

W 388
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IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., individually and as
Mayor of the City of Albany: STEPHEN A ROOS,
individually and as City Manager of the
City of Albany: and LAURIE PRITCHETT, Chief
of Police of the City of Albany, :
: :
: :

APPELLANTS,

VS.

: CIVIL ACTION NO. 727

M. S. PAGE, DR. W. G. ANDERSON, SLATER KING, :
CHARLES JONES, REVEREND MARTIN LUTHER KING, JR., :
REVEREND RALPH ABERNATHY, REVEREND WYATT T. :
WALKER, MRS. RUBY HURLEY, CONGRESS OF RACIAL :
EQUALITY, SOUTHERN CHRISTIAN LEADERSHIP CON* :
~~GRESS~~ FERENCE, STUDENT NON-VIOLENCE COORDI- :
NATING COMMITTEE, THE NATIONAL ASSOCIATION :
FOR THE ADVANCEMENT OF COLORED PEOPLE, and :
the ALBANY MOVEMENT, and OTHER PERSONS WHOSE :
NAMES ARE UNKNOWN AND WHO ARE ACTING IN :
CONCERT WITH THEM, :

APPELLEES.

RECORD ON APPEAL

APPEARANCES:

Mr. H. G. Rawls, Attorney at law, Albany, Georgia and
Mr. Hilliard P. Burt, Attorney at law, Albany, Georgia,
Attorneys for Appellants.

Mr. C. B. King, 221 South Jackson St., Albany, Georgia;
Mr. Donald L. Hollowell, 859½ Hunter St., N.W., Atlanta,
Georgia; Carl Rachlin, 280 Broadway, New York, N. Y.;
Mrs. Constance Baker Motley and Mr. Jack Greenberg,
10 Columbus Circle, New York 19, N. Y., Attorneys for
Appellees.

APPEAL from the District Court of the United States for the
Middle District Of Georgia, Albany Division, to the
United States Court of Appeals for the Fifth Circuit,
returnable at the City of New Orleans, Louisiana.

W 388
52473
25 Copies

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

FILED at 11:00 AM

JUL 20 1962
John G. Stewart
Clerk, U.S. District Court

ASA D. KELLEY, JR., individually
and as Mayor of the City of Albany;
STEPHEN A. ROOS, individually and
as City Manager of the City of
Albany; and LAURIE PRITCHETT,
Chief of Police of the City of
Albany,

Plaintiffs,

Vs.

NO. 727

M. S. PAGE, DR. W. G. ANDERSON,
SLATER KING, CHARLES JONES,
REVEREND MARTIN LUTHER KING, JR.,
REVEREND RALPH ABERNATHY, REVEREND
WYATT TEE WALKER, MRS. RUBY HURLEY,
CONGRESS OF RACIAL EQUALITY, SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING
COMMITTEE, THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED
PEOPLE, and THE ALBANY MOVEMENT, and
*other persons whose names are
unknown and who are acting in
concert with them.*
Defendants.

- 1 -

This is a civil proceeding instituted by plaintiffs herein to vindicate rights of the citizens and inhabitants of the City of Albany, Georgia, a public corporation, to the free and equal use of the streets, sidewalks and other public places in and about the City of Albany; to secure to said citizens and inhabitants equal protection of the laws as guaranteed to them by the Constitution of the United States; and to secure to said citizens and inhabitants the free and uninterrupted use of their respective private properties, free from organized, mass breaches of the peace which tend to prevent and hinder plaintiffs and other duly constituted authorities from according to said citizens and inhabitants the equal protection and due process of the law. This action seeks to vindicate Federal rights conferred by the Fourteenth Amendment to the Constitution of the United States, and 42 USCA, Sections 1985 (3), and 1981. Jurisdiction is conferred by 28 USCA, Sections 1343 and 1331, as amended.

Page One

2 Page 1 omitted

X

- 2 -

Plaintiff Asa D. Kelley, Jr., is and at all times herein referred to, was and is now the duly elected and qualified Mayor of the City of Albany, Georgia, and as such is the chief executive officer of said City, charged by law with preservation of the public peace, good order, dignity and tranquility of said City.

- 3 -

Plaintiff Laurie Pritchett is and at all times herein referred to, was and is now the Chief of Police of the City of Albany, and as such is charged with the enforcement of all laws of the State of Georgia, and ordinances of the City of Albany, and the preservation of public peace, good order and tranquility of said city.

- 4 -

Plaintiff Stephen A. Roos is and at all times herein referred to, was and is now the duly elected and qualified City Manager of the City of Albany, Georgia, and in such capacity is charged by law with the supervision of the police department of the City of Albany, and the preservation of the public peace, good order and tranquility of said City.

- 5 -

Defendant ~~Congresson~~ of Racial Equality is a corporation organized and existing under the laws of the State of New York, with an office and place of business in Albany, Georgia, in the Middle District of Georgia.

3

6.

M. S. PAGE, DR. W. G. ANDERSON and SLATER KING are residents of Dougherty County, Georgia, and are officers in the Albany Movement, an unincorporated association of individuals.

7.

CHARLES JONES is a nonresident of the State of Georgia temporarily residing in Albany, Dougherty County, Georgia.

8.

MARTIN LUTHER KING, JR., RALPH T. ABERNATHY, WYATT T. WALKER and RUBY HURLEY are residents of Fulton County, Georgia but are temporarily present in Dougherty County, Georgia.

9.

SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, INC. is a Georgia corporation with its principal office and place of business in Fulton County, Georgia, and MARTIN LUTHER KING, JR. is its President.

10.

The STUDENT NONVIOLENCE COORDINATING COMMITTEE is an unincorporated association of individuals, and CHARLES JONES is its active representative in Dougherty County, Georgia.

11.

The NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE is a New York Corporation qualified to do business in Georgia, with an office and place of business and branch in Albany and Dougherty County, Georgia.

12.

The defendants herein, and others acting in concert therewith, are sponsoring, financing and encouraging their own members, agents, associates, and others to come into Albany, Dougherty County, Georgia, to ferment violence, to provoke breaches of the peace, and other law violations; that such

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(2)

such actions on the part of the defendants and others acting in concert with them, have caused large numbers of people to congregate on the public streets and ways, contrary to the laws of the State of Georgia and the ordinances of the City of Albany; that defendants, and those acting in concert with them, have obstructed and blocked certain public streets and ways such as to deny and deprive plaintiffs and others for whom plaintiffs are responsible, of their civil rights, including the right to freely use said streets and ways, and their right to unimpaired and unhampered ingress and egress to public and private buildings in the area; that these actions on the part of the defendants have unlawfully interfered with the plaintiffs in the performance of their official duties and have unlawfully prevented the plaintiffs, as public officials, from giving or securing to all persons in the City of Albany the equal protection of the laws, including the equal right of all citizens to use the public ways and streets of the City of Albany, all in violation of the State laws hereinafter referred to, and in violation of Title 42 U.S.C.A. § 1985(3).

- 13 -

The defendants named herein are present within Albany and Dougherty County, Georgia, at the present time and are conducting meetings and have issued certain ultimatums to the plaintiffs in which they are threatening to commit violations of certain valid ordinances of the City of Albany and, also, the penal statutes of the State of Georgia.

- 14 -

Petitioners say that the usual and ordinary processes of law available under criminal prosecutions, ordinances and statutes are wholly inadequate to cope with the situation at hand in that the mass demonstrations, the threats and violence herein complained of were accentuated, aggravated and increased as the result of prior arrests of defendants, their agents and those acting in concert therewith for violations of the laws hereinafter referred to.

- 15 -

As a result of the activities of the defendants, the Cities Transit, Inc., a Georgia Corporation, organized for the purpose of providing bus service for all citizens of the City of Albany, has had to cease operations because of a boycott by defendants of the bus service. The defendants boycotted the bus company for the purpose of ^{HIRING} persons of defendants' choosing not acceptable to said company.

- 16 -

Defendants herein have picketed and sat in in private business establishments, after having been duly requested to leave such premises by the owners or persons in charge, and have deprived such owners and persons in charge of the free and uninterrupted use of their private property.

6

X

(3) The defendant, Martin Luther King, Jr., has stated publically that he does not intend to comply with the ordinances of the City of Albany, as he, the defendant, feels that the law or ordinances are unjust. The defendant has in the past intentionally violated a valid ordinance of the City of Albany in that he led a parade without first obtaining written permission from the City Manager of the City of Albany.

On July 20, 1962, the Defendant, W. G. Anderson, as President of the Albany Movement, delivered to the City Manager of the City of Albany a letter notifying the city of the intention of the members of the Albany Movement to violate again the ordinances of the City requesting a permit to parade. A copy of said letter is attached hereto marked "Exhibit A," and made a part hereof.

Defendants herein have conducted numerous mass demonstrations, mass pickets and boycotts in the City of Albany, causing traffic to become congested and constituting a hazard to public safety; that as a part of such mass marches and demonstrations, defendants at divers and sundry times have threatened other members of the public and citizens of Albany have threatened police officers of the City of Albany, and have engaged in acts of violence involving the throwing of bottles, rocks and other objects at police cars and police officers causing damage thereto and endangering lives of all the citizens, as well as the lives of the police officers of the City of Albany, and agents of the Federal Bureau of Investigation.

As a result of the acts of defendants herein alleged, an atmosphere of tenseness and impending danger now looms over the City of Albany which threatens to erupt in mass violence and the deterioration of the public peace in the City of Albany.

Plaintiffs verily believe that unless said parade and mass demonstration is enjoined and restrained that there will be an eruption of mass violence in consequence thereof creating a situation of real danger to all citizens of Albany, Georgia.

21.

The defendants have on various and sundry occasions refused and failed to comply with lawful orders of police officers of the City of Albany seeking to regulate traffic and preserve public peace, public order and tranquility.

22.

Defendants herein have made public announcements requesting and inviting participation by other person in sympathy with their objectives from all over the United States, and have publicly announced that they intend to continue and intensify their mass demonstrations, marches, picketing and riots; that defendants have stated that they "intend to turn Albany upside down".

23.

The acts of defendants herein are in violation of the following laws and ordinances, to wit:

- (1) An act declaring it a misdemeanor to refuse to leave the premises of others when requested to do so, approved February 18, 1960 (Ga. Laws 1960, p. 142, Ga. Code Ann., Section 26-3005.)
- (2) Ga. Code, Section 26-5301, unlawful assemblies and disturbing the peace.
- (3) Ga. Code, Section 26-5302, riots.
- (4) Ga. Code, Section 26-902, attempts to incite insurrection.
- (5) 42 U.S.C.A., Sections 1985 (3), and ~~1981~~.
- (6) Various ordinances of the City of Albany governing parades, compliance with lawful orders of the City of Albany, and disturbing the peace.

WHEREFORE, plaintiffs pray:

- a. That this their complaint be sanctioned and ordered filed; that summons issue and defendants be served.
- b. That defendants be required to show cause on a day certain why the relief herein prayed for should not be granted.
- c. That temporary restraining order, interlocutory and permanent injunction issue against defendants and each of them and their officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, restraining and enjoining them from continuing to sponsor, finance, incite or encourage unlawful picketing, parading or marching in the City of Albany, from engaging or participating in any unlawful congregating or marching in the streets or other public ways of the City of Albany, Georgia; or from doing any other act designed to provoke breaches of the peace or from doing any act in violation of the ordinances and laws hereinbefore referred to.
- d. That plaintiffs have such other and further relief as to the Court may be mete and proper.

P. O. Address:
Post Office Box No. 1496
Albany, Georgia



H. G. RAWLS,
COUNSEL FOR PLAINTIFFS

9

THE ALBANY MOVEMENT

914 CEDAR AVENUE
ALBANY, GEORGIA
July 19, 1962

RECEIVED

JUL 20 1962

OFFICE OF THE CITY MANAGER
ALBANY, GA.

Mr. Steve Roos
City Manager
Albany, Georgia

Dear Sir:

A group of citizens and members of The Albany Movement proposes to manifest a peaceful protest in front of the City Hall on Saturday, July 21, 1962, at 4:00 p.m.

This manifestation will involve approximately 300-500 persons. They will walk from Shiloh and Mt. Zion Baptist churches, east to Jackson, then north on Jackson Street to Pine, then east on Pine Street to the City Hall. The group will walk on the sidewalks and observe all traffic signals, thereby avoiding the necessity of interrupting the normal flow of traffic. The group would welcome assistance by the Albany Police Department in facilitating the crossing of streets.

In the general vicinity of City Hall, a prayer service will be conducted, followed by oral statements by one or more of the group. This total service will not exceed one hour.

The purpose of this gathering is to manifest in the presence of God, the Albany community, and the world our great concern over the inability of Negro citizens of Albany to effectively communicate to the city fathers their community problems.

Respectfully submitted,



W. G. Anderson, President

/h

*P-17
8/3/62
gpc*

10

"Exhibit A"

Rec'd
9:02 A.M.
JUL 20, 1962
SAR

GEORGIA, FULTON COUNTY

V E R I F I C A T I O N

Personally before the undersigned, an officer duly authorized to administer oaths, appeared ASA D. KELLEY, JR., after first being duly sworn, deposes and says that he is one of the plaintiffs in the foregoing Complaint and that the allegations contained therein are true.



ASA D. KELLEY, JR.

Sworn to and subscribed
before me, this 20th day
of July, 1960.



NOTARY PUBLIC, FULTON COUNTY

Notary Public, Georgia State at Large
My Commission Expires Apr. 6, 1963

11

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, Jr.,
et. al.

Plaintiffs

V.

