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in respect to those traits would commit such a crime.

You are further instructed that evidence of good reputation for peace or violence should not constitute an excuse to acquit the defendant if the jury after weighing all of the evidence, including the evidence of good reputation, is convinced beyond a reasonable doubt that the defendant is guilty of the crime charged in the indictment.

Statements and arguments of counsel are not evidence in this case.

The evidence in this case consists of the sworn testimony of the witnesses, all exhibits which have been received in evidence, and all applicable presumptions stated in these instructions. Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken by the Court, must be entirely disregarded.

You are to consider only the evidence in the case, but in your consideration of the evidence you are not limited to the bald statements of the witnesses. On the contrary, you are permitted to draw from the facts which you find have been proved such reasonable inferences as seem justified in the light of your own experience.

The law does not compel a defendant to take the witness stand and testify, and no presumption of guilt may be raised and no inference of any kind may be drawn from the failure of any defendant to testify in this case.

1 A defendant who wishes to testify, however, is a  
2 competent witness and such defendant's testimony is to be  
3 judged in the same way as that of any other witness.

4 It is the duty of attorneys on each side of a case  
5 to object when the other side offers testimony or other  
6 evidence which counsel believes is not properly admissible.

7 When the Court has sustained the objection to the  
8 question, the jury are to disregard the question, and may draw  
9 no inference from the wording of it or speculate as to what the  
10 witness would have said if permitted to answer.

11 Upon allowing testimony or other evidence to be  
12 introduced over the objection of counsel, the Court does not  
13 indicate any opinion as to the weight or effect of such  
14 evidence. As stated before, the jurors are the sole judges of  
15 the credibility of all of the witnesses and the weight and  
16 effect of all of the evidence.

17 During the course of a trial I occasionally ask  
18 questions of a witness in order to bring out facts not then  
19 fully covered in the testimony. Do not assume that I hold any  
20 opinion on the matters to which my questions related. Remember  
21 at all times that you, as jurors, are at liberty to disregard  
22 all comments of the Court in arriving at your own finding as to  
23 the facts in this case.

24 It is the duty of the Court to admonish an attorney  
25 who, out of zeal for his cause, does something which is not in

1 keeping with the rules of evidence or procedure.

2 You are to draw no inference against the side to whom  
3 an admonition of the Court may have been addressed during the  
4 trial of this case. I think I have addressed admonitions to  
5 both sides.

6 It is proper to add the caution that nothing said  
7 in these instructions--nothing in any form of verdict prepared  
8 for your convenience--is to suggest or convey in any way, or  
9 manner any intimation as to what verdict I think you should  
10 find. What the verdict shall be is the sole and exclusive  
11 province and duty and responsibility of the jury.

12 The law of the United States permits the Judge to  
13 comment to the jury on the evidence in the case. Such comments  
14 are expressions of the Judge's opinion as to the facts, and the  
15 jury may disregard them entirely, since the jury are the sole  
16 judges of the facts. I am not aware of having expressed any  
17 opinion. I certainly have not intended to do so, but if I have  
18 that's the rule to disregard it.

19 There is nothing peculiarly different in the way a  
20 jury is to consider the proof in a criminal case from that in  
21 which all reasonable persons treat any question depending upon  
22 evidence presented to them. You are expected to use your good  
23 common sense; consider the evidence for only those purposes for  
24 which it has been admitted and give it a reasonable and fair  
25 construction in the light of your common knowledge of the

1 natural tendencies and inclinations of human beings.

2 If the accused be proved guilty, say so. If not  
3 proved guilty, say so.

4 Keep constantly in mind that it would be a violation  
5 of your sworn duty to base a verdict upon anything but the law  
6 and the evidence in this case.

7 You, as jurors, are the sole judges of the  
8 credibility of the witnesses and the weight that their testi-  
9 mony deserves. A witness is presumed to speak the truth, but  
10 this presumption may be outweighed by the manner in which the  
11 witness testifies, by the character of testimony given, or by  
12 contradictory evidence. You should carefully scrutinize the  
13 testimony given, the circumstances under which each witness has  
14 testified, and every matter in evidence which tends to indicate  
15 whether the witness is worthy of belief. Consider each witness'  
16 intelligence, motive and state of mind, and demeanor and manner  
17 while on the stand. Consider also any relation each witness  
18 may bear to either side of the case; the manner in which each  
19 witness might be affected by the verdict; and the extent to  
20 which, if at all, each witness is either supported or  
21 contradicted by other evidence.

22 Inconsistencies or discrepancies in the testimony of  
23 a witness, or between the testimony of different witnesses, may  
24 or may not cause the jury to discredit such testimony. Two or  
25 more persons witnessing an incident or a transaction may see or

1 hear it differently. An innocent misrecollection, like failure  
 2 of recollection, is not an uncommon experience. In weighing the  
 3 effect of a discrepancy, consider whether it pertains to a  
 4 matter of importance or an unimportant detail, and whether the  
 5 discrepancy results from innocent error or wilful falsehood.  
 6 If you find the presumption of truthfulness to be outweighed  
 7 as to any witness, you will give the testimony of that witness  
 8 such credibility, if any, as you may think it deserves.

9 Your verdict in this case must represent the  
 10 considered judgment of each juror. In order to return a  
 11 verdict, it is necessary that each juror agree thereto. Your  
 12 verdict must be unanimous.

13 It is your duty, as jurors, to consult with one  
 14 another and to deliberate with a view to reaching an agreement,  
 15 if you can do so without violence to individual judgment. Each  
 16 of you must decide the case for yourself, but do so only after  
 17 an impartial consideration of the evidence with your fellow  
 18 jurors. In the course of your deliberations, do not hesitate  
 19 to reexamine your own views and change your opinion if  
 20 convinced it is erroneous, but do not surrender your honest  
 21 conviction as to the weight or effect of evidence solely  
 22 because of the opinion of your fellow jurors, or for the mere  
 23 purpose of returning a verdict.

24 I designate and appoint Mr. Langdon Smith Anderson  
 25 as foreman of this jury. He will preside over your

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1 deliberations and be your spokesman in court.

2 A form of verdict has been prepared for the  
3 convenience and use of this jury, and this form of verdict, of  
4 course, will be handed to you for your use. The form of  
5 verdict has the style of the case on it, its captioned jury  
6 verdict, and the first name in the indictment is that of Cecil  
7 Ray Price so you will deal with his case first, and if the jury  
8 thinks that Cecil Ray Price is not guilty the form of the  
9 verdict would be "We, the jury, find defendant (Cecil Ray Price)  
10 not guilty of the charge contained in the indictment." and if  
11 that were your finding as to that defendant you would put a  
12 little X mark in the rectangle opposite that form of verdict.  
13 On the other hand, if you found that the defendant Cecil Ray  
14 Price were guilty, the form of your verdict would be "We, the  
15 jury, find defendant Cecil Ray Price guilty as charged in this  
16 indictment", in which event, if that were your determination,  
17 you would put your X mark as to that defendant in the second  
18 rectangle opposite that form of verdict; and so likewise with  
19 each of the other defendants named in this indictment.

