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1 MR. NIXON: Yes, sir,

2 MR. STROUD: And who are the two in the audience  
3 you know?

4 MR. NIXON: I don't know their names.

5 MR. STROUD: You just recognize them?

6 MR. NIXON: Yes.

7 MR. STROUD: Is there anyone else? Yes, ma'am?

8 MRS. BLAND: Mr. Pearly Lee.

9 MR. STROUD: This gentleman right here, Mr. Pearly  
10 Lee Marshall? Pardon me; Mr. Marshall Pearly Lee. Anyone  
11 else?

12 MRS. BLAND: And Mrs. Lena Mae McAllister.

13 MR. STROUD: Mrs. McAllister?

14 MRS. BLAND: Yes.

15 MR. STROUD: All right. Is there anyone else on the  
16 jury? Yes, sir?

17 MR. KENNEDY: I know Mr. Nixon.

18 THE COURT: Gentlemen, I don't know what I'm going  
19 to do about it, but this soft conversational tone that is being  
20 used, I'm not hearing you; and I do not believe that anyone  
21 in the court room is not quiet or not being still, but I'm not  
22 hearing it. If all of you will imagine that you are talking  
23 to someone maybe fifty feet away and raise your voice to that  
24 extent, maybe we can hear you, but this soft conversational  
25 tone, we can't hear it. It is necessary that the court reporter

1 hear it and that the Court hear it and that the attorneys hear  
2 it. Please try to remember that.

3 MRS. REDD: I know Mrs. Dannie Jones, and Mr. Ledell  
4 Shepard, Mrs. Joyce Ann Fuller, and I have seen him before but  
5 I don't definitely know him.

6 MR. STROUD: That's Mr. Kennedy?

7 MRS. REDD: That's right.

8 MR. STROUD: All right. Mrs. Jones, Mr. Shepard,  
9 and this gentleman, and who else?

10 MRS. REDD: And Mrs. Olith Ruth Batts.

11 THE COURT: We can hear you; you are setting a good  
12 example. Keep it like that.

13 MR. STROUD: Yes, sir, Mr. Kennedy?

14 MR. KENNEDY: Starting back over here, I know Mr.  
15 Nixon; Rev. Elijah Hall; Mr. Casha; and then some more faces  
16 out there, I know of their faces.

17 MR. STROUD: Some more faces of those who have been  
18 called to serve on the jury?

19 MR. KENNEDY: Yes, sir.

20 MR. STROUD: Do you know -- Is there anyone else  
21 that you can think of, now?

22 MR. KENNEDY: Well, there's a lot of people. I just  
23 know them by their face. I have known them for years, but I  
24 just know their face.

25 MR. STROUD: Is there anyone else on the panel of

1 twelve now who knows someone else either on the panel with you  
2 or among the prospective jurors?

3 (NO RESPONSE.)

4 MR. STROUD: Thank you. Now, how many of you have  
5 served on jury duty previously? Please raise your hand. I am  
6 sure some of you have indicated this, but I'm not sure all of  
7 you have.

8 (RESPONSES.)

9 MR. STROUD: All right. There's just three of you.  
10 Anyone else?

11 (NO RESPONSE.)

12 MR. STROUD: All right. Mrs. Walker, I will start  
13 with asking you some questions, personal questions, directed  
14 towards you as opposed to the other jurors at this time. Now,  
15 Mrs. Walker, you do understand, do you not, the necessity for  
16 being open and frank with your answers with me, is that correct?

17 MRS. WALKER: Yes, sir.

18 MR. STROUD: And you will be patient with me as I  
19 ask you these questions, won't you?

20 MRS. WALKER: Yes, sir.

21 MR. STROUD: Now, Mrs. Walker, as I understand it,  
22 you have three children, is that correct?

23 MRS. WALKER: That's right.

24 MR. STROUD: And they are 25, 21, and 13 in ages?

25 MRS. WALKER: That's right.

1 MR. STROUD: Now, of these three children how many  
2 are living in the home with you?

3 MRS. WALKER: Two.

4 MR. STROUD: That would be which of those two?

5 MRS. WALKER: Twenty-one and thirteen.

6 MR. STROUD: Now, the 21 year old, is that a male or  
7 a female?

8 MRS. WALKER: A male.

9 MR. STROUD: And the 13 year old is a female, I believe  
10 you said?

11 MRS. WALKER: That's right.

12 MR. STROUD: Now, the 25 year old son that you have,  
13 where does he live?

14 MRS. WALKER: San Antonio.

15 MR. STROUD: Beg pardon?

16 MRS. WALKER: San Antonio.

17 MR. STROUD: And the 21 year old son that you have,  
18 is he employed?

19 MRS. WALKER: Yes, he is.

20 MR. STROUD: Where is he employed?

21 MRS. WALKER: Timme Corporation.

22 MR. STROUD: And the 25 year old son, where is he  
23 employed?

24 MRS. WALKER: He's a school teacher.

25 MR. STROUD: And, of course, the 13 year old is a

1 student?

2 MRS. WALKER: That's right.

3 MR. STROUD: Now, Mrs. Walker, are you familiar with  
4 the area in Wilmington in the vicinity of Sixth and Nun Street  
5 and Sixth and Ann Street, that general neighborhood around  
6 there?

7 MRS. WALKER: No, sir.

8 MR. STROUD: Have you ever been to the Gregory Con-  
9 gregational Church on Nun Street?

10 MRS. WALKER: No, sir.

11 MR. STROUD: So -- Do you recall ever having seen  
12 Mike's Grocery Store?

13 MRS. WALKER: No, sir.

14 MR. STROUD: Now, the fact that the defendant Chavis  
15 is called Reverend Chavis and wears a clerical vest and collar,  
16 would that have - what influence, if any, would that have on  
17 your attitude as a juror?

18 MR. FERGUSON: Objection to the form of that question,  
19 your Honor.

20 THE COURT: Approach the bench just a minute, gentle-  
21 men.

22 (COUNSEL CONFER WITH THE COURT AT THE BENCH.)

23 MR. STROUD: We have agreed that I should rephrase  
24 the question. Let me ask it to you in this manner: Would the  
25 fact that the defendant Chavis bears the title Reverend, is

1 called Reverend, and the fact that he wears a clerical collar  
2 and vest, would that have any influence on your decision or  
3 verdict in this case?

4 MRS. WALKER: No, sir.

5 MR. STROUD: No influence at all?

6 MRS. WALKER: No, sir.

7 MR. STROUD: How about you, Mr. Kennedy?

8 MR. KENNEDY: No, sir.

9 MR. STROUD: How about you, Mrs. Redd?

10 MRS. REDD: No. I think all can wear what you want.

11 MR. STROUD: How about you, Mrs. Bland?

12 MRS. BLAND: No, sir.

13 MR. STROUD: Mrs. Watkins, would that have any influ-  
14 ence on your decision in this case?

15 MRS. WATKINS: No, it would not.

16 MR. STROUD: Mr. Devane?

17 MR. DEVANE: No, sir, it wouldn't have any influence.

18 MR. STROUD: Mr. Marshall Lee?

19 MR LEE: Not a bit.

20 MR. STROUD: Mrs. Jones?

21 MRS. JONES: No, sir.

22 MR. STROUD: Would it affect your attitude, Mr.  
23 Nixon?

24 MR. NIXON: No.

25 MR. STROUD: Pardon me. Would it influence your

1 verdict?

2 MR. NIXON: No.

3 MR. STROUD: What about you, Mr. Murray?

4 MR. FERGUSON: Objection.

5 THE COURT: I believe you have already passed him.

6 MR. STROUD: Oh, excuse me; I'm sorry; I forgot I  
7 have already passed him. Now, Mrs. Walker, do you know any  
8 of the defendants?