M. S. PAGE, et. al.

Defendants

(

)

(

)

(

)

CIVIL ACTION No. 727

INJUNCTION

FILED at 11:00 P M

(Title Omitted)

O R D E R

JUL 20 1962

John G. Convent
Clerk, U. S. District Court

GEORGIA, MUSCOGEE COUNTY

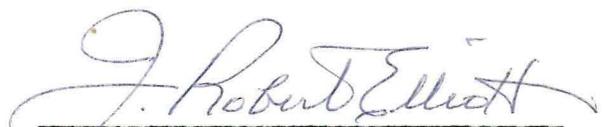
It appearing to the Court from the sworn allegations of the complaint that defendants threaten to continue and intensify their acts of mass picketing, demonstrations, parades, boycotts, and riotous conduct which threatens the good order, public peace and tranquility of the City of Albany, and that said acts are in violation of Ga. Laws 1960, p. 142; Ga. Code, Sections 26-5301, 26-5302, 26-902, 42 U. S. C. A. Sections 1985 (3) ~~and 1981~~; and ordinances of the City of Albany governing parades, disturbing the peace, and compliance with lawful orders of police officers; that such acts threaten mob violence and tend to deny other citizens of the City of Albany ~~the~~ equal protection of the laws, and that such injury is imminent, immediate and irreparable, *and will result to plaintiffs before notice can be served and a hearing had thereon.*
Ordered, that defendants M. S. Page, Dr. W. G. Anderson, Slater King, Charles Jones, Reverend Martin Luther King, Jr. Reverend Ralph Abernathy, Reverend Wyatt Tee Walker, Mrs. Ruby Hurley, Congress of Racial Equality, Southern Christian Leadership Conference, Student Non-violence Coordinating Committee, The National Association for the Advancement of Colored People, and The Albany Movement, and each of them, and their officers, agents,

servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of this order by personal service or otherwise, be and they are hereby restrained and enjoined from continuing to sponsor, finance or encourage unlawful picketing in the City of Albany, from engaging or participating in any unlawful congregating or marching in the streets, ^{on the sidewalks} or other public ways of the City of Albany, Georgia, from conspiring, encouraging or participating in any boycott in restraint of trade, or from doing any other act designed to provoke breaches of the peace or from doing any act in violation of the provisions herein referred to.

It is ordered that a hearing on this restraining order be heard before me at 2 P.M. on July 30, 1962, at Albany, Georgia.

It is further ordered that the plaintiffs give security for the payment of any costs and damages in the amount of \$250.00, said bond to be approved ^{by} the Clerk or his authorized deputy.

Entered at Columbus, this July 20, 1962, at 10:55 o'clock P.M.



JUDGE, UNITED STATES DISTRICT
COURT, MIDDLE DISTRICT OF GEORGIA

United States District Court

FOR THE

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

RECEIVED

JUL 24 1962

UNITED STATES MARSHAL
MACON, GA.

8042

CIVIL ACTION FILE NO. 727

ASA D. KELLEY, JR., Individually and as Mayor of the City of Albany; STEPHEN A. ROOS, individually and as City Manager of the City of Albany; and LAURIE PRITCHETT, Chief of Police of the City of Albany,

Plaintiff

v.

M. S. PAGE, DR. W. G. ANDERSON, SLATER KING, CHARLES JONES, REVEREND MARTIN LUTHER KING, JR., REVEREND RALPH ABERNATHY, REVEREND WYATT TEE WALKER, MRS. RUBY HURLEY, CONGRESS OF RACIAL EQUALITY, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, STUDENT NON-VIOLENCE COORDINATING COMMITTEE, THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, and THE ALBANY MOVEMENT, AND OTHER PERSONS WHOSE NAMES ARE UNKNOWN AND WHO ARE ACTING IN CONCERT WITH THEM.

Defendant

SUMMONS

To the above named Defendant :

You are hereby summoned and required to serve upon H. G. Rawls, Attorney for Plaintiffs,

plaintiff's attorney , whose address is Albany, Georgia,

an answer to the complaint which is herewith served upon you, within Twenty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

[Handwritten Signature]
Clerk of Court.
Deputy Clerk.

Date: July 21st, 1962.

[Seal of Court]

13
RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the 2 1st day of July 1962 19 ,

I received this summons and served it together with the complaint herein as follows: and on the 21st day July 1962 before the hour of noon I served Copy of Injunction & ORDER on Charlie Jones Personally at 623 Whitney Ave (Mrs Katie Harris Res), served copy on The National Ass., For the Advancement of Colord People by its Local President Rev M. F. ADAMS Personally at his residence 416 Lincoln, Ave Albany, Ga. In the afternoon (app 3:45Pm) July 21st, 1962 I served a copy on Wyatt Tee Walker personally at 914 Cedar Ave. (Dr W.G. Anderson Res). On July 21st 1962 after numerous endeavors at various addresses, I served a copy on Slater King at his residence personally 1304 Cleveland ~~xxx~~ Dr a t 11:47pm
On the 23rd day of July 1963 I served a copy of Enjunction, Summons & Order on Student Non-Violence coordination committee by handing a copy to Charles Jones personally, (Local Field Rep) at City Hall Albany, Ga.

G. G. EZELL US Marshal

by W. M. Humber Jr Deputy

I hereby certify and return that on the 28th day of July 1962 I served a copy on M.S. Page personally at his residence 605 Mercer Ave Albany, Ga.

MARSHAL'S FEES

G. G. EZELL

United States Marshal.

Travel \$ 5.40

Service 20.00

25.40

By W.M. Humber Jr Deputy United States Marshal.

Subscribed and sworn to before me, a FILED AT _____ M this

day of _____, 19 .

AUG 7 1962

[SEAL]

DEPUTY CLERK, U.S. DISTRICT COURT

Note.—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No. _____	United States District Court FOR THE	v.	SUMMONS IN CIVIL ACTION	days	Returnable not later than after service.	Attorney for Plaintiff. FPI-LK-7-23-58-50M-5681
-----------	---	----	-------------------------	------	---	--

I further certify and return that I received the within petition, order and summons on 21st day of July, 1962 and served the within-named Dr. Martin Luther King, Jr., personally and as President of the Southern Christian Leadership Conference, Inc.; Dr. W. G. Anderson personally and as an officer of the Albany Movement, and Rev. Ralph T. Abernathy personally this the 21st day of July, 1962. The return of G. G. Ezell U. S. Marshal.

G. G. Ezell U. S. Marshal.

mileage : .60

Service : 20.00

TOTAL : \$20.60

885-24

DISTRICT	OFFICE	DOCKET #	DOCKET NUMBER	DATE FILED	DISTRICT	OR D.	DOCKET NO.	DATE FILED	NAT. OF SUIT	O.R.
533	1	1	727	7-20-62						

PLAINTIFF
Asa D. Kelley, et al

DEFENDANT
M. S. Page, et al

I WHERE DOCKETED:
ENTER 1. FOR CIVIL DOCKET
2. FOR ADMIRALTY DOCKET
3. FOR MISC. DOCKET
ABBREVIATE OTHER
DOCKETS-H.C., CRIM., ETC.

II ORIGIN. ORIGINAL PROCEEDING **2** REMOVED FROM STATE COURT **3** REMANDED FROM APPELLATE COURT **4** REINSTATED OR REOPENED **5** TRANSFERRED FROM (SPECIFY DISTRICT)

III ASSIGNED TO JUDGE

IV BASIS OF JURISDICTION **1** U. S. PTF. **2** U.S. DEFT. **3** FED. QUESTION OTHER (SPECIFY) **4** DIVERSITY OF CITIZENSHIP

RESIDENCE OF PRINCIPAL PARTIES AS FOLLOWS:

AMOUNT DEMANDED \$ -----
ENTER WHERE MONEY IS DEMANDED

V NATURE OF SUIT OR ACTION:
(EXPLAIN FULLY OR CHECK BELOW)

5 FOOD AND DRUG CONDEMNATION
6 LIQUOR- INTERNAL REVENUE FORFEITURE
7 NEGOTIABLE INSTRUMENT (GIVE AGENCY)
8 FEDERAL EMPLOYER'S LIABILITY ACT
9 PERSONAL INJURY- MOTOR VEHICLE
PERSONAL INJURY- OTHER EXPLAIN

Suit to enjoin from unlawful assembly, disturbing the peace, attempt to incite insurrection, etc., in violation of 42 USCA 1985(3).

D.C. Jr.

ADMINISTRATIVE OFFICE, U. S. COURTS, WASHINGTON 25, D. C.

DO NOT WRITE IN THIS SPACE

IBM 435395

DISTRICT	OFFICE	DOCKET	DOCKET NUMBER	DATE TERMINATED	DISTRICT	OR D.	DOCKET NO.	DATE TERM
533	1	1	727	6-28-63				

PLAINTIFF
ASA D. KELLEY, JR., et al

DEFENDANT
M. S. Page, et al

I TYPE OF DISPOSITION:
DISPOSED OF THROUGH FAILURE TO PROSECUTE OR DEFEND.
0 DISMISSED-WANT OF PROSECUTION **1** DEFAULT JUDGMENT

DISPOSED OF BY PARTY OR PARTIES:
2 CONSENT JUDGMENT **3** DISMISSED DISCONTINUED WITHDRAWN SETTLED ETC.

DISPOSED OF BY COURT BEFORE TRIAL:
5 JUDGMENT BY COURT BEFORE TRIAL ON MOTION **4** REMANDED TO STATE COURT

DISPOSED OF BY COURT OR JURY AFTER TRIAL BEGUN:
7 JUDGMENT GRANTED AFTER COURT TRIAL **6** JUDGMENT GRANTED DURING TRIAL
8 JUDGMENT ON JURY VERDICT **9** DIRECTED VERDICT

OTHER (SPECIFY)

II PROCEDURAL PROGRESS:
1 IF CASE TERMINATED BEFORE ISSUE JOINED, CHECK HERE **8-6-62**
2 DATE ISSUE JOINED
3-4 IF ANY MOTION WAS DECIDED AFTER ORAL HEARING OR SUBMISSION ON BRIEFS, CHECK HERE
5 DATE PRE-TRIAL CONFERENCE

TRIAL ON MERITS
COURT TRIAL **7-30-62** JURY TRIAL

COMMENCED **7-30-62**
COMPLETED **8-8-62**
NUMBER DAYS OF TRIAL **8** INITIALS OF JUDGE DISPOSING OF CASE **JRE**

WRITTEN OPINION

III CASE REFERRED.
ON REPORT FILED

IV MOTION FOR SUMMARY JUDGMENT:
BY PLTF. GRANTED DENIED BY DEFT. GRANTED DENIED

V NATURE AND AMOUNT OF JUDGEMENT:
WHEN FOR COSTS ONLY. TO BE PAID BY PLAINTIFF TO BE PAID BY DEFENDANT
JUDGEMENT OTHER THAN FOR COSTS:
FOR PLAINTIFF FOR DEFENDANT FOR OTHERS (SPECIFY)

MONEY AWARDED \$
OTHER RELIEF GRANTED (SPECIFY)

DC Jr.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS WASHINGTON 25, D. C.

IBM 435396

United States Court of Appeals

FOR THE FIFTH CIRCUIT

October Term, 19 63

FILED at 8:30 A.M

No. 20720

JUL 23 1964

Laird W. Campbell
Deputy Clerk, U. S. District Court

D. C. Docket No. 727 Civil

ASA D. KELLEY, JR., Individually and as Mayor
of the City of Albany, ET AL,

Appellants,

versus

M. S. PAGE, ET AL,

Appellees.

*Appeal from the United States District Court for the
Middle District of Georgia.*

Before BELL, Circuit Judge and INGRAHAM, District Judge.*

J U D G M E N T

This cause came on to be heard on the transcript of the record from the United States District Court for the Middle District of Georgia, and was argued by counsel;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed;

It is further ordered and adjudged that the appellants, Asa D. Kelley, Jr., individually and as Mayor of the City of Albany, and others, be condemned, in solido, to pay the costs of this cause in this Court for which execution may be issued out of the said District Court.

*Judge Cameron, the third judge constituting the Court originally hearing this case, died after argument but before decision. Consequently, this decision and opinion is rendered by a quorum pursuant to Title 28, USCA, Sections 46(c) and (d).

July 16, 1964

Issued as Mandate: JUL 1 6 1963

A true copy

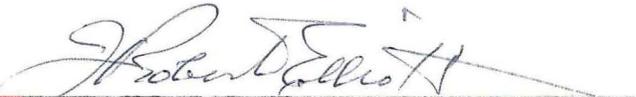
Test: EDWARD W. WADSWORTH
Clerk, U. S. Court of Appeals, Fifth Circuit

By *Clara R. James*
Deputy

New Orleans, Louisiana

JUL 1 6 1963

The within Mandate and Judgment of the Fifth Circuit Court of Appeals
is hereby made the order and Judgment of the District Court. This
22nd day of July, 1964.


U. S. Judge.

CLERK'S CERTIFICATE

ASA D. KELLEY, JR., individually :
and as Mayor of the City of Albany, :
ET AL., :

APPELLANTS, :

VS. :

CIVIL ACTION NO. 727

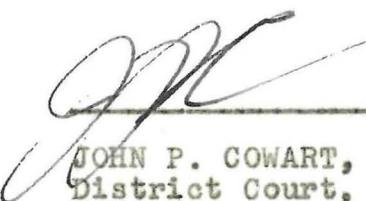
M. S. PAGE, ET AL., :

APPELLEES. :

UNITED STATES OF AMERICA,
MIDDLE DISTRICT OF GEORGIA,

I, JOHN P. COWART, Clerk of the United States District Court for the Middle District Of Georgia do hereby certify that the foregoing and attached 51 pages conatin all of the original papers and pleadings filed in this office in this proceeding and being all of the papers specified and designated in the designation of the contents of the record on appeal by Counsel herein and a certified copy of the docket entries of file in the Clerk's office of the said District Court at Albany, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the said Court at Macon, Georgia this July 17, 1963.



JOHN P. COWART, Clerk, U. S.
District Court, Middle District
of Georgia.

United States District Court FOR THE

MIDDLE DISTRICT OF GEORGIA - ALBANY DIVISION

CIVIL ACTION FILE NO.

ASA D. KELLEY, JR., et al.,

vs.

M. S. PAGE, et al.

727

To Slater King, Albany, Ga.

RECEIVED

JUL 27 1962

UNITED STATES MARSHAL
MACON, GA. 3042

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the
Middle District of Georgia
at U. S. Courtroom in the city of Albany, Ga.
on the 30th day of July, 1962, at 2:00 o'clock P. M. to testify on
behalf of Plaintiffs
in the above entitled action.

July 25th, 1962.

Attorney for Plaintiffs
Albany, Ga.
Address

JOHN P. COWART
Clerk.
By David C. Coffey, Jr.
Deputy Clerk.

RETURN ON SERVICE

Received this subpoena at Albany, Ga on July 25th, 1962
and on July 25th, 1962 at Albany, Ga
I served it on the within named witness Slater King (Dr Anderson Res) personally
by delivering a copy to him and tendering to him the fee for one day's attendance and the
mileage allowed by law.¹ \$0.00 cash

Dated _____, 19____.

