that."

[fol. 1586] Q. "You mean after the speech?"

Answer: "After the speech."

A. Yes, sir, after the speech.

Q. I will just read it for a while.

Question: "Would the term 'sporadic' be accurate as to the activity before the speech?"

Answer: "Perhaps, though I would say this was not as if it might have been a charge, it was just a few people then because there was quite a number of charges. It was just a continuing thing, but by small groups and individual people and their action depended on the intensity of the tear gas as to whether they moved right straight close to the Lyceum or whether they would fall back. But I think after the General's speech, we had a continuing thing but it was all of the crowd moving forward together. It might have been just the same number of people moving altogether, but it was quite different from the various groups moving separately. Now, that happened after the speech at the monument."

Now, that was your testimony at that time?

A. Yes, sir. The inflection there—it might have been just the same number of people, but moving altogether. After the speech is what I mean.

Q. Well, you read that and we will get to the inflection. [fol. 1587] A. I say it might have been just the same number of people in the whole crowd, but after the speech



they were moving—after the speech they were moving altogether.

Q. Well, let's see now, let's start reading.

A. All right.

Q. I'll tell you what, let's go back so we will get your inflection, and I will read my question.

“Would the term sporadic be accurate as to the activity before the speech?”

Now, read your answer.

A. “Perhaps, though I would say this was not as if it might have been a charge, it was just a few people then because there was quite a number of charges. It was just a continuing thing but by small groups and individual people and their action depended on the intensity of the tear gas as to whether they moved right straight close to the Lyceum or whether they would fall back. But I think after the General's speech we had a continuing thing but it was all of the crowd moving forward together. It might have been just the same number of people moving altogether, but it was quite different from the various groups moving separately. Now, that happened after the speech at the monument.

Q. “Did you at any time prior to the speech see a movement of substantially the entire group with only one or [fol. 1588] two in line, one or two groups, I mean?”

A. “No, sir, I didn't notice it. Not the whole group, I mean. Not the whole crowd. It was after. The crowd was circling the Circle pretty well. I mean the east end of the Circle. They were all—I mean, from the Fine Arts Building, around the Engineering Building, with concentration, so much of the time, being down in the east end around the monument and in that general area.”

Q. By circling, you don't mean they were moving around?

A. No, sir.

Q. They were just standing in a position—

A. That's right.

Q. That would encircle it?

A. Well, of course, up to a point. I would say about halfway, but not close to the Lyceum.

Q. What I am getting straight—what I am trying to get straight, you don't mean that they were circling like a demonstration?

A. No, sir, I don't mean that.

Q. Now, Rev. Gray, turn over to page 45, please, sir. The question about the middle of the page.

“Then during this period before the speech, did you at that time ever see a charge that could be compared to the participation of the entire crowd on both sides of this east-[fol. 1589] west sidewalk?”

A. Wait just a minute. I believe I have lost you. What page?

Q. Page 45.

A. Page 45. Which question?

Q. I will read it again: “Then during this period before the speech, did you at that time ever see a charge that could be compared to the participation of the entire crowd on both sides of this east-west sidewalk?”

A. “No, I never saw one that did involve everybody that night. People came from all around. A group would come up from one direction and some from another, but I never saw a charge such as you have described.”

Q. “Did you ever see that night a charge of all the people in fairly close proximity to the Lyceum?”

A. “If you are asking if the whole crowd moved at one time, no, sir.”

That needs to be clarified. I mean, there were plenty of people standing out there, that I would say were observers. I wouldn't say everybody who was standing on the edges was actually participating in the riot itself. In fact, I know of several who were simply there standing and not participating at all. That is the point of the question, that it didn't involve everybody out there that night.

[fol. 1590] Q. In fact, General Walker told you he was an observer, didn't he?

A. Yes, sir, he did. Most of the observers were on the edge of the crowd. I mean, sitting or standing around the Y Building, or in that area.

Q. You never did see General Walker with anything in his hand, did you?

A. No, sir.

Q. And you were an observer also, were you not? Well, you were a little more than an observer?

A. I was trying—

Q. You were actually a counter rioter, weren't you?

A. I was trying to do what I could to stop it, yes, sir.

Q. Bottom of page 45, the last question:

“Now, Rev. Gray, with reference to these so-called charges that you saw and described them as to the area and the size of the crowd and the activities anytime before the Walker speech on the monument, I will ask you to now please just draw us a word picture of it.”

A. “I don't recall these charges to where I could describe one of them at a particular given time. It is a dynamic thing, it wasn't something that just happened and it would be hard to draw a word picture of it.”

[fol. 1591] Are you asking me about—

Q. Now, just wait. Let's just read it.

A. All right, excuse me.

Q. Then we will get to the conversation after a while.

A. All right.

Q. The inflection is what I am trying to get at, the word picture, just what you saw.

A. I'll say this, there was a movement at all times in the area. There were people on the ground, you see, just moving aimlessly about, it seemed. Some were going some way and some the other. They would go up toward the Marshals, a big crowd of them, and then they would fall back and that went on all during this period of time, advance and fall back.

Q. “And there would be a large crowd doing that?”

A. "Yes, sir, there would be, but the whole crowd didn't do the same thing at the same time. There was a whole crowd but there was a number of groups."

Q. Now, Rev. Gray, what was your official position as far as your relationship with the students were concerned? Weren't you an assistant Chaplain, or had some kind of relationship with the University?

A. When I first moved to Oxford in September, 1957, I was Rector of St. Peters Episcopal Church and also Chaplain [fol. 1592] for the Episcopal students at the University.

In January, 1961, the Reverend Mr. Smith came there as Chaplain and I was Rector, so actually he was Chaplain of the students at that time.

Of course, many members of the University faculty are—and some students as well, are actually parishioners of St. Peters Church in Oxford, so that I had no official connection with the University, no, sir, but many of my members were on the faculty staff.

Q. You were very familiar with the students, of course, and their reaction and how to handle students, weren't you?

A. Hopefully. I wouldn't begin to judge my competence in that respect, but I had worked with students, yes, sir.

Q. Rev. Gray, in fairness, don't you think if Mr. Meredith had been brought on the campus area Monday morning when most of the students had come back from the football game—

The Court: Mr. Watts, I am not going to even permit you to go any further with that question. That is highly speculative.

Mr. Watts: I was trying to qualify him as an expert, but I guess nobody is quite that expert. I will withdraw it. [fol. 1593] The Court: All right.

Q. Finally, Rev. Gray, after the speech at the monument you had no impression at all that Walker had either

told the students he would or that he intended to lead them in any violent activity against the Marshals, did you?

A. I had no impression he was going to lead them in a charge, that he personally would do it. I did not hear anything to this effect.

Q. And how far away from the monument, going to the westward, was he when you lost sight of him?

A. Now, I beg your pardon, here, this is after the speech?

Q. After the speech, yes.

A. He—the last time I remember seeing him was as he stepped down, or out of sight, when I was still fairly close to the Y, and as best I could tell he moved around on the south side of the monument, but I can't be certain of that. I didn't see him again.

Q. But it was your impression, was it not, from where you were standing over toward the YMCA, that General Walker, having faced the east making his speech, turned to his right and went around the south side of the monument, and then proceeded toward the flagpole?

A. That was my assumption, sir, since I didn't see him. [fol. 1594] Q. At that time you didn't see any people run over to where he was from the area of the YMCA, did you?

A. From the area of the YMCA?

Q. Yes, where you were.

A. Well, I, myself, was moving in that direction. I think there were one or two with me. The students had come and asked me to go back and try to talk to the crowd again.

But as—when we got there, as I say, after the crowd had moved around, the monument, I moved out into the Circle.

Q. But the point is, after you saw General Walker step down from the monument, turn to his right, and then move toward the flagpole, along in this direction, there was no large movement from this area (indicating) where you were, down toward the flagpole, was there?

A. There was a movement, but I think most of these people were coming from around here. Now, this is where

I had actually encountered the crowd. This was where I was spending my time, in this northeast quadrant, after the speech. On my way from the Y. The crowd moved in and came more or less engulfed me, and I was giving ground in this general area over here, so that the crowd was coming this way, and coming on this side of the monument too.

[fol. 1595] Q. Did you then, after you had moved away from the YMCA and gotten down here, did you see General Walker any more?

A. No, sir, I didn't see General Walker. I was in this area pretty much with my back to the Lyceum, giving ground, trying to stop whoever would stop, and get some of them to go back, and the crowd more or less passed me by, but there were still others coming on up, and I would stop them as best I could, and give ground with them.

Q. Now, let's draw this Jury, please, sir, a word picture. First, where you were, where you were when you last saw General Walker?

A. Somewhere between the Y Building and the monument.

Q. That is from here to here (indicating)?

A. Yes, sir.

Q. That is flat terrain there?

A. Yes, sir.

Q. There is a street light off over here somewhere on the south?

A. I am not sure of that. There was some light.

Q. So, from where you were you couldn't see General Walker step down and start off?

A. I saw him disappear. And I am assuming he stepped down from the elevated spot he was on.

Q. Now, could you take this pen and put a little X with [fol. 1596] a circle around it where you saw him disappear.

A. Well, at the monument. I mean, at the base of the monument. I mean, he presumably stepped down and he disappeared to my sight in the crowd. My assumption—

Q. Don't give your assumption.

A. All right.

Q. Then you did not see him after the speech, move one yard to the west of the monument?

A. No, sir, I didn't see General Walker again.

Q. And all you saw after the speech a crowd moving toward the monument, toward the flagpole?

A. Toward the Lyceum, yes, sir, and I was in the crowd. I mean, out in it with my back pretty much to the Lyceum most of the time, trying to talk to those headed toward the Lyceum.

Q. Prior to that time as you were standing at the YMCA, wasn't there still tear gas being fired up here, and activity up in this area (indicating)?

A. I don't recall being aware of any heavy—any tear gas barrage, actually. Now, whether there was sporadic firing, I couldn't say, but no, sir, certainly there was not a heavy firing of tear gas at that point, because again my attention and my interest was concentrated down here.

Q. Sure. Where Walker's speech was.

[fol. 1597] A. I couldn't say exactly what was going on up there, but I think if a lot of tear gas was being fired, I would have known it.