20 Now I have told you how to treat and consider the  
21 evidence against each of these defendants separately and  
22 individually as you are making that determination as to each of  
23 them.

24 This form of jury verdict is about three pages long  
25 and when you have made that determination as to the guilt or

innocence of each one of these defendants and have noted it on  
 here as I have indicated, it will then be in order for you to  
 date this verdict, its now dated October blank, fill in that  
 blank date, and as a manifestation of this being the verdict  
 of each of the jurors the jurors would sign on the twelve lines  
 fixed on the bottom of the verdict for your signatures, as a  
 manifestation of this being the verdict of the entire jury; and  
 when you have reached a unanimous verdict and have filled out  
 the form as indicated and made the determination as to the  
 guilt or innocence of each one of these defendants in this case  
 you would make that known to the Marshal and you will be allowed  
 to bring that verdict into open court as a verdict of the jury.

I will now excuse the jury for a few minutes and  
 ask you to go just outside the court room for a matter which I  
 have to take up with counsel in your absence.

(Jury excused at 4:00 P.M., October 18, 1967, and

following proceedings had in absence of the jury:)

BY THE COURT:

Now, in the absence of the jury, I ask the  
 government do you have any additional instructions to  
 request?

BY MR. DOAR:

We do not, Your Honor.

BY THE COURT:

I next ask the government if you have any exceptions

1 to take to any instructions granted by the Court?

2 BY MR. DOAR:

3 I would like to point out to the Court that you  
4 referred to a seven page indictment. I think that was  
5 incorrect, Your Honor.

6 BY THE COURT:

7 There are seven pages here but the indictment I  
8 believe is on the first two pages. I don't believe that is  
9 quite an instruction.

10 BY MR. DOAR:

11 I was afraid you might have a different indictment  
12 from the other case.

13 BY THE COURT:

14 There are seven pages here including the pleas of all  
15 of the defendants, and that is what will go to the jury. Is  
16 that the only exception.

17 BY MR. DOAR:

18 Will the pleas go to the jury?

19 BY THE COURT:

20 Sir?

21 BY MR. DOAR:

22 Do the pleas of the defendants go to the jury?

23 BY THE COURT:

24 Well, I think so. I thought we had always sent  
25 their pleas back, that's their answers, that's their plea of



1 not guilty. Do you object to them having that?

2 BY MR. DOAR:

3 I wasn't familiar with that practice, Your Honor.

4 BY THE COURT:

5 Well frankly, I don't remember whether they have  
6 been fastened together like this before or not.

7 (The Court conferred with Deputy Clerk.)

8 BY THE COURT:

9 The Clerk says that that hasn't been the practice.  
10 I think that all that they need is really the indictment which  
11 has been marked filed, because I have stated to them that the  
12 plea of each defendant here is not guilty and that that plea puts  
13 in issue every charge in the indictment. I will describe this  
14 again now that its two pages when the jury comes back.

15 BY MR. WEIR:

16 Would Your Honor tell them then that they have  
17 enteredd pleas of not guilty to it?

18 BY THE COURT:

19 I have already told them that. I will tell them  
20 again though.

21 BY MR. WEIR:

22 None that's been taken off.

23 BY THE COURT:

24 I didn't tell them what the other pages consisted  
25 of, but I will tell them that.

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BY MR. WEIR:

Thank you.

BY THE COURT:

All right. Now, do we have a spokesman over here or does everybody want to talk. Just start right here. All right now what defendants do you represent.

BY MR. PIGFORD:

Mr. B. L. Akin.

BY THE COURT:

All right, just Mr. Akin?

BY MR. PIGFORD:

Yes sir.

BY THE COURT:

All right, now, does that defendant have any additional instructions to request?

BY MR. PIGFORD:

Yes sir.

BY THE COURT:

All right.

BY MR. PIGFORD:

Three instructions which Your Honor looked at last night and which are marked refused and we would like them marked for the record in the case.

BY THE COURT:

All right, just hand them to me and if I can

1 recognize it you are in business.

2 (Above referred to instructions Handed to the Court.)

3 BY THE COURT:

4 Yes sir. These were three instructions that were  
5 submitted on behalf of all of the defendants and you struck  
6 out Mr. Akin's name. I certainly did refuse them for a reason  
7 which I don't think necessary to assign, and I will note your  
8 exceptions and these three instructions may be marked for  
9 identification.

10 BY MR. PIGFORD:

11 Thank you sir.

12 (Following are requested instructions above referred to:)

13 "The Court instructs the jury for the defendants,  
14 that if you believe that the three civil rights workers  
15 testified about in this case died on the night of June 21,  
16 1964, then and in that event, none of their civil rights  
17 could have been violated after their death, if any, and  
18 any evidence concerning events which allegedly happened  
19 after that date would have no bearing on this case and  
20 shall not be considered by the jury in any way in arriving  
21 at your verdict in this case."

22 "The Court instructs the jury for the defendants,  
23 that if the evidence, or lack of evidence, in this case  
24 leaves it uncertain which of several hypotheses arising  
25 and growing out of the evidence, or the lack of evidence,

1 in this case is true, or merely establishes some finite  
2 probability in favor of the hypotheses of guilt, rather  
3 than another, such evidence cannot amount to legal proof  
4 of guilt, however great the probability may be."

5 "The Court instructs the jury for the defendants,  
6 that if there is any reasonable doubt in the minds of the  
7 jury as to whether any of the bodies recovered testified  
8 about in this case were citizens of the United States,  
9 either from the evidence or from the lack of evidence,  
10 then it is your sworn duty to render a Verdict of Not  
11 Guilty for the defendants."

12 BY THE COURT:

13 Now, do you have any exceptions on behalf of the  
14 defendants to any instructions that the Court gave?

15 BY MR. PIGFORD:

16 Not on behalf of Defendant Akin.

17 BY THE COURT:

18 All right. Counsel, you represent Mr. Bowers, I  
19 believe.

20 BY MR. BUCKLEY:

21 May it please the Court, I have a jury instruction  
22 which I submitted and the Court refused yesterday afternoon in  
23 regard to the misdemeanor.

24 BY THE COURT:

25 Let's make the record intelligible now. You

1 represent Mr. Bowers.

2 BY MR. BUCKLEY:

3 This is for all defendants, yes sir.

4 BY THE COURT:

5 For all defendants?

6 BY MR. BUCKLEY:

7 Yes sir. It was submitted for Mr. Bowers but the  
8 Court as I understood the ruling said that if submitted for  
9 any one it was for all.

10 BY THE COURT:

11 That's right. Yes, this is what the Supreme Court  
12 of the United States tried to teach us in the Price case wasn't  
13 it. I refuse this instruction based on United States versus  
14 Price and note your exception.