9 MRS. WALKER: No, sir.

10 MR. STROUD: Do you recognize any of them; have you  
11 seen any of them anywhere before?

12 MRS. WALKER: No, sir.

13 MR. STROUD: Is it possible that you might know a  
14 member of one of their families?

15 MRS. WALKER: No, sir.

16 MR. STROUD: Do you know or recognize the attorneys  
17 for the defendants?

18 MRS. WALKER: No, sir.

19 MR. STROUD: Do you recognize me?

20 MRS. WALKER: No, sir.

21 MR. STROUD: Now, you heard the list of possible  
22 witnesses for the defendants. Now, you did not know any of  
23 them, is that right?

24 MRS. WALKER: No, sir.

25 MR. STROUD: Is it possible -- Did you recognize any

1 of the names as they were called?

2 MRS. WALKER: No, sir.

3 MR. STROUD: Is it possible that you might know some-  
4 one who is in any way related or connected to them?

5 MRS. WALKER: No, sir.

6 MR. STROUD: The names that were called?

7 MRS. WALKER: No, sir.

8 MR. STROUD: Let me ask you the same with regard to  
9 the list of witnesses who will appear for the state; you knew  
10 none of them, is that correct?

11 MRS. WALKER: No, sir.

12 MR. STROUD: Is it possible that you might know any  
13 of the members of their family or friends?

14 MRS. WALKER: No, sir.

15 MR. STROUD: Do you know any persons that are personally  
16 acquainted with any of the defendants?

17 MRS. WALKER: No, sir.

18 MR. STROUD: Do you know any persons that are per-  
19 sonally acquainted with the lawyers?

20 MRS. WALKER: I didn't understand that.

21 MR. STROUD: Do you know any persons that are per-  
22 sonally acquainted with the lawyers?

23 MRS. WALKER: No, sir.

24 MR. STROUD: Do you know any persons that are per-  
25 sonally acquainted with any of the possible witnesses for the

1 defendants or the state?

2 MRS. WALKER: No, sir.

3 MR. STROUD: Now, Mr. Kennedy, do you know or recog-  
4 nize any of the defendants? Have you ever seen them before?

5 MR. KENNEDY: No, sir, but their resemblance, I  
6 thought I knew one of them by his parents, but when they called  
7 his name it was way out, so that resemblance a lot of times it  
8 just doesn't work out.

9 MR. STROUD: Would the resemblance that you observed,  
10 would that in any way influence your decision in this case?

11 MR. KENNEDY: No, sir. No, sir. I just thought  
12 that I knew him by his parents when I seen his appearance, but  
13 when they called his name, it was just away, so, I just dropped  
14 it.

15 MR. STROUD: But if there were some connection by  
16 blood between the young man that you refer to and the people  
17 that you refer to, if there were some relationship there,  
18 would that affect your decision?

19 MR. KENNEDY: No. See, me, I go a lot of places and  
20 I see a lot of people, and so, I just happened to see him and  
21 just thought he favored somebody I knew.

22 MR. STROUD: The person that you know, or that he  
23 favored....(COUNSEL AND JUROR SPEAKING AT THE SAME TIME.)

24 MR. STROUD: You are not close friends with them?

25 MR. KENNEDY: No, sir. They live in one town, and  
I live in another up here.

1 MR. STROUD: Is it possible that you might know any  
2 of their family or friends?

3 MR. KENNEDY: Well, when you say possible, it's possi-  
4 ble that you might know them if you know who they was connected  
5 with, but just right off-hand I would say no.

6 MR. STROUD: Now, Mrs. Redd, do you recognize any of  
7 the defendants or know them?

8 MRS. REDD: No, sir.

9 MR. STROUD: You have never seen any of them before?

10 MRS. REDD: No, sir.

11 MR. STROUD: Is it possible that you might know, from  
12 their name or resemblances, is it possible that you might  
13 know members of their family?

14 MRS. REDD: No, sir.

15 MR. STROUD: How about you, Mrs. Bland?

16 MRS. BLAND: No, sir.

17 MR. STROUD: Mrs. Watkins, do you recognize any of  
18 them? Have you seen any of them before?

19 MRS. WATKINS: No, sir.

20 MR. STROUD: Is it possible that you might, either by  
21 closely resemble or name, know some of their family?

22 MRS. WATKINS: No, I don't know them. This is my  
23 first time in seeing them when I came to court.

24 MR. STROUD: All right. Now, Mr. Devane, how about  
25 you, sir?

1 MR. DEVANE: Well, if I have ever seen any of them  
2 before, I don't off-hand recognize them.

3 MR. STROUD: How about you, Mr. Lee?  
4 don't

5 MR. LEE: I/know any of them.

6 MR. STROUD: Have you ever seen any of them before?

7 MR. LEE: Maybe I have, yes, plenty of them, several  
8 of them (COURT REPORTER UNABLE TO UNDERSTAND THE REST OF HIS  
9 ANSWER.)

10 MR. STROUD: Well, I, you know, all I need really to  
11 know is can you recall having seen them before?

12 MR. LEE: No. I don't recall having seen any of  
13 them.

14 MR. STROUD: Is it possible that you might know be-  
15 cause of their name or resemblance any of the members of their  
16 family?

17 MR. LEE: No.

18 MR. FERGUSON: May we approach the bench just one  
19 minute, Mr. Stroud?

20 (COUNSEL CONFER WITH THE COURT AT THE BENCH.)

21 MR. STROUD: All right. Mrs. Jones, do you recognize  
22 any of the defendants? Have you ever seen any of them before?

23 MRS. JONES: No, sir.

24 MR. STROUD: Do you know either by name or resemblance,  
25 do you know members of their families?

26 MRS. JONES: No, sir.

1 MR. STROUD: How about you, Mr. Nixon?

2 MR. NIXON: No, sir.

3 MR. STROUD: You have never seen any of them before?

4 MR. NIXON: No, sir.

5 MR. STROUD: Mr. Kennedy, have you seen before this

6 week any of the attorneys before?

7 MR. KENNEDY: No, sir.

8 MR. STROUD: Mrs. Redd?

9 MRS. REDD: No, sir.

10 MR. STROUD: Mrs. Bland?

11 MRS. BLAND: No, sir.

12 MR. STROUD: Mrs. Watkins?

13 MRS. WATKINS: No, sir.

14 MR. STROUD: Have you, sir, Mr. Lee?

15 MR. LEE: No, sir.

16 MR. STROUD: Mr. Devane?

17 MR. DEVANE: No, sir.

18 MR. STROUD: Mrs. Jones?

19 MRS. JONES: No, sir.

20 MR. STROUD: Mr. Nixon?

21 MR. NIXON: No, sir.

22 MR. STROUD: Now, Mr. Kennedy, the names of possible

23 witnesses for the defendants, did any of those names ring a

24 bell with you?

25 MR. KENNEDY: No, sir.

1 MR. STROUD: How about you, Mrs. Redd?

2 MRS. REDD: No, sir.

3 MR. STROUD: You heard those names called out late  
4 yesterday afternoon?

5 MRS. REDD: I heard them, yes.

6 MR. STROUD: How about you, Mrs. Bland?

7 MRS. BLAND: No, sir.

8 MR. STROUD: Mrs. Watkins, did any of those names of  
9 potential defense witnesses ring a bell with you?

10 MRS. WATKINS: No, sir.

11 MR. STROUD: Mr. Devane?

12 MR. DEVANE: No, sir. Like I say, I can hear people's  
13 names, but when they bring them in it may be some of them that  
14 I have been around or seen quite frequently, but the names, I  
15 just don't recall any of them.

