

**PAGE COUNT OF 50 PAGES**

that; that she saw him in the van and recognized him; that she had seen him in the van at the ranch before; that at times she was there that John Robinson was in and out; that she had been shown a picture of John Robinson; that Mr. Stroud showed her the picture; that she first talked to Mr. Stroud last Saturday; that Detective Brown talked with her husband some two or three weeks ago; that she was concerned about Mr. Weiss; that she thought he would be involved because of his truck; that at the time that she observed Robinson in the store that one person whom she did not know was with him.

Thereafter, members of the Jury, Mr. Weiss was recalled by the State to testify in substance that Mrs. Decker had called him and told him that Robinson had bought some ammunition.

The State of North Carolina offered the evidence of Fred A. Smith which in substance tends to show that he lives at 611 Dock Street in an upper apartment, frame two story building; that he had been there some two years; that it faces Dock Street; that in February, 1971 he recalls when Mike's store was burned; that on Friday, February 5th, in the living room sometime between nine and ten o'clock he heard noise, went out on the porch, saw two people coming

across the lot, one of them said, "There is one now. Let them have it." He reached for the door. He heard gunshots as he went to the floor. Had his lights on in his living room and as he fell to the floor that he crawled to the dining room, from the dining room then outside. After the police came he observed shot holes in the front hall of the door and in the living room ceiling; that it was some nine holes in all.

On cross examination he said that this occurred about nine or ten o'clock on Friday, February 5th, 1971; that he saw the people that night but did not recognize them.

Rebecca Watts was called by the State, who testified in substance that she had been a resident of Wilmington since February, 1971; that she recalls when Mike's Grocery was burned on February 5th, 1971; that she had been to the movies and was going back along Sixth Street, Sixth and Nun, that all of a sudden she heard shots and she got down to the floor; that they had been to the movies, were going home, her husband had been to look after some tractors; that he had some tractors stored on Sixth and Orange Street; that when the shots came it sounded like it hit both doors and back window; that she saw something big and round, look

like white barrels; that they were looking for some help and went on about another block away to Castle Street and the police took her to the hospital; that her finger was hurt and something got in her eyes; that there was some damage to the car belonging to her husband; that glass was broken out and the roof had holes in it; there was some three or four or five gunshots in the side of the car.

On cross examination she testified that the picture that she saw was a newspaper clipping; that the picture was of her car which she thinks was in the newspaper the next day; that she doesn't remember what it said; that the police asked if she was hurt and she told them it happened at Fifth and Castle Street where she got hurt; that her husband did more talking than she did; that she was hurt too bad to converse with the officers.

The State of North Carolina offered the testimony of Reverend James R. Jones of Saint Marys Catholic Church, Fifth and James Street; that on February 5th, 1971, that he had occasion to be outside of the church, to walk away from the church going back to the Rectory; that his neighbor, Mr. Love, was out there; that he saw a person on the other-side angling across from the church on Fifth and Ann; that Mr. Love was standing behind a tree at the corner; that he

had a small pistol; that there were persons across the street with shotguns and rifles, that is, a long gun; that he looked across the street and the man with a rifle pointed slightly in his direction; this man was some five feet eleven inches tall, slightly built and black; that he jumped behind a tree and that he heard a voice call, "Father Jones, is that you?" and he said, "Yes", he said, "Step out from behind the tree." And he said, "Who is that with you?" And he told him that it was Mr. Love, his neighbor, and then the voice told him to step out from behind the tree; that he started walking away, tried to get to his house; that the man standing on the other side of the street looked at him, and he looked away and walked to his house; that this man was carrying a rifle; that later on he was sitting in his study and looked across and saw a glow in the sky; that he thought it was Mr. Pegram's house, it was in that direction; that he saw that it was at Fifth and Ann Street.

On cross examination he testified that Love lived some ten yards from him; that he did not recognize the voice who called to him; that he related to the officers what he saw which was two or three detectives who came to his

house sometime thereafter, a month or two; that he signed a statement; that the statement was dated February 17, 1972; that he did not see any other person with a gun at that time; that he later remembered that he had seen other persons with guns.

Mr. T. D. Love testified in substance that he was a retired accountant, lived two doors from the Catholic Church some two years in February, 1971, when Mikes burned; that he was in the area of Saint Marys Church; that he was sitting in his room and heard gunfire, then it quitted down. He went out to look to see what was happening, said he heard considerable gunfire; that he put the pistol in his pocket and went out and saw some three or four persons; there were four black men running back and forth; that he heard one or two of the persons address Father Jones; that he heard Father Jones tell them that no one was there but he and Love; that Father Jones told him to go in the house; that he later returned to the house.

On cross examination he testified that he talked to police some two or three weeks after the incident.

Mr. W. H. Butler, Jr., resident of Wilmington forty-nine years, testified in substance that in February of 1971, he was Chairman of the Board of Trustees at Gregory

Congregational Church; that on Saturday, February 6, 1971, he went to Gregory Congregational Church; that he had not been there during the week, said there was a meeting scheduled earlier that week, but he is not aware of any meetings except that one on the Monday first of the week; that he went to the church about 1:30 o'clock; that he was called by the church treasurer; that when he went to the church he and Herbert Howard; that he was treasurer of the church; that he saw a number of young people milling around the church; that he went to Reverend Templeton's house; that the people he saw milling around the church were mostly on the outside, over two dozen people; he observed one of them having a rifle lying across his knees, his lap, sitting on the steps of the church; that the others were milling around drinking soft drinks and some were drinking beer; that he went in the church and observed damage in the church. The pews had been damaged. The carpet had been soiled. The walls were dirty; that Reverend Templeton and he went in the church and that he saw Benjamin Chavis for the first time; that he was in street clothes; he did not have on any clerical collar; that he was not introduced to him as reverend; that he told the defendant Chavis this