G. G. EZZELL
By W. M. Humber Jr

Service Fees
Travel _____ \$
Services 1.50 _____ \$
Total _____ \$

FILED AT _____ M
JUL 30 1962
this
CLERK, U.S. DISTRICT COURT

Subscribed and sworn to before me, a
day of _____, 19____.

NOTE:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.
¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

United States District Court FOR THE

MIDDLE DISTRICT OF GEORGIA - ALBANY DIVISION

ASA D. KELLEY, et al.,

CIVIL ACTION FILE NO.

vs.
M. S. Page, et al.

} 727

To Reverend Martin Luther King, Jr., Albany, Georgia

RECEIVED

JUL 27 1962

UNITED STATES MARSHAL
MACON, GA. 3042

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the
Middle District of Georgia
at U. S. Courtroom in the city of Albany, Ga.,
on the 30th day of July, 1962, at 2:00 o'clock P.M. to testify on
behalf of Plaintiffs
in the above entitled action.

July 25th, 19 62.

Attorney for Plaintiffs
Albany, Ga.
Address

JOHN P. COWART

Clerk.

By

Deputy Clerk.

RETURN ON SERVICE

Received this subpoena at Albany, Ga on July 25th, 1962
and on July 25th, 1962 at Albany, Ga (Dr Anderson Res)
I served it on the within named witness Martin Luther King Jr personally
by delivering a copy to him and tendering to him the fee for one day's attendance and the
mileage allowed by law.¹ /\$4.00 cash

Dated _____, 19____.

G. G. EZELL

By

W. M. Humber Jr

Service Fees
Travel 2.10 \$
Services .50 \$
Total 2.60 \$

FILED AT _____ M

JUL 30 1962

this U.S. DISTRICT COURT

Subscribed and sworn to before me, a

day of _____, 19 ____.

NOTE:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.
¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

United States District Court FOR THE

MIDDLE DISTRICT OF GEORGIA - ALBANY DIVISION

CIVIL ACTION FILE NO.

ASA D. KELLEY, JR., et al.,

vs.

M. S. PAGE, et al

727

RECEIVED

JUL 27 1962

UNITED STATES MARSHAL
MACON, GA. 8042

To Dr. W. G. Anderson, Albany, Ga.

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the
Middle District of Georgia
at U. S. Courtroom in the city of Albany, Ga.,
on the 30th day of July, 19 62, at 2:00 o'clock P.M. to testify on
behalf of Plaintiffs
in the above entitled action.

July 25th, 19 62.

Attorney for Plaintiffs
Albany, Ga.
Address

JOHN P. COWART
Clerk.
By *Laid E. Caffell, Jr.*
Deputy Clerk.

RETURN ON SERVICE

Received this subpoena at Albany, Ga on July 25th, 1962
and on July 25th, 1962 at Albany, Ga (Rev Anderson Res)
I served it on the within named witness DR. W.G. Anderson personally
by delivering a copy to him and tendering to him the fee for one day's attendance and the
mileage allowed by law.¹ /\$4.00 cash

Dated _____, 19____.

G. G. EZELL
By *W. M. Humber Jr*
W. M. Humber Jr

Service Fees
Travel _____ \$
Services 1.50 _____
Total _____ \$

FILED AT _____ M

JUL 30 1962

John P. Cowart
this
DEPUTY CLERK, U.S. DISTRICT COURT

Subscribed and sworn to before me, a
day of _____, 19 ____.

NOTE:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.
¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., INDIVIDUALLY :
AND AS MAYOR OF THE CITY OF :
ALBANY; :
STEPHEN A. ROOS, Individually and as :
City Manager of the City of Albany; and :
LAURIE PRITCHETT, Chief of Police :
of the City of Albany :

PLAINTIFFS : CIVIL ACTION

VS. : NO. 727

M. S. PAGE, DR. W. G. ANDERSON, :
SLATER KING, CHARLES JONES, :
REVEREND MARTIN LUTHER KING, :
JR., REVEREND RALPH ABERNATHY, :
REVEREND WYATT TEE WALKER, :
MRS. RUBY HURLEY, CONGRESS OF :
RACIAL EQUALITY, SOUTHERN :
CHRISTIAN LEADERSHIP CONFERENCE, :
STUDENT NON-VIOLENCE CO- :
ORDINATING COMMITTEE, THE :
NATIONAL ASSOCIATION FOR THE :
ADVANCEMENT OF COLORED PEOPLE, :
and THE ALBANY MOVEMENT, and :
other persons whose names are unknown :
and who are acting in concert with :
them, :

DEFENDANTS

.....

FILED AT 3:00 PM
JUL 16 1963
David C. Coffey
DEPUTY CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that ASA D. KELLEY, JR., individually and as Mayor of the City of Albany, STEPHEN A. ROOS, individually and as City Manager of the City of Albany, and LAURIE PRITCHETT, Chief of Police of the City of Albany, plaintiffs in the above captioned case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order of the United States District Court for the Middle District of Georgia, Albany Division, in which the latter court dismissed the complaint of the plaintiffs aforesaid for the reason that there was insufficient proof to justify granting the equitable injunctive relief sought.

Said order was entered by the Court aforesaid in this action as
of June 27, 1963.

H. G. RAWLS

H. P. BURT

Attorneys for Appellants ASA D. KELLEY,
JR., Individually and as Mayor of the
City of Albany; STEPHEN A. ROOS,
Individually and as City Manager of the
City of Albany; and LAURIE PRITCHETT,
Chief of Police of the City of Albany

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., INDIVIDUALLY :
AND AS MAYOR OF THE CITY OF :
ALBANY; :
STEPHEN A. ROOS, Individually and as :
City Manager of the City of Albany; and :
LAURIE PRITCHETT, Chief of Police :
of the City of Albany :

PLAINTIFFS : CIVIL ACTION

VS. : NO. 727

M. S. PAGE, DR. W. G. ANDERSON, :
SLATER KING, CHARLES JONES, :
REVEREND MARTIN LUTHER KING, :
JR., REVEREND RALPH ABERNATHY, :
REVEREND WYATT TEE WALKER, :
MRS. RUBY HURLEY, CONGRESS OF :
RACIAL EQUALITY, SOUTHERN :
CHRISTIAN LEADERSHIP CONFERENCE, :
STUDENT NON-VIOLENCE CO- :
ORDINATING COMMITTEE, THE :
NATIONAL ASSOCIATION FOR THE :
ADVANCEMENT OF COLORED PEOPLE, :
and THE ALBANY MOVEMENT, and :
other persons whose names are unknown :
and who are acting in concert with :
them, :

DEFENDANTS

.....

FILED AT 3:00 P M
JUL 16 1963
David C. Canfield
DEPUTY CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that ASA D. KELLEY, JR., individually and as Mayor of the City of Albany, STEPHEN A. ROOS, individually and as City Manager of the City of Albany, and LAURIE PRITCHETT, Chief of Police of the City of Albany, plaintiffs in the above captioned case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order of the United States District Court for the Middle District of Georgia, Albany Division, in which the latter court dismissed the complaint of the plaintiffs aforesaid for the reason that there was insufficient proof to justify granting the equitable injunctive relief sought.

Said order was entered by the Court aforesaid in this action as
of June 27, 1963.

H. G. RAWLS

H. P. BURT

Attorneys for Appellants ASA D. KELLEY,
JR., Individually and as Mayor of the
City of Albany; STEPHEN A. ROOS,
Individually and as City Manager of the
City of Albany; and LAURIE PRITCHETT,
Chief of Police of the City of Albany

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., INDIVIDUALLY :
AND AS MAYOR OF THE CITY OF :
ALBANY; :
STEPHEN A. ROOS, Individually and as :
City Manager of the City of Albany; and :
LAURIE PRITCHETT, Chief of Police :
of the City of Albany :

PLAINTIFFS : CIVIL ACTION

VS. : NO. 727

M. S. PAGE, DR. W. G. ANDERSON, :
SLATER KING, CHARLES JONES, :
REVEREND MARTIN LUTHER KING, :
JR., REVEREND RALPH ABERNATHY, :
REVEREND WYATT TEE WALKER, :
MRS. RUBY HURLEY, CONGRESS OF :
RACIAL EQUALITY, SOUTHERN :
CHRISTIAN LEADERSHIP CONFERENCE, :
STUDENT NON-VIOLENCE CO- :
ORDINATING COMMITTEE, THE :
NATIONAL ASSOCIATION FOR THE :
ADVANCEMENT OF COLORED PEOPLE, :
and THE ALBANY MOVEMENT, and :
other persons whose names are unknown :
and who are acting in concert with :
them, :

DEFENDANTS

.....

FILED AT 3:00 PM
JUL 16 1963
David C. Campbell
CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that ASA D. KELLEY, JR., individually and as Mayor of the City of Albany, STEPHEN A. ROOS, individually and as City Manager of the City of Albany, and LAURIE PRITCHETT, Chief of Police of the City of Albany, plaintiffs in the above captioned case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order of the United States District Court for the Middle District of Georgia, Albany Division, in which the latter court dismissed the complaint of the plaintiffs aforesaid for the reason that there was insufficient proof to justify granting the equitable injunctive relief sought.

Said order was entered by the Court aforesaid in this action as
of June 27, 1963.

H. G. RAWLS

H. P. BURT

Attorneys for Appellants ASA D. KELLEY,
JR., Individually and as Mayor of the
City of Albany; STEPHEN A. ROOS,
Individually and as City Manager of the
City of Albany; and LAURIE PRITCHETT,
Chief of Police of the City of Albany

IN THE UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

ASA D. KELLEY, JR., individually
and as Mayor of the City of Albany,
STEPHEN A. ROOS, individually and
as City Manager of the City of
Albany; and LAURIE PRITCHETT,
Chief of Police of the City of
Albany,

Plaintiffs,

Vs.

M. S. PAGE, DR. W. G. ANDERSON,
SLATER KING, CHARLES JONES,
REVEREND MARTIN LUTHER KING, JR.,
REVEREND RALPH ABERNATHY, REVEREND
WYATT TEE WALKER, MRS. RUBY HURLEY,
CONGRESS OF RACIAL EQUALITY, SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING
COMMITTEE, THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE,
and THE ALBANY MOVEMENT, and other
persons whose names are unknown and
who are acting in concert with them,

Defendants.

FILED AT 10:30 A.M.

JUL 21 1962

DEPUTY CLERK, U.S. DISTRICT COURT

NO. 727

(Title Omitted)

6

KNOW ALL MEN BY THESE PRESENTS: that we, the undersigned
above named Plaintiffs, as Obligors, and the undersigned Surety,
are hereby jointly and severally held and bound unto John P.
Coward, Clerk, U. S. District Court, for the use of the above
named Defendants, jointly and severally the full and penal sum
of two hundred fifty (\$250.00) dollars for the true payment of
which we bind ourselves, our heirs, our executors, and adminis-
trators;

The condition of said obligation being as follows: that
whereas, the Honorable J. Robert Elliott, Judge of said court
did issue at the hour of 10:55 o'clock P. M., July 20, 1962,
without prior notice, a restraining order against said Defendants
in this Civil Action.

NOW, THEREFORE, should the said Plaintiffs well and truly
pay to the said Defendants all costs and damages which shall

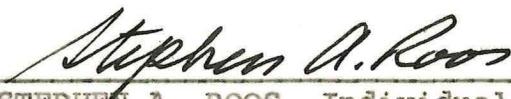
16

accrue to them or either or them by virtue of the issuance and
in the event said order was improvidently issued
enforcement of said restraining order, then this bond to be
void, otherwise, of full force and virtue.

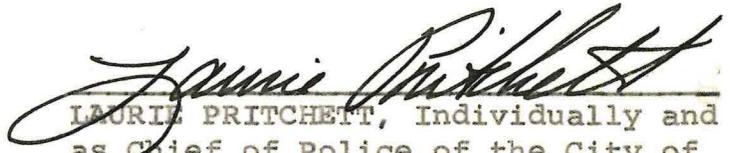
Signed with our hand and sealed with our seal this the 20th
day of July, 1962.



ASA D. KELLEY, JR., Individually
and as Mayor of the City of Albany



STEPHEN A. ROOS, Individually and
as City Manager of the City of
Albany

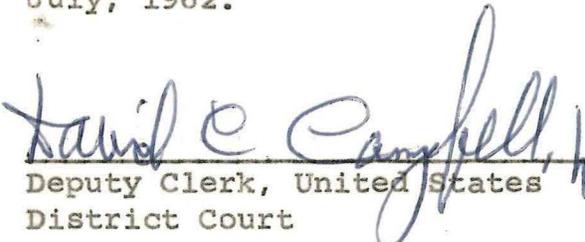


LAURIE PRITCHETT, Individually and
as Chief of Police of the City of
Albany

PLAINTIFFS AS PRINCIPALS

AS SURETY

Approved by me upon the Deposit
of Cashier's check in the sum of
\$250.00. This the 20th day of
July, 1962.



Deputy Clerk, United States
District Court

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED at 8:30 A.M.

JUL 25 1962

Walter F. Doyle
Deputy Clerk, U. S. District Court

NO.

ASA D. KELLEY, JR., individually and
as Mayor of the City of Albany; STEPHEN
A. ROOS, individually and as City Mana-
ger of the City of Albany, and LAURIE
PRITCHETT, Chief of Police of the City
of Albany,

- versus -

M. S. PAGE, DR. W. G. ANDERSON, SLATER
KING, CHARLES JONES, REVEREND MARTIN
LUTHER KING, JR., REVEREND RALPH ABER-
NATHY, REVEREND WYATT TEE WALKER, MRS. RUBY
HURLEY, CONGRESS OF RACIAL EQUALITY,
SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING COMMITTEE,
THE NATIONAL ASSOCIATION FOR THE ADVANCE-
MENT OF COLORED PEOPLE, and THE ALBANY
MOVEMENT AND OTHER PERSONS WHOSE NAMES
ARE UNKNOWN AND WHO ARE ACTING IN CON-
CERT WITH THEM.