15 (Following is requested instruction above referred to:)

16 "The Court instructs the jury that even though you  
17 may find that the Defendants conspired with others and  
18 each other to commit an offense against the United States  
19 of America as charged in the indictment, you may find that  
20 they conspired only to commit a misdemeanor and not a  
21 felony."

22 BY THE COURT:

23 Do you have any exceptions to take to any---

24 BY MR. BUCKLEY:

25 (Interrupting) Yes sir, Court please.

2 Is that all the instructions you wanted to request,  
3 additional instructions?

4 BY MR. BUCKLEY:

5 Yes sir.

6 BY THE COURT:

7 All right. Do you have any exception you wish to  
8 take to any instruction given?

9 BY MR BUCKLEY:

10 Yes sir, its two sentences, Your Honor. Please the  
11 Court, may I just read the sentences.

12 BY THE COURT:

13 Well, what instruction are they in?

14 BY MR. BUCKLEY:

15 Its the instruction of Honorable John Doar of  
16 October 17th, 1967.

17 BY THE COURT:

18 I know the one you are talking about. I remember  
19 that about the meeting at the Bloomington School.

20 BY MR. DOAR:

21 Bloomo.

22 BY THE COURT:

23 Bloomo. What is your observation about that, Mr.  
24 Buckley?

25 BY MR. BUCKLEY:

1 Your Honor, may it please the Court, my observation  
2 was that it singled out a portion of the evidence, plus the  
3 fact that it mentioned evidence which we considered not rele  
4 vant or competent, or its not relevant to this particular  
5 charge and not covered in the indictment.

6 BY THE COURT:

7 Yes. I will note your exception to this instruction  
8 which I believe to be correct. It is an instruction which  
9 related to conspiracy. I thought the evidence was competent  
10 on the conspiracy charge, and this meeting at the Bloomington  
11 School and this burning of this church is not a substantive  
12 offense involved here, but I thought evidence relating to that  
13 to establish a conspiracy would be competent and I therefore  
14 gave this instruction.

15 BY MR. BUCKLEY:

16 Yes sir.

17 BY THE COURT:

18 I will note your exception to it.

19 (Following is instruction above referred to:)

20 "The Court instructs the jury that you may consider  
21 any evidence of any actions of any co-conspirators in  
22 attending a meeting at the Bloomo School in Philadelphia,  
23 Mississippi, on June 16, 1964, and any participating in  
24 any subsequent incidents at the Mount Zion Church, in  
25 determining the intent and motive of those/ <sup>alleged</sup> co-conspirators

2 BY MR. BUCKLEY:

3 As to the instruction number two requested on behalf  
4 of the United States Government, we respectfully except to that  
5 portion of that instruction which is, I don't know what  
6 paragraph in my instruction, I am reading it different than  
7 the Court has them.

8 BY THE COURT:

9 Wait a minute and let me find them please sir.  
10 They are not numbered, its on a long piece of paper. Number 2?

11 BY MR. BUCKLEY:

12 Yes sir. That is what United States Attorney  
13 informed me it was number two. My copies are not numbered.

14 BY THE COURT:

15 Yes, I see that. What is your observation about that?

16 BY MR. BUCKLEY:

17 That portion of the instruction which begins other  
18 type of conduct such as whipping, beating, pursuing in auto-  
19 mobiles and threatening with guns are also covered by the  
20 statute. That is the part of the instruction that the  
21 defendants except to for the reason that we do not believe  
22 that its covered within the charges as lain in the indictment  
23 nor do we believe that there was any evidence or relevant  
24 competent evidence which was submitted in regard to any such  
25 instances as are covered in this particular instruction.



1 BY THE COURT:

2 Well, I think he was explaining the statute, but I  
3 wouldn't be quite as positive as you are that wasn't some  
4 evidence of some other violations. That is the second paragraph  
5 on page 7 of the government's instruction. You except just to  
6 that part of it?

7 BY MR. BUCKLEY:

8 Yes sir, the last sentence of the second paragraph  
9 on page 7.

10 BY THE COURT:

11 I understand that. Its the one that you read there.

12 BY MR. BUCKLEY:

13 Yes sir, that's right.

14 BY THE COURT:

15 I will note your exception and let this be marked  
16 for identification.

17 (Following is portion of instruction above referred to:)

18 "Other types of conduct, such as whippings,  
19 beatings, pursuing in automobiles and threatening with  
20 guns are also covered by the statute."

21 BY THE COURT:

22 All right. Mr. Weir, you don't have anything to say?

23 BY MR. WEIR:

24 For one time, Your Honor please, no sir, not any-  
25 thing. Thank you.

1 BY THE COURT:

2 All right.

3 BY MR. ALFORD:

4 What was your ruling on the exception in regard to  
5 the instruction dated October the 17th signed by Hohn Doar in  
6 regard to the Bloomo School incident?

7 BY THE COURT:

8 Let's see now, let me, let's get on the record about  
9 that. Now you represent whom please sir?

10 BY MR. ALFORD:

11 Represent Cecil Ray Price, Olen Lovell Burrage,  
12 Jerry McGrew Sharp, Edgar Ray Killen, E. G. "Hop" Barnett,  
13 Richard Andrew Willis and Billy Wayne Posey.

14 BY THE COURT:

15 All right. Let me ask you this now. Do you have  
16 any additional instructions to request on behalf of those  
17 defendants?

18 BY MR. ALFORD:

19 Yes sir. If Your Honor please, we have eleven which  
20 were presented to you and refused.

21 BY THE COURT:

22 All right, you may hand them to the Clerk.

23 BY MR. ALFORD:

24 And I have been authorized to announce to the Court  
25 that Mr. Lawrence Andrew Rainey and Mr. Herman Tucker joins in

1 those, presentation of those instructions.

2 BY THE COURT:

3 All right. Well, I didn't too much disagree on the  
4 soundness of for instance the top one here. I just thought I  
5 had given some other defendant an instruction exactly in the  
6 same words, and even trying to weed them out I noticed I had  
7 quite a number of duplications even trying to weed them out,  
8 and I think that was my observation about most of your instruc-  
9 tions. This instruction on tablet paper here I didn't agree  
10 with that as an accurate statement of the law. It doesn't go  
11 far enough. Its accurate as far as it went, but I think a jury  
12 is supposed to discuss their case with each other and try to  
13 iron out their differences, as I explained to them in a rather  
14 specific instruction, and the defendant is certainly entitled to  
15 a hung jury, if not an acquittal, but I don't believe this  
16 instruction is an accurate statement of the law. I don't  
17 believe I can help the Fifth Circuit very much by commenting on  
18 these instructions, so I will say that I recognize these  
19 refusals as noted on these eleven instructions which are handed  
20 the reporter to be marked for identification, and your  
21 exceptions are noted.