was wrong and that the people should not be there, that these people should not be there; that the defendant Chavis said, "Man, you don't know what you are talking about." That he did not make an inspection of the church but only observed the condition that the church was in; that there were bottles in the church, wine bottles in the church and there was a knife laying on the table in some area; that he went to the belfry of the church and observed chairs facing Nun Street; that there were three windows and the windows were all raised; that he noticed in the sanctuary there was an amplifier system; that he asked the people to leave the church; that he did not know these young people; that they did not leave right away; that they walked a few steps and came back and talked; that he talked briefly with Reverend Templeton; that he thought Reverend Templeton could do something good for these young people and he left; that none of the defendants were members of the Gregory Congregational Church; that on Saturday night, that was later that night, late on Saturday, he was called in his home; that he went in the direction of the church; that he saw a large fire in the vicinity; that he went to Eighth and Nun to see if the church was on fire; that he



went on Orange and then Sixth Street; that he saw Mike's Grocery was on fire; that when he got to Sixth and Eight Street firemen were there trying to put out the fire; that he heard gunfire; that police were trying to get people to move out of the area; that on February 17 he went in the general neighborhood travelling on Eighth and Ann Street; that he parked between Seventh and Ann; that he stayed less than an hour; that he went toward Reverend Templeton's house; that later on that Sunday afternoon that he observed at Sixth and Nun and that he saw one man with what appeared to be a machine gun; that on Sunday afternoon he went to Reverend Templeton's house and saw a lady in the kitchen preparing meals; that on February 8 he was called in the church and met police and National Guard; that as Chairman of the Board of Trustees that he allowed the police to go into the church; that Horace Bryant had a key; that Reverend Templeton often left a key with Mr. Bryant when he was out of town.

On cross examination he testified that Herbert Howard was treasurer of the church; that he went with him to enter the church; that he walked briefly with him through the church; that some people were milling around the church; that was about 2:30 on Saturday afternoon; that

at that time he saw one rifle and a knife on the window sill; that on February 5th and 6th Gregory Congregational Church did not own an amplifier system; that he talked to Reverend Templeton and the Reverend Templeton left on Sunday; that there was no meeting of the Board of Trustees on Saturday the 5th; that he did not call a meeting; that no other members of the Board of Trustees called a meeting.

On re-direct examination he testified in substance that Gregory Congregational Church is on Sixth and Nun Street; that Reverend Templeton is married; that his wife is employed at New Hanover Memorial Hospital as a registered nurse.

On re-cross examination this witness testified that Reverend Templeton is now pastor of a Church in New Jersey.

The State of North Carolina called the witness, Mike Poulos, who testified in substance that he had been a resident all his life in Wilmington; that February, 1971, he operated a business, a grocery store, known as Mike's Neighborhood Market, located on the corner of Sixth and Ann Street; that it was a two story building; that there were some apartments and rooms upstairs; that it was a wooden building; that he had occupied it about twelve years and that he owned the building; that in his store that he

had ice boxes, beer boxes, ice cream boxes, meat boxes, cash register, meats and sandwiches, all kinds of soft drinks, crackers, etc.; that there was a house behind the building and a garage behind the building; that the garage faced on Fifth Street; that he also owned a house beside of the store which was a one story wooden frame house; that he owned it about five or six years; that in February, 1971 Lillian McKeithan was living in that house; that she had been living in that house five or six years; that the furnishings in the house belonged to Mrs. McKeithan; that on February 6, 1971, he went to the store; that he did not live in the neighborhood; that he got to the store some eight-thirty or nine o'clock; that he went upstairs to see what had happened; that he noticed that a window had been busted out and gasoline all over the window sill; that there were drink bottles inside; that he could see that there was something in the bottles which had been lit; that kerosine was on the window sill; that the bottles were on the floor, it was a bed and cabinet in the room; that the fellow who lived there, Richard Keen, he had been away on that weekend; that he spent the night away because it was cold and there was no heating system up there; that the

windows were broke and there was glass inside the building; that downstairs all of the windows were broken; that he stayed around there until about twelve thirty or one o'clock; that when he left he looked down Sixth Street and saw a lot of motion; that he went home and watched T.V. That night about eleven thirty he learned that his building was on fire; that he tried to go there to it but was blocked; the street was closed; that at the time he had three cars at the store, one of them was up to the garage in front of the garage and one car was behind that and one car was on the street; all three of the cars were destroyed by the fire, one of the cars was a station wagon. It was in the driveway back of the other car; that on Sunday morning he went up there about eight o'clock; that he saw that both buildings that he owned was completely destroyed; that his car was burned; all of his cars were burned; that he noticed that the wall on the tin building was damaged; that part of the next building beside his building was destroyed; that he noticed that the church across the street had gotten scorched; that whereas his grocery store was still smoking, his loss was over forty thousand dollars; that in his store he had stock, fixtures.

On cross examination he testified that in February, 1971 he lived in Summit Park; that he was living there on the 6th of February; that when he left that Saturday morning that he locked the door; that all of the windows were broken; that glass was on the floor; that there were no bars on the upstairs windows; that he did not get to the store Saturday night; that on Saturday morning he got there and he could see glass on the floor and that when he left that he had plywood nailed on the door; that he had been in business there some twelve to fourteen years; that he sold crackers, groceries, all soft drinks and beer to take out; that the beer was to be used off the premises; that on Saturday morning a few people came to the store; that the only people who came to the store were people who owed him money; that they were coming there to make payments; that he tried to clean up the store some, tried to sweep it up but glass was all over the place.

On re-direct examination he testified that when he left the store that some of the windows upstairs had screens.