Q. Can you fairly or accurately say to this Jury that you did or did not ever see General Walker lead a charge?

A. I did not see him lead a charge.

Mr. Watts: That is all.

Mr. Gooch: Nothing further.

The Court: I am going to excuse the witness.

Mr. Address: May we make our Bill during the recess?

The Court: Yes, wait out in the hall.

Mr. Gooch: It is nearly recess time now, I don't want to break into another witness.

The Court: Ladies and Gentlemen, let's recess until twenty-five minutes until 11:00.

\* \* \* \* \*

[fol.1604]

JOHN CHARLES HILL, 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. John Charles Hill.

Q. And where do you live, Mr. Hill?

A. When I am not attending the University of Mississippi, I live with my parents in Dover, Delaware.

Q. How long have you lived in Dover, Delaware?

A. My family just moved to Dover this March, this past March, from Chicago.

Q. And prior to living in Chicago, where did your parents live?  
[fol.1605]

A. In Jackson, Mississippi.

Q. How long did you reside in Jackson, Mississippi?

A. For two years.

Q. Where were you born?

A. Fort Worth, Texas.

Q. What's your father's name?

A. John Lee Hill.

Q. Was he formerly the manager of Swift & Company here in Fort Worth?

A. I believe he worked as—on the sales force with the cheese end of it.

Q. All right. Now on September, 1962, September the 30th, 1962, were you a student at Ole Miss at Oxford?

A. Yes, sir, I was.

Q. And in what year were you there?

A. As far as—

Q. Scholastic.

A. Sophomore.



Q. Yes, sir. And how old are you now?

A. Twenty-two.

Q. You would have been roughly 21 at that time—20 or 21?

A. Yes, sir.

Q. Directing your attention to September 30, 1962, can [fol. 1606] you give us your whereabouts on that day?

A. Yes, sir, I was in Jackson Sunday morning. Of course, we had had a football game and played Kentucky, the previous night and I went to church with mom and dad and then spent the early afternoon with my parents and then continued to Oxford that afternoon, a little later in the afternoon.

Q. Do you know about what time you arrived in Oxford?

A. I would say approximately around 4:30, 5:00, in there, in that area in the afternoon.

Q. All right. Where did you go when you got to Oxford that afternoon?

A. Well, I went to my dormitory room, which was Baxter No. 4, and I unloaded my suitcase and whatnot.

Q. And then what did you do?

A. And then I proceeded back to the Ole Miss Motel to see Dan Rather, who was a CBS correspondent out of Dallas, covering the problem we had.

Q. Did you have any connection at that time with CBS news?

A. Yes, sir.

Q. What were you?

A. Well, I was a stringer. This is a type of individual who carries film, sets up interviews, just helps out in any way, shape or form that he could, drive cars, just help out. [fol. 1607] Q. All right. Now, do you know about what time you went back to the hotel to see the man from CBS?

A. It was directly after I got on campus, approximately 5:00, 5:30 or 4:30, in there, in that area.

Q. All right, did you thereafter return to the campus?

A. Yes, sir, I did.

Q. And about what time?

A. Well, first of all, Mr. Katzenbach with the Justice Department was to give a talk to the newspapermen at the Ole Miss Motel and this was going to be scheduled for I guess, 6:30.

And my first duty was to find our cameraman. I forget what his name was. I think it was Dick Perez. And get him back to the motel for this interview.

Well, after I found Mr. Perez and whatnot, I went back to the motel and it was getting on towards 7:30 after we got this all straightened out, at which time a man by the name of Gordon Yoder, who works for the, one of the Movietone Motion Picture News-theatre type affair, had come back to the motel and told the story where he had been beaten up, his car had been demolished, all of his equipment, his cameras, his briefcases, all of his notes were still on campus and that, he just went on to tell the story of what had happened to him.

At that time I suggested perhaps I could go back on [fol. 1608] campus and retrieve some of his papers and documents, which was his lifework.

And so Dan said it was all right, so I continued, I went back up on campus around 7:30.

I drove my own car and I parked on the circle and I went then up to Mr. Yoder's car and I got as much camera equipment and whatnot as I could and loaded it in my, back in my car, and came back to the Ole Miss Motel.

When I was at—when I was going around trying to get this equipment, I had noticed that the students that were spectators were getting very restless, cat-calls, a lot of swearing, and I saw a couple of missiles thrown.

There was a, some type of a fire bomb which was thrown on what they call a deuce and a half, the National Guard. It's a two and a half ton truck. And it landed on top of the canvas and then I went, as I say, left and just as I was leaving the back part of the campus, I noticed where the crowd broke and started running in all directions.

Now I don't know why. I presume—and I say it's only presumption—that tear gas had been thrown at that time.

Q. You didn't see the tear gas?

A. No, sir, I did not.

Q. All right, you left the campus then, say, sometime before the tear gas was fired?

[fol. 1609] A. Yes, sir.

Q. And then where did you go?

A. I went back to the Ole Miss Motel, gave Mr. Yoder the briefcases, spiders, tripods, camera, whatnot.

And then I proceeded to see Mr. Neal Straucer who is, also, a CBS correspondent, who was at the motel at this time, and I told him what I had seen, as far as the crowd, what was happening, the fire bomb, or whatever it was.

And then the reports started coming in that the riot had started—

Mr. Watts: If Your Honor please, just a minute. The reports would clearly be hearsay.

Mr. Gooch: That's right.

The Court: Sustained.

By Mr. Gooch:

Q. All right. Now how long did you stay there at the Ole Miss Motel before you went back to the campus, if you went back to the campus?

A. Maybe 30 minutes; 15-30 minutes.

Q. Well, after you had carried Yoder, his equipment, such as you could retrieve, back to the motel, did you then return to the campus?

A. Yes, sir.

Q. Would you have any idea about what time you got to the campus?

A. Well, I would say it was approximately 8:00—8:30, [fol. 1610] although I don't—I really have no way of knowing.

Q. Well, will you describe what you saw when you returned to the campus at that time?

A. Well, the reason why I returned to the campus was that when I understood that the riot was going on, I knew that a man, another newspaperman, had a portable tape recorder and I asked if I could take the tape recorder on my person and go up on campus and just record noises of the riot.

And this I did. And I went back on campus and just milled around in the crowd and took recordings.

Q. All right. How long would that tape play?

A. Well, the tape, as far as, if it had been rewound all of the way, it would have lasted approximately an hour. However, the man who loaned me the tape recorder only rewound it for 15 or 20 minutes.

Q. All right. When you got back to the campus there with your tape recorder, what did you do?

A. Well, I just milled around in the crowd and for a time—of course, once I got on campus, I turned the tape recorder on and adjusted it and just left it alone because I didn't want to play with it.

I had the microphone in this hand (indicating), with the cord running up my sleeve and I had the actual recorder under my belt and I carried it sort of to conceal it because it's—it wasn't exactly an intelligent thing to be doing, running around that campus as a newspaperman or stringer or what-have-you.

I just got noises, tear gas bombs exploding, people screaming, conversations, what-not, that were irrelevant.

Then after a time went by I noticed over on my left—let's see, do you have any kind of display?

Q. Let's take a look at this map down here, if you will. That's Plaintiff's Exhibit 11. And there is a pointer there if you want to detail where you were and what you saw, just try and give the jury a graphic picture.

A. Thank you. Well, I was right in this area right here. I had been milling up and around back over in here and

I was right, oh, right about here when I heard an awful lot of people to my left saying, "Let him through. Let him through. Make way," and what-not.

And as I came over to see what was going on, people said, "Here is General Walker. General Walker is here. Here is our leader. What should we do?"

And so General Walker continued on to right in front of the monument. There is this statue of a rebel soldier at the beginning of the monument or which I refer to as the monument. And he stood there for a moment. He didn't say anything.

And then people continually said, "What shall we do? Tell us what to do." Of course, the riot was going on all [fol. 1612] the time, all up in through here (indicating), the tear gas bombs and what-not.

Behind me on my right somebody screamed out, "General Walker, we got a movie," or "a newspaperman and we tore up all of his movie equipment and we beat him up," and General Walker said, "Good. Good."

And then again Mr. Walker didn't say anything and people started, "What shall we do? Tell us what to do." And there were other comments made but the one that really sticks out in my mind was that General Walker said, "How long has this been going on?"

And again back from my right a voice came out and said, "About an hour."

And he said, "Well, keep it up all night. We have got more people coming."

Q. Then what happened?

A. Then there were some other comments, sort of vague in my mind and I won't refer to them.

But General Walker then started walking in a northwest manner at a steady pace, going up towards the Lyceum Building.

Now by this time there was, well, I tried to stay as close to him as possible with this tape recorder because I figured that I was getting a recording and what-not, which,

as it turned out, I wasn't, but, at any rate, we continued on [fol. 1613] up the circle at a steady pace and got up to about here, I would say (indicating), right where the "H" is.

Q. You have indicated a position west of the crosswalk that runs north and south through the circle?

A. Yes, sir.

Q. All right. Now as he went in that direction, what happened to the people that had been down around the monument?

A. Well, they sort of fell in behind him. It was, oh, possibly from, oh, here to the crosswalk (indicating) was the main body of people.

Of course, all the time there was still people running all around in this whole area and as they walked up to about where the "H" is, the Marshals fired a heavy barrage of tear gas.

Well, at this point, General Walker turned to the south and started cutting across, going over to here (indicating).

Now when this barrage broke loose, most of the people that were behind us broke off and ran back over here and back here.

Well General Walker at this point—well, let's see, there was—we got over here and it was sort of as if he were reconnoitering, just looking around, and another heavy barrage of tear gas came and I figured, well, this is time for [fol. 1614] me to come—go home, so I just—I left General Walker in this area, came back and got my car and went back to the Ole Miss Motel.

Q. As General Walker, as you have described, walked west there, was anybody around him?

A. You mean walked over here (indicating)?

Q. No, as he started from the monument?

A. Oh, yes, sir—oh, you mean directly next to him?

Q. Yes, sir.

A. Yes, sir, there was a heavy-set man which I believe is the Sheriff in one of the Mississippi counties, he was a very heavy-set man.