16 MR. STROUD: Mr. Lee, did any of those names ring a  
17 bell with you?

18 MR. LEE: Not that I know of. I haven't seen them  
19 before.

20 MR. STROUD: Have you seen me before, or have any  
21 of the rest of you recognized me?

22 MR. LEE: Yes, sir.

23 MR. STROUD: Mr. Lee, would the fact that you recog-  
24 nize me, would that in any way influence your decision in this  
25 case?

1 MR. LEE: I believe I have seen you in Wilmington.

2 MR. STROUD: Would that in any way affect your deci-  
3 sion in this case?

4 MR. LEE: No, it wouldn't.

5 MR. STROUD: Mrs. Jones, did any of those names of  
6 potential defense witnesses ring a bell with you?

7 MRS. JONES: No, sir.

8 MR. STROUD: How about you, Mr. Nixon?

9 MR. NIXON: No.

10 MR. STROUD: I failed to mention this earlier and  
11 some of you may be curious and/to satisfy your curoosity, the  
12 gentleman seated next to me is Detective Fredlaw of the Wilming-  
13 ton Police Department who will appear as one of the witness in  
14 the case for the state. Do any of you know Mr. Fredlaw?

15 (NO RESPONSE HEARD.)

16 MR. STROUD: Did the names of any of the prospective  
17 witnesses for the state ring a bell with you or do you know any  
18 of those people?

19 (RESPONSES.)

20 MR. STROUD: Pardon me, Mr. Devane?

21 MR. DEVANE: I don't know their name.

22 MR. STROUD: You don't recognize any by their names?

23 MR. DEVANE: No, but it might be that I have possibly  
24 seen them.

25 MR. STROUD: You all recall the names that I called

1 out or were called out?

2 (AFFIRMATIVE RESPONSES.)

3 MR. STROUD: Now, Mr. Kennedy, do you know any persons  
4 that are personally acquainted with the defendants or their  
5 attorneys or their prospective witnesses?

6 MR. KENNEDY: No, sir.

7 MR. STROUD: How about you, Mrs. Redd? Do any of the  
8 people you know, do they know any of the defendants or the  
9 attorneys or the prospective witnesses for the defendants?

10 MRS. REDD: No, not as I knows of.

11 MR. STROUD: How about you, Mrs. Bland; do any of  
12 your acquaintances know any of these people?

13 MRS. BLAND: No, sir.

14 MR. STROUD: How about you, Mrs. Watkins?

15 MRS. WATKINS: Not that I know of.

16 MR. STROUD: Mr. Devane?

17 MR. DEVANE: Not as I know of.

18 MR. STROUD: Mr. Lee?

19 MR. LEE: Not as I know of.

20 MR. STROUD: Mrs. Jones?

21 MRS. JONES: No, sir.

22 MR. STROUD: Mr. Nixon?

23 MR. NIXON: No.

24 MR. STROUD: Mrs. Walker, back to you, please, ma'am.  
25 During or prior to this week, have you talked with anyone about  
these - any of these defendants or the cases against them?

1 MRS. WALKER: No, sir.

2 MR. STROUD: Has anyone talked to you about any of  
3 the defendants or the cases against them?

4 MRS. WALKER: No, sir.

5 MR. STROUD: And during this week have you communicated  
6 with anyone who is presently or who has in the past been in the  
7 court room?

8 MRS. WALKER: No, sir.

9 MR. STROUD: You haven't had any contact with anyone  
10 who is in the court room or has been in the court room this  
11 week?

12 MRS. WALKER: No, sir.

13 MR. STROUD: Do you know anyone who has been in the  
14 court room this week or who is in the court room now?

15 MRS. WALKER: No, sir.

16 MR. STROUD: Anyone at all?

17 MRS. WALKER: No, sir.

18 MR. STROUD: Have you attended any meeting or been  
19 any place where the defendants were present or their lawyers or  
20 their witnesses?

21 MRS. WALKER: No, sir.

22 MR. STROUD: Have any of your acquaintances?

23 MRS. WALKER: Beg your pardon?

24 MR. STROUD: Have any of your acquaintances or friends  
25 been to any place where any of the defendants in the past have

1 been present?

2 MRS. WALKER: Not that I know of.

3 MR. STROUD: Or their lawyers?

4 MRS. WALKER: No, sir, not that I know of.

5 MR. STROUD: Or any of the witnesses that might appear  
6 for the defense?

7 MRS. WALKER: Not that I know of.

8 MR. STROUD: Are you -- What -- Refresh my memory,  
9 if you will: What organization - I know that you said you were  
10 a member of a holiness church?

11 MRS. WALKER: That's right; I am.

12 MR. STROUD: Is there any other organization that  
13 you are a member of?

14 MRS. WALKER: I work for the 4-H, a Girl Scout Leader,  
15 and I'm a choir director.

16 MR. STROUD: Is there any other organization that you  
17 are a member of or in the past have been a member of?

18 MRS. WALKER: No, nothing except secretary of the  
19 church.

20 MR. STROUD: Now, Mrs. Watkins, during this trial  
21 there may be certain forces at work which may create some  
22 tension and pressure. Now, is there anything that you can  
23 think of that might occur during this trial that would in any  
24 way influence you or prevent you from being a fair and impartial  
25 juror?

1 MRS. WATKINS: You said Mrs. Watkins? Were you talking  
2 to me?

3 MR. STROUD: Mrs. Wallace; I'm sorry. Well, let me  
4 ask you since I asked you about it?

5 MRS. WATKINS: No, there is not.

6 MR. STROUD: All right. Now, Mrs. Walker, let me  
7 repeat that question: During this trial there may be certain  
8 forces at work that may create some tension, certain tensions,  
9 in some places. Now, is there anything that might occur that  
10 you are aware of that might occur during this trial?

11 MR. HUNOVAL: I object to the form of the question  
12 as to "may be" and as to "forces".

13 MR. FERGUSON: May we approach the bench, your Honor?

14 THE COURT: Rephrase your question, Mr. Stroud.

15 MR. STROUD: Can you envision or can you see at this  
16 time that there might be any tension or pressure during this  
17 trial that might in any way influence your decision in this  
18 case?

19 MRS WALKER: No, sir.

20 MR. STROUD: Now, as I recall you stated that you had  
21 heard certain things about these defendants and these cases, is  
22 that correct?

23 MRS. WALKER: Are you talking to me?

24 MR. STROUD: Yes, ma'am.

25 MRS. WALKER: No. I'd say I saw a sketch of it on

1 the television of Mr. Chavis and that was all, because I don't  
too  
2 do/much reading.

3 MR. STROUD: How about personal conversations about  
4 these cases or these defendants; have you had any of those?

5 MRS. WALKER: No, I have not.

6 MR. STROUD: Do you feel like, you know, in all  
7 honesty and fairness, do you feel that you could lay aside any-  
8 thing that you heard or read and decide the cases solely upon  
9 the evidence that's presented and the charge of the Court as  
10 it is presented to you?

11 MRS. WALKER: Yes, sir.

12 THE COURT: Mr. Stroud, I believe we will have to  
13 take a recess at this time. We will be in recess for a few  
14 minutes.

15 (MORNING BREAK. THE DEFENDANTS IN CUSTODY TAKE THEIR  
16 SEATS IN OPEN COURT.)

17 THE COURT: You may proceed.

18 MR. STROUD: Thank you, your Honor. Mrs. Walker, have  
19 you ever been associated or connected in any way with anyone  
20 who has been involved in the defense of a criminal action?

21 MRS. WALKER: No, sir.

22 MR. STROUD: Either as a witness or where that person  
23 was involved as a defendant or a lawyer?

24 MRS. WALKER: No, sir.

25 MR. STROUD: Are you aware and do you have any

1 emotional or physical impairment which would prevent you from  
2 serving on this jury for an extended period of time?