Mrs. Lela McKeithan testified in substance that she had been a resident of Wilmington for twenty-eight years in February, 1971. She lived at 306 Sixth Street next door

to Mikes; that she lived in a five room house, one story, had lived there four or five years; that Henry Buyers lived in it because she rented from Mike Poulos; that she rented the home from him one week after he bought it and had lived there ever since; that on Saturday, February 6, that it was furnished with all kinds of furniture and clothes; that she stayed there through Saturday afternoon and had spent the night elsewhere; that she spent the night because of the disturbances that had been going on in that area and gunfire; that she had been hearing the gunfire for a couple of nights before Saturday night; that Mrs. Jackson was a next door neighbor; that she returned to her home a little after two o'clock on Sunday morning; that the building was burning, that the store was burned and next door was on fire; that there were no firemen in that area at that time; that there were some firemen in the next street; that someone had come there and taken some items out of her home, but everything else had been destroyed; that some of the things that were taken out of her home on Saturday night were not there Sunday morning.

Mrs. James Jackson testified in substance that she lived at 308 South Sixth Street on February, 1971; that the second building from Mike's Store on Sixth Street, wooden

two story building, that she had been living there four years along with her husband and four grandchildren and also a daughter lived there; that she rented from Mr. Fennel; that she was in the house on Saturday, February 6, 1971, the whole family was there at the time; that that night there was a fire and her house was burned; that she was lying in the living room on the floor; that she was afraid of the shooting in the area, shooting outside; that she saw the fire looking out the window; that she called the operator, told him there was fire at Mike's Grocery Store, please give assistance; that the fireman talked with her on the phone; that she grabbed the four grandchildren and her husband and her went out of the house; that she heard shooting in the area, it sounded like it was across the street from her home; that gunfire continued while she was on the outside; that she went across the street and stood behind some trees and then got up on the porch; that she put her children in the house of a friend across the street; that she could see fire everywhere; that her home was on fire at that time; that she took a few clothes out of Mrs. McKeithan's house; that she couldn't get in her house at all; that everything in her house was completely destroyed, everything in it was destroyed; that during the

time she heard gunfire in the area.

Sgt. J. H. Bloomer of the Wilmington Police Department testified that he had been with the Police Department for fifteen years; that in February, 1971, in company with Detective Brown, he noticed a white van parked in front of the Gregory Congregational Church facing West; that he observed the vehicle, a white van, parked and saw several black persons going to and from the church unloading articles from the van and taking them to the church; that he saw a number of black males at the church had long rifles; that these persons came out and pointed the rifle at them and shot out some street lights; that they went back into the church yard, proceeded to the rear door of the church; that this was on Friday, February 5th; that he was in an unmarked police car; that on Saturday night, February 6, 1971, that he was in the area of Fifth and Nun with Detective Brown; that about nine o'clock or thereafter they parked the car where they could observe the area; that while in the area they were called to where a firebomb had been thrown at a house and had gone out. There was a small fire there; that he drove up behind a car that was already there, a police car, and took a position; that he could hear shots ringing in the area, some of them hitting the police cars; that



Sgt. Genes fell to the ground and had to be removed to the hospital; that the left front mirror of his automobile was shot off; that there were bullet holes in the door; that they left there after the officer had been taken to the hospital and patrolled the area for some little while and then observed that Mike's store was on fire; that they parked the automobile and went to the area; that he heard small arm fire, heard people yelling; that he tried to help protect the firemen who were trying to put out the fire; that the firemen were unable to get to Sixth Street because of the small arm fire; that the firemen had started to lay hose to try to fight the fire from behind the houses; that there was small arms fire from the wooded area behind Mike's store; that they had to pull out twice; that they, the officers, went back in the area to try to protect the firemen; that the fire had lighted a telephone pole right across the street; that the church across the street was scorched; that several other police officers were in the area; that he saw the officers dragging a person who had been injured; that small arms fire was coming from different directions in the area; that he did not see any officer fire any shots during the time; that he saw other structures on fire, three residents besides the store on fire; that

he had been there about one hour and heard during that time small arms fire from the wooded area; that the firemen were trying to get the hose in an area in which they could put out the fire; that he could see no movement back in the woods from where the small arm fire was originated; that they were there four, four and half hours; that Mike's store and two houses were burned completely down and the other house was damaged.

On cross examination he said he first went to the area about 9:00 o'clock, sometime after 9:00 o'clock; that he had been there on Friday night also; that he was only there a short period of time on Friday; that he knew none of the persons along Sixth and Seventh Street on that Friday night; that he was on a surveillance mission; that he first started the surveillance on Thursday night; that he had made no arrest on Thursday or Friday night; that Detective Brown was with him on both Thursday and Friday night; that he was the sergeant in charge; that at Fifth and Nun he does not know who was doing the shooting; that he could only see flashes of gunfire close to many persons about a half a block away; that it was some ten o'clock or five minutes to ten when he saw the flames come from Mike's Grocery; that he had already gotten back in his car before he got the call

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that the officer who was injured had already been taken to the hospital; that he was in the car some ten or fifteen minutes before he got a call about Mikes; that at the time he got to Mike's store the fire trucks were already there, and he saw the fire trucks backing out; he could see the flames walking up Fifth and Nun some three hundred feet away.

On re-direct examination he testified that on Saturday at Fifth and Nun when the Detective was injured that they, the officers, shot out the lights because they were at a disadvantage being under the lights while they were being shot at.

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W. H. Chipps, Patrolman of the Wilmington Police Department, testified in substance that on February 5th, 1971, he was a Police Officer and was in the vicinity of Mike's Grocery; that he got up with Officer Gurganus; that the fire was coming out of the windows of Mike's Grocery; that he heard a lot of gunfire; that he saw a subject between one of the houses looking in his direction; that he was a black male; that he had been in the area on Friday night and had observed the barricade; that on Saturday morning, February 6th, he was in the area about thirty

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minutes after daylight in order to remove the barricade; that he saw six or eight black males carrying weapons, 22 caliber weapons; that he saw one black male on the porch of the church; that he saw Chavis, whom he recognized, push the person back into the church.