Q. Anybody else?

A. Well, I only remember the, this one individual.

Q. How close were they together?

A. Well, right, as they just started walking off, it looked as if General Walker may had of gone over to say something to him, just leaned over and possibly said something and just sort of like a little conference, and they just took a few steps and then General Walker headed back off in that area.

Q. Now when General Walker and the Sheriff or Deputy Sheriff took off, what happened to this crowd that was behind him?

A. Well, it just followed—just everybody fell in behind [fol. 1615] him. I don't know, everybody had been screaming, "Tell us what to do. Show us what to do. You are our leader. Follow— Let's go."

And, well, when he started walking off, everybody just fell in behind him and went with him.

Q. Would you estimate the size of that crowd that went up there behind General Walker at that time?

A. Oh, I'm not very good at estimating figures, but it would, I would say several—several hundred people.

Q. Take your seat, please, sir, unless you want to mark something else.

After you decided it was time to go home, what did you do?

A. I continued back and got in my car and continued back to the Ole Miss Motel. I ran over a piece of glass or something which slit one of my back tires and it blew out, so I had to park my car and continue at a half walk, half run affair. And when I got back to the motel, I immediately handed the film, or the recording to Dan and told him what I thought was on it and he seemed very, very pleased—

Mr. Watts: Now, if Your Honor please, this is getting out of the realm—

Mr. Gooch: That's right, just what you did.

The Court: Just what you did.

A. Well, all right. At any rate, I handed him the tape [fol. 1616] recorder and then we sat and we played it back and there were sounds and what-not and then it just went blank and I didn't know why it stopped recording until Cecil said that—

Mr. Watts: Just a minute.

Mr. Gooch: Never mind.

A. All right.

By Mr. Gooch:

Q. In other words, you didn't have any of the conversation with General Walker on there?

A. No, sir, I did not.

Q. All right. Now did you return to the campus later?

A. No, sir—well, just to go back to my room and go over—just go to bed.

Q. Do you remember about what time you went back to the campus that night?

A. Well, there had been reports that several people had been—

Mr. Address: That's not responsive.

The Court: He asked you what time you went back.

A. That's what I'm trying to think. Let's see, it would be 11:00 o'clock, I would say I went back.

By Mr. Gooch:

Q. Did you see General Walker at the time you went back?

A. No, sir.

Q. Did you see him any more after you saw—

A. No, sir.

[fol. 1617] Q. —after you saw him going ahead of that group up towards the Lyceum?

A. No, sir.

Mr. Gooch: Your witness.



## Cross examination.

By Mr. Watts:

Q. You are a member of the so-called news media, are you?

A. If—I work with CBS, which is a member of the news media, yes, sir.

Q. Did you study journalism at the University of Mississippi?

A. No, sir, I am taking—I am majoring in advertising and as, through advertising, we are studying the medias of newspapers, magazines, radio, television, direct mail and what-not.

Q. Are you still in Mississippi University?

A. Yes, sir.

Q. Live in Delaware, I understand?

A. Yes.

Q. Did you know this young lad Van Savell, or Savell, I think he calls himself, with the Associated Press?

A. Yes, sir, I did not—I do not.

Q. Sir?

A. I do not.

[fol. 1618] Q. Have you ever seen him or talked to him at all?

A. Not to my knowledge.

Q. Have you ever talked to anyone who purports to know him or is a friend of his?

A. Yes, sir.

Q. Friends of his you have talked to—

A. Yes, sir.

Q. And have they briefed you on Savell's testimony by deposition in this case?

A. No, sir.

Q. You haven't heard a word of his testimony?

A. Well, I—not of his testimony, no, sir.

Q. Have you heard a word of what his story purports to be?

A. Just what he read or what he wrote in the, in his—I haven't heard. I read the article, that's all.

Q. I see. You have then read that Savell wrote that utilizing his youth to the fullest extent, and so forth, and so on, he participated in a crowd of a few students and many outsiders as they charged the Federal Marshals, Walker first appeared in the riot area at 8:45 Sunday, nattily dressed, the crowd welcomed Walker, one unidentified man queried Walker as he approached the group, "General, will you lead us to the steps?"

That, "I observed Walker as he loosened his tie and shirt [fol. 1619] and nodded yes, without speaking. He then conferred with a group of about 15 persons who appeared to be the riot leaders.

"Walker assumed command of the crowd which I estimated to be at a thousand but it was delayed for several minutes when a neatly dressed, portly man of about 45 approached the group. He conferred with Walker for several minutes.

"Two men took Walker by the arms as they headed for the Lyceum and Federal Marshals.

"Throughout this time I was less than six feet from Walker.

"This march toward tear gas and some 200 Marshals was more effective than the previous attempts. The crowd was unarmed but the crowd said this was the moral support they needed.

"We were met with a heavy barrage of tear gas about 75 yards from the Lyceum steps and went back a few feet further before we had to turn back.

"Before doing so, many rioters hurled their weapons, bricks, bottles, rocks, sticks. We fled the tear gas and charging Marshals.

"I went to a telephone. A few minutes later I returned and found Walker talking with several students. Shortly thereafter, Walker climbed half-way up the Confederate monument and addressed the crowd."

[fol. 1620] You have read that news account, haven't you?

A. Yes, sir.

Q. And that substantially is what you say you saw when General Walker first came to the campus?

A. Yes, sir, I did not see the last part of it when he addressed the—when he climbed up on the statue.

Q. But everything that you have related to this Court and jury, young man—and will you step down here, please?

A. Yes, sir.

Q. —took place before General Walker mounted the statue?

A. Yes, sir.

Q. In other words, you never did see him get on the statue at all at the time you were there?

A. Not get on the statue, no, sir, he didn't.

Q. You have seen Reverend Duncan Gray out in the hall, haven't you?

A. I saw him.

Q. As you moved or allegedly moved across this quadrant of the circle, the northeast quadrant of the circle with General Walker in front of you and a neatly dressed, portly man by his side and a group of people behind you, did you encounter the Reverend Duncan Gray out in here?

[fol. 1621] A. I did not recognize him or see him to my—

Q. Now, were there only one or two men that had General Walker by the arm?

A. Well, there may have been two. I only remember seeing the one. There were people running all around the place and I do distinctly remember seeing one. There may have been two.

Q. And how far in front of the crowd was this one man that was holding General Walker by the arms?

A. Well, he was right next to the General—General Walker.

Q. Did he have hold of his left arm like this (indicating), or his right arm?

A. Well, let's say I was General Walker.

Q. You are General Walker and sort of be—

A. Sort of be like this.

Q. Like this (indicating)?

A. Yeah, and I came over and possibly said something to you or something like that.

Q. And did the portly man lock arms with General Walker like this?

A. No, it was more like this (indicating).

Q. Like this? I see. As they marched towards the Marshals, were they in step (indicating)?

A. Well, I don't know if they were in step together. In [fol.1622] fact they—to me, as I recall, they had just walked along and you went—we got apart and then continued.

[fol.1623] Q. Were they strolling, or were they moving rapidly?

A. Well, they were just going at a steady pace.

Q. And how far behind General Walker and this portly man walking toward the monument, the Lyceum, were you?

A. Well, I was trying to stay out close to them, as possibly as I could.

Q. The question is: How far behind them were you?

A. I would say approximately ten feet. Ten feet to the immediate rear.

Q. Were people in front of you and General Walker—in between you and him?

A. Yes, sir, they were around, all around him, but I tried to stay to the front.

Q. Now, at the time you tried to stay to the front of this crowd, how large was the crowd?

A. As I say, it was approximately several hundred. I am not very good at estimating how big, but it was—the crowd was all back in through here (indicating).

Q. Were they lined up pretty much abreast behind General Walker?

A. You mean in file and block formation, military manner? No. It was just a mass mob.

[fol.1624] Q. Well, was the front relatively straight?

A. Well, it was just—in a manner of speaking, yes. Not as a straight line.

Q. And how far from the front of the group was General Walker and this portly man?

A. Oh, it would be—I would be in the very front of the crowd, be about here (indicating).

Q. How far did the right flank extend toward the north side?

A. I would say approximately almost to the—to the road, because you had people, you had the main body, and you had people over to the right, more or less, and a lot of people on the left carrying on the attack against the Marshals.

Q. By the left, you mean down at the southwest quadrant?

A. Well, of course, the main body was here (indicating).

Q. All right.

A. Then we had people over here and people over here, and people all over the place.

Q. Now, as General Walker and the portly man advanced toward the Lyceum with you ten feet behind him, in this vast crowd of people, how far was the left flank of this group extending to the south?

[fol. 1625] A. Speaking of the left flank as a separate bunch?

Q. No, the flank is the left end.

A. The left side?

Q. Yes.

A. It is not as if it was a Military formation where you have a direct—direct line to make. They had the—he had a mob, a group of people that were hysterical, or something was wrong with their minds, then over on the west you had people running up and down all over in this area, you had people continuously throwing broken bottles and what not.

Q. Now, just a minute right there. When you saw General Walker and this man across the northeast quadrant of the intersection, were there still people running out and throwing bottles up ahead of you?

A. No.

Q. They were behind?

A. Well, this is something I noticed. There was no one ahead.

Q. In other words, the people nearest the Marshals as General Walker and this man marched out across that quadrant were General Walker and this man, is that right?

A. Yes, sir, he was in front.

Q. And nobody was between him and the Marshals?

A. Oh, there may have been one or two people. May have [fol. 1626] been more than that, but not many.

Q. But as far as you saw, and what you are trying to tell this Jury, or what you are telling this Jury, is that in front of this crowd of which you were a part, that General Walker and the man, and in front of that were the Marshals?

A. Basically, yes. Sidewalk up here.

Q. What did they do.

A. Well, they continued walking up to approximately the point here.

Q. Would you measure down here on this scale and tell us how far that is?

A. Approximately seventy-five feet.

Q. About seventy-five feet in front of the sidewalk?

A. Yes, sir.

Q. All right. Now, then, tell us what happened.

The Court: Talk a little louder. The Reporter can't hear you when your back is toward him.

The Witness: Yes, sir.

Q. Tell us what happened as Walker and this Marshal—and the portly man—strike that.

Did you see whether this portly man had a badge on?