3 MRS. WALKER: No, sir.

4 MR. STROUD: Do you have any relatives or friends or  
5 associates who would criticize you for any verdict that you  
6 might return in this case?

7 MRS. WALKER: Not that I know of.

8 MR. STROUD: Are you concerned with the feelings of  
9 your friends and relatives and associates and would your con-  
10 cern affect your verdict in this case as to any of their feel-  
11 ings about the case?

12 MRS. WALKER: No, sir.

13 MR. STROUD: You do have the courage of your convic-  
14 tions, then?

15 MRS. WALKER: Yes, sir.

16 MR. STROUD: Do you have any personal knowledge about  
17 the facts and circumstances surrounding these cases?

18 MRS. WALKER: No, sir.

19 MR. STROUD: Or as to the events and incidents which  
20 took place in Wilmington, North Carolina, in February, of 1971?

21 MRS. WALKER: No, sir.

22 MR. STROUD: Now, as the result of anything that you  
23 have heard or read about these cases or the defendants or the  
24 existing  
25 circumstances/in Wilmington in February, 1971, as a result of  
hearing or reading anything about any of these items that I

1 mentioned to you, do you have an attitude or a feeling that  
2 would tend to be - to work for or against the defendants in  
3 this case?

4 MRS. WALKER: No, I don't.

5 MR. STROUD: Without stating what it is - and I won't  
6 ask you about it - are you aware of any factor that would influ-  
7 ence your decision in this case other than the evidence?

8 MRS. WALKER: Nothing but the evidence.

9 MR. STROUD: You would base your decision of guilt or  
10 innocence alone upon the evidence that you hear?

11 MRS. WALKER: Yes, sir.

12 MR. STROUD: And no other outside factor would tend  
13 to influence that decision?

14 MRS. WALKER: No, sir.

15 MR. STROUD: Without stating what it is - and again  
16 I won't ask you about it - is there any reason that you could  
17 not serve as an impartial juror, being fair both to the State  
18 of North Carolina and to the defendants?

19 MRS. WALKER: No, sir. There is no reason.

20 MR. STROUD: Thank you, ma'am. You know none of the  
21 other jurors, is that correct, or prospective jurors?

22 MRS. WALKER: No, sir.

23 MR. STROUD: All right. Mr. Kennedy, as I recall you  
24 stated you were a mechanic?

25 MR. KENNEDY: Yes, sir.

1 MR. STROUD: And that you have a daughter at home  
2 with you?

3 MR. KENNEDY: Yes, sir.

4 MR. STROUD: What is her age, please, sir, if you  
5 don't mind my asking?

6 MR. KENNEDY: She's about 23.

7 MR. STROUD: She's not married?

8 MR. KENNEDY: She's married.

9 MR. STROUD: She is. Is she employed anywhere?

10 MR. KENNEDY: Yes, sir.

11 MR. STROUD: Where is she employed?

12 MR. KENNEDY: She's a Home Ec teacher. She's working  
13 with the Board of Education in Wilmington with the summer  
14 session for the children and people that don't have time to  
15 go to school in the day time and maybe have a job and incon-  
16 venient for them to go to school and maybe some drop out and  
17 just maybe want an education. She works with the New Hanover  
18 County Board of Education, in Wilmington.

19 MR. STROUD: And you have four other children, I  
20 believe, is that correct?

21 MR. KENNEDY: Yes, sir.

22 MR. STROUD: And all of them are away from home; I  
23 mean, they don't live in the home?

24 MR. KENNEDY: They don't live in the home.

25 MR. STROUD: The other four children that you have,

1 what are their ages, please, sir?

2 MR. KENNEDY: I have one daughter that's - I don't  
3 know exactly, but I'll give the age as close as I can - she's  
4 roughly about 31. She's married and in New York. I have a  
5 daughter next to her; she's 29; she's been teaching in New York  
6 for seven years. The one next to her is my son, LeRoy, Jr.;  
7 he's an electronic engineer in New York. And the one next to  
8 him is my baby boy, Clarence, and he's in Greensboro at A and T.

9 MR. STROUD: Now, the daughter who is married - the  
10 oldest daughter, I believe you said, that lived in New York -  
11 what is her husband's occupation?

12 MR. KENNEDY: He's a mechanic, I think. I think he  
13 works at a garage as a mechanic.

14 MR. STROUD: And the daughter teaching in New York;  
15 what.....

16 MR. KENNEDY: She's not married. And my son's not  
17 married.

18 MR. STROUD: The one that's an engineer?

19 MR. KENNEDY: The one that's in New York.

20 MR. STROUD: Of course, you understand the necessity  
21 for being open and frank with me in your answers, don't you?

22 MR. KENNEDY: Yes, sir.

23 MR. STROUD: Now, are you familiar with the neighbor-  
24 hood in Wilmington in the area of Sixth and Nun and Sixth and  
25 Ann Streets?

1 MR. KENNEDY: No, sir.

2 MR. STROUD: Do you ever recall having been in that  
3 area at all?

4 MR. KENNEDY: I know I've been through there, but  
5 I've been all over Wilmington, but, you know, I don't know  
6 nothing about what's located in certain places.

7 MR. STROUD: Have you ever been in the Gregory  
8 Congregational Church over there on Nun Street?

9 MR. KENNEDY: No, sir.

10 MR. STROUD: Do you know where Mike's Grocery was  
11 located on Sixth Street?

12 MR. KENNEDY: No, sir. I've been trying to picture  
13 that place every since you all have been talking about it, but  
14 I just can't recall seeing it.

15 MR. STROUD: Now, during this week or prior to this  
16 week have you talked to anyone about these defendants or the  
17 incidents which occurred in February, of 1971, in Wilmington?

18 MR. KENNEDY: No, sir.

19 MR. STROUD: Now, has anyone talked to you about any  
20 of these defendants or the events which occurred in Wilmington?

21 MR. KENNEDY: No, sir.

22 MR. STROUD: Now, during this week have you communi-  
23 cated with anyone who is presently sitting in the court room  
24 or during the week has been in the court room; anyone at all  
25 who has been in the court room this week or is presently in the

1 court room?

2 MR. KENNEDY: Not that I remember.

3 MR. STROUD: Do you know anyone who has been in the  
4 court room this week or is in the court room now other than the  
5 jurors that you have pointed out?

6 MR. KENNEDY: No, sir. No, sir, I don't know anybody  
7 in the court room.

8 MR. STROUD: Have you ever attended a meeting or been  
9 at any place where the defendants or their lawyers or prospec-  
10 tive witnesses were present?

11 MR. KENNEDY: No, sir.

12 MR. STROUD: Have any of your acquaintances that you  
13 know of been in any area where any of these defendants were  
14 present?

15 MR. KENNEDY: Not that I know of.

16 MR. STROUD: Now, I can't recall this information,  
17 so I may be repetitious to this extent: What organizations or  
18 associations or clubs are you presently a member of or have  
19 been a member of in the past?

20 MR. KENNEDY: I'm a member of the Baptist church.

21 MR. STROUD: And is there any other organization or  
22 association that you are presently a member of?

23 MR. KENNEDY: No, sir. To tell the truth, I don't  
24 even go to church much.

25 MR. STROUD: Is there any organizations or associations

1 that you have in the past been connected with that you are not  
2 connected with presently?

3 MR. KENNEDY: No, sir.

4 MR. STROUD: Did you serve in the armed forces, sir?

5 MR. KENNEDY: No, sir, but they got up with my two  
6 boys.

7 MR. STROUD: Your two boys; what branch did they  
8 serve in?

9 MR. KENNEDY: One of them served four years in the  
10 Navy, and the other one served three years in the Army. He  
11 spent the biggest of that in Viet Nam in what they call the  
12 "Feets Corps" there.