On cross examination he said that he went to Mike's Grocery Friday night; that he saw flames flickering out the windows; that was 7:00 P.M.; that he saw later someone putting up barricades; that he went there Saturday morning to remove the barricades; that a number of blacks were milling around; that he was about seventy feet away from the church; that he did not recognize other persons there; that he saw Benjamin Chavis on the porch of the Gregory Congregational Church; that he was a hundred fifty to a hundred seventy-five feet from the defendant, Benjamin Chavis, at the time; that two other black males were there on the porch; that the defendant Chavis had on dark clothes; that the other two males were about six feet tall, a hundred seventy or a hundred eighty pounds; that he did not recall whether they wore hats or had a beard; that he had seen the defendant Chavis on the street and other officers had pointed him out to him, that is why he knew him; that was prior to this

9

Saturday of which he was testifying; that the weather was clear and cool that day on that morning; that he got there sometime after sunlight; that it was light.

That Officer Gurganus testified for the State and offered evidence which in substance tended to show he had been with the Police Department some thirteen years; that on Friday, February 5th, 1971 he was in the vicinity of Ann Street on patrol duty; that he went to the building at Sixth and Ann Street and extinguished some flames; that there was a flame upstairs and the curtains were ablaze; that there was some glass bottles lying on the floor; that he saw a person in a window across the street with a gun in his hand at the window; that someone fired three rounds at him; that he returned the fire; that he was carrying a shotgun; that he noticed a small arms fire in the area across the street; that there were figures running, moving in the direction of Nun Street; that he heard the gunfire throughout the day, small caliber weapons.

9

On cross examination he testified that he arrived at Sixth and Ann Street about 6:45 or 7:00 o'clock on Friday the 5th; that he was three or four minutes from Sixth and Ann Street; that he had been in the area some

forty-five minutes; that he did not see any fire.

David Braswell testified in substance that he had been a fireman for some two and a half years; that he was in the vicinity of Ann Street on Friday, February 5th; that he took the ladder up to the window, he saw flames, knocked out the window, jumped on the fire and put it out, sprayed water back in the corners.

On cross examination he said he went to the fire about 2:45; that he approached the area without the lights and without the siren; that the intersection at that time was relatively dead, not much happening at the intersection, no people were around; that most of the time a fire draws a crowd but he took notice that there was no crowd there.

Raymond Core, the State further offered evidence of Raymond Core who testified in substance that he is a fireman, had been such eighteen years; that on Friday, February 5th, he was on duty; that he had occasion to go to Sixth and Ann Street, Mike's Grocery; that he was riding with Chief Saunders; that they checked out the fire and then came down; that he heard reports of gunfire from the area; that they could hear bullets ricochet off the pavement while he was ascending the ladder.

On cross examination he said most of the firemen were there for less than fifteen minutes; that he went there to the fire on an emergency vehicle, an automobile.

Clarence Fredlaw testified in substance that on February 5th he went to Sixth and Ann Street with Detective Williams who was working with him; that he could hear gunfire around Ann Street; that he and Williams got out of the car and started to go between the houses; that the gunfire was so bad that he could not go in; that his patrol car was at the intersection; that there was gunfire in the area; that the firemen had already gone most of the way; that occasionally he could hear something like shotgun shots; that they left the area; they couldn't patrol the area; that when they checked the area at Sixth and Nun they found firebombs on Sixth Street side of Mike's Grocery; that he saw bottles and rags and firebombs; that the bottles were flat inside and had rags in them, some of them were scorched and burned.

On cross examination he said he arrived about seven o'clock, stayed five or ten minutes at most, he patrolled the area until around midnight, made no arrests that night.

He testified further that some whites were arrested, like three or four or six or seven with regard that they were charged with going armed; that some were arrested in the area; that the State of Emergency was declared; he does not know when it was; there was no curfew on Thursday and Friday nights that he was aware of.

Members of the Jury, we are going to take a recess until two o'clock. And may I again caution you not to discuss this case with anyone or allow anyone to discuss it with you or in your presence. Do not discuss it among yourselves until you have the case for your deliberation. You go not, members of the Jury, and come back at two o'clock.

(The Jury was dismissed.)

(The Court recessed from 1:00 until 2:00 P.M.)

THE COURT: Let the Jury come in.

(The Jury returned to the Courtroom.)

The State of North Carolina offered evidence tending to show that Sonny Genes went to the scene of Fifth and Nun on February 6th, Saturday night, was shot in the thigh, had to be taken to the hospital for surgery.

Members of the Jury, the State of North Carolina



offered evidence which tends to show that a number of officers went to Fifth and Nun Street on Saturday, February 6th, to offer protection or to be there in the area while the firemen were fighting the fire at Mike's Grocery; that a number of the officers, Officer D. A. Hollifield answered the call; that he was there; that he heard gunfire in the area during the time the firemen were fighting the fire and he did not hear the flashes of gunfire and hear the guns while he was there; he heard or he observed two of the officers dragging a body of a person up the street.

The State has further offered evidence tending to show, members of the Jury, that Jack M. Shaw and other officers were there while the firemen were attempting to put out the blaze at Mike's Grocery and that while they were there they were working their way up the street from house to house, three of them, one offering cover for the others while they were going up the street and that Mr. Shaw got to one particular house and that the fire from Mike's Grocery had illuminated the area and he turned and saw a gun pointed toward him and heard a click and about that time he shot himself and learned that a person had been hit; that he was at the porch of the third house when this occurred;

that he was there trying to give the firemen protection; that the barrel was pointed directly at him; that he and other officers dragged the person up to the corner and called for assistance and the ambulance answered the call, but would not come across the street because of the gunfire and they waited and got a police car to take the person to the hospital; that blood was flowing freely from his throat and that they tried to prevent the blood from flowing on the way to the hospital; that this person had a shotgun and the shell was still in the shotgun, the trigger had hit the shell but it had not fired; that the shotgun and shell were introduced in evidence.

The State has further offered evidence which in substance tends to show that another officer at the hospital took four gunshells out of the pocket of Steve Corbett, the person who had been shot.