A. When General Walker approached I seem to remember he did flash a badge. I don't know whether he had it on [fol. 1627] his tie or inside his jacket.

Q. How big was the man?

A. He was a big individual. I would say he would probably wear a 46 coat.

Q. Was he still hanging onto General Walker's arm as he tried to cross this sidewalk?

A. No, sir, I don't believe he was.

Q. When did he turn loose?

A. Back over here (indicating).

Q. Did he stay then some eight or ten feet ahead of the crowd?

A. Yes, sir.

Q. As they crossed the north-south sidewalk, what did they do?

A. As they got up there they just continued walking.

Q. As they got up to this point you pointed out seventy-five feet from the sidewalk, what did they do?

A. Well, when they were getting to the Marshals at the Lyceum the tear gas—they started throwing their bricks and bottles and ran, and then there was the tear gas fired, and then General Walker went to the left and went south, at which point there was another round of tear gas fired.

Q. Did he walk or run?

A. He was walking.

[fol. 1628] Q. Did he ever run?

A. No, sir.

Q. Never ran at all?

A. No, sir.

Q. Did he walk casually, slowly, or how?

A. He just walked—he kept a steady pace the whole time.

Q. And how far did you observe him walk toward the south?

A. He walked to approximately right here (indicating).

Q. Did he stop?

A. Just—well, I don't remember if he stopped or not. I remember we had a second barrage, a big barrage of tear gas, and there was a Marshal coming towards him from the Lyceum, and that was when I retreated to the rear.

Q. You were following very closely, then, General Walker all this time?

A. Yes, sir, when I got into this area I was within a very few feet of him.

Q. Do you remember seeing, or identifying one Van Savell, a rather plump, rather short individual, along closely observing and watching General Walker?

A. No, I was watching General Walker and I was trying to watch the Marshals because they had clubs and I didn't want to get caught.

[fol. 1629] Q. And did you stay on with General Walker after this point here?

A. Yes, sir.

Q. And where did he go from there?

A. I don't know. That is where I left him.

Q. At no time you saw him run?

A. No, sir. Well, you couldn't actually run because when you run into tear gas you quickly discover your eyes become extremely tender and you can't really see where you are going.

Q. From the time tear gas was fired, would you say that Walker raced back toward the monument?

A. I don't know what Walker did from this point on.

Q. If he did any racing at all it was after you and he walked slowly from this point some seventy-five feet southeast of the walk to where the missiles were thrown?

A. He didn't walk slowly.

Q. How did he walk? Walk out across there and show us about how he walked?

A. (Witness demonstrates.)

Q. All right. Now walk back.

A. (Witness demonstrates.)

Q. And did that gait continue all across this northeast quadrant of the Circle and the northwest quadrant of the [fol. 1630] Circle?

A. Yes, sir.

Q. And did that same gait continue from the northwest quadrant of the Circle into the southwest quadrant of the Circle, after the gas was fired?

A. Yes, sir.

Q. And that was the last you saw of him?

A. Yes, sir.



Q. All right. Sit down. Did General Walker assume command of this crowd as stated by that article read you, down by the flagpole?

A. General Walker was—you could say he assumed command. He continued going forward in front of the leaders, leading the mob, yes, sir.

Q. And did you see down in that mob one of the leaders waving a big Confederate flag as General Walker appeared at the monument?

A. I don't remember seeing it. I know what—I know there were some big Confederate flags being waved down there. I don't remember seeing any—

Q. Well, would you say one of the lads who came up to General Walker may or may not have—and may or may not have taken him by the arm, was waving a big Confederate flag?

A. Would you repeat that?

[fol. 1631] Mr. Watts: Repeat the question, please.

(Question read.)

A. I don't remember seeing anything like that.

Q. Now, after you left where did you go?

A. After I left General Walker, I went back to my car.

Q. Then what?

A. Then I continued in my car back to a point, and blew out a tire, and then I went back to the Ole Miss Motel, and gave my tape to Dan Rather.

Q. Dan who?

A. Rather.

Q. How do you spell that?

A. R-a-t-h-e-r (spelling).

Q. And what was his official position with CBS.

A. He is CBS—at that time he was a CBS correspondent, and out of the Dallas Bureau, and Bureau Chief.

Q. He was the Chief CBS correspondent in the area at the time?

A. He was not in this area, but as far as the—

Q. Excuse me, I mean in the Oxford area.

A. In the Oxford area they had people coming in and going out. I don't know who would have control of this CBS Bureau. It is more—I couldn't say that.

[fol. 1632] Q. To whom did you look for orders and directions?

A. Well, mainly from Dan.

Q. And when you got back there did you report to Dan—

A. Rather.

Q. Rather. Did you report to him that you had seen General Walker come up University Boulevard, confer with the leaders of the mob, issue—assume command of them and then march in front of a group of several hundred people, as you have outlined to us?

A. Well, as I think about it, Dan was in Memphis, or he wasn't—I remember talking to Neil Strauser. He was on the telephone.

Q. Well, to whom did you repeat this?

A. Well, this is what—well, I started to—

Q. Let's back up and start over again, son. You got in your car going to the Ole Miss Hotel?

A. Right.

Q. You are sure you were in your car?

A. Yes, sir.

Q. You are sure you had a flat tire?

A. Yes, sir.

Q. From that point on let's go on. What else are you sure of?

A. Yes, sir.

[fol. 1633] Q. Do you remember arriving at the hotel?

A. Yes, sir.

Q. Do you remember seeing Strauser?

A. Yes, sir. It was Neil Strauser.

Q. What did you tell him?

A. I told him General Walker was on campus and that I had a tape recording and that the riot was going on and I had recordings of General Walker and I had some recordings of the sounds of the riot.

- Q. And who was this gentleman Neil—Rouser was it?
- A. Strauser, another CBS correspondent.
- Q. How do you spell that?
- A. S-t-r-a-u-s-e-r (spelling) or f-e-r, I am not sure.
- Q. All right. Go ahead.
- A. Now, you see these newspaper, or these correspondents—there must have been seven Bureau Chiefs in from all over the country, from out of New York, and it is difficult to remember exactly who you see, but I did most of my dealings with them, really, and that is why I imagine the name pops up in my mind, but I gave—or we found Cecil—I am sorry, I don't have his last name. He was the man whose tape recorder this was. Then we played the tape back and we heard what was on it and we—I don't [fol. 1634] know what happened after that.
- Q. Did you by any chance report this story, or relate this story to anyone associated with Associated Press?
- A. No, sir.
- Q. You are sure of that?
- A. Positive.
- Q. Go ahead. You were going to tell us what you told the gentleman at the Ole Miss. You handed him back the tape recording?
- A. Yes, sir, and I said—
- Q. Go ahead.
- A. "General Walker is on campus and I have got recordings here, let's hear them." As much as said, "Let's find out what I have got."
- So, then, we proceeding to play the tape back.
- Q. Is that all you said to him?
- A. Well, I was anxious to hear what was on the tape, yes, sir.
- Q. And how long did your conference with him last?
- A. Just a few minutes until we started playing the tape back.
- Q. Well, now, as you—or did you at that time tell any person connected with the Associated Press this story you

just outlined from the witness stand?

[fol. 1635] A. No, sir.

Q. Did you ever tell anyone connected with CBS?

A. Yes, sir.

Q. Well, who?

A. Well, Neil Strauser and these people I had been talking to, all of these CBS people.

Q. When did you tell them that?

A. When I took the tape back.

Q. I thought you said when you took the tape back you just returned it.

A. No, I said, "I have a recording."

Q. Well, I asked you, young man, to tell us exactly what you told the CBS representative when you got back to the Ole Miss Hotel? Tell us.

A. Oh, I am sorry, I thought I had.

When I went back to the Ole Miss Hotel, I went to room—the CBS room where I knew these individuals were, and I took the tape recording with me, and handed it to them, and I said, "General Walker is on campus. I have a recording here of the sound of the riot, and I think I have a recording with General Walker on it."

And then we proceeded to listen to the tape.

Q. All right. What did you say in addition to what you testified to? Tell us what was said, what your report was.

[fol. 1636] A. Well, I don't remember what all went on, what all went on at that particular meeting. I haven't given it much thought.

Q. Well, you remembered all of these other things. Tell us what you told the CBS personnel there at the motel, or anywhere else.

A. I really—I told them, well, last night we listened to the tape.

Q. All right, go ahead.

A. All right. We listened to the tape, and we discovered that the tape had malfunctioned, something happened, which it turned out later it had not been re-wound to that extent, and then I said, "Well, what happened is General

Walker came on campus, and then I related to them exactly what I related here, except perhaps not in as much detail.

Q. Who is "them"?

A. CBS.

Q. Who is CBS?

A. Neil Strauser.

Q. Who else?

A. I believe Nelson Benton had come in by this time. I think Dan Rather had gotten back. I don't remember what all was going on.

Q. Do you know what they did with that report?

[fol. 1637] A. Yes, sir. You mean the recording?

Q. No, the report you had made to them.

A. No, I don't know what they did with it.

Q. Do you know if your reports were secondhandly turned over by them to the AP?

A. No, sir, I do not. I don't know.

Q. Did you ever discuss that with them?

A. No, sir.

Q. And that is all you know about this?

A. Well, yes, sir. My tape—the tape was—the tape that was good was put out on CBS news on some of the broadcasts.

Q. Where is that tape now?

A. I understand—well, my copy was destroyed by accident. The Justice Department, I believe, has a copy and CBS is supposed to have a copy.

Q. Did you also appear before the Grand Jury in Mississippi?

A. Yes, sir.

Q. When was that?

A. I don't remember.

Q. January of '63, perhaps?

A. Yes, sir.

Q. Were you subpoenaed to come here today?

A. Yes, sir.

[fol. 1638] Q. When did you get the subpoena, before you left or after you got here?

A. After I got here.

Q. Who arranged for you to come?

A. The Associated Press, or—Mr. Smith, I believe, or Mr. Leon Pearl.

Q. Is that Mr. Leon Pearl from New York?

A. Yes, sir.

Q. You personally discussed this, then, with Mr. Leon Pearl?

A. No, sir.

Q. Who have you discussed it with?

A. Mr. Gooch, Mr. Smith and the other lawyers.

Q. What other lawyers? When and where?

A. You mean from the Grand Jury to today?

Q. Well, don't—

The Court: You can't tell about the Grand Jury.