22 (Following is instruction above referred to as being on  
23 tablet paper:)

24 "The Court instructs the jury for the defendants  
25 that each and every defendant is entitled have his case

1           tried at the hands of twelve jurors and the Court  
 2           instructs you that if any juror or jurors after a full  
 3           and free conference with his fellow jurors has in his  
 4           mind a reasonable doubt from the evidence or a lack of  
 5           evidence of said defendant's guilt, then it is the duty of  
 6           that juror never to yield his or her convictions but to  
 7           always vote such conviction not with standing others may  
 8           differ with him or her and insist that he or she yield to  
 9           save the time of the Court or shorten the labors of the  
 10          panel."

11          (Following are ten remaining requested instructions above  
 12          referred to:) (Marked 1 through 10 by Court Reporter for  
 13          identification.)

14   - 1 -

15          "Where a defendant has offered evidence of good general  
 16          reputation for truth and veracity, or honesty and  
 17          integrity, or as a law-abiding citizen, the jury should  
 18          consider such evidence along with all the other evidence  
 19          in the case."

20                   "Evidence that a defendant's reputation for truth  
 21          and veracity, or honesty and integrity, or as a law-  
 22          abiding citizen, has not been discussed or, if discussed,  
 23          those traits of the defendant's character have not been  
 24          questioned, may be sufficient to warrant an inference of  
 25          good reputation as to those traits of character."

1 "Evidence of the defendant's reputation, as to those  
 2 traits of character ordinarily involved in the commission  
 3 of the crime charged, may give rise to a reasonable doubt;  
 4 since the jury may think it improbable that a person of  
 5 good character in respect to those traits would commit  
 6 such a crime.?"

7 - 2 -

8 "The Court instructs the Jury for the defendants  
 9 that an alibi is a legal and proper defense in law and  
 10 that the defendant alleging an alibi as his defense is not  
 11 required to establish the truth of the alibi to your satis-  
 12 faction, but that the evidence in support of the alibi  
 13 need only exclude the possibility of the defendant's  
 14 presence at the time and place of the crime, and if upon  
 15 the consideration of the whole evidence you think there is  
 16 a probability that the defendant alleging the alibi was  
 17 not at the scene of the alleged crime, then it is your  
 18 sworn duty to find the said defendant not guilty!"

19 - 3 -

20 "The law presumes a Defendant to be innocent of  
 21 crime. Thus a defendant although accused, begins the  
 22 trial with a "clean slate"--with no evidence against him,  
 23 and the law permits nothing but legal evidence presented  
 24 before the jury to be considered in support of any charge  
 25 against the accused. The presumption of innocence alone

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is sufficient to acquit a defendant, unless the jurors are satisfied beyond a reasonable doubt of the Defendant's guilt from all of the evidence in the case. Proof beyond a reasonable doubt is such as you would be willing to rely and act upon in the most important of your own affairs. A Defendant is never to be convicted on mere suspicion or conjecture."

"A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is always upon the Government to prove the accused guilty beyond a reasonable doubt of every essential element of the crime charged, a Defendant has the right to rely upon failure of the prosecution to establish such proof. A Defendant may also rely upon evidence brought out on cross-examination of witnesses for the prosecution."

"The law never imposes upon a Defendant in a criminal case the burden or duty of producing any evidence."

"A reasonable doubt exists in any case when, after careful and impartial consideration of all the evidence in the case, the jurors do not feel convinced to a moral certainty that a Defendant is guilty of the charge."

"The Court charges the Jury for the defendants that it is as much the sworn duty of the jurors to acquit the innocent as it is to convict the guilty; and under the law

1 of the United States of America, all persons are presumed  
 2 to be innocent until proven guilty so conclusively as to  
 3 remove every reasonable doubt. Furthermore, the Court  
 4 instructs you that the doctrine of "reasonable doubt" is  
 5 just as much the law as any other constitutional or legal  
 6 principle; and if, in the minds of the jury such reasonable  
 7 doubt of the defendant's guilt exist in this cause arising  
 8 out of the evidence, or from the lack of evidence, the  
 9 Court instructs and directs you to acquit said defendant."

- 5 -

11 "The Court instructs the Jury for the defendants  
 12 that each and every defendant is entitled to a verdict at  
 13 the hands of twelve men and that if any juror or jurors  
 14 after a full and free conference with his fellows has in  
 15 mind a reasonable doubt from the evidence or lack of  
 16 evidence of said defendant's guilt, then it is the duty  
 17 of that juror never to yield his conviction but to always  
 18 vote it notwithstanding others may differ with him and  
 19 insist that he yield to save the time of the Court or  
 20 shorten the labors of the panel."

- 6 -

22 "The testimony of an informer, or any witness whose  
 23 self interest or attitude is shown to be such as might  
 24 tend to prompt testimony unfavorable to the accused,  
 25 should always be considered with caution and weighed with

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great care."

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"The Court instructs the Jury for the above named defendants that in the application of circumstantial evidence, to the determination of the case, the utmost caution and vigilance should be used. It is always insufficient when, assuming all to be proven which the evidence tends to prove, some other reasonable hypothesis, arising and growing out of the evidence in the cause than the one sought to be established by the evidence, may be true. It is the result based upon the exclusion of every other reasonable hypothesis arising and growing out of the evidence in the case than that sought to be established by it that will authorize the jury to act upon it and give the circumstances the force of truth in the particular case."

- 8 -

"The Court instructs the Jury for the defendants that said defendants are presumed to be perfectly innocent of the crime charged in the indictment. This presumption of innocence is no mere idle form of ceremony, but it is a substantial legal right established by the law of the land and guaranteed to said defendants, and demands that each and every juror on this panel shall at the outset of this trial consider said defendants to be wholly innocent of



1 the crime charged against them and of every evil intent  
 2 and guilty mind to constitute the alleged crime. This  
 3 presumption stands as a living witness for the said  
 4 defendants, demanding a verdict of not guilty. It  
 5 testifies for them throughout the trial, it attends you  
 6 when you retire to the jury room for deliberation of this  
 7 case, and it there declares to you of the innocence of  
 8 said defendants, and the Court now tells you to listen to  
 9 this witness. This presumption is no mere fiction, but is  
 10 evidence for the defendants; it accompanies the defendants  
 11 as a sword and shield against an unjust conviction and  
 12 throughout every step of this trial and through your  
 13 deliberation, it speaks, saying to you: "Find this  
 14 defendant not guilty" unless and until it has been over-  
 15 come and shattered by competent and credible evidence  
 16 establishing said defendant's guilt beyond every reason-  
 17 able doubt and moral certainty."

18 - 9 -

19 "The Court instructs the Jury for the defendants  
 20 that the witness, James E. Jordan, is what is known in law  
 21 as an accomplice, and the Jury should weigh his testimony  
 22 with great care, and caution, and distrust, and unless the  
 23 Jury believe after so weighing his testimony, that it  
 24 satisfies the Jury beyond every reasonable doubt and to a  
 25 moral certainty that said defendants are guilty, they

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should find said defendants not guilty."