Sgt. J. S. Williams testified in substance that on February 6th that he went to Mike's Grocery and that there was gunfire coming from the area; that the reason he was there was to give the firemen protection so that they might put out the fire; that he was the one helped pull the body of the person to the corner and called the ambulance;

that they were not going across the street because of the gunfire; that they took him to the hospital in a police car; that when this person was shot they observed the shotgun beside the body; that this shotgun, the end of the barrel was split and the stock had been wrapped with cord and this was introduced in evidence as one of the State's exhibits; that from the hospital he went back to Ann Street; that Mikes was burning at that time; that he still heard a firing of small arms being fired in the area, .22 and .25 caliber weapons; that the firemen pulled out of the area in which they were fighting fire because they could not get to it because of pellets hitting around them from gun fire.

William Edward Wollak was one of the officers that were there. He heard gunfire in the area; that he also heard yelling up in the three hundred block where the firemen had come to put out the fire and he heard the firemen tell him, "Stop shooting, and they would go up and put out the fire."

Detective W. H. Russell was at the hospital; he had taken the officer there for treatment and he was in the emergency room when they brought in Corbett; and he was the one that took four shells out of his pocket.

There are a number of firemen, members of the Jury, whose testimony was offered into evidence by the State. Fireman W. H. Glisson, Chief of the Wilmington Fire Department answered the call about ten minutes after he received the call; that they could have put out the fire in the store; there would have been some damage, but they could have put out the fire had it not been for gunfire in the area and it would not have spread any further.

James Rhodes of the Wilmington Fire Department testified he was there and heard gunfire.

Fireman J. D. Benton and Fireman R. C. Jordan, all of these firemen testified in substance that they were there trying to put out the fire.

Thomas Eason, member of the Wilmington Fire Department over twenty years testified in substance that they could have got around the store, could have put out the fire and it not spread to houses but could not get around the store because of gunfire.

Members of the Jury, the State of North Carolina further offered evidence tending to show that he and other officers went to the church on February 8th, that they were allowed to go in the church and that they found gunshells and empty cartridges, boxes in and around the church and

on the floor; that Lt. David Turner went there and made photographs of what was found in and around the church and the parsonage, which photographs have been offered into evidence as State's exhibits; that Sgt. Hobbs also went to the church on Monday, October 9; that he went in the church and that he also went in the parsonage; that he found shotgun shells in the front of the church, found a gas mask and empty binocular case in the parsonage and on the dining room table, large table was covered with a number of medical items.

SOLICITOR JOHNSON: Excuse me, Your Honor, what date did you say that was?

THE COURT: Monday, October 9th.

SOLICITOR STROUD: Your Honor, Monday would have been the 8th.

(The Court continued the Charge as follows:)

Monday the 8th, and he described the number of medical items that were found, all of which were introduced in evidence as State's exhibits. That is February 8th.

Mr. McNew of the Wilmington Police Department testified in substance that he made a check of the church and he found some dynamite in the basement.

On cross examination this witness testified that there was blasting caps about a half distance back to the door; that the caps had wire wrapped around them; that he had been there on Monday the 8th and had not seen them on that date.

The State offered evidence which tends to show that T. H. Blittner had been with the Federal Government for some twenty-five years and testified as to the dynamite that was found.

The State further offered evidence which tended to show that pictures were made on Monday, the 8th, at the church and at the area where the dynamite was found, that it was dark and that a picture was made which showed up the dynamite which was found the next day by a witness that made a search of the church and this photograph was offered as one of the State's exhibits.

Now members of the Jury, that is what some of evidence for the State of North Carolina tends to show. What it does show, if anything, is for you to say and determine.

That is what some of the evidence illicitly by the defendant on cross examination of the witnesses tends to show. What it does show is for you to say and determine.

The defendant Ann Shephard offered evidence which in substance tends to show that Jack Taylor has lived in Wilmington for some twenty years; that he owned the property in February, 1971, the property on Castle Street which was used for a poolroom; that the property was a furniture shop; that he don't remember when the poolroom went out of business and moved out; that the poolroom was there through February and March; then the furniture store moved out; that the furniture store moved out first of February and the poolroom moved in and remained there until sometime in March; that he later leased the building as a private club; that he leased it for a club when the poolroom moved out; that thereafter he leased it to the Black Messiah which was a church October 1, 1971, and prior to that was a private club; that it was vacant about a month before the club moved in and before that was used as a poolroom; that he never knew the name of the club; that he knew it was used as a soul club; that prior to February, 1971, the tenant was a furniture and upholstery company and following that was a poolhall; then the private club, later was vacant and the Church of the Black Messiah.

On cross examination by other defendants he said

that he had owned the property about two years; furniture store had been there about a year before February, 1971; that it was a furniture store, poolroom, then private club. In February, 1971, it was furniture store, then a poolroom, then a private club.

On cross examination by the State he testified in substance that the furniture store was first of February, moved out, then the poolroom, then a private club; that he does not reside in that neighborhood; that he went to the building on weekends; that he understood the club was put there to keep people off the streets; that he does not know if it was referred to as Liberation Club.

Ann Shephard testified in substance that she was brought up in Albany, New York; that her parents moved here when she was sixteen years old; that she attended high school to the eleventh grade in New Hanover High School; that she moved in 1955, lived in Wilmington, then Savannah where she lived twelve years, where her husband worked for a union camp; then in 1967 she moved back to Wilmington and there she worked from time to time at various positions; that she was unable to find a job in Savannah is when they moved to Wilmington; that she moved in with her parents and



that because of the children she needed more room and moved to the housing authority; that she moved in Wilmington about February, 1970; that she went to Cape Fear Technical Institute full time in 1970; then she went to work for OEO; that they were trained by people out of Raleigh, worked with people in the community, mental health, social services and committees, arranged to help people to know facts available and to advise them as to help that they could obtain especially as to hospitalization and food stamps for old people and to take them to and from places of work; that the funds ran out for this project January 1, 1971; that they were advised the funds would be restored and that she would have her position back; thereafter that she went back to school, rehabilitation sent her to school; that in January, 1971 she had assumed that this project would be refunded; therefore continued to work with the people; that while she was in the project she worked with Community Center, did volunteer work and social activities, things to keep people together and children together; that she lived at Houston Moore Project; that there she meet Allen Hall on February 5th which was on Friday; that he was meeting at the church with a number of young black people and old people who didn't want to listen to the young people's problems;