The Witness: I know I can't. Just to Mr. Gooch and Mr. Smith.

Q. How soon after the incident?

A. After what incident?

Q. After the riot of September 30th.

A. After the riot? Well, I was just contacted by them the last part of school, which would be in June.

[fol. 1639] Q. Oh, yes, speaking now of riots, how long did you hear General Walker talk to these lads in the vicinity of the monument when he first came out?

A. I would say he talked to the group approximately four or five minutes.

Q. Well, he also talked to the individuals, didn't he? Didn't people come up and shake hands with him and say, "General Walker, I am so and so,"?

A. I don't remember anyone coming up like that.

Q. He just talked generally to the group?

A. Yes, sir. He stood in front of the monument, and then the group gathered sort of around him, people just in a semi-circle.

Q. And various individuals would come up and report to him things that had happened, didn't they?

A. Yes, sir.

Q. Did you ever hear him in answer to any of those reports say, "Riot, riot"?

A. I don't remember. He may have.

Mr. Watts: That is all.

Mr. Gooch: Stand aside. Thank you.

The Court: Going to release this witness?

Mr. Gooch: Yes, sir.

The Court: I will let you go back home.

Mr. Gooch: Call Mr. Proehl.

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[fol. 1640] DONALD JAMES PROEHL, called as a witness by the Defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Gooch:

Q. Please state your name?

A. My name is Donald James Proehl.

Q. Where do you live, Mr. Proehl?

A. I live on the University of Mississippi campus, in the back of the campus, the Village Apartments they are called.

Q. Have to speak out a little louder.

A. I live on the campus of the University of Mississippi, in the back of the University grounds, called Village. And my wife and child and I live there.

Q. How old are you, Mr. Proehl?

A. I am twenty-nine years old.

Q. Are you or have you been a student at the University of Mississippi?

A. Yes, sir, I have.

Q. When were you first enrolled as a student in the University of Mississippi?

A. I started to school in 1953. I stayed down there a year and I left and went into the Army and spent three [fol. 1641] years in the Army over in Okinawa and Japan, came back to school on the GI Bill. I stayed at Ole Miss for one year, and after that I went up North to work. I went to work for the Western Electric Company for four years in the engineering department and then came back to Ole Miss to finish up on the GI Bill.

I have gotten my undergraduate degree in education, a school teacher in history, and I received my Master's Degree in Guidance Counseling in September.

Q. All right. Are you working now, Mr. Proehl?

A. Yes, sir, I do various and sundry odd jobs. My wife and I are putting ourselves through school. I work in a factory on the night shift from 7:00 at night until 5:00 in the morning and I go to classes during the day, and previous to this job I worked as a bouncer at fraternity and sorority parties, and I referee athletic events on the campus, work with the physical education department, take tickets at the theatre up town, and you name it, I have done it.

Q. When do you sleep?

A. In class.

Mr. Watts: I think that's immaterial.

[fol. 1642] Q. Directing your attention to September the 30th, 1962, were you on the campus of the University of Mississippi on that date, Mr. Proehl?

A. Yes, I was.

Q. Had you been away from the campus that weekend?

A. No. My wife and I had stayed there. We didn't go to the football game in Jackson.

Q. All right. Directing your time down to around mid-afternoon, 4:00 or 5:00 o'clock, did you have occasion to be up near the Lyceum Building or in the circle?



A. Yes, we had gone to church and come home and eaten dinner and I had gone up town to the drugstore, I had driven up town and didn't go by way of the circle going up town but coming back I did and when I came back, I saw the Marshals and I went over and told my wife and she—

Q. You can't tell what you told your wife.

A. I told my wife—

Q. I say, you cannot tell what you told your wife.

A. Oh, I cannot? I am sorry.

Q. That would be hearsay. You went home and then what did you do?

A. I got my wife and we went—brought the baby and my neighbor across the hall and we came back to the circle.

Q. And when you got back to the circle, what did you see?

[fol. 1643] A. I saw Marshals surrounding the Lyceum Building and a crowd of students and adults in the front.

Q. All right. How long did you remain there in front of the Lyceum Building when you came back with your wife and baby?

A. I brought my camera with me. I wanted to take some pictures. And we stayed there, oh, I would say about an hour and 45 minutes, maybe two hours.

Q. What was occurring, if anything, between the people and the Marshals and the Highway Patrolmen, if anything?

A. Oh, the Marshals were surrounding the building and the students were laughing and calling them names. The Marshals were laughing and joking right back with them and they called—am I allowed to recite some of the names they called?

Q. I guess you'd better not.

A. Oh, not curse words, I mean, just—

Q. All right.

A. I put my little girl up on my shoulders and went up to the front of the crowd. The wife stayed behind on the

grass and I watched for a while and I saw a boy with a Confederate flag on a long pole waving it up there and the students were actually just, to me it looked just like good-natured fun, to start with, and then it started getting [fol. 1644] rougher as time wore on.

Q. All right. When it started getting rougher, how did it get rough?

A. Oh, things were thrown. I couldn't say exactly what. Two, three army duce and a half, Army trucks came in with more Marshals on them.

I took some pictures of those, also, and some of the students started flipping, and grown-ups, flipping lighted cigarette butts up on top.

In fact, the Marshals were laughing and joking about it. I have one picture where the Marshal is bending down, joking with the students.

Like I said, I looked like—it was actually good-natured fun there for a while.

Q. After it—did it ever quit being good-natured fun?

A. Oh, yes, I started—as I said, I had my camera there and I saw some of the photographers start having their cameras taken away from them, tape recorder, and being smashed, and things starting to get rougher and so I told the wife and child to go home and I gave my wife my camera so mine wouldn't be destroyed and I sent them on home.

Q. Did you remain there?

A. Yes, sir, I did.

Q. Were you there when the tear gas was fired?

[fol. 1645] A. No, sir, I wasn't.

Q. Where were you when the tear gas was fired?

A. About 10 minutes before President Kennedy was to come on TV, the YMCA is located kitty-corner on the circle there and I had actually stayed there because I wanted to hear Kennedy on television and I had left with another band of students who I cannot place who they were, just a small group of students, we had gone, we went over to the "Y", and—early to get a seat because we knew the place

would be packed and I was not present when the tear gas was fired.

First thing I knew was my eyes started smarting.

Q. All right. Now you did listen to President Kennedy's speech over in the "Y"?

A. Yes, sir, I did.

Q. After the speech, where did you go and what did you do?

A. After the speech, we had—oh, I remember explicitly two boys came in. One of them had been shot with bird-shot, you know, "Boy's been shot. Boy's been shot," and pulled up his shirt and we saw a lot of the pellets or little red marks on his back.

After Kennedy's speech, I tried to look out the window. It was pretty hard to see with the tear gas and all. And at times I would go to the door and try to look out the doors. I was worried—I wanted to get back to the apart-[fol. 1646] ment but I didn't know how to get back.

I saw some Marshals and students actually fighting out in the grove, maybe one Marshal and one student or two Marshals and a student.

And so I stayed in the safest place. I stayed in the "Y".

At times, as I said, I would go out and look out the door and that's all.

Q. All right. Now after you came out of the "Y", let's get down to it, did you ever see Walker that night?

A. I heard in the "Y" that General Walker was—

Mr. Address: We are going to object to that.

The Court: No, sir, he asked you if you saw him.

A. If I saw General Walker? Yes, I did.

By Mr. Gooch:

Q. Where was General Walker when you saw him?

A. He was standing on an elevated portion of the Confederate statue, on the front of the statue.

Q. Now you had not seen him prior to the time you saw him standing on that campus?

A. No, I hadn't.

Q. On that monument?

A. No, sir, I hadn't.

Q. Did you hear or were you able to hear—well, now where were you when you saw him standing on that statue? [fol. 1647] A. You could make an outline, a sideview outline of a man—

Mr. Address: If the Court please, this is not responsive.  
The Court: Overruled. You may proceed.

A. You could see the side profile, let's say, of a man standing up there. I couldn't distinguish who it was until I got up there and I pushed right to the front, pushed right up.

I was within, oh, maybe three or four feet from him, stood right up, could look right up at him, and I saw General Walker with his white hat on.

Q. All right, did you hear any of the statements that General Walker made there in his speech there that night?

A. Yes, sir, I did.

Q. Will you detail as best you can your recollection of what you heard General Walker say on the monument there that night?

A. I heard him tell the students that they had a right to protest under the Constitution; that they were doing the right thing, and that he would lead them in this protest.

Q. Do you remember anything else he might have said?

A. There were things I am not sure about. I wouldn't [fol. 1648] want to say. I am sure I did hear this, though.

Q. All right. Did you see Reverend Duncan Gray there while General Walker was on that monument?

A. Yes, Duncan—Reverend Duncan Gray and myself and a man I don't know, the three of us met actually on the steps of the Y and walked over to hear him talk, hear General Walker speak and Gray went right up there with me and I was there when somehow Gray was pulled off the

monument. I don't know who did it but I was there and I helped pick him up and get him over to the trees and then take him back to the Y.

Q. Did you hear General Walker say anything to Reverend Gray there that night?

A. Yes, he said that we have—he says, put his hand (indicating), “We have an Episcopalian minister here.” He said, “I am an Episcopalian but when we have ministers like this in our church, it makes me ashamed to admit that I am an Episcopalian.”

Q. Then what happened to Reverend Gray?

A. Somehow he was down on the ground. The events were so hurried, the crowd had been yelling, “Kill him, kill him,” pertaining to Duncan Gray.

The crowd was worked up and . . . just for Duncan Gray's life, actually, and got him over to the tree, I mean and got him back to the Y, the steps on the Y.

Q. Did you see General Walker after you had assisted [fol. 1649] Reverend Duncan Gray away from there?

A. I did not see General Walker at—when I took the Reverend over to the—when we went over to the trees, the crowd started to surge forward and I could not see General Walker then at all.

Now when we went across the street, I stood up on the steps of the Y and I was able to see General Walker up at the head—not at the very front because you had stragglers of people out there in advance, one or two people out in advance, but I saw General Walker right up near the front, yes.