13 MR. STROUD: Now, are you at -- I expressed this also  
14 to Mrs. Walker, and I'll express it to other jurors. You know,  
15 as this trial progresses there may be certain forces at work  
16 which may create some tensions or some pressures. Now, are you  
17 at this time aware of any such tension or pressure that exists  
18 presently or might exist during this trial?

19 MR. KENNEDY: No, sir.

20 MR. STROUD: That would in any way influence your  
21 decision?

22 MR. KENNEDY: No, sir.

23 MR. STROUD: Now, I recall, I believe, that you stated  
24 that you heard and read certain things about the incidents in  
25 February, of '71, is that right?

1 MR. KENNEDY: You didn't recall me saying I read; you  
 2 recall me saying I heard, because I do very little reading, be-  
 3 cause if I'm at home if something was on the T.V. while I'm  
 4 eating my supper, I sit there and eat and watch T.V.; and I  
 5 work too hard, when I leave out of there I go to bed. So, when-  
 6 ever at the shop, I turn the radio on. Now, I might have heard  
 7 something on the radio or seen something on the T.V.. When I  
 8 read, I'm looking in my repair manual, and that's about the  
 9 only reading I do.

10 MR. STROUD: Do you recall at this time - without  
 11 repeating what it was - but do you recall what you heard or saw  
 12 about it on television?

13 MR. KENNEDY: No. It's been so long I couldn't remem-  
 14 ber nothing only it just flashed up there on the news scene and then  
 15 the next one come up and knock that one out, and the last one  
 16 you see that's the one you remember, I guess.

17 MR. STROUD: Do you recall hearing or seeing anything  
 18 about the incident in regard to the burning of Mike's Grocery  
 19 Store, in Wilmington, in February, 1971?

20 All  
 21 MR. KENNEDY: No. /I knowed there was some burning;  
 22 I didn't know whose store it was or where it was located or  
 23 nothing.

24 MR. STROUD: Now, as the result of what you heard and  
 25 saw on television, do you at this time have or have you at any  
 time had any attitude or feeling about these defendants as the

1 result of what you heard and saw?

2 MR. KENNEDY: No, sir.

3 MR. STROUD: Do you honestly believe that you can lay  
4 aside what you heard and saw without it having any bearing  
5 whatsoever in your decision in the case?

6 MR. KENNEDY: Yes, sir.

7 MR. STROUD: Now, have you personally ever been asso-  
8 ciated with anyone who was involved in the defense of a  
9 criminal case in any capacity?

10 MR. KENNEDY: No, sir.

11 MR. STROUD: Do you have any emotional or physical  
12 infirmity which might make it difficult for you to sit on the  
13 jury for an extended period of time?

14 MR. KENNEDY: No, sir, unless you are talking about  
15 my pocketbook.

16 MR. STROUD: Do any of your friends or relatives or  
17 associates that you are aware of have any particular attitude -  
18 without stating what the attitude is - but do any of them that  
19 you are aware of have any particular attitude about these cases  
20 or these defendants?

21 MR. KENNEDY: Well, if they have, they haven't said  
22 anything to me about it.

23 MR. STROUD: Have any of your friends -- Well, let  
24 me rephrase that. Strike that, please, ma'am. Do you feel  
25 that any of your friends or relatives or associates -- Do you

1 have any feelings that any of your relatives or friends or  
2 associates would criticize you for any verdict that you might  
3 return in this case?

4 MR. KENNEDY: No, sir.

5 MR. STROUD: As the result of what you heard or read  
6 - pardon me - as the result of what you heard or saw on tele-  
7 vision with regard to the incidents of February, 1971, in  
8 Wilmington, would that cause you to have any attitude or feeling  
9 that would work for or against the defendants in these cases?

10 MR. KENNEDY: No, sir.

11 MR. STROUD: Without stating what it is - and I won't  
12 ask you about it - are you aware of any factor that in any small  
13 way might influence your decision other than the evidence which  
14 you will hear in the case?

15 MR. KENNEDY: No, sir.

16 MR. STROUD: Are you aware of any reason, without  
17 stating what that reason is.....

18 MR. KENNEDY: No, sir.

19 MR. STROUD: ....that would prevent you from sitting  
20 as a fair and impartial juror?

21 MR. KENNEDY: No, sir.

22 MR. STROUD: Fair both to the state and to the defen-  
23 dants?

24 MR. KENNEDY: No, sir.

25 MR. STROUD: Do you have any particular attitude or

1 feeling now as to how you want these cases to come out?

2 MR. KENNEDY: No, sir.

3 MR. STROUD: How about you, Mrs. Walker?

4 MRS. WALKER: I didn't understand you.

5 MR. STROUD: Do you have any particular feeling or  
6 attitude now about how you want these cases to come out?

7 MRS. WALKER: No, sir.

8 MR. STROUD: How about you, Mrs. Redd?

9 MRS. REDD: No, sir.

10 MR. STROUD: Mrs. Bland?

11 MRS. BLAND: No, sir.

12 MR. STROUD: Mr. Nixon?

13 MR. NIXON: No, sir.

14 MR. STROUD: Mrs. Jones?

15 MRS. JONES: No, sir.

16 MR. STROUD: Mr. Lee?

17 MR. LEE: No, sir.

18 MR. STROUD: How about you, Mr. Devane; do you have  
19 any particular attitude or feeling now as to how you wish these  
20 cases come out?

21 MR. DEVANE: No, sir.

22 MR. STROUD: How about you, ma'am?

23 MRS. WATKINS: No, sir.

24 MR. STROUD: Mrs. Bland, do you - you, of course,  
25 understand the reason for the asking of the questions, do you not?

1 MRS. BLAND: Yes, sir.

2 MR. STROUD: And you understand the necessity for your  
3 being open and frank, do you not?

4 MRS. BLAND: Yes, sir.

5 MR. STROUD: Now, are you familiar at all with the  
6 general neighborhood in Wilmington in the area of Sixth and  
7 Ann and Sixth and Nun Streets?

8 MRS. BLAND: No, sir.

9 MR. STROUD: Do you ever recall having been in that  
10 neighborhood at all?

11 MRS. BLAND: No, sir.

12 MR. STROUD: Now, during or prior to this week have  
13 you talked to anyone about any of these defendants or cases or  
14 charges against them?

15 MRS. BLAND: No, sir.

16 MR. STROUD: During or prior to this week has anyone  
17 talked to you about them?

18 MRS. BLAND: No, sir.

19 MR. STROUD: During this week have you communicated  
20 or had any contact with anyone who is now in the court room or  
21 has been in the court room?

22 MRS. BLAND: No, sir.

23 MR. STROUD: Do you know anyone who has been in the  
24 court room this week or is in the court room now other than the  
25 jurors that you might recognize?

1 MRS. BLAND: No, sir.

2 MR. STROUD: Have you ever attended any meeting or  
3 been at any place where the defendants or their lawyers were  
4 present?

5 MRS. BLAND: No, sir.

6 MR. STROUD: To your knowledge have any of your per-  
7 sonal acquaintances or friends or associates been at any meeting  
8 or place where the defendants or their lawyers were present?

9 MRS. BLAND: No, sir.

10 MR. STROUD: How long has your husband worked at  
11 Timme?

12 MRS. BLAND: About eleven years.

13 MR. STROUD: Now, are you a member of any club,  
14 organization, or association presently?

15 MRS. BLAND: Nothing but the church.

16 MR. STROUD: Have you in the past been a member of  
17 any club, organization, or association other than the church?

18 MRS. BLAND: No, sir, not since I got out of school.

19 MR. STROUD: Not since you got out of school. How  
20 about your husband; is your husband presently a member of any  
21 club, organization, or association?