(Title Omitted)

ORDER

The defendants having moved the undersigned, as a member of the Court of Appeals for the Fifth Circuit, for a stay of the injunctive order issued by Honorable J. Robert Elliott, United States District Judge for the Middle District of Georgia, on July 20, 1962, and it appearing that Judge Elliott has been absent from the state ever since the defendants had notice of the signing of said order, and it further appearing that the defendants, pursuant to Rule 65(b), Federal Rules of Civil Procedure, sought without success to obtain a hearing on their motion for dissolution of said order by requesting a hearing from Chief Judge W. A. Bootle, of the Middle District of Georgia,

NOW, THEREFORE, I have concluded that under the circumstances now prevailing, the said order was tantamount to

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a temporary injunction and is appealable. I therefore have authority under Rule 62(g), Federal Rules of Civil Procedure, and 28 U.S.C.A. §1651, to entertain the motion for stay.

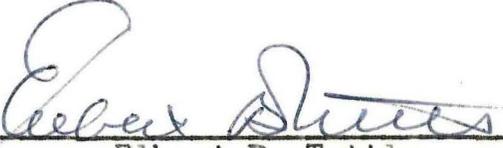
7
On the merits of the motion the defendants contend that the complaint filed in the District Court asserts federal jurisdiction only under the several Civil Rights Acts, which in turn are based upon Section 1 of the Fourteenth Amendment to the Constitution of the United States. This is conceded by the plaintiffs.

It being clear that the Supreme Court of the United States has held that the Civil Rights Acts do not encompass actions of the kind described in the complaint, see Collins v. Hardyman, 341 U.S. 651 and Screws v. United States, 325 U.S. 91, I am convinced that the trial court was without jurisdiction to entertain this suit. This being so, I am of the opinion that the injunctive order was null and void.

The motion of the defendants for a stay of the injunctive order is, therefore, GRANTED.

It is ORDERED THAT the injunctive order, entered by Honorable J. Robert Elliott on July 20, 1962, be and the same is hereby stayed, vacated and set aside pending a full hearing on the merits of the plaintiffs' petition for temporary injunction.

This 24th day of July, 1962.


Elbert P. Tuttle
Chief Judge
United States Court of Appeals
Fifth Circuit

19

JUL 24 1962

In Open Court at Atlanta, Ga.

For the Middle District of Ga.

Before Hon. Ellert Tuttle, Judge Designate

Also Present:

Joe Allen	Deputy U.S. Marshal
Carl B. Meadows	Clerk of Court
Fred L. Beers Jr.	Deputy Clerk
Wallace Camp	Bailiff
Walter Pratt	Court Reporter

when and where the following proceedings were held:

Attorneys for Defendants:

Asa B. Kelley Jr., ind. and
as Mayor of the City of Albany;
Stephen A. Roos, ind. and
as City Manager;
Laurie Pritchett, as Chief of Police

vs.
M. S. Page; Mr. W. B. Anderson;
Slater King; Charles Jones;
Rev. Martin Luther King Jr.;
Rev. Ralph Abernathy;
Rev. Wyatt Tee Walker;
Mrs. Ruby Hurley;
Congress of Racial Equality;
Southern Christian Leadership
Conference;
Student Non-Violence
Coordinating Committee;
National Association of Advance-
ment of Colored People;
The Albany Movement,
and other persons whose
names are unknown and
who are acting in concert
with them.

C. B. King; Howard Moore Jr.;
Constance Motley
William Kunstler
Clarence Jones
Horace T. Ward;

Civil Action No. 727 FOR Plaintiffs:

H. Brady Rawls;
Freeman Leverett;
Charles H. Kirbo
Asa B. Kelley Jr.

Cause came on for hearing on defendants' motion to stay injunction heretofore entered by Judge Elliott, or in the alternative to dismiss the complaint and injunction and to assign this matter to another district judge. Came parties by counsel shown above.

After discussion between the Court and counsel the Court announced that he holds that he has the right and authority to grant a power to stay as a Circuit Judge. <over>

JUL 24 1962

Thereupon cause proceeded upon arguments of counsel on the merits of the motion to stay.

At conclusion of arguments the Court directed counsel for defendants to present an order at 2 P.M. this day granting the motion to stay the injunction.

Later an order was entered by the Court pursuant to the announced ruling.

20721

FILED AT

9/3/62

JUL 31 1962

DEPUTY CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

.....

ASA D. KELLEY, JR., individually)
and as Mayor of the City of Albany,)
STEPHEN A. ROOS, individually and)
as City Manager of the City of)
Albany; and LAURIE PRITCHETT,)
Chief of Police of the City of)
Albany,)

Plaintiffs,)

vs.)

NO. 727)

M. S. PAGE, DR. W. G. ANDERSON,)
SLATER KING, CHARLES JONES,)
REVEREND MARTIN LUTHER KING, JR.,)
REVEREND RALPH ABERNATHY, REVEREND)
WYATT TEE WALKER, MRS. RUBY HURLEY,)
CONGRESS OF RACIAL EQUALITY,)
SOUTHERN CHRISTIAN LEADERSHIP)
CONFERENCE, STUDENT NON-VIOLENCE)
COORDINATING COMMITTEE, THE)
NATIONAL ASSOCIATION FOR THE)
ADVANCEMENT OF COLORED PEOPLE,)
and THE ALBANY MOVEMENT, and)
other persons whose names are)
unknown and who are acting in)
concert with them,)

Defendants.)

(Wable omitted)

AMENDMENT TO COMPLAINT

Come now plaintiffs, prior to the filing of responsive pleadings by defendants, and move to amend their complaint as follows:

1.

By adding thereto a new paragraph to be known as Paragraph 22A to read as follows:

"22A.

Plaintiffs show that, in addition to all the foregoing, defendants, their agents, officers and other persons acting

22

in concert therewith, have committed the following acts:

(a) Conducted mass marches and demonstrations on the downtown public streets of Albany of such size and magnitude that plaintiff Pritchett was compelled, in order to protect defendants and adequately patrol the immediate area in which they were situate, to call in all mobile units of the City of Albany, leaving the remainder of the City virtually without police protection, save only one patrol car, whereas normally nine (9) patrol cars and five (5) motorcycles would be assigned to the said remaining area of the City. On said occasions, plaintiff Pritchett was also required, in order to adequately protect defendants and prevent mass mob violence, to block off entirely the streets occupied by defendants, thereby depriving other citizens and inhabitants of the City of Albany of equal protection of the law in the free and uninterrupted use of such streets and further depriving merchants in the area affected of the free and equal use of their respective private properties.

(b) On the night of July 24, 1962, defendants, their officers, agents, associates and other persons aiding in concert therewith, numbering four to five thousand persons, marched into the downtown business section of the City, known as Harlem, throwing bottles, rocks, threatening and cursing officers attempting to quell the disturbances thereby created, as a result of which plaintiff Pritchett was compelled, in order to restore peace, conserve human life and maintain order, to close all business establishments in the Harlem area, and, on numerous other occasions, all establishments selling

Case No. 727 - U. S. District Court
Middle District of Georgia - Albany Division

alcoholic and malt beverages were required to be closed, there-
by denying to said owners the free and equal protection of the
laws in the uninterrupted use of their respective properties,
while other property owners not in the restricted area were
not required to be deprived of the uninterrupted use thereof."

2.

By adding to Paragraph 1 of the complaint the following:

"The amount in controversy exceeds Ten Thousand
Dollars (\$10,000), exclusive of costs and interest."

W H E R E F O R E, plaintiffs pray that this, their first
amendment, be filed.

Address:

P. O. Box 1496
Albany, Georgia

Judicial Building
40 Capitol Square
Atlanta, Georgia

Elberton, Georgia



H. G. RAWLS, City Attorney



EUGENE COOK, Attorney General



E. FREEMAN LEVERETT

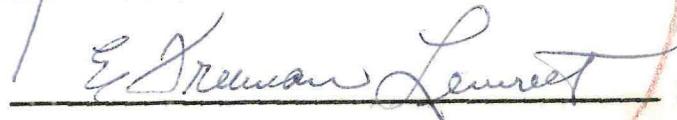
Deputy Assistant Attorney General

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has this day
served the defendants in the within case with copy of this
first amendment to plaintiffs' complaint by personally handing
copy of same to their attorneys of record, C. B. King and
D. L. Hollowell.

This 31st day of July, 1962.



X

IN THE UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

ASA D. KELLEY, JR., individually and as Mayor of the City of Albany; STEPHEN A. ROOS, individually and as City Manager of the City of Albany; and LAURIE PRITCHETT, Chief of Police of the City of Albany,

Plaintiffs,

Vs.

M. S. PAGE, DR. W. G. ANDERSON, SLATER KING, CHARLES JONES, REVEREND MARTIN LUTHER KING, JR., REVEREND RALPH ABERNATHY, REVEREND WYATT TEE WALKER, MRS. RUBY HURLEY, CONGRESS OF RACIAL EQUALITY, SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE, STUDENT NON-VIOLENCE COORDINATING COMMITTEE, THE NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE, AND, THE ALBANY MOVEMENT, and other persons whose names are unknown and who are acting in concert with them,

Defendants.

NO. 727

FILED AT 11:40 PM

AUG 6 1962

DAVID C. CAMPBELL DEPUTY CLERK, U.S. DISTRICT COURT

(Title Omission)

ANSWER

1. Answering paragraph numbered one of the complaint, these defendants say that this court is without jurisdiction of this cause under Title 28 United States Code 1343 or 1331.
2. Defendants admit the allegations of paragraph 2 of the complaint.
3. Defendants admit the allegations of paragraph 3 of the complaint.
4. Defendants admit that plaintiff Roos is the city manager of the City of Albany. The remainder of paragraph 4 defendants deny and say that the city manager does not have supervisory control over the police department and that his powers and duties are defined in Section 4 of the Charter of the City of Albany.
5. Defendants admit that the Congress of Racial Equality is a New York Corporation. Defendants deny that corporation has an office and place of business in Albany, Georgia or in the Middle District of Georgia.
6. Defendants admit paragraph numbered 6.
7. Defendants deny paragraph 7 and say that Charles Jones is a resident of the State of Georgia, presently residing in Albany, Georgia.

25

X

8. Defendants admit that Martin Luther King, Jr., Ralph T. Abernathy, Wyatt T. Walker and Ruby Hurley are residents of Fulton County, Georgia and admit that all of these defendants, with the exception of Ruby Hurley, are temporarily in Dougherty County, Georgia. Defendants say that Ruby Hurley has been in Dougherty County, Georgia occasionally since November, 1961.
9. Defendants admit paragraph numbered 9 of the complaint.
10. Defendants admit that the NAACP is a New York Corporation qualified to do business in Georgia. Defendants deny that the NAACP, Inc., has an office and place of business in Dougherty County. Defendants say that NAACP, Inc., has an office and place of business in Fulton County. The Albany Branch of NAACP is an unincorporated association of individuals to which the NAACP, Inc., has lent its name.
12. Defendants deny each and every allegation of paragraph twelve of the complaint and demand strict proof thereof.
13. Defendants deny each and every allegation of paragraph 13 and demand strict proof thereof.
14. Defendants deny each and every allegation of paragraph 14 and demand strict proof thereof.
15. Defendants deny each and every allegation of paragraph 15 of the complaint and demand strict proof thereof.
16. Defendants admit that some members of the Albany Movement have picketed, as individuals, private businesses in the City of Albany in an effort to peacefully persuade the owners thereof to serve Negro patrons at lunch counters in such establishments on a non-segregated basis, to peacefully persuade such establishments to employ Negroes, and to peacefully persuade such establishments to remove signs designating separate drinking fountains and rest rooms and other public facilities for Negro (colored) or white customers. These picketers have been arrested for this activity. Some members of the Albany Movement, as individuals, have requested service at lunch counters in business establishments in the City of Albany and have been refused such service solely on account of their race and color. On some of these occasions those requesting service have refused to leave and have been arrested. Defendants admit that some members of the Student Non-Violent Coordinating Committee have also picketed and have also requested service and have been refused service as described supra. Members of the other defendant organizations have done likewise

as individuals but not as members of their respective organizations.

17. Defendant King denies the allegations of paragraph 17 as written, but says he has stated that he will not obey unjust segregation laws; that such laws must yield to the higher moral law. Answering further, this defendant says that to the best of his knowledge and in his opinion he has not at any time "intentionally violated a valid ordinance of the City of Albany." Said paragraph has no applicability to the other defendants.

18. Defendant W. G. Anderson admits forwarding the letter of July 19, 1962, marked Exhibit "A", to the City Manager of Albany, but denies that said letter recites that any member of the Albany Movement intended to violate the Parade Permit Ordinance of the said city; rather, it shows that said members were notifying said city manager of their intention to comply with all valid laws of the City of Albany. Said paragraph is not applicable to the other named defendants.

19. All of the defendants deny each and every allegation of paragraph 19 of the Complaint. Further answering said paragraph, defendants say that they and others have sought peacefully to protest against certain segregation laws and practices of the City of Albany and certain inequitable employment policies of some merchants of said city; that the Chief of Police and other police officials of said city have sought in various and divers ways to thwart the peaceful attempts of said defendants and others exercising their constitutional rights of freedom of assembly and of peaceful protest, by arresting, harrassing and intimidating the defendants and others engaged with them as described above.

20. Defendants deny each and every allegation of paragraph 20 of the Complaint and demand strict proof of same.

21. Defendants deny each and every allegation of paragraph 21 of the Complaint and demand strict proof of same.

22. Defendants deny each and every allegation of paragraph 22 of the Complaint and demand strict proof thereof.

23. Defendants deny each and every allegation of paragraph 23 of the Complaint and demand strict proof thereof. 27

WHEREFORE, the defendants pray:

a. That this Court will deny the plaintiffs request for a preliminary and permanent injunction; and

b. Will dismiss the complaints herein for lack of jurisdiction.



C. B. King
221 South Jackson Street
Albany, Georgia
Donald L. Hollowell
Donald L. Hollowell
859 $\frac{1}{2}$ Hunter Street N. W.
Atlanta, Georgia

Frank D. Reeves
Washington, D. C.

Carl Rachlin
280 Broadway
New York, N. Y.

Constance Baker Motley
Jack Greenberg
10 Columbus Circle
New York 19, N. Y.

Attorneys for Defendants

V E R I F I C A T I O N

GEORGIA, DOUGHERTY COUNTY,

Now comes SLATER KING, before the undersigned, an officer authorized under the laws of the State aforesaid to administer oaths, who deposes and says under oath that he is one of the defendants in the foregoing answer and that the allegations contained therein are true and correct.