Q. All right. What direction was General Walker and this crowd moving?

A. They were moving towards the Lyceum Building.

Q. And how far did you see them get?

A. I saw them get, I would say, midway between the flagpole and the front of the Lyceum Building.

Q. Then what happened?

A. Tear gas was fired and they all turned around and ran.

Q. Now did you see General Walker after that that night?

A. No, sir, I didn't. I didn't see him any more.

Mr. Gooch: Your witness.

[fol. 1650] Cross examination.

By Mr. Address:

Q. How do you spell your name, Mr. Proehl?

A. P-r-o-e-h-l.

Q. h-l?

A. Yes.

Q. German name, I take it then?

A. Yes, sir.

Q. Now what time was it that you decided this was no place for the—for your wife and baby?

A. It was approximately—now I would say it was approximately 5:30. Now I had taken these colored slides and one of the slides showed the time on the clock as 10 minutes after 5:00. It was just about 20 minutes, or so, after I took these that I sent them home.

Q. Well, then you must have gotten there on the campus about 2:30, at the circle?

A. Well, no, I came back from the drugstore, I think it was about 3:30, quarter to 4:00, or so.

I didn't have occasion really to look at my watch then but I went home and Rose, my wife, dressed the baby and everything and she got some clothes on and we went back. I would say it was about, oh, a little after 4:00, maybe 4:30, closer to 4:30.

Q. And then when did you finally go home that night?

[fol. 1651] A. I don't know the exact time, sir. It wasn't too long after the last charge that they made, the large group that went up there. I wanted to go home. I didn't know how I could get back. We had expected company that night and I knew the company was already there.

Q. Well, now wait just a minute. When was the last time you remember looking at your watch before you started for home?

A. The last time I remember looking at my wife?

Q. At your watch?

A. At my watch?

Q. Yes.

A. I don't remember looking at my watch.

Q. In other words, then, you can't—you say it was about—you went to the Y just before the President made his speech?

A. Yes, sir.

Q. But from that point on you don't have any memory as to time?

A. I don't even remember if I had a watch on. There was a large clock up on the top of the Lyceum Building and I saw the time from that when President Kennedy was going to speak.

Q. And how long did you stay in the Y, as being the safest place, after the President's speech?

[fol. 1652] A. I wouldn't be able to say, sir. I—oh, may have been an hour, may have been two hours. Things, events that night happened so fast and everything, it's pretty hard to place the time.

Q. Well, you said you tried to look out of the window and the door there in the Y and you couldn't see very much?

A. No, sir, you couldn't. Gas and many people crowding there and you couldn't get to the phone. It seemed as though everybody was waiting in line for a telephone.

Q. You couldn't even see much out of the door of the Y?

A. You could if you went out and you stood on the steps but there were maybe one or two Marshals would come by and students were running out from in back of the Y and running across the grove and throwing things and the Marshals would come forward with tear gas and when your eyes would start to smart and burn, you would go inside.

Q. How much light was there out there on the campus that night?

A. There was quite a bit of light coming from the front of the Lyceum Building which would shine into the grove and there were lights in the grove for quite a while until they were broken out.

Q. And what other lights were there around?

[fol. 1653] A. I couldn't say right off.

Q. Now you said that after the General finished his speech on the monument and stepped down, that you couldn't see him there for a while?

A. No.

Q. Which direction was he standing at when he stood on the steps of the monument?

A. When he stood on the steps of the monument, he was facing towards University Avenue, which is east.

Q. And then when he got down from the monument, which way did he go?

A. I do not know, sir, because I was with Duncan Gray. We got him over to the trees.

The next time I saw General Walker—in fact, I could not see General Walker's face. I saw a man with a tall hat, unless—unless General Walker put his hat on somebody else, it was him. But I saw him up at the head of the large mass of crowd—

Q. I didn't ask you that.

A. You asked me the last time, or the next time I saw him, and that's when I saw him.

Mr. Gooch: Just wait a minute.

By Mr. Address:

Q. I asked when he stepped down, which way did he go around the monument?

A. I don't know.

[fol. 1654] Q. Now you then said after you crossed the street and moved away from there with the Reverend Gray, that you got up on some steps?



A. Yes, sir, I did.

Q. What steps did you get up on?

A. The steps of the YMCA building.

Q. Now you didn't see the General then from the time that you got off of the monument until you had walked back to get on the steps of the YMCA and that is where you had come from to begin with, wasn't it?

A. Yes, sir.

Q. And I believe that you said that when you came out of the YMCA there with the Reverend Gray, you could just see a figure down on the monument but you couldn't identify it?

A. You could see part—you could see that a person was standing up there but you couldn't tell—you couldn't tell if it was a man or a woman. You couldn't see until you got up close because—

Q. When you were there at the YMCA and starting down towards the monument, you could just see that there was somebody at the monument but you couldn't identify them?

A. Yes, sir, that's right.

Q. And you said that you couldn't identify them—who it was until you got up close and crowded in there into the [fol. 1655] first two or three feet?

A. That's right. I had never seen General Walker before.

Q. And then after you turned around and left and went back up to this same YMCA, from that point you could identify a white hat?

A. I could see a tall man in the front with a white hat, yes, sir.

Q. And outside of that, that was still just as difficult from the YMCA to identify people at a distance as it had been before, wasn't it, outside of the distinction of the white hat?

A. No, I am saying it was difficult to identify General Walker at the statue because the way the statue was standing and he was standing in front and you could only

see part of—well, the state was in the way. You can see part of a man's arm, part of a man's legs standing but you couldn't see who the man was.

But when I was looking across the grove, I could see that white hat distinctly right out in front there. I couldn't miss that.

Q. Was that the only white hat on the campus, Mr. Proehl?

A. The only man I saw. There may have been—

Q. You, of course, don't really know whether or not [fol. 1656] there were a lot of white hats there or not, do you?

A. I didn't see any other white hats in that crowd, where the people were standing out there, sir.

Q. You mean there weren't any other white hats that came up there by the YMCA where you spent most of the evening?

A. Pardon?

Q. There wasn't any other white hats that came up by the YMCA where you spent most of the evening?

A. I don't remember.

Q. Actually then from the time you sent your wife and baby home and just a few minutes before Kennedy's speech before you went to the YMCA, you never left the YMCA to get around anywhere except the one time that you walked down to the monument and then right back to the YMCA?

A. That is right, I did not leave the Y to go anywhere else. I met Duncan Gray right on the steps of the Y and another man and we walked down to hear the man speak.

Q. Is Duncan Gray a pretty good friend of yours?

A. No, sir, I don't—the first time I met Duncan Gray was that night. I have never been to his church. I am not of his denomination.

Q. At the time you first came out on the steps of the YMCA there with Duncan Gray, there was already a figure up on the monument, wasn't there?

A. Yes, sir, a figure was on the monument.

[fol. 1657] Q. So that how long did it take you to walk—I guess it must be what? 200 feet from the Y down there?

A. A hundred fifty, 200 feet. At a normal pace, I wouldn't know how long it took me to walk. Just at a normal pace.

Q. Were you hurrying down to hear his speech?

A. I didn't run, no. I didn't run. We walked. We didn't run over there.

Q. Strolled down?

A. Strolled down, that's right.

Q. And when you got there the speech was already in progress, is that right?

A. Yes, sir, it was.

Q. And all you say that you heard is the couple of things that you have mentioned here?

A. There were a few more things that I heard. I heard him say that—first, he said, your Governor had sold you out and I heard 'em say, no, no, and then he bent down and he talked to a man with a suit on in front of the crowd there and he raised up and said, "Birdsong has sold you out," I remember that.

Q. Was that about the time the Reverend Duncan Gray tried to climb up on the monument?

A. I don't remember if that was exactly at the time or not. I distinctly remember him saying that, though.

[fol. 1658] Q. And was it after that that his attention was attracted to the Reverend Gray?

A. It was after that his attention was attracted—

Q. What was Reverend Gray doing to attract his attention?

A. Well, the Reverend Gray was standing alongside of me up against the statue here and he said, he said, "You can stop this if you will.

"You can stop this." And that's when the General said. . . .

Q. Now then you left there with the Reverend Gray at that time and was the General still on the monument?

A. I do not remember if the General was on the monument or not.

Like I said, we went over to help Duncan Gray. The crowd had started to surge forward and I heard people yell, "Kill him, kill him, kill him," and from what I—the noise and tumult and everything that night, I didn't know what was to happen and, to me, a member of the church is a member of the church, no matter what—I mean you don't want to see a man done bodily harm and from the way the crowd was worked up there, I didn't know what was going to happen.

Q. Did the Reverend Gray ever say anything to you about hearing the crowd say, "Kill him, kill him, kill him"?

A. I don't remember Reverend Gray saying that to me [fol. 1659] but I heard the crowd say, "Kill him, kill him, kill him."

Q. Where did you all take back to?

A. Back to the Y, and that's the last I saw of Reverend Gray. Got him up to the steps. I don't know if he went inside or not. I stood on the steps.

Q. You were one of the people who took him?

A. Yes, sir, I was one of the people who took him over there.

Q. Was the Deputy Sheriff there, one of the people that helped you?

A. I remember the Deputy Sheriff going over with us towards the small trees, I believe—I'm not sure but I believe he was the one that said somebody take care of him, help him. But I don't remember the Deputy Sheriff—I don't think but I'm not positive that he went back to the Y. He wasn't with me.

Q. Well, did you say to the Deputy Sheriff, "Well, I know this man. We'll take care of him."?

A. I don't recall saying that.

Q. Did somebody there in your little group that took Reverend Gray back to the Y?

A. Somebody may have. I'm not sure. I don't recall that.

Q. But you were taking over the protection of the Reverend Gray from the Sheriff?

[fol. 1660] A. I was helping. I was helping, yes.

Q. Was the crowd around the Marshals still indulging in good-natured fun at the time that you went to the Y to listen to the President's speech?