- 10 -

"The Court instructs the Jury for the defendants, that the law looks with suspicion and distrust on the testimony of an accomplice, and requires the Jury to weigh the same with great care and caution and suspicion; and in this case, you are instructed that James E. Jordan is an alleged accomplice, and that witness, Wallace Miller, would also stand in the category of an alleged accomplice, and that the witness, Delmar Dennis, is placed in the category of an alleged accomplice, and in passing on what weight, if any, you should give their testimony, you should weigh it with great care and caution, and look upon it with distrust and suspicion."

BY THE COURT:

Do you have any exceptions to take to other instructions given?

BY MR. ALFORD:

Your Honor please, I wanted to ask the Court's ruling on the exception presented by Mr. Travis Buckley on this instruction dated October 17th, 1967 requested by the government in regard to the incident at the Bloomo School which I believe the lady, I believe you have it right down here.

BY THE COURT:

Oh. I thought---

1 BY MR. ALFORD:

2 What was your ruling on that, if Your Honor please?

3 BY THE COURT:

4 He says its in the record, I didn't rule on that?

5 BY MR. ALFORD:

6 We would respectfully like to point out to the Court  
7 that that tends to singularize, particularize and point out a  
8 particular incident and we submit respectfully that that should  
9 be refused, and we except to it.

10 BY THE COURT:

11 Well, I don't think that it highlight any particular  
12 thing. I believe lawyers are entitled to draw their instruc-  
13 tions. I draw a lot of general instructions but I rather  
14 invite the lawyer to write his own instructions, unless they get  
15 too inflammatory and then I try to tone them down, but  
16 ordinarily I think a lawyer is in a better position to be  
17 partisan about drawing his instructions and I invite that on  
18 both sides, and I think this is a partisan instruction from the  
19 government's standpoint, and I think its permissible and I  
20 think it was competent, not because they were charged with  
21 having done anything wrong other than having conspired, and I  
22 think they are entitled to point those incidents out as  
23 ingredients, proper ingredients of conspiracy, and so I will  
24 note your exception, and also Mr. Bowers' exceptions which will  
25 enure to the benefit of all defendants under our rule.

1 BY MR. ALFORD:

2 Yes sir.

3 BY THE COURT:

4 All right.

5 BY MR. WATKINS:

6 May it please the Court, as to James T. Harris,  
7 Jimmy Arledge, Jimmy Snowden, Frank Herndon and Wayne Roberts  
8 there is no request for additional instructions to the jury.  
9 As to defendant Travis Barnette counsel respectfully request  
10 the Court to instruct the jury to return a verdict of not  
11 guilty as to Travis Barnette, or within the wisdom of the  
12 Court ask the Court to take that phase of it under advisement  
13 and consider it a motion for a judgment of acquittal in arrest  
14 of judgment or verdict in the event the verdict be improperly  
15 returned. There is no exception in regard to any of the  
16 defendants named.

17 BY THE COURT:

18 I will overrule your motion for a judgment of  
19 acquittal for the reasons that I stated originally when asked  
20 to grant such motions. I think it kind of points the finger of  
21 the Court at the other defendants, they say well he let one  
22 defendant out and if he thought any others ought to have got  
23 out he would have let them out and therefore these others  
24 oughtn't to have got out, and I don't think that's fair, so I  
25 will, I haven't really made any appraisal to see whether or not

1 I even agree with the government. I don't know what I will do.  
2 I am happily not a juror in this case and not going to be put  
3 in that position. You don't have any additional instructions  
4 and no further exceptions to take to any instructions given?

5 BY MR. WATKINS:

6 No exceptions.

7 BY THE COURT:

8 Thank you sir.

9 BY MR. COVINGTON:

10 May it please the Court, on behalf of Doyle  
11 Barnette, we request no additional instructions and we have no  
12 exceptions to make other than the exceptions previously made by  
13 counsel which we understand enures to the benefit of all  
14 defendants.

15 BY THE COURT:

16 Yes sir, I think that's right. That has been the  
17 practice that we inaugurated when we started this case, that is  
18 if I make any errors to one defendant it shall certainly enure  
19 to the benefit of every other defendant.

20 BY MR. COVINGTON:

21 Thank you.

22 BY THE COURT:

23 Anybody else got anything else to say? Call the  
24 jury back.

25 (Jury returned to court room at 4:17 P.M. and following

1 proceedings had in presence of the Jury:)

2 BY THE COURT:

3 Members of the Jury, there was originally attached  
4 to the indictment five other pages which was the pleas of the  
5 defendants of not guilty to this indictment and the fixation of  
6 bond inconnection with the defendant's pleas, which are not  
7 important here, but they did plead to the indictment, but those  
8 were five pages which I have now had separated from the indict-  
9 ment so that the indictment which you will carry to your jury  
10 room is only a two page document signed by the United States  
11 Attorney and by the Special Attorney from the Department of  
12 Justice and the Foreman of the Grand Jury. I now ask the Clerk  
13 to hand this indictment and the form of the jury verdict which  
14 I have explained to the jury, and all of the evidence which was  
15 entered into evidence in this case except the written confessions  
16 and statements of witnesses, and I do not permit those documents  
17 to be taken to the jury room. I don't think that's fair. I  
18 don't permit depositions in any cases to be taken because unless  
19 you had the testimony of all the witnesses it wouldn't be fair  
20 to have just part of the testimony.

21 And, Members of the Jury, finally, if it becomes  
22 necessary during your deliberations to communicate with the  
23 Court you may send a note to the Court by the Marshal in  
24 writing. You are requested to please not attempt to communi-  
25 cate with the Court except in writing, and finally, to bear in

1 mind always that you are not to reveal to the Court or to any  
2 person how the jury stands, numerically or otherwise, on the  
3 question of guilt or innocence of any of the accused, until you  
4 have reached a unanimous verdict on all of the defendants and  
5 have made use of the form of verdict as instructed. That,  
6 Members of the Jury, concludes the instructions of the Court to  
7 the jury. You may now retire and consider your verdict.

8 Since we have reached this point, before you retire,  
9 however, I will now excuse both of the alternate jurors, Mr.  
10 Charles Everett Beauchamp, Jr. and Mr. Wendell Wilkie Backstrom,  
11 who have been so punctual and so attentive at this hearing and  
12 thank each of them for your services to this Court as good  
13 citizens of this state.

14 And as to you gentlemen, you alternate jurors, whom  
15 I am excusing you are instructed to talk to nobody about this  
16 case, and if anybody wants to find out what your verdict was  
17 just tell them you have been told to withhold that information  
18 until the jury has made its decision, so I hope that you won't  
19 be embarrassed by being asked that question because you will  
20 please not answer any such questions. You may be excused.

21 (Alternate jurors excused and left court room.)

22 BY THE COURT:

23 Let me say this. Counsel for both sides, exhibits  
24 66 and 67 are some exhibits which I didn't know how strong the  
25 stomachs of any of these jurors might be and I requested them

1 removed from the court room, but does anybody have any  
2 particular reason to send those two exhibits to the jury room?