22 MRS. BLAND: No, sir.

23 MR. STROUD: How about in the past; has he been a  
24 member of any such organization or anything?

25 MRS. BLAND: Not that I know of.

1 MR. STROUD: Now, during this week certain forces may  
2 be at play to cause there to be some tension and pressure dur-  
3 ing the trial. Are you aware of any such tension or pressure  
4 that might occur during the trial that might in any way influ-  
5 ence your decision in the case?

6 MRS. BLAND: No, sir.

7 MR. STROUD: Have you ever been associated or con-  
8 nected with anyone who has been involved in the defense of a  
9 criminal case in some capacity?

10 MRS. BLAND: No, sir.

11 MR. STROUD: Do you have any emotional or physical  
12 infirmity that would prevent you from serving on the jury  
13 for an extended period of time?

14 MRS. BLAND: No, sir.

15 MR. STROUD: How about you, Mr. Nixon; are you aware  
16 of any physical or emotional infirmity that would prevent you  
17 from serving on the jury for any extended period of time?

18 MR. NIXON: No, sir.

19 MR. STROUD: How about you, Mrs. Jones?

20 MRS. JONES: No, sir.

21 MR. STROUD: You, sir?

22 MR. LEE: No, sir.

23 MR. STROUD: How about you, Mr. Devane?

24 MR. DEVANE: No, sir.

25 MR. STROUD: How about you, Mrs. Watkins?

1 MRS. WATKINS: No, sir.

2 MR. STROUD: Mrs. Bland, do you have any -- That you  
3 are aware of, do you have any friends or relatives or associates  
4 who have any particular feeling or attitude about these cases  
5 that they have expressed to you?

6 MRS. BLAND: How is that?

7 MR. STROUD: Have any of your friends or relatives  
8 expressed any particular attitude about these cases or defen-  
9 dants to you?

10 MRS. BLAND: No, sir.

11 MR. STROUD: Do you feel that any of your friends or  
12 relatives would criticize you or might criticize you for any  
13 verdict that you might return in these cases?

14 MRS. BLAND: No, sir.

15 MR. STROUD: How about you, Mr. Nixon; have any of  
16 your friends or associates or relatives expressed any attitude  
17 or feeling about this case to you?

18 MR. NIXON: No, sir.

19 MR. STROUD: Do you feel that in any way that any of  
20 them, family or friends, might hold/up to criticism for any  
21 verdict that you might return in this case?

22 MR. NIXON: No, sir.

23 MR. STROUD: Mrs. Jones, how about you?

24 MRS. JONES: No, sir.

25 MR. STROUD: None of your friends have expressed an

1 attitude or feeling about the charges or the defendants to you?

2 MRS. JONES: No, sir.

3 MR. STROUD: And you have - you don't have any feeling  
4 they might in any way criticize you.....

5 MRS. JONES: No, sir.

6 MR. STROUD: .....for the verdict that you might  
7 return?

8 MRS. JONES: No, sir.

9 MR. STROUD: Mr. Lee, how about you, sir?

10 MR. LEE: No, sir.

11 MR. STROUD: None of your friends have expressed an  
12 attitude or feeling about the cases or the defendants to you?

13 MR. LEE: No, sir.

14 MR. STROUD: Do you at this time have such an -- Do  
15 you have an attitude or feeling about the defendants or cases?

16 MR. LEE: No, sir.

17 MR. STROUD: Do you feel that your relatives or friends  
18 or associates or that any of them might in any way hold you up  
19 to criticism for any verdict that you might return in these  
20 cases?

21 MR. LEE: No, sir.

22 MR. STROUD: Mr. Devane, have any of your friends or  
23 associates or relatives expressed an attitude or a feeling about  
24 these particular defendants or these cases to you?

25 MR. DEVANE: No, they haven't expressed it to me, but

1 in my position I'm aware of the fact that belonging to organized 586  
2 labor where both blacks and whites regardless of which way the  
3 verdict might go, I'm aware of the criticism.

4 MR. STROUD: Right. I'm just talking about with  
5 regard to these particular defendants?

6 MR. DEVANE: No, sir, not to these particular defen-  
7 dants, but like I say, I'm aware of the criticism.

8 MR. STROUD: Well, would that, the fact that you  
9 might be criticized for your verdict in the case, would that  
10 influence your decision in the case?

11 MR. DEVANE: No, sir, it wouldn't affect my decision  
12 whatever criticism might come my way.

13 MR. STROUD: All right. Now, Mrs. Watkins, have any  
14 of your friends or family expressed an attitude or opinion  
15 about these defendants or these cases that are on trial here?

16 MRS. WATKINS: No, they haven't.

17 MR. STROUD: Do you feel that any of your relatives  
18 or friends might subject you to some criticism for any verdict  
19 that you might return in this case?

20 MRS. WATKINS: No.

21 MR. STROUD: Are you in any way concerned that they  
22 might do this?

23 MRS. WATKINS: No.

24 MR. STROUD: Now, Mr. Kennedy, would the fact that  
25 you know Mr. Nixon back here have any effect upon your deliberation

1 or decision in this case?

2 MR. KENNEDY: No, sir.

3 MR. STROUD: Do you feel that any feeling or attitude  
4 after you have heard the evidence and you go into the jury room  
5 for your deliberations, do you feel like any attitude or feeling  
6 that you may have at that time may influence him or any attitude  
7 or feeling that he might have at that time could influence you?

8 MR. KENNEDY: Well, I can tell you whether his atti-  
9 tude would influence me, but I don't know whether my attitude  
10 would influence him.

11 MR. STROUD: Okay. How about his attitude?

12 MR. KENNEDY: Well, his wouldn't influence me at all.

13 MR. STROUD: In other words, you would reach a personal  
14 decision?

15 MR. KENNEDY: That's right; a personal decision.

16 MR. STROUD: Would anything that any of the jurors  
17 said to you during the deliberations, would that in any way  
18 influence your decision?

19 MR. KENNEDY: No, sir.

20 THE COURT: Objection sustained to that. Approach  
21 the bench a minute.

22 MR. STROUD: Yes, sir.

23 (COUNSEL CONFER WITH THE COURT AT THE BENCH.)

24 THE COURT: Members of the jury panel, we are about to  
25 recess for the noon-day period. Please observe the admonitions

1 I have told you about in this case. Take a recess until two-  
2 fifteen.

3 (LUNCHEON RECESS. THE DEFENDANTS IN CUSTODY TAKE  
4 THEIR SEATS IN OPEN COURT. MR. ALLEN COBB IS AT STATE'S TABLE.)

5 THE COURT: Ladies and gentlemen, the assistant  
6 solicitor, Mr. Stroud, has been under some health difficulties  
7 both yesterday and today, so he advised the Court. His tempera-  
8 ture has risen this afternoon, and he is feeling much worse.  
9 And he and Mr. Cobb, who is the district solicitor, have requested  
10 - and counsel for the defendants have agreed - that it would be  
11 proper to recess this court until Monday morning to afford him  
12 an opportunity to recover. The Court has decided that such  
13 would be in order, so we are going to take a recess until  
14 Monday morning at ten o'clock. Now, those who have been - I  
15 don't know whether there are any remaining in the court room -  
16 of the jury panel who have been called into the box and examined  
17 and excused - probably there are none - they need not return  
18 at all. The others of you, of the group that came in yesterday,  
19 must return Monday at ten o'clock, together with those who are  
20 presently in the box. Now, I have previously admonished you  
21 concerning any attempts on your part to inform yourselves about  
22 these cases. You should make every attempt to remain - or, let  
23 your knowledge of the cases be confined to that which you  
24 already have and to avoid reading newspaper accounts or listen-  
25 ing to other news media, radio or television, concerning these

1 cases. You should also avoid talking to people about these  
2 cases or permitting other people to talk to you about it until  
3 it be determined whether you will in fact be selected on the  
4 jury. This one point I have not previously mentioned, and that  
5 is your communication with any of the lawyers involved in the  
6 case. Under their code of ethics they are not permitted to  
7 talk with jurors or prospective jurors outside of the regular  
8 questioning in the court, so that if you attempt to talk to  
9 them, most - and I believe all - would decline to do so. You  
10 might misunderstand that, and you are to understand that it is  
11 their duty not to talk to you and it is your duty not to seek  
12 to hold communications with them, and otherwise hold yourself  
13 in a position where you can be fair and unprejudiced and un-  
14 biased with an open mind in the event that you should be selected  
15 on this jury. Please observe those admonitions scrupulously  
16 between now and Monday morning. Is there anything further you  
17 think I should say at this point?