Slater King

SLATER KING

Sworn to and subscribed before me
this 6th day of August, 1962.

Ann Waller Butler

NOTARY PUBLIC

My commission expires on June 22, 1966.

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., individually
and as Mayor of the City of Albany;
STEPHEN A. ROOS, individually and
as City Manager of the City of
Albany; and LAURIE PRITCHETT,
Chief of Police of the City of
Albany,

Plaintiffs,

Vs.

M. S. PAGE, DR. W. G. ANDERSON,
SLATER KING, CHARLES JONES,
REVEREND MARTIN LUTHER KING, JR.,
REVEREND RALPH ABERNATHY, REVEREND
WYATT TEE WALKER, MRS. RUBY HURLEY,
CONGRESS OF RACIAL EQUALITY, SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING
COMMITTEE, THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED
PEOPLE, AND, THE ALBANY MOVEMENT, and
other persons whose names are unknown and
who are acting in concert with them,

Defendants.

FILED AT ~~4:50~~ P.M.

AUG 6 1962

DEPUTY CLERK, U.S. DISTRICT COURT

NO. 727

MOTION TO CONSOLIDATE

Come now the defendants by their undersigned attorneys
and pursuant to Rule 42(a) of the F.R.C.P. and move this Court
for an order consolidating the trial of the instant case with
two other cases now pending before this Court, to-wit:

- (1) W. G. Anderson, et al Vs. City of Albany, et al;
Civil Action No. 730;
- (2) W. G. Anderson, et al Vs. City of Albany, et al;
Civil Action No. 731.

and as grounds therefore show the Court the following:

I

The instant action and the two cases sought to be consoli-
dated therewith involve common questions of law and fact.

II

The evidence already presented in the instant case would
be the same as the evidence presented in the cases sought to
be consolidated herewith.

III

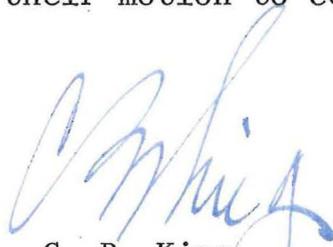
A consolidation of the instant case with the two cases pending in this Court and sought to be consolidated would avoid unnecessary costs and delays.

IV

The parties in the instant action and in the two cases sought to be consolidated are infact the same.

WHEREFORE, defendants pray:

That this Court will grant their motion to consolidate.



C. B. King
221 South Jackson Street
Albany, Georgia

Donald L. Hollowell
859 $\frac{1}{2}$ Hunter Street, N. W.
Atlanta, Georgia

Frank D. Reeves
Washington, D. C.

Carl Rachlin
280 Broadway
New York, N. Y.

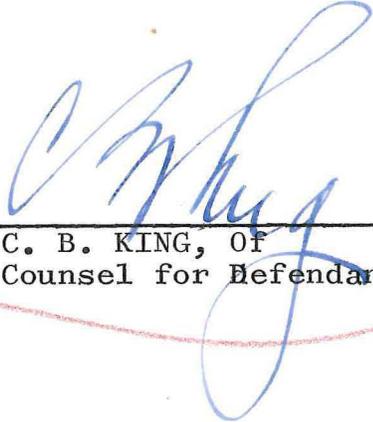
Constance Baker Motley
Jack Greenberg
10 Columbus Circle
New York 19, N. Y.

Attorneys for Defendants

3/

C E R T I F I C A T I O N

This is to certify that I, C. B. King, one of counsel for the defendants in the attached captioned matter, do hereby certify that I have this 6th day of August, 1962, personally served H. G. Rawls, counsel of record for the plaintiffs in the attached captioned matter, a copy of the foregoing answer, motion for consolidation and order.



C. B. KING, Of
Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

ASA D. KELLEY, JR., individually,
and as Mayor of the City of Albany,
STEPHEN A. ROOS, individually and
as City Manager of the City of Albany;
and LAURIE PRITCHETT, Chief of Police
of the City of Albany,

Plaintiffs,

Vs.

NO. 727

M. S. PAGE, DR. W. G. ANDERSON,
SLATER KING, CHARLES JONES,
REVEREND MARTIN LUTHER KING, JR.,
REVEREND RALPH ABERNATHY, REVEREND
WYATT TEE WALKER, MRS. RUBY HURLEY
CONGRESS OF RACIAL EQUALITY, SOUTHERN
CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING
COMMITTEE, THE NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED
PEOPLE, AND, THE ALBANY MOVEMENT, and
other persons whose names are unknown and
who are acting in concert with them,

Defendants.

Title Caption

O R D E R

Upon consideration of the foregoing motion of the defendants, the instant action is hereby consolidated with the following cases:

- (1) W. G. Anderson, et al Vs. City of Albany, et al;
Civil Action No. 730;
- (2) W. G. Anderson, et al Vs. City of Albany, et al;
Civil Action No. 731.

as provided by Rule 42(a) F.R.C.P.

JUDGE, UNITED STATES DISTRICT COURT

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TRANSCRIPT OF EVIDENCE

THE COURT REPORTERS TRANSCRIPT OF THE EVIDENCE IS ALREADY IN THE
FIFTH CIRCUIT COURT OF APPEALS IN A COMPANION CASE CIVIL ACTION
NO. ~~XXX~~ 730 - ALBANY DIVISION and CIRCUIT COURT OF APPEALS NO. 20,501

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., individually and as
Mayor of the City of Albany; STEPHEN A.
ROOS, individually and as City Manager of
the City of Albany; and LAURIE PRITCHETT,
Chief of Police of the City of Albany,

Plaintiffs,

v.

M. S. PAGE, DR. W. G. ANDERSON, SLATER KING,
CHARLES JONES, REVEREND MARTIN LUTHER KING,
JR., REVEREND RALPH ABERNATHY, REVEREND WYATT
TEE WALKER, MRS. RUBY HURLEY, CONGRESS OF
RACIAL EQUALITY, SOUTHERN CHRISTIAN LEADERSHIP
CONFERENCE, STUDENT NON-VIOLENCE COORDINATING
COMMITTEE, THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, and THE ALBANY
MOVEMENT, and other persons whose names are
unknown and who are acting in concert with them,

Defendants.

CIVIL
ACTION
NUMBER
727

- - - - -

W. G. ANDERSON, ELIJAH HARRIS, SLATER KING,
EMANUEL JACKSON, and MARTIN LUTHER KING, JR.,
on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

THE CITY OF ALBANY, GEORGIA, a body corporate;
ASA D. KELLY, JR., Mayor of the City of Albany,
Georgia; BUFORD COLLINS, Mayor pro tem. of the
City of Albany, Georgia; ALLEN F. DAVIS, W. C.
HOLMAN, JR., L. MOTT, T. H. McCOLLUM, and C. B.
PRITCHETT, JR., Constituting the Board of Com-
missioners of the City of Albany, Georgia;
LAURIE PRITCHETT, Chief of Police of the City
of Albany, Georgia; Stephen Roos, City Manager
of the City of Albany, Georgia,

Defendants.

CIVIL
ACTION
NUMBER
731

- - - - -

ELLIOTT, District Judge.

FILED AT 81357
JUN 28 1968
David C. [Signature]
CLERK, U.S. DISTRICT COURT

Civil Action No. 727 is a proceeding instituted by Asa D. Kelly, Jr., individually and as Mayor of the City of Albany, Georgia, and others against M. S. Page and others. Civil Action No. 731 is

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a suit instituted by W. G. Anderson and others against the City of Albany, Georgia and others, to which a cross-complaint was instituted by the Defendants named therein. The Plaintiffs in Civil Action No. 727 and the Plaintiffs in Civil Action No. 731 and the Defendants in Civil Action No. 731 all seek preliminary and permanent injunctions to redress claimed grievances. On the same date on which Civil Action No. 731 was filed W. G. Anderson and others, who are substantially the same parties Plaintiff as appear in Civil Action No. 731, filed another civil action designated Civil Action No. 730 for the purpose of enjoining the City of Albany from operating alleged segregated public facilities. Because of the related nature of all three of these cases they were consolidated for the purpose of trial and the Court's decision has heretofore been filed in connection with Civil Action No. 730. This opinion will, therefore, be determinative of the issues in the remaining two cases, Civil Action No. 727 and Civil Action No. 731. This opinion is intended as compliance with the provisions of Rule 52, Federal Rules of Civil Procedure.

On July 20, 1962 Asa D. Kelly, Jr., individually and as Mayor of the City of Albany instituted a civil proceeding against M. S. Page and others seeking to secure to the citizens of the City of Albany, Georgia the equal protection of the laws as guaranteed to them by the Constitution of the United States and to secure to said citizens the free and uninterrupted use of their private properties and the City facilities free from organized mass breaches of the peace which were claimed to have prevented and hindered the Plaintiffs and other duly constituted authorities of the City from according to the citizens of the City the equal protection of the law. Jurisdiction was claimed under the provisions of 28 U.S.C.A., §§ 1343 and 1331, as amended. The complaint

(13)

set out that Kelly and certain other of the Plaintiffs were duly constituted authorities of the City and that some of the Defendants were individuals who were residents of the City, that some were individuals temporarily in the City, and some of the other Defendants were corporations or associations carrying on activities within the City. Generally the complaint contended that the Defendants were fomenting violence in the city, provoking breaches of the peace and committing other law violations which had caused large numbers of people to congregate on the public streets in violation of law and that the Defendants and others acting in concert with them had obstructed and blocked public streets so as to deny the Plaintiffs and others for whom the Plaintiffs were responsible their civil rights, including the right to freely use the streets and the right to unimpaired ingress and egress to public and private buildings in the area, and that these activities on the part of the Defendants had unlawfully prevented the Plaintiffs as public officials from giving or according to all persons in the City of Albany the equal protection of the laws, all in violation of certain State statutes of the State of Georgia referred to and in violation of Title 42, U.S.C.A., § 1985(3). The complaint contended that the usual and ordinary processes of law were wholly inadequate to cope with the situation and that the Defendants were threatening to commit repeated violations of certain ordinances of the City of Albany and penal statutes of the State of Georgia. Further, that the Defendants had conducted numerous mass demonstrations at sundry times and had threatened members of the public and police officers of the City of Albany and had engaged in acts of violence directed at police cars and police officers and other citizens, and that as a result of the acts of the Defendants an

atmosphere of impending danger had been created which threatened to erupt in mass violence if certain threatened conduct on the part of Defendants was not restrained and temporarily and permanently enjoined. The complaint prayed for an order enjoining the Defendants and those acting in concert with them from continuing to incite or encourage unlawful picketing, unlawful parading or unlawful marching in the City of Albany and from engaging or participating in other acts designed to produce breaches of the peace in violation of the ordinances of the City of Albany and certain statutes of the State of Georgia.

A few days thereafter W. G. Anderson and others filed a class action on behalf of themselves and others similarly situated which is designated Civil Action No. 731, invoking the jurisdiction of the Court pursuant to the provisions of Title 28, United States Code, § 1343(3) and seeking relief under the provisions of Title 42, United States Code, § 1983. This action was brought against the City of Albany, Georgia and substantially the same parties who are the Plaintiffs in Civil Action No. 727 above referred to. In this action the Plaintiffs contend that they were being deprived of certain rights, privileges and immunities secured to them by the First Amendment to the Constitution and by the equal protection clause of the Fourteenth Amendment. The Plaintiffs complained that the Defendants were denying to the Plaintiffs and others whom they represent the right to peacefully protest against State enforced racial segregation by peacefully parading upon the public sidewalks of the City of Albany and peacefully assembling and speaking against such segregation, also that the Defendants were denying to the Plaintiffs the right to peacefully demonstrate against State enforced racial segregation, also that the Defendants were denying

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(14)

to the Plaintiffs the right to peacefully picket against State enforced racial segregation in publicly owned, operated or leased facilities, also that the Defendants were denying to the Plaintiffs the right to peacefully protest racial segregation in privately owned and operated transportation facilities, such as, buses, bus depots, taxicabs, theatres, drug stores, department stores and other such facilities which are open to the general public. The complaint further set out that the Plaintiffs were bringing this action on behalf of themselves and others similarly situated pursuant to the provisions of Rule 23(a)(3) of the Federal Rules of Civil Procedure, and alleging that the individual Defendants named in the complaint are all duly elected and appointed officials of the City of Albany, and that the Defendants exercise all the corporate powers and authority of the City of Albany. The complaint further alleged that the Plaintiffs and members of their class had been prevented by the City of Albany from peacefully demonstrating against State enforced racial segregation in the City of Albany and that certain of the Plaintiffs have been arrested and charged with disorderly conduct while peacefully picketing within the City against State enforced racial discrimination and that the Plaintiffs and members of their class had been threatened with future arrests for engaging in the peaceful activities previously referred to. The complaint prayed that the Defendants be enjoined from continuing to pursue a policy of denying to Negro citizens the right to peacefully protest against State enforced racial segregation in the City of Albany and from continuing to deny to Negro citizens a permit to peacefully demonstrate against State enforced racial segregation by peacefully parading through the streets and from continuing to deny to Negro citizens the right to peacefully picket against such segregation, and further from continuing to deny to Negro citizens

the right to peacefully protest against racial segregation in privately owned and operated transportation facilities, buses, bus depots, taxicabs, theatres, drug stores, department stores and other facilities open to the general public for trade. Finally, the complaint prayed that the Defendants be enjoined from continuing to prevent or thwart the activities heretofore described by denial of appropriate approval and by arrests or threat of arrest, or by abuse of State Court processes, or by seeking State Court injunctions, or by harrassment and intimidation.

As heretofore noted, the Defendants in Civil Action No. 731 are substantially the same as the Plaintiffs in Civil Action No. 727 and upon the filing of the complaint by the Plaintiffs in Civil Action No. 731 these Defendants filed their cross-complaint in which they make substantially the same allegations as are made by them as Plaintiffs in Civil Action No. 727, and praying in their cross-complaint that the Court enjoin the Plaintiffs in Civil Action No. 731 from doing the things and engaging in substantially the same activities as are complained of in Civil Action No. 727. Contention was made by the Defendants in Civil Action No. 727 that the Court was without jurisdiction to grant the relief sought in that case, but the fact that substantially the same relief is sought by substantially the same parties as Defendants in Civil Action No. 731 against the Plaintiffs in Civil Action No. 731, makes it unnecessary for us to determine the question of jurisdiction in Civil Action No. 727 unless the relief prayed for in that action is granted with respect to denominated parties in that action who are not denominated parties in Civil Action No. 731. Clearly the Court has jurisdiction of all of the parties and of the subject matter in Civil Action No. 731 as originally instituted and of the

cross-complaint in that action, and we will, therefore, proceed to a determination of the issues.