3 BY MR. DOAR:

4 The government does not.

5 BY THE COURT:

6 All right.

7 BY MR. HENDRICKS:

8 We do not, if the Court please.

9 BY THE COURT:

10 All right. I just see no point in it because its  
11 been described and I don't see any use in seeing how well any of  
12 us are. You can take that map, those maps go in there. All  
13 right, the jury may retire and consider your verdict.

14 (Jury retired at 4:36 P.M., October 18, 1967, to consider  
15 its verdict.)

16 (Court recessed at 9:00 P.M., October 18, 1967, until 9:00  
17 A.M., October 19, 1967, and the jury was kept together  
18 under supervision of the United States Marshal.)

19 (The jury was returned to the court room at 3:20 P.M.,  
20 October 19, 1967, and following proceedings were had in  
21 presence of the jury, with all defendants and their  
22 attorneys being present.)

23 BY THE COURT:

24 Members of the Jury, I assume from the notes  
25 received from the jury that you have been unable to reach a



1 verdict in the case. Is that correct.

2 BY THE JURY FOREMAN:

3 That's correct sir.

4 BY THE COURT:

5 Thank yousir. The Court has been unable to respond  
6 to some of your inquiries because it would have been improper  
7 for the Court to answer you as to one instruction on the  
8 subject of reasonable doubt, and, therefore, I didn't answer  
9 you because I couldn't answer you. You are obliged as the  
10 Court told youinitially to consider all of the instructions as a  
11 whole and not instructions separately, and it would be improper  
12 to have given you any instruction just on one question, that of  
13 reasonable doubt. The Court couldn't help youin that connection  
14 at this time.

15 This jury has been deliberating now nine hours and  
16 forty minutes according to my calculation and I wish to give you  
17 the benefit of a few thoughts of the Court.

18 The Court wishes to suggest a few thoughts which you  
19 may desire to consider in your deliberations, along with all of  
20 the evidence and all the instructions previously given.

21 This is an important case. The trial has been  
22 expensive both to the prosecution and the defense. If you  
23 should fail to agree on a verdict, the case is left open and  
24 undecided. Like all cases, it must be disposed of at some time.  
25 There appears no reason to believe that another trial wald not

1 be equally expensive to both sides. Nor does there appear  
2 any reason to believe that the case can be tried again better  
3 or more exhaustively than it has been, on either side. Any  
4 future jury must be selected in the same manner and from the  
5 same source as you have been chosen, so there appears no reason  
6 to believe or assume or expect that this case would ever be  
7 submitted to twelve jurors more intelligent, more impartial,  
8 more honest or competent to decide it; or that more or clearer  
9 evidence could be produced on behalf of either side.

10 Of course these matters suggest themselves upon brief  
11 reflection to all of us who have sat through this trial. The  
12 only reason they are mentioned is because some of them may have  
13 escaped your attention, which must have been fully occupied up  
14 to this time in reviewing the evidence. They are matters which,  
15 along with other and perhaps more obvious ones, remind us of  
16 how important and desirable it is that you unanimously agree  
17 upon a verdict of "Guilty" or "Not Guilty", if you can do so  
18 without violence to your individual judgment and conscience.

19 The Court wishes to emphasize to you that it does  
20 not wish any juror to surrender his or her conscientious  
21 convictions. As stated in the instructions given at the time  
22 the case was submitted to you, do not surrender your honest  
23 convictions as to the weight or effect of evidence solely  
24 because of the opinion of the other jurors, or for the mere  
25 purpose of returning a verdict.

1           However, it is your duty as jurors to consult with  
 2 one another and to deliberate with a view to reaching an agree-  
 3 ment, if you can do so without violence to individual judgment.  
 4 Each of you must decide the case for yourself, but you should do  
 5 so only after a careful and conscientious consideration of the  
 6 evidence with your fellow jurors. And in the course of your  
 7 deliberations, you should not hesitate to change your opinion  
 8 when convinced it is erroneous. It is positively not your duty  
 9 to agree on a verdict in this case, but it is just as positively  
 10 your duty to honestly and sincerely and conscientiously try to  
 11 do so.

12           In order to bring twelve minds to a unanimous  
 13 result, you must examine the questions submitted to you with  
 14 candor and frankness, and with proper deference to and regard  
 15 for the opinions of each other. That is to say, in conferring  
 16 together, each of you should pay due attention and respect to  
 17 the views of the others, and listen to each other's argument  
 18 with a disposition to reexamine and reappraise your own views.

19           If the greater number of you are for a conviction,  
 20 each dissenting juror ought to seriously consider whether a  
 21 doubt in his or her mind is a reasonable one, since it makes no  
 22 effective impression upon the minds of so many equally honest,  
 23 equally intelligent fellow jurors, who bear the same responsi-  
 24 bility, serve under the same sanctions of the same oath, and  
 25 have heard the same evidence with, we may assume, the same

1 attention and an equal desire to arrive at the truth. On the  
 2 otherhand, if the greater number of you are for acquittal,  
 3 other jurors likewise ought to seriously consider again whether  
 4 they do not have reason to doubt the correctness of such  
 5 opposing view, since it makes no effective impression upon the  
 6 minds of so many equally honest, equally intelligent fellow  
 7 jurors, who bear the same responsibility, serve under the same  
 8 sanction of the same oath and have heard the same evidence with  
 9 the same attention and an equal desire to arrive at the truth;  
 10 and whether they should not distrust the weight or sufficiency  
 11 of the evidence which fails to convince the minds of a majority  
 12 of their fellow jurors to a moral certainty and beyond a  
 13 reasonable doubt.

14           You are not partisans. You are judges---judges of  
 15 the facts. Your sole purpose is to ascertain the truth from  
 16 the evidence before you. You are the sole and exclusive judges  
 17 of the credibility of all the witnesses and of the weight and  
 18 effect of all the evidence. In the performance of this high  
 19 duty, you are at liberty to disregard all comments of both  
 20 court and counsel, including of course the remarks I am now  
 21 making.

22           Remember at all times that no juror is expected to  
 23 yield a conscientious conviction he or she may have as to the  
 24 weight or effect of the evidence. But remember also that, after  
 25 full deliberation and consideration of all of the evidence, it

1 is your duty to agree upon a verdict only if you can do so  
 2 without violating your individual judgment and conscience.. The  
 3 parties are entitled to a mistrial if you cannot agree on a  
 4 verdict of guilt or innocence as to all of the parties or if  
 5 you cannot agree on a verdict of guilt or innocence as to some  
 6 of the defendants here, but you have no absolute duty to so  
 7 agree on any verdict under the rule stated. You may, but you  
 8 need not, bring in a partial verdict on which you can  
 9 unanimously agree as to the guilt or innocence of less than all  
 10 of the defendants in this case. And in that respect if you  
 11 can't agree on the guilt or innocence of any one or more of the  
 12 defendants, you just simply leave the rectangles opposite those  
 13 names blank, and the Court would understand that you couldn't  
 14 agree as to those defendants, but any that you could agree on  
 15 you make use of the form of verdict as the Court explained to  
 16 you.