that she went to the church, Gregory Congregational Church; that she understood that a person by the name of Bellamy A. Spear would be there; that Reverend Templeton let them use the church; that she had been on the community relations council; that she knew Jerome Mitchell; that he had played on football team there in the project; that she had seen Jerome Mitchell quite a bit; that he and others had come by her home anytime to use the telephone; that she knew his mother; that Jerome was sixteen or seventeen years old when she first met him; that on February 4, Thursday, she was at the church about two or two and a half or three hours; that she left the church late that afternoon; that she stayed at the church, didn't have a ride home; that she has a married daughter and left the married daughter, fourteen years old, at the house; that Friday afternoon she attended the good neighborhood council; that thereafter she went on back to the church, that she didn't go anywhere on Friday, was there at the church; that people there were upset, the young people because threats had been made on the church because Reverend Templeton had let them use the church; that several hundred people were there, many adults and many young people, some white people came from schools; that this was on Thursday and Friday; that she

spent most of the time trying to help the parents to come into the church and some of the problems; that people were sniping at the church and she stayed on the floor; that Saturday morning that she went home and went to bed, never went back to the church at all on Saturday; that she returned to the church on Sunday about nine thirty or ten o'clock; that she wanted to see how Reverend Templeton was; that she left the church sometime that afternoon when she learned that the curfew was to be imposed about five o'clock and went to some friend's house; that she wasn't able to get home before the curfew came into effect; that she knew several of the defendants; that the first time she set her eyes on Reverend Chavis was Thursday afternoon or actually Friday; that a number of cars were going by the church; that young people were in the church; and that people were seen shooting in the church; that people at the church also had guns, she saw a number of them have guns in their hands; that the only time she went out of the church was to the bathroom; that she never saw any guns in the church; that on the Friday, 5th day of February, that she saw Allen Hall walk in and out six or seven times in and out of the church; that she never had see Hall before; had never saw him at any meetings; that Hall came over to the parsonage where

she was on Sunday afternoon; that she took medicine on Saturday but don't remember him coming on that date, that is, don't remember Mitchell coming on that day; that she took medicine on Saturday but don't remember Mitchell coming by on that day, but could have come by; that she had never had intimate relations with Hall; that Hall had threatened her at other times by letter; that he threatened her reputation and her children and her parents; that the letter was after February 5th and 6th; that she received the letter which was defendant's exhibit number one from Hall on or about the 14th of February; that this letter, members of the Jury, was offered into evidence by defendant Shephard; that she had never been convicted of any crimes; that she never saw any firebombs in the church; that she never said, "I think it is all right for you people to do that.;" she never made the statement that she thought what they were doing was all right; that in February, 1971, she weighed approximately as much as she does now; that she has difficulty walking long distances; that Allen Hall was around the church on Saturday morning when she left the church; that she remembers Jerome Mitchell there on Thursday night, don't recall him there on Friday; that she was never at the church annex on Saturday; that she never walked to Community

Hospital; that she never had a pellet gun.

On cross examination she testified that she was never a member of Gregory Congregational Church; that Reverend Templeton had let her use the church, had let some of the people use the church; that she wasn't there when they held a meeting when Bellamy held a meeting; that she first went to the church on Thursday afternoon; that Houston asked her to go to the church; that she knows Houston, knew him from the summer of 1970; that she knew Molly Hicks since the fall of 1970; that she lived in Taylor Homes; that she had been there before February; that she knew the defendant Chavis as Ben Chavis; that in church Thursday, Friday and Saturday Chavis was there; that she saw him everyday at the church or Reverend Templeton's house; that he did not have on clerical clothes and was not called Reverend; that she had worked with Mrs. Templeton the summer before; that she had been in and out of the parsonage several times and used the phone sometimes; that she saw some of the medical supplies on the dining room table; that she spent two nights at the church; that she didn't call a taxi cab to go home because she didn't have the money to pay for it; that she didn't think of getting a ride home; that the people there slept

at the church that had home and bed; that a number of people Reverend Templeton, Reverend White and many of the neighbors, young people, were there at Houston Moore; that on Friday night that defendant Chavis and Hall and Templeton and Nicholas and James Johnson and Marvin Patrick and others were at the church; that Friday all the defendants were at the church; that she did not see Steve Corbett Friday night; that on February 9 that firebombs were made at her apartment and how they were made; that it was several days after the weekend; that at the church all windows were intact; that she saw no damage; that she heard gunshots occasionally; that she could not leave the church at night; that she saw guns Friday night; that she could see people with weapons on the outside of the church; that she saw some young people go to the belfry of the church; that there was a considerable amount of commotion; people going back and forth; that she saw long rifles in the hands of people in and around the church; that she heard the church had been threatened Thursday, there were several hundred at the church on Thursday and Friday; that she understood the concrete pipes were to keep people from coming in there; that she saw persons standing around them; that numbers of times she saw the defendant Chavis at the parsonage which he went over to

the parsonage to use the bathroom which is upstairs; that she saw no drinking at the church; that they used the record player, the young people standing guard at the end of the street on Sunday; that the church had been cleaned up; that on Sunday she saw defendant Chavis come downstairs and she saw Tyndall, the defendant Tyndall and Patrick and Joe Wright, come in; that was about noon time; that the defendant Chavis was at the parsonage that morning; that she saw him out in the hall at the church hall talking to some girls on Sunday; that her home is located on Fourteenth and Castle some twelve or fifteen blocks from the church; that Hall's aunt lives there. Strike that. That when she started home on Sunday that she went to Hall's aunt's and spent the night; that she does not recall Hall going in with her; that on Saturday when she left the church she talked to Reverend Templeton on the phone; that she does not recall treating any young man at the church that had his finger smashed in the door; that when Hall wrote her the letter that he had already been sentenced; that on Sunday she saw Patrick with a gun and Allen Hall had a gun Sunday morning and she saw a number of young people with guns.