15
It is obvious from a detailed review of the record in this case that the difficulties which constitute the foundation of this litigation with which we are here concerned began months before any litigation was filed. A substantial portion of the evidence in the case introduced by Plaintiffs and Defendants related to isolated incidents, some of which dated back more than a year before this litigation was filed, but what we must decide is whether the circumstances which existed at the time of the conclusion of the hearing in these cases, or the circumstances existing now, warrant the injunction prayed for by the respective parties.

Because of the large number of witnesses who testified upon the hearing in these cases and the great amount of time which necessarily had to be consumed in conducting the hearing, it was necessary that the hearing be conducted in stages over a period of several weeks, the hearings beginning on July 30 and ending on September 26, 1962. This was made necessary because it was impossible for the Court to devote more than a few days at a time to the conduct of the hearing. But while this procedure may have been inconvenient to counsel and to the Court, it is obvious that it did and will contribute to a proper ultimate determination of the issues involved.

The evidence demonstrated that the issuance of this Court's temporary restraining order in Civil Action No. 727 on July 20, 1962 was amply justified by the then existing circumstances. The evidence further demonstrated that after the issuance of this restraining order the general situation in the community with respect to the complaints of all parties concerned began to improve.

and with one exception, that being on the date on which the restraining order was dissolved, there were no further evidences of danger of mass violence such as was indicated at the time of the filing of the complaint in Civil Action No. 727. In fact, it is noted by the Court that there was no evidence introduced by the Plaintiffs in Civil Action No. 727 of any substantial incidents or aggravations of any nature which occurred from the time of the beginning of the hearings in this matter on July 30 until the conclusion thereof on September 26, 1962. Likewise, and on the other hand, much of the evidence introduced by the Plaintiffs in Civil Action No. 731 related to incidents considerably antedating the date of hearing. An incident complained of as having occurred at a movie theatre was described as having taken place in November, 1960, an incident complained of as having occurred at a bus station took place in January, 1962, a picketing arrest complained of occurred in March, 1962, a taxicab incident complained of occurred in April, 1962. Each of these incidents occurred several months prior to the institution of these suits, and, as heretofore observed, much of the evidence related to dates long past, and here again it is noted that there was obviously substantial improvement in the areas of complaint as described in Civil Action No. 731 beginning about the time of the beginning of the hearings in these cases, and there was no evidence of any substantial incident of the nature complained of in the complaint as having occurred at any time subsequent to about August 1, 1962. Whether the mere fact that the antagonists in the litigation had an opportunity to publicly state their criticisms and feelings had an ameliorating effect, or whether the change was brought about through some other means, it was obvious to the Court by the time the hearings were

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concluded that it was doubtful whether any injunction of any nature should be issued by the Court. Wishing to avoid the mistake of making any hasty or ill-considered decision which might result in a disruption of the state of comparative tranquility which had returned to the community, and being further convinced that a detailed review of the voluminous record was needed to properly appraise the evidence, the Court deferred its decision, and the Court at one stage during the course of the hearing reminded counsel of their right to make application to the Court to reopen the record at any time before final decision was announced in the matter in order that evidence of any further incidents considered by counsel as worthy of being brought to the attention of the Court might be presented to aid the Court in its ultimate determination as to whether injunction should issue. At another stage in the proceedings counsel stated that it might develop that they would like to ask for the privilege of submitting evidence of additional matters by way of deposition. The Court is impressed by the fact that at no time since the conclusion of the hearings have counsel for any of the parties litigant expressed any desire to submit any additional evidence relating to any circumstances or incidents which may have developed since September 26, 1962, which might be deemed worthy of consideration by the Court in support of the respective requests for injunction.

We do not deem it necessary to make specific findings with respect to particular incidents complained of by the Plaintiffs in Civil Action No. 727 or by the Plaintiffs in Civil Action No. 731, nor by the Defendants in their cross-complaint in Civil Action No. 731. To do so would result as a practical matter in a recapitulation of a great portion of the record. But we do find as a matter of fact and as a matter of law that the situation existing at the time of the conclusion of the hearings in these matters and the

situation now existing insofar as the Court is informed does not show on the part of the officials of the City of Albany, as Plaintiffs in Civil Action No. 727 and as Counter-claimants in Civil Action No. 731, such an existing interference with its governmental functions or such an existing danger of mass violence as would warrant the injunctive relief sought by the City. Likewise, we do find as a matter of fact and as a matter of law that the situation existing at the time of the conclusion of the hearings in these matters and the situation now existing insofar as the Court is informed does not show on the part of W. G. Anderson and others, as Plaintiffs in Civil Action No. 731, such a denial to Negro citizens of the right to peacefully protest and demonstrate against alleged State enforced racial segregation or segregation in the other circumstances complained of, nor such threats or intimidation as would warrant the relief sought by them.

Equity acts in the present tense and whether the relief sought is to be granted is dependent on present and future conditions rather than solely on those existing prior to the bringing of suit. When it appears that the situation complained of has been substantially altered after the filing of the complaint so as to render an injunction unnecessary it will ordinarily be refused. There must be something more than the mere possibility of recurring difficulty.

Accordingly, the Plaintiffs' prayers for injunction in Civil Action No. 727 are denied. The Plaintiffs' prayers for declaratory judgment and injunction in Civil Action No. 731 are denied. The Defendant-Counterclaimants' prayers for injunction in Civil Action No. 731 are denied.

SO ORDERED, this 27th day of June, 1963.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

17
ASA D. KELLEY, JR., INDIVIDUALLY :
AND AS MAYOR OF THE CITY OF :
ALBANY; :
STEPHEN A. ROOS, Individually and as :
City Manager of the City of Albany; and :
LAURIE PRITCHETT, Chief of Police :
of the City of Albany :

PLAINTIFFS : CIVIL ACTION

VS. : NO. 727

M. S. PAGE, DR. W. G. ANDERSON, :
SLATER KING, CHARLES JONES, :
REVEREND MARTIN LUTHER KING, :
JR., REVEREND RALPH ABERNATHY, :
REVEREND WYATT TEE WALKER, :
MRS. RUBY HURLEY, CONGRESS OF :
RACIAL EQUALITY, SOUTHERN :
CHRISTIAN LEADERSHIP CONFERENCE, :
STUDENT NON-VIOLENCE CO- :
ORDINATING COMMITTEE, THE :
NATIONAL ASSOCIATION FOR THE :
ADVANCEMENT OF COLORED PEOPLE, :
and THE ALBANY MOVEMENT, and :
other persons whose names are unknown :
and who are acting in concert with :
them, :

DEFENDANTS :
.....

FILED AT 3100
JUL 16 1981
DAVID KELLEY
DEPUTY CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that ASA D. KELLEY, JR., individually and as Mayor of the City of Albany, STEPHEN A. ROOS, individually and as City Manager of the City of Albany, and LAURIE PRITCHETT, Chief of Police of the City of Albany, plaintiffs in the above captioned case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order of the United States District Court for the Middle District of Georgia, Albany Division, in which the latter court dismissed the complaint of the plaintiffs aforesaid for the reason that there was insufficient proof to justify granting the equitable injunctive relief sought.

45

Said order was entered by the Court aforesaid in this action as of June 27, 1963.

H. G. RAWLS

H. P. BURT

A P Burt

Attorneys for Appellants ASA D. KELLEY, JR., Individually and as Mayor of the City of Albany; STEPHEN A. ROOS, Individually and as City Manager of the City of Albany; and LAURIE PRITCHETT, Chief of Police of the City of Albany

This is to certify that I have this date served a copy of the foregoing Notice of Appeal to Court of Appeals, ~~by mailing same to C. B. King, and Donald L. Hollowell, attorneys for defendants, by mailing same to them in a properly addressed envelope. This 16th day of July, 1916.~~

David C. Campbell, Jr.

David C. Campbell, Jr., Deputy Clerk.

46

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

W. G. ANDERSON, ELIJAH HARRIS, :
SLATER KING, EMANUEL JACKSON :
and MARTIN LUTHER KING, JR., :
on behalf of themselves and others :
similarly situated, :

Plaintiffs

: CIVIL ACTION

vs.

: NO. 731

THE CITY OF ALBANY, GEORGIA, :
a body corporate; ASA D. KELLEY, :
Mayor of the City of Albany, Georgia, :
BUFORD COLLINS, Mayor pro tem :
of the City of Albany, Georgia; :
ALLEN F. DAVIS, W. C. HOLMAN, :
JR., L. W. MOTT, T. H. McCOLLUM :
and C. B. PRITCHETT, JR., consti- :
tuting the Board of Commissioners of :
the City of Albany, Georgia; :
LAURIE PRITCHETT, Chief of Police :
of the City of Albany, Georgia; and :
STEPHEN N. ROOS, City Manager :
of the City of Albany, Georgia :

Defendants

FILED AT 3:00 PM
JUL 10 1963
CLERK, U.S. DISTRICT COURT

.....
NOTICE OF APPEAL TO COURT OF APPEALS

Notice is hereby given that The City of Albany, Georgia, a body corporate; Asa D. Kelley, Mayor of the City of Albany, Georgia; Buford Collins, Mayor protem of the City of Albany, Georgia; Allen F. Davis, W. C. Holman, Jr., L. W. Mott, T. H. McCollum and C. B. Pritchett, Jr., constituting the Board of Commissioners of the City of Albany, Georgia; Laurie Pritchett, Chief of Police of the City of Albany, Georgia, and Stephen N. Roos, City Manager of the City of Albany, Georgia, defendants in the above captioned case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order of the United States District Court for the Middle District of Georgia, Albany Division, in which the latter court dismissed the cross-complaint of the above defendants for the reason

that there was insufficient proof to justify granting the equitable injunctive relief sought in said cross-complaint.

Said order was entered by the court aforesaid in this action as of June 27, 1963.

H. G. RAWLS

H. P. BURT

Attorneys for Appellants, The City of Albany, Georgia; Asa D. Kelley, Mayor of the City of Albany, Georgia; Buford Collins, Mayor pro tem of the City of Albany, Georgia; Allen F. Davis, W. C. Holman, Jr., L. W. Mott, T. H. McCollum and C. B. Pritchett, Jr., constituting the Board of Commissioners of the City of Albany, Georgia; Laurie Pritchett, Chief of Police of the City of Albany, Georgia; and Stephen N. Roos, City Manager of the City of Albany, Georgia

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., individually :
and as Mayor of the City of Albany; :
STEPHEN A. ROOS, individually and :
as City Manager of the City of Albany; :
and LAURIE PRITCHETT, Chief of :
Police of the City of Albany, :

CIVIL ACTION NO. 727

Plaintiffs - Appellants

vs.

M. S. PAGE, DR. W.G. ANDERSON, :
SLATER KING, CHARLES JONES, :
REVEREND MARTIN LUTHER KING, :
JR., REVEREND RALPH ABERNATHY, :
REVEREND WYATT TEE WALKER, :
MRS. RUBY HURLEY, CONGRESS OF :
RACIAL EQUALITY, SOUTHERN :
CHRISTIAN LEADERSHIP CONFER- :
ENCE, STUDENT NON-VIOLENCE :
COORDINATING COMMITTEE, THE :
NATIONAL ASSOCIATION FOR THE :
ADVANCEMENT OF COLORED PEOPLE, :
and THE ALBANY MOVEMENT, and :
other persons whose names are unknown :
and who are acting on concert with them, :

DESIGNATION OF CONTENTS
OF RECORD ON APPEAL

stet

Defendants - Appellees

FILED AT 3:00 P
JUL 16 1963
David C. [Signature]
DEPUTY CLERK, U.S. DISTRICT COURT

(Title omitted).....

Appellants, ASA D. KELLEY, JR., individually and as Mayor of the City of Albany; STEPHEN A. ROOS, individually and as City Manager of the City of Albany; and LAURIE PRITCHETT, Chief of Police of the City of Albany, designate the following portions of the record, proceedings and evidence to be contained in the record on appeal in this action.

1. Complaint.
2. Amendment to complaint.
3. Answer.
4. The transcript of the evidence, record and proceedings in this action.

(NOTE: Said transcript, record and proceedings of a companion action (CA #730) was consolidated with this action, and is now on file with

47

the United States Court of Appeals for the 5th Circuit, carrying #20,501, and a duplication of the said transcript, record and proceedings will be unnecessary).

5. Notice of appeal, filed July 16, 1963.

6. This designation.

This 16th day of July, 1963.

P. O. Box 525
Albany, Georgia

H. G. RAWLS

H. P. BURT



Attorneys of Record for Appellants

CERTIFICATE

THIS IS TO CERTIFY that I have this day served one copy each of the above and foregoing designation of contents of record on appeal on C. B. King, and Frank D. Reeves and Carl Rachlin, Attorneys for Appellees, by depositing a true copy of same in the United States mail, postage prepaid, addressed to them at their respective addresses.

This July 16, 1963.



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212

CLERK'S CERTIFICATE

ASA D. KELLEY, JR., individually :
and as Mayor of the City of Albany, :
ET AL., :

APPELLANTS, :

VS. :

CIVIL ACTION NO. 727

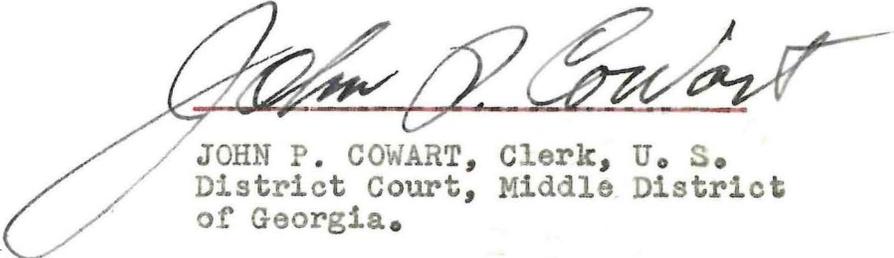
M. S. PAGE, ET AL., :

APPELLEES. :

UNITED STATES OF AMERICA,
MIDDLE DISTRICT OF GEORGIA,

I, JOHN P. COWART, Clerk of the United States District Court for the Middle District Of Georgia do hereby certify that the foregoing and attached 51 pages conatin all of the original papers and pleadings filed in this office in this proceeding and being all of the papers specified and designated in the designation of the contents of the record on appeal by Counsel herein and a certified copy of the docket entries of file in the Clerk's office of the said District Court at Albany, Georgia.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the said Court at Macon, Georgia this July 17, 1963.