17 You may conduct your deliberations as you choose, but  
 18 I suggest that you now retire and carefully reexamine and  
 19 reconsider all of the evidence bearing on the questions before  
 20 you.

21 You may be as leisurely in your deliberations as the  
 22 occasion shall require; and you shall take all the time which  
 23 you feel is necessary. The Marshals have been instructed to  
 24 take you to your meals at your pleasure and to take you to your  
 25 hotel whenever you are ready to go.

1           You may now retire and continue your deliberations  
2 in such manner as shall be determined by your good and  
3 conscientious judgment as reasonable men and women.

4           (Jury retired at 3:34 P.M., October 19, 1967, to consider  
5 its verdict, and the following proceedings were had in  
6 the absence of the jury.)

7 BY THE COURT:

8           Now in the absence of the jury, first I ask the  
9 government do you have any exceptions to take to the charges  
10 given?

11 BY MR. HAUBERG:

12           We have none, Your Honor.

13 BY THE COURT:

14           I ask the defendants do you have any exceptions to  
15 take to the additional charge given?

16 BY MR. WATKINS:

17           Your Honor please, on behalf of Travis Barnette,  
18 James T. Harris, Jimmy Arledge, Jimmy Snowden, Frank Herndon  
19 and Wayne Roberts, we respectfully except from the charge made  
20 by the Court to the Jury in regard to the reference of cost and  
21 expense of trial; in regard to the reference of a partial  
22 verdict; and in regard to the charge and reference to a change  
23 of decision or change of thinking for the following reasons:  
24 Cost, time and expense is not involved in justice, either for  
25 the government or the defense, and a partial, an instruction on

1 a partial judgment is a suggestion as to a way to determine the  
 2 guilt or innocence of one or the other of the defendants; a  
 3 suggestion by the Court to charge the mind of the juror from one  
 4 vote to another, majority or minority, and we submit these  
 5 reasons in the light of the fact that three communications have  
 6 been made to this Honorable Court by the foreman of the jury,  
 7 one being that they desired a transcript---

8 BY THE COURT:

9 You are mistaken about that. There have been five  
 10 communications.

11 BY MR. WATKINS:

12 Excuse me, Your Honor. The ones I know about is  
 13 three.

14 BY THE COURT:

15 They just advised me that the jury was deadlocked I  
 16 think this morning real early and then they started writing  
 17 notes. I believe I have got more notes from this jury than I  
 18 have got from any other criminal jury since I have been on the  
 19 bench.

20 BY MR. WATKINS:

21 Your Honor please, I am trying to get into the  
 22 record that prior to this present charge, if Your Honor please,  
 23 that the Court had been advised on more than one occasion that  
 24 they were hopelessly deadlocked.

25 BY THE COURT:

1 That's right.

2 BY MR. WATKINS:

3 And that they might stay there a year and in their  
4 judgment that they would still be hopelessly deadlocked. Next,  
5 that they were hopelessly deadlocked unless the Court clarified  
6 the question of reasonable doubt which the Court decided it  
7 could not be done. And for all these reasons, Your Honor, we  
8 respectfully submit our exception and at this time respectfully  
9 move the Court for a mistrial and the Court declare this case a  
10 mistrial.

11 BY MR. PIGFORD:

12 May it please the Court, the defendant which we  
13 represent assigns exceptions on the same basis and grounds that  
14 Mr. Watkins has assigned it on.

15 BY THE COURT:

16 Well, may we just assume that all defendants join in  
17 that objection? If you have some additional ones, Mr. Weir, I  
18 will hear you.

19 BY MR. WEIR:

20 Yes sir. Your Honor please, the defendants Price,  
21 Burrage, Willis, Killen, Pokey, Sharpe and E. G. Barnette,  
22 except to each and every statement made by the Court to this  
23 jury on this last charge. We object to it and moe the Court to  
24 grant us a mistrial for the many reasons apparent upon the face  
25 of the language we that was used in aal due respect to the



1 Court and Your Honor we do object to it and except to it and  
 2 move for a mistrial, and we submit among other reasons that  
 3 have already been mentioned that it suggests to the jury that  
 4 the minority should follow the majority ruling, and also  
 5 suggests that the jury might be carried on to the hotel room  
 6 and kept together. We submit in all due respect to the Court  
 7 that this would have some impact or weight upon the jury, and  
 8 without going into detail and arguing each particular point we  
 9 just want to say that we except and object to every bit of it  
 10 for the reasons shown and we do move for a mistrial.

11 BY THE COURT:

12 Yes sir. Of course we stated at the outset and the  
 13 record shows several times that any time one defendant made an  
 14 objection that the ruling of the Court enured to the benefit of  
 15 all other defendants, so that applies with respect to this last  
 16 instruction, but if you have any additional observations to  
 17 make with respect to any defendant the Court will just consider  
 18 that all defendants have joined in on both motions as made by  
 19 the two counsel who addressed the Court. If you have any other  
 20 reasons to assign I will be glad to hear them. Its a difficult  
 21 thing for twelve people to agree on anything unanimously, and  
 22 particularly so in a case and particularly a case of this kind.  
 23 This has been a hard fought case. Its a case that's chuck full  
 24 of emotions, and it would not be reasonably expected by anybody  
 25 that twelve honest, intelligent people could come to any

1 unanimous agreement on the questions presented here which are in  
2 such sharp dispute without extreme difficulty. That only  
3 indicates to this Court that that jury is honest and sincere  
4 and conscientious, and its not unusual forthe Court to have  
5 notes. I haven't had as many as five notes before nor have I  
6 had a case since I have been on the bench before that's had as  
7 many defendants as this case has in it, so the notes have been  
8 somewhat in proportion to the number of parties involved. I  
9 ascribe no significance to that though, because in all of these  
10 cases the parties have difficulty, and I have been told time and  
11 again since I have been on the bench that the juries were  
12 hopelessly deadlocked and they have been left out longer and  
13 have come to an agreement. I had one in Jackson less than two  
14 months ago where they were hopelessly deadlocked and I called  
15 them back in and gave them substantially this same charge and  
16 the jury went out there and turned all the defendants alose,  
17 I believe therewere three defendants in the case. And as to  
18 this charge, this is a charge which is known as the Allen  
19 charge. The Supreme Court of the United States approved it in  
20 substantially the identical language. I have tried to make  
21 some changes in it to meet some criticisms levelled at the  
22 charge by the Fifth Circuit which doesn't exactly like this  
23 Allen charge, but the Supreme Court of the United States  
24 approved it in 1898 and its been before the Court many times  
25 since and the Court never has seen fit to change it and I am

1 going to follow it as long as the Supreme Court of the United  
2 States does, and I am not going to accept any modification of  
3 it. I think the Supreme Court knew what they were saying.  
4 They said what they meant I am sure, and I believe this  
5 instruction which the Court has given says what the Allen charge  
6 says but its maybe not quite as strong as the Allen charge.