A. No, it had turned a little bit more than fun. In fact, I saw one student, I don't know who it was, there was some more Army trucks pulled up and I saw a student say, "There is a nigger in there," the truck driver, Corporal. And they broke the truck window and they grabbed a fire extinguisher off the side of the truck and they squirted it in the window and the colored boy got out the other door. I heard tires hissing. I didn't actually see any slashing of tires but you could hear air escaping from tires so I assumed that tires were being—

Q. You don't know whether they were just letting the air out of the tires or cutting them?

A. Well, they weren't letting air out; otherwise they would have been chased away by the police, sir.

Q. At that time the Highway Patrol was between the Marshals and the crowd, weren't they?

A. I remember seeing some of the Highway Patrol, yes, sir.

Q. And mostly the crowd was back across the drive from the Lyceum?

A. They were pushed back, they were pushed back across [fol. 1661] and then it would lax, the Marshals or so would lax their attention there and the crowd would come back and cross and then they would be pushed back again.

Q. And there was nothing else that you can think of that you saw there that night about the circumstances? Just more of the same?

A. Yes. Now when I—I didn't know how to get back home. I was thinking about cutting around the back of the campus but I had heard or I had seen some Marshals being in conflict, let's say, with students or with people out in the grove and I didn't want to take a chance so I

raised my hands like this (indicating) and I said, "I haven't had a thing to do with it. I have been in here, I have got a wife and child at home and I want to get home to my family."

The Marshals said, "Come on. It's okay." They had their masks on. And the one took it off and said, "Come on." I didn't know what they were doing—what they were going to do with me but I wanted to get home and I was tired of all of it and I walked right through and the Marshals didn't do a single thing to me. In fact, one of them took off his mask, and said, "What's the matter? Those kids nuts or something?" And I said, "I guess so."

I kept on walking and I cut—

Mr. Watts: If Your Honor please, I don't believe this is responsive to the question and some place it has got to [fol. 1662] stop and I would object to it as hearsay.

The Court: Mr. Watts, Mr. Address asked what else happened out there that night.

Mr. Watts: He's telling what the Marshals said not in the presence of any of the parties.

The Court: Well, I'm going to permit the witness to answer the question.

By Mr. Address:

Q. Now tell me—

A. I am not done, sir. Pardon me.

The Court: Will you go ahead and finish.

A. After the Marshal made the remark to me, not a thing was done and I walked between the library and this other building and went home. That was it.

By Mr. Address:

Q. Now you teach physical ed, you say, or work in Physical ed?

A. No, I assist in the Physical Education Department but I am going to be a Guidance Counselor.

Q. Well, you are in pretty good shape, aren't you, pretty good physical shape, now, aren't you?

A. Oh, well, for 29 years old, I think I am. I don't indulge too much in athletics.

Q. How long do you reckon it would take you to run from the monument back around the Fine Arts Building and into LeBuve Hall?

A. How long do I think it would take me to run from [fol. 1663] the monument to the Fine Arts Building?

Q. Around behind the Fine Arts Building, behind—Peabody. Peabody in through there?

A. Peabody and into LeBuve? I wouldn't—it all depended who was after me and why I was running, sir. I really couldn't say.

Q. You reckon you could run that far without stopping for a breath or something?

A. Yeah, I could run a lot further than that if I had to.

Q. Would you be out of breath by the time you made a roundtrip run in there and telephone and run back to the monument?

A. Well, I might have been but—but I might not have been.

Q. Do you think you would be able to do it eight or nine times?

A. I don't see the point—yeah, I probably could do it eight or nine times. I don't see your point in it but I probably could.

Mr. Andress: All right, that's all.

Mr. Gooch: Stand aside.

The Court: I'm going to release this witness, Gentlemen. I will let you go ahead and release you and you can [fol. 1664] go back.

Mr. Gooch: Do you want to start another witness?

The Court: No, it's too close to 12:00.

Ladies and Gentlemen, we will recess until 2:00 o'clock.

(Thereupon, at 11:50, a recess was taken until 2:00 o'clock, p.m., of the same day.)

[fol. 1665]                      Afternoon Session

DOY L. GORTON, 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. Doy L. Gorton.

Q. Where do you live?

A. Greenville, Mississippi.

Q. How old are you, Mr. Gorton?

A. Twenty-two.

Q. Are you now or have you been a student at the University of Mississippi at Oxford?

A. Yes, sir.

Q. Were you on campus at any time during the day of September 30, 1962?

A. Yes, sir.

Q. Do you know about what time you got on campus that day?

A. Well, a little bit after 7:00 o'clock.

Q. Where had you come from that day?

A. From Greenville.

Q. Had you been home for the week-end?

A. No, I was working at Greenville.

[fol. 1666] Q. All right. Now, what attracted your—did anything attract your attention when you got on the campus that evening?

A. Yes, sir, as I got on the campus I drove in past the gym with some friends and I saw tear gas and I saw some police, Highway Patrolmen running away from the vicinity of the Lyceum Building.

Q. All right. At any time during that day, did you—or night—did you see General Edwin A. Walker?

A. Yes, sir.

Q. Where was he when you first saw him?



A. He was right beside the Confederate monument near University Avenue.

Q. Did you go down where he was, or were you in the vicinity?

A. Yes, sir.

Q. Where had you been before, do you remember?

A. The Y Building, the YMCA.

Q. All right. Do you know how long you had been over in the YCMA Building, in that vicinity?

A. Been there about thirty, or maybe forty-five minutes.

Q. Had you been inside the YMCA, or not?

A. Yes, sir, I had.

Q. Do you say you saw him at or near the monument? [fol. 1667] Did you go in that direction?

A. Yes, sir, I did.

Q. Then what did you see him do, if anything?

A. Well, when I got to the monument, General Walker was standing on the base on one of these ledges of the monument, and there was a crowd all jammed up around him, and I stayed about ten or twenty feet back, and General Walker started speaking.

Q. What did he say that you heard?

A. Well, he told the students that they had a right to protest, that it was their constitutional right to protest like this, and that their constitutional rights were being infringed upon. He spoke for a few minutes about that and then he looked down and to his left and he saw a man standing there. I guess it was a man I recognized as a man named Duncan Gray, and he said, "This is an Episcopalian minister here and that makes me ashamed to be an Episcopalian." And people started yelling and screaming at this man, and they took him away, the minister. And after that he mentioned that we had been sold out. I think his exact words used were, "You have been sold out."

And everybody asked, "Who sold us out, who sold us out?" And he said—well, I don't think he remembered there for a minute, and he said,—asked somebody beside

him, and he came back up and mentioned this Col. T. B. [fol. 1668] Birdsong, of the Mississippi Highway Patrol.

Q. Do you recall anything else he might have said?

A. He talked about Birdsong there for a minute and then seems like he looked straight ahead toward the University Avenue, and then he said a few more things about—most of these things were the kind of things like constitutional infringement and, keep up the protest, and then people started asking if anybody was going to help, if anybody was going to help the students at Ole Miss, and I didn't exactly hear what General Walker said, but I know he made them understand—

Mr. Address: I object to what he made them understand, Judge.

The Court: You can't give your conclusion. Just tell what he said and what he did.

A. Well, he nodded and said something like this, yes, or at least in the affirmative.

Q. Then what, if anything, did he do, or was that the conclusion of his speech, Mr. Gorton?

A. He said some more things after that, mostly about the Constitution, and mostly about the troops being there, and something about Cuba and the “. . . troops should be in Cuba and shouldn't be,” there at Ole Miss, and told—then he looked straight ahead toward University Avenue [fol. 1669] and started stepping down from the monument.

Q. Then what happened?

A. Then he—it seemed like he had a bunch—the crowd was very, very tight around the monument and they pushed around to the front of the monument, and then to the right of the monument as you look down University Avenue, then came back this way toward the Lyceum Building.

Q. Then what happened?

A. Then when I saw him, he was walking at what you would call sort of a brisk—not a real fast pace, toward the Lyceum Building.

Q. And what did the crowd that was there with him at the monument?

A. Well, when General Walker did this it seemed like he was responding to the crowd.

Mr. Address: Just a minute.

The Witness: Is that a mistake?

Q. Strike that. Tell exactly what you saw.

A. The crowd let up a great big yell, a big whoop, and they started yelling for General Walker, and that attracted the attention of the people over here near the YMCA Building and Hume Hall, the Science Building being put up there, and the people to the left over here and the people to the right. They seemed to know it was General Walker, or at least that is what this crowd was doing. And General [fol. 1670] Walker went straight toward the Lyceum Building, maybe off to the right a little bit on the grass, I guess it was, and the students and everybody around them started moving in behind General Walker, or being drawn to this group here that was making all the noise and yelling rebel yells and cursing and screaming.

And I stood there for a minute and I saw students running from as far away as Hume, and that area, trotting by me and running by me to catch up with the main body, or main crowd gathered around the General.

Q. Where did this crowd go that you said Walker was at the head of?

A. It headed toward the Lyceum Building, and they—when they got to that area, and the last time I saw General Walker was about three-fourths of the way to the flagpole from the statue. However, the Marshals, when they heard this big whoop—

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

Q. Just tell what happened as they were proceeding toward the flagpole. What did the Marshals do?

A. Well, the Marshals shot off a tremendous volley of tear gas, which partially obscured the crowd, and then the people who were in the crowd, you could see them running

up and throwing rocks and whatever they had in their [fol. 1671] hands, brick and running toward the Lyceum Building.

Q. What did you do?

A. I walked over toward the YMCA. I didn't go with the crowd.

Q. Did you see General Walker any more that night?

A. No, sir, I didn't.

Mr. Gooch: Your witness.

Cross examination.

By Mr. Watts:

Q. Where had you come from, Greenville?

A. Greenville, Mississippi, yes, sir.

Q. How did you come on the campus?

A. I came on in a car with some friends.

Q. Alone or with someone, when you approached the monument?

A. Oh, in the monument area? I was alone.

Q. Where was you going?

A. I was coming from the YMCA toward the monument.

Q. You were traveling, then, southeastward?

A. I am sorry, I think I am confused. You mean when I first came on the campus?

Q. No, when you saw Walker.

A. When I first saw Walker?

Q. Right.

[fol. 1672] A. Was at the memorial, the monument.

Q. Where were you coming from then?

A. From the YMCA.

Q. Step down to the plat there. That is Exhibit 11. Will you take the pointer.

Mr. Gooch: Right there on the base.