JOHN P. COWART, Clerk, U. S.
District Court, Middle District
of Georgia.

51

Atty.

all
dept

H. S. Rans, Albany, Ga
Eugene Cook, Atty. Gen.
Freeman Lewis, Asst Atty Gen
Jesse Walters, Albany

Depts

all other
Depts

C. B. King, Albany
Constance B. Motley, N. Y.
Frank Reems, D. C.

NAACP

all other
Depts

D. S. Hollowell, Atlanta
Howard Moore, Albany
~~Mr~~ Karl Rocklin, N. Y.

Cores

MINUTE SHEET - - CIVIL CASES

ASA D. KELLEY, JR., et al.

VS.

M. S. PAGE, et al.

CIVIL ACTION

NO. 727

MOTIONS:

DATES OF TRIAL OR PRE TRIAL: *On permanent inj. 7/30-31/62-8/1-2-3*
6-7-8/1962

BY COURT: X BY JURY:

PRESIDING JUDGE: *J. Robert Elliott*

COURT REPORTER: *Claude J. J. Jones, Jr.*

PLACE OF TRIAL: *Albany, Ga.*

VERDICT: *8/15/62 - Taken under advisement by Court.*

JUDGMENT OR ORDER: 6-28-63 - Filed Judgment & Order denying

Plaintiff's Prayer for Injunction. (Judge J, Robert Elliott)

(See Civil Cation No. 731) (727)

SUPPLEMENTAL ENTRIES: *7/16/63 - filed plts notice of appeal & closing of record.*

David C. Campbell, Jr.

Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE MIDDLE DISTRICT OF GEORGIA FILED at 4:00 P.M.

ALBANY DIVISION

NOV 9 - 1964
Walter F. Doyle
Deputy Clerk, U. S. District Court

ASA D. KELLEY, JR.,
ET AL

:
:
:
:
:
:
:

CIVIL ACTION NO. 727

VS.

M. S. PAGE, ET AL

ORDER

It appearing to the Court that on July 24, 1962, the City of Albany deposited \$250.00 in the Registry of this Court as a costs bond in the within case; that the conditions of said bond have been fully met and the case finally disposed of; and that it is now proper for said costs bond to be returned to the City of Albany;

IT IS ORDERED that the Clerk of this Court draw a check on the Registry of the Court in the amount of \$250.00, payable to the City of Albany, and deliver same to payee.

This November 9, 1964.

W. A. Bootle

W. A. BOOTLE
U. S. District Judge

Check No. 1149 in the amount of \$250.00 payable to City of Albany drawn pursuant to the within order and mailed to payee.
This November 9, 1964.

Walter F. Doyle
Walter F. Doyle
Chief Deputy Clerk

United States District Court

FOR THE

MIDDLE DISTRICT OF GEORGIA

CIVIL ACTION FILE NO.

ASA D, KELLEY, JR., et al

vs.

MARTIN LUTHER KING, JR., et al

RECEIVED

AUG 14 1962

UNITED STATES MARSHAL
MACON, GA.

8042

727

To

Mr. Stephen A. Roos, City Manager
Albany Dity Hall
Albany, Georgia

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the Middle District of Georgia, at U. S. Federal Building in the city of Albany, Georgia, on the 6th day of August, 1962, at ~~9:30~~ o'clock P: M. to testify on behalf of in the above entitled action. You are further commanded to bring with you your entire file of permits which have been requested of you and granted by you.
August 7, 1962.

Attorney for
221 S. Jackson Street
Address Albany, Georgia

Clerk
By David C. Campbell
Deputy Clerk.

RETURN ON SERVICE

Received this subpoena at Albany, Ga after on August 7th, 1962 Court and on August 7th, 1962 at Albany, Ga I served it on the within named witness personally. by delivering a copy to him and tendering to him the fee for one day's attendance and the mileage allowed by law.¹ \$4.00

Dated _____, 19____.

G. G. EZELL
By W. M. Humber Jr

Service Fees
Travel .40 \$
Services .50
Total .90 \$

Subscribed and sworn to before me, a this day of _____, 19 .

NOTE:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.
¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

United States District Court FOR THE

RECEIVED

AUG 14 1962

UNITED STATES MARSHAL
MACON, GA. 8642

CIVIL ACTION FILE NO.

Asa D. KELLEY, Jr. et al

vs.

MARTIN L. KING, Jr. et al

727

To LAURIE PRICHETT

YOU ARE HEREBY COMMANDED to appear in the United States District Court for the
at MIDDLE District of GEORGIA
at U.S. FEDERAL COURT HOUSE in the city of ALBANY
on the 1st day of AUGUST, 1962, at 9:30 o'clock A M. to testify on
behalf of DEFENDANTS
in the above entitled action.

To bring with him any & all pictures
pertaining to arrest arising from protest surrounding
ALBANY MOVEMENT ACTIVITIES
7-13, 1962

Attorney for

Address

P.O. Box 1024

Clerk.

By

Deputy Clerk.

David C. Campbell

RETURN ON SERVICE

Received this subpoena at Albany, Ga on August 1st, 1962
and on Aug 1st, 1962 at Albany, Ga
I served it on the within named witness personally.
by delivering a copy to him and tendering to him the fee for one day's attendance and the
mileage allowed by law.¹

Dated _____, 19____.

G. G. EZELL
By W. M. Humber Jr

Service Fees

Travel	<u>.20</u>	\$
Services	<u>.50</u>	
Total	<u>.70</u>	\$

Subscribed and sworn to before me, a _____ this
day of _____, 19 ____.

NOTE:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.
¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. 28 USC 1825.

District Court of the United States

FOR THE Middle District

DISTRICT OF Georgia

Albany DIVISION

RECEIVED

AUG 14 1962

UNITED STATES MARSHAL
MACON, GA. 8042

To Mr. Raymond A. Carow, Manager of WALB-TV Television Station
Stuart Avenue
Albany, Georgia

You are hereby commanded to appear in the District Court of the United States for the Middle District of Georgia, Albany, Div. U. S. Post Office Building in the city of Albany, Georgia on the 30th day of July 1962 at 2:00 o'clock P. M. to testify in the case of the ~~United States~~ v. Asa. D. Kelly, Jr., et al V. Martin Luther King, Jr., et al and bring with you negatives and process films taken This subpoena is issued on application of the ¹ of C. B. King, Esq. in front of City Hall between 4:00 and 5:00 Saturday, July 28, 1962.

John J. Cowart
Clerk.
By _____
Deputy Clerk.

¹ Insert "United States," or "defendant" as the case may be.

RETURN ON SERVICE

Received this subpoena at Albany, Ga on July 30th, 1962
and on July 30th, 1962 at Rfd Albany, Ga I served it on the
within named witness personally
by delivering a copy to him and tendering to him the fee for one day's attendance at the mileage al-
lowed by law. \$4.00

G. G. EZELL

By

W. M. Humber Jr

Service Fees

Travel	1.60	\$
Services	1.50	\$
Total	2.10	\$

No.....

United States District Court

District of.....

THE UNITED STATES OF AMERICA

vs.

SUBPOENA TO TESTIFY

District Court of the United States

FOR THE
DISTRICT OF **GEORGIA**
DIVISION

MIDDLE
ALBANY

RECEIVED
AUG 14 1962
UNITED STATES MARSHAL
MACON, GA. 8042

To **VIC SMITH**

You are hereby commanded to appear in the District Court of the United States for the **MIDDLE**
District of **GEORGIA** at **U.S. FEDERAL COURT HOUSE** in the city of
ALBANY on the **31** day of **JULY** 1962 at **2** o'clock **P** M. to
testify in the case of the United States v. **ASA D. KELLEY et al vs MARTIN L. KING et al**

This subpoena is issued on application of the ¹ **DEFENDANTS**

[Handwritten Signature]
Clerk.
By _____
Deputy Clerk.

¹ Insert "United States," or "defendant" as the case may be.

RETURN ON SERVICE

Received this subpoena at Albany, Ga on ~~XXXXX~~ July 31st, 1962
and on July 31st, 1962 at Albany, Ga I served it on the
within named witness personally.
by delivering a copy to him and tendering to him the fee for one day's attendance at the mileage al-
lowed by law. \$4.00

G. G. EZELL

By

W. M. Humber Jr

Service Fees

Travel 40	\$
Services 50	
Total 90	\$

No.

United States District Court

District of

THE UNITED STATES OF AMERICA

vs.

SUBPOENA TO TESTIFY

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO.

ASA D. KELLEY, JR., individually and
as Mayor of the City of Albany; STEPHEN
A. ROOS, individually and as City Man-
ager of the City of Albany, and LAURIE
PRITCHETT, Chief of Police of the City
of Albany,

- versus -

M. S. PAGE, DR. W. G. ANDERSON, SLATER
KING, CHARLES JONES, REVEREND MARTIN
LUTHER KING, JR., REVEREND RALPH ABER-
NATHY, REVEREND WYATT TEE WALKER, MRS. RUBY
HURLEY, CONGRESS OF RACIAL EQUALITY,
SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENCE COORDINATING COMMITTEE,
THE NATIONAL ASSOCIATION FOR THE ADVANCE-
MENT OF COLORED PEOPLE, and THE ALBANY
MOVEMENT AND OTHER PERSONS WHOSE NAMES
ARE UNKNOWN AND WHO ARE ACTING IN CON-
CERT WITH THEM.

ORDER

The defendants having moved the undersigned, as a member of the Court of Appeals for the Fifth Circuit, for a stay of the injunctive order issued by Honorable J. Robert Elliott, United States District Judge for the Middle District of Georgia, on July 20, 1962, and it appearing that Judge Elliott has been absent from the state ever since the defendants had notice of the signing of said order, and it further appearing that the defendants, pursuant to Rule 65(b), Federal Rules of Civil Procedure, sought without success to obtain a hearing on their motion for dissolution of said order by requesting a hearing from Chief Judge W. A. Bootle, of the Middle District of Georgia,

NOW, THEREFORE, I have concluded that under the circumstances now prevailing, the said order was tantamount to

a temporary injunction and is appealable. I therefore have authority under Rule 62(g), Federal Rules of Civil Procedure, and 28 U.S.C.A. §1651, to entertain the motion for stay.

On the merits of the motion the defendants contend that the complaint filed in the District Court asserts federal jurisdiction only under the several Civil Rights Acts, which in turn are based upon Section 1 of the Fourteenth Amendment to the Constitution of the United States. This is conceded by the plaintiffs.

It being clear that the Supreme Court of the United States has held that the Civil Rights Acts do not encompass actions of the kind described in the complaint, see *Collins v. Hardyman*, 341 U.S. 651 and *Screws v. United States*, 325 U.S. 91, I am convinced that the trial court was without jurisdiction to entertain this suit. This being so, I am of the opinion that the injunctive order was null and void.

The motion of the defendants for a stay of the injunctive order is, therefore, GRANTED.

It is ORDERED THAT the injunctive order, entered by Honorable J. Robert Elliott on July 20, 1962, be and the same is hereby stayed, vacated and set aside pending a full hearing on the merits of the plaintiffs' petition for temporary injunction.

This 24th day of July, 1962.


Elbert P. Tuttle
Chief Judge
United States Court of Appeals
Fifth Circuit

asa Kelly, mayor et al

CASE NO. 727
Albany DIVISION

vs.
King et al

EXHIBITS

NO.	DESCRIPTION	IDENTIFIED	ADMITTED
P-1	Letter	7/30/62	8/3/62
P-2	Memorandum Document	"	"
3	" "	"	"
4	Statement of Mr King	7/31/62	"
5	Release	"	"
6	Letter of Apr 16, 1962	"	"
7	2 pages of Minutes	"	"
8	Letter of Nov 25, 1961	"	"
9	One check	8/2/62	"
10	Review Minn	"	"
11	notice of pay for Aug 2, 3, 4, 1962	"	Withdrawn
12	6 Ordinances	"	8/3/62
13	certif of Sec of State	"	"
14	" " " " "	"	"
15	" " " " "	"	"
16	" " " " "	"	"
17	Letter attached to Complaint	"	" In Complaint
18	Letter & envelope	8/3/62	Withdrawn
19	Letter	"	8/3/62
20	Tape of Voice	"	"
21	"Remedy this week" notice	"	Withdrawn
22	Newspaper	8/8/62	Ruled out

Kelley, Mayor Etal

CASE NO.

727

Albany

DIVISION

VS.

King et al

Depts

EXHIBITS

NO.	DESCRIPTION	IDENTIFIED	ADMITTED
D-1	picture	7/31/62	8/8/62
2	"	"	"
3	"	"	"
4	"	"	"
5	"	"	"
6	newspaper article	"	"
7	"	"	"
8	"	"	"
9	pictures	"	"
10	"	"	"
11	"	"	"
12	"	"	"
13	"	"	"
14	"	"	"
15	"	"	"
16	Letter	"	"
17	picture	8/1/62	"
18	"	"	"
19	"	"	"
20	"	"	"
21	13 photos in Envelope	"	"
22	17 photos in Envelope	"	"
also numbered 22 A thru 22 L on individual pictures			
23	22 photos	"	"
also numbered 23 A - thru 23 V			
24	25 photos	"	"
25	photos - also numbered 25 A thru H	"	"
26	3 photos also numbered 26 A - B - C	"	"
27	picture	8/6/62	"
28	Letter Feb 6, 1961	"	"

VOLUME I

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT.

NO. 20501



W. G. ANDERSON, ET AL,

Appellants,

versus

CITY OF ALBANY, ET AL,

Appellees.

Appeals from the United States District Court for the
Middle District of Georgia.

RECORD ON APPEAL

U. S. COURT OF APPEALS

FILED

APR 24 1963

EDWARD W. WADSWORTH
CLERK

VOLUME 1

JULY 30-31, 1962

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

ASA D. KELLEY, JR., Mayor of the
City of Albany, Georgia, et. al.
Plaintiffs

Civil Action

v.