18 MR. FERGUSON: May I approach the bench one moment?

19 (MR. FERGUSON CONFERS WITH THE COURT AT THE BENCH.)

20 THE COURT: All right. Mr. Sheriff, take a recess  
21 until Monday morning at ten o'clock.

22 (AFTER COURT RECESSED AT THE CONCLUSION OF THESE  
23 PROCEEDINGS ON MONDAY, JUNE 12, 1972, THE COURT DICTATED THE  
24 FOLLOWING TO THE COURT REPORTER FOR INCLUSION IN THE RECORD AT  
25 THIS POINT:)

1 THE COURT: Let the record show Mr. Ferguson made a  
2 motion on Friday afternoon for reduction of bond; motion denied.

3 JUNE 12, 1972:

4 (THE COURT CONFERS WITH COUNSEL IN CHAMBERS PRIOR TO  
5 THE OPENING OF COURT. THE DEFENDANTS IN CUSTODY TAKE THEIR  
6 SEATS IN OPEN COURT. JURORS SUMMONED FOR THIS DAY CALLED TO  
7 DETERMINE IF PRESENT, BUT THE COURT DID NOT HAVE ANY OF THEM  
8 SWORN IN AT THIS TIME.)

9 MR. COBB: If it please the court and your Honor, we  
10 were here Friday afternoon and as your Honor and other people  
11 here know, Mr. Stroud, who was working this case, at that time  
12 had fever of 103 and had some intestinal - or some virus or  
13 other infection. I requested your Honor at that time to recess,  
14 and with the consent of Mr. Ferguson and the other lawyers here,  
15 this was done until today in the hope that Mr. Stroud would  
16 be able to get the rest and medication over the weekend to get  
17 himself in shape to be back here today. Now, during the weekend,  
18 on Saturday and Sunday, I talked with your Honor and I also  
19 talked with Mr. Stroud at length on both days and last night  
20 and this morning also. Mr. Stroud has been to the hospital  
21 twice over the weekend to get some kind of glucose or other  
22 intravenous injections in hopes that he might - the doctors  
23 hope might correct the situation which existed at that time.  
24 I have been advised by his wife, and your Honor, I checked with  
25 the doctor, and it appears that his condition has worsened; and

1 he was reluctant and refused to go to the hospital and - not  
2 refused, but wanted to hold off going to the hospital if at all  
3 possible that he could get over this illness and by this morning  
4 be here. I have been advised this morning by him and it has  
5 been verified from the medical - Dr. Shupin, in Wilmington, who  
6 is treating him for this, his condition has not improved but if  
7 anything it has worsened, and at this time Dr. Shupin has told  
8 him last night that if his condition did not improve itself by  
9 this morning that it would be necessary for him to <sup>be</sup> admitted to  
10 the hospital for at least three or four days or more to run  
11 tests or other treatment that might indicate or find out what  
12 the cause of his illness is; and at this time I take it he is  
13 in the hospital or if not he will be admitted shortly. If your  
14 Honor please, as you well know this office which we have has  
15 four people in it. We have New Hanover and Pender Counties,  
16 and we have a lot of double sessions of court just about all  
17 the time. As cases come into the office they are assigned to  
18 various people to investigate it with the idea of trying them  
19 later; if we didn't do this we never would make any progress  
20 whatsoever. If all four people in the office investigated every  
21 case, then we would investigate a fourth as many cases as we  
22 do. Operating on this procedure, and I presume this is the  
23 procedure operated by other solicitors and also by people who  
24 defend cases, they assign various cases to various members of  
25 their firm. When this case developed Mr. Stroud was assigned

1 this case, and he has made an exhaustive and extensive investi-  
 2 gation and research into this matter for the last three or four  
 3 months. The other members or the people in our office have a  
 4 vague familiarity with it and have talked to him from time to  
 5 time in general terms, your Honor, but as far as the details  
 6 and the facts of the case, we do not have them. And based on  
 7 his illness at this time and his admission to the hospital,  
 8 as much as I regret to have to do so, I respectfully request  
 9 and make a motion that this case - a mistrial be declared due  
 10 to his illness and that a mistrial be ordered and the case set  
 11 for trial at a later special or regular term of court here.

12 THE COURT: Gentlemen for the defendants?

13 MR. HUNOVAL: Your Honor, for the record, on behalf  
 14 of my client, Mrs. Ann Shepard, I would like to state that I  
 15 was and am -- Strike that last part -- was -- Strike that  
 16 sentence. Your Honor, I would just like to state that I hope  
 17 that Mr. Stroud has a full and speedy recovery. I am saddened  
 18 to hear that he was and is ill. I would like to formally, on  
 19 behalf of my client, object to the granting of the motion for  
 20 mistrial if it is granted, and if it is granted I would like  
 21 to state for the record and address a remark to the people of  
 22 Pender County who have demonstrated a willingness to come into  
 23 court and to afford my client her constitutional right to assure  
 24 her that the people of Pender County who have been examined that  
 25 they will guarantee her her constitutional right of a presumption

1 of innocence. I would like to further state that I thank the  
2 people of Pender County for all the courtesies afford me and  
3 my client during this past week. Thank you, your Honor.

4 THE COURT: All right. Gentlemen?

5 MR. FERGUSON: Your Honor, I would like to be heard.

6 MR. BALLANCE: If your Honor pleases, it goes without  
7 saying that the incident that brings us to this point is, of  
8 course, regrettable on everyone's part. We would not, of course,  
9 object to any situation with reference to the illness of Mr.  
10 Stroud. We do feel, however, on behalf of the interest of the  
11 people we represent that it would be appropriate that we enter  
12 an objection for the record to the motion made by Mr. Cobb.  
13 To reiterate very briefly the remarks made by Mr. Hunoval, I  
14 came into/<sup>the</sup>Pender County Court House for the first time - I  
15 believe I had been through this county on one occasion prior to  
16 last week but I had not stopped - and I can say personally I've  
17 been afforded a great degree of hospitality since I've been  
18 here. We have hoped and we have seen as we proceeded along  
19 with the trial of these cases especially as far as the jury is  
20 concerned, and on behalf of our clients we would certainly feel  
21 it is necessary to interpose an objection to the motion as made,  
22 although I say again we are very concerned about the condition  
23 of Mr. Stroud, and we know that Mr. Cobb would not have made  
24 this motion had he not felt that it was necessary.