Q. Do you know which way is north?

A. North would be this way (indicating).

Q. Will you put your pointer on the YMCA?

A. Be right here (indicating).

The Court: Have to talk a little bit louder, you are facing away from the Reporter.

A. Yes, sir, the YMCA Building is right here.

Q. And the monument?

A. Right there (indicating).

Q. From which direction did you approach the YMCA?

A. I am sorry, sir, I didn't approach the YMCA. I approached the monument, is what your question was.

Q. When you came on campus, did you go to the YMCA, or not?

A. No, sir, when I first came on campus I was over here at the Union Curve, near the Library, near the Gymnasium, and as the night went on, I came through here and back through here to the Y.

Q. Now, you saw—you say you saw tear gas fired, there [fol. 1673] about 7:00?

A. No, sir, it was after 7:00 o'clock.

Q. Now, then, with respect to when the tear gas was fired, when did you make that trip you pointed out on the map?

A. The trip to the Y or the monument?

Q. No, sir, the trip from around behind the Lyceum.

A. Right through here and all through here?

Q. Right.

A. It took me thirty or forty-five minutes, all through this area, right in through here. Then I gradually wandered over in this part of the Circle here, where I could see the people running around.

Q. And did you go from there to the YMCA?

A. Yes, sir, I went from, I guess that is the northeast section of the Circle there over to the YMCA.

Q. You went from the YMCA directly to the monument where you saw General Walker?

A. Yes, sir, I was beside the Y for a while, and inside, then I heard this noise over there, and then I went over to the monument.

Q. How long were you inside the YMCA?

A. I was probably in there about twenty minutes or thirty minutes.

[fol. 1674] Q. Did you hear any noise while you were in there?

A. Yes, sir, there was firing going on the whole time I was inside.

Q. And when you came out, you walked from there down to where Walker was?

A. Yes, sir. He was at the monument here (indicating).

[fol. 1675] Q. Did you hear all of his speech on the monument?

A. No, sir, I didn't hear all of the speech.

Q. I believe you said the first you heard—you may take your seat now. Walker told the students they had a right to protest?

A. Yes.

Q. They had a Constitutional right to protest?

A. Yes.

Q. Then the next thing you saw that occurred, Reverend Gray tried to get on the monument?

A. Yes, sir.

Q. And was pulled down?

A. Somebody seemed to knock him down from there, yes, sir.

Q. Oh, he was knocked down?

A. Pulled down or knocked down, yes, sir.

Q. Did you notice a big heavy-set Sheriff there with a badge on?

A. No, sir, I didn't.

Q. You don't know whether he helped him get down or not?

A. No, sir, I don't.

Q. And then Reverend Gray was taken away?

A. I assume so, yes, sir.

Q. So it would have been impossible then for Reverend [fol. 1676] Gray to have heard the things that you have

testified to after these two statements that you have a right to protest under the Constitution—

Mr. Gooch: If the Court please, I object to that as improper cross examination.

Mr. Watts: I will change the terms of that question.

The Court: Don't answer that question.

By Mr. Watts:

Q. Was Reverend Gray in a position to where, with normal human hearing, he could have heard the things and statements you have related which occurred after he was pulled down from the monument?

The Court: Mr. Watts, I won't permit this witness to testify as to whether somebody else could have heard it.

Mr. Watts: I understand.

The Court: The only point, what he heard and saw.

By Mr. Watts:

Q. Going back to the point when Reverend Gray was taken away, all of the things you have testified to that were said except that they had a right to protest and had that right under the Constitution, were said after Reverend Gray was taken away, is that right?

A. I'm sorry, sir, would you repeat that, please, sir.

Mr. Watts: Would you read it?

(Record read.)

[fol. 1677] A. After Reverend Gray was taken away, the things that I remember was the thing about Col. Birdsong and then the thing about Cuba, I believe and the—

Q. Did or did not General Walker say that Governor Barnett had betrayed the people of Mississippi, did you hear that?

A. No, sir, I'm sorry, I didn't.

Q. Did or did not you hear General Walker say, "But don't let up now"?

A. I don't remember hearing that, sir.

Q. "You may lose this battle but you will have been heard," did he say anything like that that you heard?

A. There is some doubt about that, I'd be afraid to answer it. Something about being heard around the world or, keep up the protest because you will be heard around the world."

Q. Well, you have not testified that you heard him say anything about being prepared for possible death, did you?

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

Q. Now that, to you, would be a very dramatic statement, wouldn't it?

A. Yes, sir, I think it would be.

Q. And you heard nothing like that at all?

A. I didn't hear it, no, sir.

[fol. 1678] Q. Did you hear then the remainder of this alleged statement, "You must be prepared for possible death. If you are not, go home now?"

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

Q. Would you say he did or did not say that?

A. I'm sorry. I really couldn't say.

Q. Did you read the Savell report of this that came out on the 3rd of October, 1962?

A. I really couldn't say. I don't know what the Savell report—is that the AP report?

Q. Right.

A. I don't know if it was in the paper or not, which paper I read.

Q. Have you at any time since that and prior to the trial of this lawsuit seen that alleged report?

A. No, sir, I haven't.

Q. Well, anyhow, you didn't hear Savell say anything like that?

A. Savell?



Q. As you were. Walker say anything like that?

A. No, sir, I didn't.

Q. All right. Now when Walker finished his speech, as I understand, he got down from the monument?

A. Yes, sir, he did.

Q. Will you please step back up to the chart, take your [fol. 1679] pointer? Would you point out to the jury please, sir, what direction he went after he got down from the monument?

A. The monument's here and when he got down, he went this direction (indicating).

Q. About how far?

A. About maybe 10 feet.

Q. You are sure?

A. Five to ten feet, in that area.

Q. You are sure of that?

A. Yes, sir.

Q. Positive?

A. Yes, sir.

Q. All right, sir. And what did he do when he got five or ten feet to the southeastward of the monument?

A. Five feet here, and then he would—then he turned back toward the Lyceum.

Q. Did he stop and talk to anyone before he turned toward the Lyceum?

A. The crowd was there so I would say he may have talked to somebody, he may have talked to people to his left and to his right, then he started walking directly toward the Lyceum Building.

Q. How closer to him were you at that time?

A. Within about 10 feet.

Q. Did you follow him to the westward?

[fol. 1680] A. To the what, sir?

Q. To the westward?

A. I followed him—you mean did I follow him this way (indicating)?

Q. What way is that?

A. I guess that's west. Is that what you mean, yes, sir. I followed him about six or eight feet here and then cut over towards the YMCA.

Q. Now from the time he stepped down and went southward until he passed the point you have marked and you left, did you see him stop and talk to anyone?

A. No, sir, I didn't.

Q. He just kept right on moving?

A. It seemed like he was walking with sort of a brisk pace there, kind of a military pace.

Q. Was he, do you know—have you ever had military training?

A. ROTC, yes, sir.

Q. You know what a cadence is, don't you?

A. Yes, sir, I do.

Q. Was he in cadence?

A. It was pretty much, pretty close to that.

Q. So, marching along there in cadence, General Walker would not have had time to stop and talk to anyone from the time he got down from the monument until you last [fol. 1681] saw him, would he?

A. Probably not. I just couldn't say.

Q. All right, sir. Take the stand. Did anyone ask him during that interval between the time he got down and the time you last saw him to, "Lead us in a charge"?

A. Yes, sir, people were screaming all over the place for him to lead them.

Q. Was that the big whoop that you heard?

A. That was one of the whoops that I heard, yes, sir.

Q. Repeat that whoop to us, what kind of noise it was?

A. A Rebel yell.

Q. Was it a Rebel yell?

A. Yes, sir.

Q. Well, you can repeat it in a very low voice?

A. No, sir, I really don't think you can repeat it in a very low voice.

- Q. In other words, a Rebel yell is a Rebel yell?  
 A. I'm afraid so, yes, sir.
- Q. And that stuck out heavily in your memory, that there was a regulation Rebel yell after the speech on the monument?  
 A. On there of the best I ever heard, sir.
- Q. And that started off the charge?  
 A. Yes, sir.
- [fol. 1682] Q. And from that time on, nobody was thinking about talking to anybody else, were they?  
 A. I don't believe so.
- Q. Did you hear anyone walk up to General Walker and say, "General, will you lead us in a charge?"  
 And the General said in a low voice, "Yes, I will"?  
 A. No, sir.
- Q. That didn't happen, did it?  
 A. I just couldn't say, sir.
- Q. Well, you would have heard it, as close as you were?  
 A. With the Rebel yell, sir?
- Q. After the Rebel yell?  
 A. They were going on all the time.
- Q. Oh, a constant Rebel yell?  
 A. A roar.
- Q. Were you yelling any?  
 A. No, sir.
- Q. Had you yelled any at all that night?  
 A. No, sir.
- Q. You hadn't participated in any way?  
 A. No, sir.
- Q. The operation didn't have your sympathy then?  
 A. No, sir.
- Q. What organizations do you belong to, son?  
 [fol. 1683] A. None, sir.
- Q. None at all?  
 A. No, sir.
- Q. Have you ever received any money for activities in connection with your work on the campus?

- A. What work, sir?
- Q. Any work?
- A. No, sir.
- Q. You have received no money or no contributions from anyone?
- A. No, sir.
- Q. On the campus. Do you know one Van H. Savell?
- A. No, sir, I don't.
- Q. Do you know who he is?
- A. You said something about the Savell report. I believe that's the AP newsman, is that correct?
- Q. Right. You have never seen him?
- A. No, sir, I haven't.
- Q. Do you know anyone who purports to know him?
- A. Yes, sir.
- Q. Who?
- A. I believe some of the lawyers that I have spoken to know Van Savell.
- Q. Which ones?
- A. Mr. Smith, I believe.
- [fol. 1684] Q. That is, the lawyers in this case?
- A. Yes, sir.
- Q. What did they tell you about Van Savell?
- A. We never discussed Van Savell.
- Q. Did you discuss the fact that Van Savell made a report that General Walker arrived on the campus, met the leaders of the mob, assumed command and led a charge before his speech on the monument?
- A. I'm sorry, would you repeat that?
- Mr. Watts: Sure. Repeat it to him.
- (Record read.)
- A. Before his speech?
- By Mr. Watts:
- Q. Right.
- A. No, sir.