The defendant offered evidence of Benjamin Wonce

who is nineteen years old who testified in substance he is a sophomore at Shaw University that on February 4, 5, 6 and 7 that he was at the church; that he saw Ann Shephard Thursday, don't remember seeing her Friday; that there was a large crowd; that he stayed all night, left at ten or eleven in the morning, returned to the church between three and four that afternoon and stayed at night and also Sunday morning; that he did not see Ann Shephard at the church on Saturday, February 6, 1971.

On cross examination he testified that he was at the church from February 2 to the 7, stayed each night; that Saturday there was a crowd but that he could not have missed seeing Ann Shephard; that he saw Tyndall Saturday night at the church; that he was back and forth to the parsonage; don't recall seeing other defendants there. He never saw Mitchell at the church, saw Allen Hall there Saturday night February 6; that he saw the defendant Chavis at the church on Saturday night; that he was inside the church; that he knows Joe Wright from high school; that he did not see Wright or Jacobs at the church on Saturday night; that he did not see Epps at the church on Saturday night; that he did not see McKoy at the church on Saturday night;



that he saw the defendant Tyndall after twelve o'clock on Saturday; that he was in high school with him; that he did not see Vereen on Saturday night; that he was also in high school with him; that he didn't see Patrick although he knew Patrick; that he did not see Moore at the church on February 6; that he was a high school student with Moore; that he had met Grant before February 2nd; that he was not a member of the Gregory Congregational Church in February, 1971; that he saw Kirby there; that he heard shots when he came out of the church something after ten o'clock; that he helped move furniture out of the buildings next to Mike's Store; that he saw police officers and firemen there; that he spotted Hall and Chavis helping move furniture; that he heard gun shots around on different occasions while he was there; that he knew Steve Corbett was at the church that Saturday night; that he does not recall seeing anyone at the church on Saturday night with guns; that he saw Steve Corbett near the parsonage on that Saturday night; he did not have the gun; that it was about the time that they went to move the furniture the last time that he saw the P.A. system in church was on Friday the 5th; that he don't recall anyone addressing the crowd; that there was nothing to do at the church; that the only defendants that he saw

at the church on Saturday night was the defendant Chavis and the defendant Tyndall; that he does not recall anything that he did at the church on Friday night; that he does not recall seeing any of the defendants on Thursday night except Wright, Epps, Tyndall and Chavis, that is on Thursday don't recall any defendants on Thursday either except Wright, Epps, Tyndall and Chavis.

Now members of the Jury, that is what some of the evidence for the defendant Ann Shephard tends to show. What it does show, if anything, is for you to say and determine.

Members of the Jury, the State on rebuttal offered evidence tending to show that Erick Junius, age 13, goes to school in the 6th grade; that the State further offered evidence tending to show, members of the Jury, that Erick Junius knew the defendant Moore before February, 1971; that he had seen him at the Community Center play baseball; that he was there, knew his name, that he knew Jerry Jacobs, saw him before on Castle Street; that he knew the defendant McKoy whom he called Bun; that he knew him before February, 1971; that he visited people who live next door to him; that he knew the defendant Chavis, saw him at the church first time and learned his name; that he knew Joe Wright, saw him before 1971; that his cousin went with his sister, saw him

on Red Cross Street, knew his name; that he knew the defendant Shephard, he had seen her at church and knew who she was; that he knew the defendant Vereen, saw him before 1971; that he was in church; that he knew Patrick whom he called Chili; that he had know him before 1971, had met him on Castle Street; that he knew the defendant Tyndall; that he saw him at the church in February, 1971 and that on February 6, 1971, Saturday night, he saw all of the defendants at the Gregory Congretional Church; that he heard the defendant Chavis talk two times that night using a microphone; that he saw Chavis leave the church at one time and was coming by Tyndall, Vereen, Wright, Jacobs and Moore and Allen Hall also went with Chavis; that after they went out he stayed in and he heard shouting; that they came back, those who went out, and that Ann Shephard was in the church when Chavis made his first statement; that when Earl Vereen came back, said he got him one, that Wright came in; that he heard guns for about fifteen minutes; that defendant Chavis came in, Chili and Tyndall came in; that Chili and Hall were fussing; that Allen Hall was fussing with Patrick; that they all had guns when they came back; that he went over to the parsonage, got his finger caught in the door and that Shephard took him over to the parsonage to get his

finger repaired; that he heard the defendant Ann Shephard say, "Let's show them persons we mean business." That Chavis went outside, Tyndall, Patrick, Wright and Jacobs and Moore went out; that they went between the alley, went in the alley between the church and the parsonage; that he tried to go to see what they were doing and got his finger smashed in the door when someone closed the door; that he went to the preacher's house and Ann Shephard went with him, fixed his finger, and they took him to the hospital on a taxi cab and treated him there; that Ben King went with him; that he saw Steve Corbett come into the hospital on a stretcher while he was at the hospital; that he went back to the church by Seventh and Eighth Street; that he walked to the church, he crossed Ann Street and went up Sixth Street, went back to the church and that he was saying, "Rabbit," all the way which is a password he had learned at the church; that he went back to the church and went to sleep; that when he woke up he heard some shooting.

Members of the Jury, I am going to take about a five minute recess now. Would you step out and come back in about five minutes. (The Court recessed from 2:53 until 3:00 P.M.)

(The Jury returned to the Courtroom.)