25 MR. FERGUSON: If your Honor please, I would just like

1 to take a moment to second the remarks made by Mr. Ballance and  
2 to state that on behalf of the ten defendants represented by  
3 Mr. Harmon, Mr. Ballance, and myself, we do object to a mistrial  
4 being declared at this time. We understand, of course, the  
5 position of the state and that the state might have some diffi-  
6 culty in going forward in the light of Mr. Stroud's illness.  
7 We certainly don't want to be misunderstood as trying to take  
8 unfair advantage of the state by objecting to a mistrial, but  
9 we do represent ten persons here and our responsibility is  
10 primarily to them. Just by way of background, when these cases  
11 were initially scheduled for trial on the 1st of May of this  
12 year, the defendants sought to obtain a delay in the trial in  
13 an effort to prepare for trial because of prior involvements  
14 of counsel; we were successful in that effort. Since that time  
15 we have devoted most considerable time to preparing ourselves  
16 for this trial although we've had to operate under harsh  
17 circumstances due to the fact that the defendants have been  
18 incarcerated in jail and prison in various places in the state.  
19 We feel that at this point with the defendants having invested a  
20 considerable degree of time in the preparation of the case and  
21 having invested a week of trial time in this case, that the  
22 defendants will be prejudiced by a mistrial both in terms of  
23 defraying the costs of this trial. They have had considerable  
24 expense in securing counsel for the week that has passed, and  
25 of course, who knows but at some point later this case may be

1 tried again and they will be put through again the same expense  
 2 that they have had and have gone through up to this point in  
 3 preparing for trial. We do feel at this point with the jury  
 4 having been - with a jury venire having been sworn and the jury  
 5 selection process having proceeded as far as it has, that in  
 6 the circumstances of this case jeopardy has attached and the  
 7 defendants are being deprived of their right to a full and fair  
 8 hearing on the charges against them should a mistrial be  
 9 declared by the Court at this time. Being very candid with  
 10 the Court, we feel that the trial was proceeding in a direction  
 11 of a fair trial for the defendants. At our instance, the Court  
 12 moved this case from New Hanover County to Pender County, and  
 13 we would ask the Court to remove it from New Hanover County.  
 14 Up to this point we have been pleased with the expressions of  
 15 fairness on the part of many or most of the jurors who have  
 16 been called to hear this case. We have been pleased with the  
 17 frank expressions of those who felt they could not in good  
 18 conscience give the defendants a fair trial. We have come to  
 19 accept Pender County as the venue for the trial of this case,  
 20 and we do feel that here we could have and receive a fair trial,  
 21 and we do hope that if this case is ever tried again that it  
 22 will be set here in Pender County. Under all the facts known  
 23 to us, your Honor, we must and we do enter an objection to the  
 24 declaration of a mistrial at this time.

25 THE COURT: Anything further?

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MR. COBB: No, sir.

THE COURT: Of course, these facts were brought to the attention of the Court early this morning. The Court has been in the process of concerning itself with these facts and attempting to inform itself as to the validity in all respects. I felt it necessary to speak directly to the physicians involved in the treatment of Mr. Stroud, and have talked personally with one of them, who communicated with the other physicians and thereafter he talked with me again concerning what the physicians in Wilmington say about Mr. Stroud's condition which is in substance that as related by Mr. Cobb. As has been stated, I felt that this trial was proceeding in an orderly, lawful way in an atmosphere of judicial calm that should prevail in all cases. It is regrettable, very much so, that any situation has arisen which would interfere with the continuance under those conditions. I have been extremely desirous in the interest of the administration of justice and in the interest of cost and expense to the defendants and the expense and cost to the taxpayers that this trial should proceed, because we have devoted a full week in court, to say nothing of the countless hours expended by the attorneys for the defendants and by Mr. Stroud and others of the solicitor's office. All of those things add to the feeling that the trial should proceed to conclusion if at all possible, and all of those things make it more regrettable if the trial should not proceed.

1 But I have sought to weigh the considerations on both sides in 597  
2 the interest of the public and in the interest of the defendants  
3 and have come to the conclusion that I have no reasonable alter-  
4 native to declaring a mistrial and consequent postponement at  
5 this time, unfortunate as I regard it. Therefore, I shall allow  
6 the motion, and an appropriate order will be entered in the  
7 record allowing the motion and indicating that counsel for all  
8 defendants desire that the record should show an objection.

9 MR. FERGUSON: Yes, sir.

10 THE COURT: I want to at this time express my appre-  
11 ciation, personal appreciation, as well as on behalf of the  
12 office I represent for the conduct of court officials, including  
13 all attorneys involved; they are all officers of the court.  
14 Likewise, for the conduct and courtesies of all people who have  
15 been within the court room and within the vicinity during the  
16 past week. I believe it reflects credit upon all of those  
17 named, and it reflects credit upon the people of Pender County  
18 for the attitude and general conduct which they have exhibited.  
19 It is to be hoped that if and when this trial is recessed that  
20 those conditions can prevail at that time as they have these  
21 past few days. I believe that you have set an example worthy  
22 of emulation by other people, other people in other places. I  
23 want also to express my appreciation to all of you who have  
24 been present in the jury panel. You have come when called,  
25 ready and willing to render service in this respect and indicated

1 an ability to render this service. I speak to those who came  
2 last week and also to the new people who came upon call this  
3 morning. Of course, had this been foreseen, you people who  
4 came this morning would not have been called, but you are here  
5 and although it is apparent that your services will not be  
6 needed, you may return to your usual activities and it will  
7 not be necessary for the Court to hear those of you who may or  
8 may not have had adequate reason why you should be excused. I  
9 want to express also the Court's appreciation for what the  
10 Court regards as proper and efficient service of the law  
11 enforcement agencies from the Pender County Sheriff's Office,  
12 and also those who were asked to come in connection with this  
13 trial from New Hanover County, and also for the presence of  
14 members of the North Carolina Highway Patrol. It is always  
15 regrettable that security measures make it desirable that all  
16 possible eventualities be provided for. I do not believe that  
17 there was any -- I do not believe now that there was any  
18 necessity for the additional steps for security in view of  
19 the conduct that has been exhibited. I felt that that would  
20 be the case, but I did not know it; I hope that all understand  
21 that the situation was such that all of these people are  
22 entitled to commendation for their conduct, for the efficient  
23 and courteous way that they have conducted themselves in the  
24 performance of their duties. The decision having been made  
25 to grant the motion as stated, there remains now no further

1 business for the Court. Mr. Sheriff.....

2 MR. COBB: If your Honor please, would you let the  
3 record show the jury had not been - at the time the mistrial  
4 was granted had not been empanelled; I don't think it is in the  
5 record.

6 THE COURT: Let the record show that as of this time  
7 no jury had been empanelled for the trial of the cases. All  
8 right. Mr. Sheriff, take an adjournment sine die.

9 (COURT IS ADJOURNED SINE DIE. THE COURT DICTATED  
10 AN ORDER TO THE COURT REPORTER ALLOWING THE MOTION FOR MISTRIAL  
11 AND SHOWING DEFENDANTS' OBJECTION AND EXCEPTION THERETO, WHICH  
12 ORDER IS A PART OF THE ORIGINAL COURT FILE. THE FOLLOWING DAY,  
13 TUESDAY, JUNE 13, 1972, A HEARING WAS HELD IN THE NEW HANOVER  
14 COUNTY COURT HOUSE REGARDING REDUCTION OF BOND AS TO CERTAIN  
15 DEFENDANTS, WHICH HEARING WAS NOT REQUESTED TO BE TRANSCRIBED  
16 AS A PART OF THIS TRANSCRIPT. AN ORDER APPEARS IN THE COURT  
17 FILE AS TO THE COURT'S RULING AT THE CONCLUSION OF THE HEARING.)

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19  
20 TAKEN AND TRANSCRIBED:

21  
22 *Sylvia P. Edwards*  
SYLVIA P. EDWARDS  
23 Official Superior Court Reporter  
24 Route 5, Box 272  
Whiteville, North Carolina 28472