7 BY MR. WATKINS:

8 Your Honor, may I make inquiry of the Court for my  
9 information?

10 BY THE COURT:

11 Yes sir.

12 BY MR. WATKINS:

13 Will the meassage or communcations from the jury to  
14 the Court be a part of the official record?

15 BY THECOURT:

16 Yes sir. I was going to hand them to the Clerk.  
17 The first one that I got this morning I believe I sent it back  
18 to the jury because the first question was may wehave a  
19 transcript of the testimony in this case, and I just wrote no  
20 on it and sent it back to them, so I don't know what happened  
21 to that. That's the first one and then ~~there~~ have been four  
22 others, but the four others will be filed with the Clerk.

23 BY MR. WATKINS:

24 Now, Your Honor please, would the Court permit us  
25 by specific reference to those communications assign those

1 references as additional grounds for our motion for a mistrial.

2 BY THE COURT:

3 Yes sir.

4 BY MR. WATKINS:

5 Thank you.

6 BY THE COURT:

7 Because I, as long as the Court understands what you  
8 are saying and rules on it you are entitled to the benefit of  
9 it, and I overrule your motion for a mistrial and I note your  
10 exceptions to the instruction of the Court. Court will stand  
11 in recess until the jury makes its decision.

12 (Court recessed at 3:47 P.M., October 19, 1967, to await  
13 verdict of the jury.)  
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OCTOBER 20, 1967:

ALL ATTORNEYS AND DEFENDANTS PRESENT IN COURTROOM

JURY RETURNED TO COURTROOM:

BY THE COURT:

Has the Jury agreed on an unanimous verdict?

BY THE FOREMAN OF THE JURY:

Yes, Your Honor.

BY THE COURT:

Unanimous verdict?

BY JUROR, MRS. DEDEAUX:

No, not unanimous.

SOUTHERN DISTRICT OF MISSISSIPPI  
**FILED**  
OCT 10 1968  
ROBERT C. THOMAS, CLERK  
BY DEPUTY

BY THE FOREMAN OF THE JURY:

All but three of the defendants, Your Honor.

BY THE COURT:

You have been able to agree on all of them?

BY THE FOREMAN:

Not all of them.

BY THE COURT:

Those that you haven't been able to agree on  
would there be any chance of you agreeing on them  
if you were allowed to work later?

BY THE FOREMAN:

How many hours have you been deliberating?

BY THE FOREMAN:

I don't know sir how many hours.

1 BY THE COURT:

2 Well, you got this at 4:30 on the afternoon of  
3 the 18th, and you worked that afternoon, and all  
4 day the 19th and you've been working on it  
5 at night both nights, I understand that you've  
6 been very diligent in your work and it certainly  
7 has been appreciated and noted by the Court. You  
8 may hand your verdict to the Marshal.

9 (Sealed verdict handed to U. S. Marshal for  
10 delivery to the Court.

11 BY THE COURT:

12 The Clerk may read the verdict.

13 BY THE CLERK:

14 Western Division Criminal Action Number 5291,  
15 United States of America, Plaintiff, vs. Cecil  
16 Ray Price, et al, Defendants. We, the Jury, find  
17 the defendant, Cecil Ray Price not guilty----

18 I'm sorry, Your Honor, may I start over?

19 BY THE COURT:

20 Yes.

21 BY THE CLERK:

22 We, the Jury, find the Defendant, Cecil Ray Price  
23 guilty of the charges contained in the indictment.  
24 We, the Jury, find the defendant, Bernard L. Akin,  
25 not guilty of the charges contained in the indict-

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ment.

We, the Jury, find the defendant, Jimmy Arledge, guilty of the charges contained in this indictment.

We, the Jury, find the defendant, Horace Doyle Barnett, guilty of the charges contained in this indictment.

We, the Jury, find the defendant, Travis M. Barnett, not guilty of the charges contained in this indictment.

We, the Jury, find the defendant, Olen L. Burrage, not guilty of the charges contained in this indictment.

We, the Jury, find the defendant, James T. Harris, not guilty of the charges contained in this indictment.

We, the Jury, find the defendant, Frank J. Herndon, not guilty of the charges contained in this indictment.

We, the Jury, find the defendant, Edgar Ray Killen, they have not checked anything. Jurors were you unable to reach a verdict as to guilty or innocence as to this defendant?

BY THE FOREMAN:

That's correct.

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1 BY THE CLERK:

2 So say ye all?

3 (Jurors polled)

4 BY THE CLERK:

5 We, the Jury, find the defendant, Billy Wayne  
6 Posey, guilty of the charges contained in this  
7 indictment.

8 We, the Jury, find the defendant, Lawrence Andrew  
9 Rainey, not guilty of the charges contained in  
10 this indictment.

11 We, the Jury, find the defendant, Alton Wayne  
12 Roberts, guilty of the charges contained in  
13 this indictment.

14 As to Jerry McGrew Sharpe, Jurors, were you not  
15 able to reach a verdict of guilty or innocent?

16 BY THE JURORS:

17 That is correct.

18 BY THE CLERK:

19 So say ye all?

20 (Jurors polled)

21 BY THE CLERK:

22 We, the defendant, Jimmy Snowden, guilty of the  
23 charges contained in this indictment.

24 We, the Jury, find the defendant, Herman Tucker,  
25 not guilty of the charges contained in this indict



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ment.

We, the Jury, find the defendant, Richard Andrew Willis, not guilty of the charges contained in this indictment.

As to Ethel Glenn "Hop" Barnette Jurors were you unable to reach a verdict as to guilty or innocence?

BY THE FOREMAN:

That is correct.

BY THE JURORS:

So say ye all?

(Jurors polled)

BY THE CLERK:

We, the Jury, find the defendant, Sam Holloway Bowers, Jr., guilty of the charges contained in the indictment. Dated this October 19, 1967. A.D.

Is this your unanimous verdict Jurors as to guilty or not guilty of the defendants?

JURORS ANSWERED YES.

BY THE CLERK:

So say ye all?

(Jurors polled)

BY MR. WEIR:

Your Honor please, may we have the Jury polled

BY THE COURT:

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BY THE COURT:

Yes.

BY MR. WEIR:

May we have the Jurors polled first as to defendant, Cecil Ray Price?

BY THE COURT:

Well the Jurors have been polled. That was what she was doing when she asked them and they've answered you. Do you want to ask them again?

BY MR. WEIR:

Yes sir.

BY THE COURT:

That's denied. That's the reason she's required to poll the jury, she asked them that each one and they have answered you and that's enough.

BY THE COURT:

Members of the Jury, you have had a very difficult assignment here and you've labored long under adverse circumstances and the Court wants you to know of its kindest appreciation, just a minute, you defendants remain standing, I haven't excused anybody. (Defendants returned to front of bench)

I now finally discharge you with the thanks of