(The Court continued to Charge the Jury as follows:)

Members of the Jury, I wish to correct one statement I made as to the evidence, as to when the witness hurt his hand. The State offered in evidence and tends to show that before that the defendant Chavis told the defendant Vereen and the defendant Wright to get some people together; that he got some people together and got up there to the Church and that all the defendants were there in the church except he does not remember seeing the defendants Epps and McKoy at that time; that at that time the defendant Chavis went to the microphone and told the people there in the church, including all of the defendants except Epps and McKoy whom he did not see that they were going to go down and firebomb Mike's Grocery and that when the people came out that when the firemen and police came that they were going to shoot the firemen and police and that they all then went out and he went to the door to look to see where they were going, and that is when he mashed his finger; that Ann Shephard took him over to the Reverend's house and from there they went to the hospital and that while he was there in the hospital is when he saw the Corbett boy brought into the hospital on the stretcher and that after he left the hospital he returned to the church and there spent the night.

The State has further offered evidence which tends to show, that when defendant Chavis got up to make this talk and they all got ready to leave that Ann Shephard said, "Yes, we have got to show those crackers we mean business," or words to that effect.

Now, members of the Jury, the defendants elicited by cross examination that Erick is fourteen years of age, in the 6th grade, at the Tilston School; that he first talked to officers while he was in training school at Rocky Mount; that he went to training school June, 1971, stayed twelve months for armed robbery, was twelve years old when that took place, that was the only time he was in training school; that this robbery was with a knife and it was a paper man; that he had committed larceny, doesn't know how many times, and he has been in court, don't know how many times. Strike that. Don't know how many times in court; that he had told lies to his grandmother many times; that he does not know the date he first talked to the officers; that he first talked to Officer Brown when he came to the training school; that he knew Officer Brown before; that he took him to court; that Officer Brown had pictures with him, a lot of pictures; that he showed him the pictures; that he talked to Solicitor Stroud and Brown

about two weeks before he left training school which was May 21, 1972; that he talked with them at the Holiday Inn in Wilmington, North Carolina; that they had pictures with them at that time; that he does not know the date when he went to the Holiday Inn; that he did not know that they wanted him to be a witness in this case; that his older brother and sister were at home when he left to go talk to the officers; that the Sunday before he testified he talked to officers in the Police Department; that each time he had talked to officers that he had seen photographs; that he had been going to a doctor on Seventeenth Street whose name he did not remember; that he had been going about once a month and that the last time he went was about two months before that; that when he was in training school he knew that Mr. Brown was coming; that his Social Director told him that he was coming; that he had never before that time talked to anyone about the events that happened in February, 1971; that he was at church on Thursday, Friday and Saturday nights; that he stayed there Saturday night; that he left the church about six o'clock Sunday morning; that he did not see Ann Shephard Sunday morning, but he saw her Saturday night at the church; that she was the one who took him to the preacher's house to help him fix his finger.

On redirect examination the State of North Carolina offered evidence tending to show that he observed several photographs and that he was told to pick out the pictures of the persons that he saw at the church and which he did; that he did not need to see these pictures; that he knew these people; that he saw them in church at the Gregory Congregational Church; that when he was charged with armed robbery he told the Judge exactly what he did, he told the truth, that he sometime before that fell and broke his arm and that is why he had been going to the doctor for the doctor to observe his arm.

Now, members of the Jury, that is what some of the evidence for the State on rebuttal tends to show. What it does show, if anything, is for you to say and determine. I did not recapitulate or summarize all of it in the case. I instruct you when you retire to your room to consider and make up your verdicts in this case, it is your duty to remember and consider all of the evidence in the case whether it has been called to your attention by the Court or not. I also instruct you that if your recollection of what the evidence was differs from what Counsel for the defendants, Counsel for the State or even the Court says the evidence is, it is your duty to disregard what Counsel



for the State, Counsel for the defendants and even the Court says the evidence was and rely upon and be governed entirely and solely by your own recollection of what the evidence in the case was.

Now, members of the Jury, the defendants Chavis, Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore and Wright did not take the stand in their own behalf. The Court instructs you that a defendant has the right to testify if he so elects or he had the right to remain off the stand, and the fact that the defendant or a defendant has not taken the stand and testified in his own behalf should not be considered by the Jury against him or to his prejudice as the defendant is exercising a right which the law gives him.

Now, members of the Jury, the defendants Chavis, Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore and Wright, and each of them, are indicted, and each of them are charged in bills of indictment on which they are being tried with a violation of the following section of the General Statutes of North Carolina, Section 14-288.9 and its pertinent parts thereof reads as follows:

"An assault upon emergency personnel is an assault

upon any person coming within the definitions of emergency personnel which is committed in an area within the immediate vicinity of which a riot is imminent.

The term "emergency Personnel" includes law enforcement officers, firemen, ambulance attendants, utility workers, doctors, nurses and other persons lawfully engaged in providing essential services during the emergency.

Members of the jury, a state of emergency is defined as a condition that exists whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or whenever the occurrence of any such condition is imminent.

A "riot", members of the jury, is a public disturbance involving an assemblage of three or more persons which by disorderly and violent conduct, or the imminent threat of disorderly and violent conduct, results in injury or damage to persons or property or creates a clear and present danger of injury or damage to persons or property.

"Dangerous weapon or substance" means any deadly weapon, ammunition, explosive, incendiary device, or any instrument or substance designed for a use

that carries a threat of serious bodily injury or destruction of property; or any instrument or substance that is capable of being used to inflict seriously bodily injury, when the circumstances indicate a probability that such instrument or substance will be so used; or any part or ingredient in any instrument or substance above, when the circumstances indicate a probability that such part of ingredient will be so used.

Now, members of the jury, it is necessary at this time to define for you the definition of an "assault". An assault is an offer or attempt by force or violence to injure the person of another. In other words, to constitute a criminal assault there must be an overt act or an attempt, or the unequivocal appearance of an attempt, with force and violence, to do some immediate physical injury to the person of another, which show of force or menace of violence must be sufficient to put a person of reasonable firmness in fear of immediate bodily harm.

Now, members of the jury, it is necessary that I instruct you as to what is meant under our law by a conspiracy. A "conspiracy" is a combination or agreement between two or more persons to do an unlawful act or to do a lawful act in an unlawful way or by unlawful means. The unlawful combination or agreement is the