No. 727

M. S. PAGE, DR. W. G. ANDERSON,
THE ALBANY MOVEMENT, et. al.
Defendants

ALBANY, GEORGIA,
JULY 30-31, 1962.

VOLUME 1

FILED AT 10:10 A.M.

APR 12 1963

David C. Campbell
CLERK U.S. DISTRICT COURT

CLAUDE JOINER, JR.
OFFICIAL COURT REPORTER
204 POST OFFICE BUILDING
MACON, GEORGIA

PHONE 3-6136

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

B0351275
43
021-68C1499

ASA D. KELLEY, JR., individually
and as Mayor of the City of Albany,
STEPHEN A. ROOS, individually and
as City Manager of the City of
Albany, and LAURIE PRITCHETT,
Chief of Police of the City of Albany,
Plaintiffs

Civil

v.

Action

M. S. PAGE, DR. W. G. ANDERSON,
SLATER KING, CHARLES JONES,
REV. MARTIN LUTHER KING, JR.,
REV. RALPH ABERNATHY,
REV. WYATT TEE WALKER,
MRS. RUBY HURLEY,
CONGRESS OF RACIAL EQUALITY,
SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE,
STUDENT NON-VIOLENT COORDINATING COMMITTEE
THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE, and
THE ALBANY MOVEMENT; and persons whose
names are unknown and who are acting
in concert with them,
Defendants

NO. 727

NON-JURY BEFORE

HONORABLE J. ROBERT ELLIOTT,
United States District Judge

At: ALBANY, GEORGIA,

Beginning: JULY 30, 1962.

A p p e a r a n c e s:

For Plaintiffs: MR. H. GRADY RAWLS,
Attorney, City of Albany,
Whitehead Bldg., Albany, Ga.

MAYOR ASA D. KELLEY, JR.,
Smith, Gardner, Kelley & Wiggins,
230½ Pine Ave., Albany, Ga.

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Albany, Georgia,

2:30-P. M., JULY 30, 1962:

1
2 THE COURT: All right, the matter of Asa D. Kelly,
3 Jr., individually and as Mayor of the City of Albany and
4 others, Plaintiff, against M. S. Page, and others,
5 No. 727: we call that case for such proceedings as
6 may be appropriate at this time.

7 Now, initially, before we go into the matter at
8 all, any phases of it, I would like for all counsel who
9 are present and representing any party plaintiff or any
10 party defendant to identify himself or herself, for the
11 purpose of the record; and first, we will take counsel
12 for the Plaintiffs.

13 MR. RAWLS: I am H. G. Rawls, Your Honor please,
14 of the Albany Bar and a member of this Court.

15 MR. COOK: I am Eugene Cook, Attorney-General
16 of Georgia; and at this point, may it please the Court,
17 I am here in direction from the Governor as provided
18 for by State law, and on request of the Plaintiffs
19 and counsel to assist in this case; and with me is
20 one of my Deputy Assistant Attorney-Generals, Freeman
21 Leverett.

22 THE COURT: All right, any other counsel for
23 Plaintiffs.

24 MR. RAWLS: That's all, Your Honor.

25 THE COURT: If not, then counsel for the Defendants.

CLAIMER JOINER REPORTING SERVICE

1 MR. C. B. KING: May it please the Court, I am
2 C. B. King of the Georgia Bar and a member of the Federal
3 Bar; and I would like to introduce to His Honor other
4 counsel who are appearing in this matter, more
5 specifically:

6 Mrs. Constance Baker Motley;

7 Mr. Frank Reeves.

8 I might indicate that Mrs. Motley is a member of
9 the New York Bar and Mr. Frank Reeves is a member of
10 the District of Columbia Bar.

11 Mr. D. L. Hollowell, who is likewise a member of
12 this Bar;

13 Mr. Howard Moore, Jr., likewise member of this
14 Bar.

15 And I would like to move the Court the admission
16 of these named counsel for the purposes of appearing in
17 this matter.

18 THE COURT: They will be allowed to appear.
19 Now, does that conclude the identification of counsel
20 for all parties, the Plaintiffs and the Defendants?

21 . . . All right, you may proceed for the Plaintiffs,

22 Mr. Rawls.

23 MR. RAWLS: Your Honor please --

24 MR. C. B. KING: If Your Honor pleases, there happens
25 to be a little motion that counsel for the Defendants

30

1 Mr. C. B. King:

2 would like to make with reference to the dismissal on
3 grounds of jurisdiction in this matter. I might indicate,
4 however, that this counsel is not able to present the
5 matter and that matter will be handled by Mrs. Motley.

6 MR. RAWLS: If Your Honor pleases, Mr. Leverett,
7 the Assistant Attorney-General, will be incharge of
8 the handling of this side of the case.

9 THE COURT: All right; then, you want to address
10 the Court at this time, as I understand it, in support
11 of your motion to dismiss; is that correct?

12 MRS. MOTLEY: That's correct, Your Honor.

13 THE COURT: All right, you may proceed.

14 MRS. MOTLEY: May it please the Court, the Defendants
15 move this Court to dismiss this action of its own motion.
16 We have filed a motion here to dismiss and we think that
17 the Court has power, however, to dismiss this action of
18 its own motion before it proceeds.

19 Your Honor, I am sure, is aware that Chief Judge
20 Tuttle of the Fifth Circuit set aside the injunction
21 order which was issued by this Court on July 19. I believe
22 that a copy of Judge Tuttle's order was filed in this
23 Court on Tuesday of last week or Wednesday after the
24 order was entered.

25 I would like to call Your Honor's attention to that

31

1 Mrs. Motley:

2 order, particularly the following paragraph; after
3 reciting that the motion or the matter came on before
4 him on the application of the Defendants here for a
5 stay of your order, Judge Tuttle said this:

6 "It being clear that the Supreme Court of the
7 United States has held that the Civil Rights Acts do
8 not encompass actions of the kind described in the
9 complaint, see Collins v. Hardyman, 341 U. S. 651 and
10 Screws v. United States, 325 U. S. 91, I am convinced
11 that the trial court was without jurisdiction to enter-
12 tain this suit. This being so, I am of the opinion
13 that the injunctive order was null and void."

14 So that, we ask this Court to dismiss this action
15 on the grounds that the Court is without jurisdiction.
16 The complaint invokes the jurisdiction of this Court on
17 two grounds. The first is, invokes jurisdiction under
18 Title 28 Section 1331, which provides that this Court
19 has jurisdiction of particular actions arising under the
20 constitution and laws of the United States involving an
21 amount of at least \$10,000 exclusive of interest and
22 costs.

23 Now, the only law of the United States referred to
24 in the complaint is Title 42 United States Code Section
25 1985 and the 14th Amendment. There is no allegation of

32

1 Mrs. Motley:

2 damages and no damages are sought by way of relief.

3 Now, as Judge Tuttle pointed out in his order, the
4 Supreme Court has ruled in Collins v. Hardyman, United
5 States v. Screws and many others which we could cite,
6 all of which would be simply repetitious, that the 14th
7 Amendment was designed as a state action and that in
8 order to proceed under the 14th Amendment or the laws
9 which were passed by Congress to enforce that Amendment,
10 specifically in this case, Title 42, Section 1985, the
11 complaint must allege that the defendants acted under
12 color of state law. Well, certainly it must appear that
13 the defendants are state officers against whom you're
14 proceeding; and obviously, the Defendants in this case
15 are not state officers and they couldn't act under
16 color of state laws, as the Supreme Court ruled in the
17 Screws case, because acting under color of state law
18 means an officer who pretends to act in compliance with
19 state law or one who acts under state law, even where he
20 oversteps his authority.

21 So that, clearly there is no jurisdiction in this
22 Court predicated upon the jurisdictional provisions
23 invoked in plaintiff's alleged complaint. There's clearly
24 no diversity jurisdiction, which is another possible
25 ground for jurisdiction in a case of this kind alleging

33

1 Mrs. Motley:

2 the facts alleged in this complaint, but there's clearly
3 no diversity jurisdiction because the Defendants or most
4 of them, if not all, are residents of the State of
5 Georgia, as well as the Plaintiffs in this case. In
6 order to have diversity, all parties must be residents
7 of one state and all parties on the other side must be
8 residents of another state.

9 Now, going to the allegations of the complaint
10 itself, if Your Honor will look at the complaint, the
11 Plaintiffs proceed under 1985 Title 42, and there is
12 no allegation in the complaint at all which alleges any
13 act that these Defendants have committed which could be
14 construed as an act regarding interfering with any
15 officials in the enforcement of any duty on the part
16 of these officials, any duty imposed on them by the
17 Constitution of the United States that is.

18 So that, the complaint should be dismissed, not only
19 because the Court has no jurisdiction under 1343(3) or
20 under 1331, but it should also be dismissed because the
21 complaint itself fails to state a claim upon which relief
22 could be granted. There's no irreparable injury shown
23 in the complaint. Nothing is alleged that any of these
24 Defendants have done as defendants or in concert with
25 others, which has resulted in irreparable injury to the

34

1 Mrs. Motley:

2 Plaintiffs.

3 So, for that reason we ask this Court to dismiss
4 this complaint.

5 THE COURT: Allright, Mr. Leverett.

6 MR. LEVERETT: May it please the Court, first,
7 with respect to Judge Tuttle's order: No. 1, we take
8 the position that that is an unofficial opinion or
9 perhaps an official opinion of a single Court of Appeals
10 Judge. I might also state at this point that we contend
11 that Judge Tuttle was without jurisdiction because:
12 No. 1, the Court of Appeals only has jurisdiction on a
13 stay order from an appealable judgment, which is an
14 interlocutory injunction or a permanent injunction
15 under 1292 of the Judicial Code. Judge Tuttle himself
16 recognized that proposition and seemed to be greatly
17 troubled about it. We contend that he didn't have juris-
18 diction because an ex parte order is not an appealable
19 judgment in the Court of Appeals, that jurisdiction
20 under the all writs act is ancillary and supported by
21 its jurisdiction to review the decision if and when it
22 comes up in the normal course of appellate processes.

23 No. 2, we contended and we still maintain that
24 Judge Tuttle's order was illegal and without jurisdic-
25 tion because the all writs act, 1651 of the Judicial Code

35

1 Mr. Leverett:

2 very clearly says that a single Court of Appeals Judge
3 or a single Judge has only authority to issue a rule
4 nisi and the Court itself has to issue writs in aid
5 of its jurisdiction.

6 So, it's our contention, if it please the Court,
7 that Judge Tuttle's order is not binding authoritative
8 statement of the law. We did not undertake to try to
9 pursue the matter further because we felt that by the
10 time we went to the Supreme Court that this hearing would
11 be upon us on Monday and we wouldn't have accomplished
12 anything in the interim.

13 Now, addressing myself directly to the issues of
14 law that are involved on this motion to dismiss, I think
15 it would be sufficient to say that with regard to the
16 jurisdictional challenge, that the Defendants in this
17 case are confusing the jurisdiction, which is the power
18 to consider the question, with the failure to state a
19 claim once jurisdiction has been assumed.

20
21 Now, Article 3, Section 2 of the Constitution
22 of the United States provides, quote: "The judicial
23 powers shall extend to all cases in law and equity
24 arising under this Constitution, laws of the United
25 States and treaties made or which shall be made under
their authority."

36

1 Mr. Leverett:

2 Now, the general jurisdictional statute, 28 USCA
3 1331 states, quote: "The district courts shall have
4 original jurisdiction of all civil actions wherein the
5 matter in controversy exceeds the sum or value of
6 \$10,000, exclusive of interest" and so forth
7 "and arises under the Constitution, laws, or treaties
8 of the United States."

9 And in the famous old case of Cohen^{SV}. Virginia,
10 the Supreme Court of the United States said that a case
11 arising under the Constitution or laws arise whenever
12 a correct decision of that case depends upon an inter-
13 pretation of either the constitution or laws.

14 This question was brought up very vividly in
15 the case of Bell v. Hood, which was a damage suit
16 against FBI Agents, alleged to be supported under the
17 4th and 5th Amendments governing illegal searches and
18 seizures and illegal arrest. The district court had
19 dismissed for lack of jurisdiction but the Supreme Court
20 said the district court erred because it very clearly
21 appears that the Plaintiffs have relied upon as conferring
22 their cause of action the Constitution of the United
23 States and that for purposes of jurisdiction the pleader
24 is the mater to determine under what laws his case is
25 brought; and if he alleges a constitutional or a Federal

37

1 Mr. Leverett:

2 right, then jurisdiction exists. He may not have stated
3 a claim but at least jurisdiction was there, the power
4 to consider because of the fact that his claim was made
5 under the constitution or law.

6 Another case, Marks Food Corporation v. Barbara Ann
7 Baking Company, 274 F (2d) 934, second decision in 1959,
8 and I quote: "Jurisdiction depends upon facts pleaded,
9 not facts proved."

10 Now, in this case the Plaintiffs assert rights
11 under, not only the 14th Amendment, but also under the
12 supremacy clause, under the old clauses of the consti-
13 tution, Article 6, clauses 2 and 3, I believe it is
14 as I will come to momentarily. We say that this is
15 sufficient for jurisdiction.

16 In addition, we cite as supporting jurisdiction
17 28 USCA 1343, which is a special jurisdictional statute
18 vesting Federal courts with jurisdiction in Civil Rights
19 cases.

20 Now, we think that there are two cases, perhaps
21 three cases, that very clearly support, not only the
22 question of jurisdiction in this case but also the
23 sufficiency of our complaint to state a claim upon
24 which relief can be granted. The first case is a case
25 in which the State of Georgia filed an amicus curiae brief

38

1 Mr. Leverett:

2 in the 8th Circuit, Brewer v. Hoxie School District,
3 238 F. 2d 91 (1956). I might state that the Justice
4 Department also filed a brief in this case, asserting
5 the very basis of jurisdiction that we predicate this
6 case on, and the Court of Appeals for the 8th Circuit
7 adopted that theory of jurisdiction, as well as suffi-
8 ciency to state a claim.

9 Now, in that case the Hoxie School Board had
10 voluntarily undertaken to desegregate the public schools
11 within its jurisdiction. There was no Federal suit
12 pending and, for all that appears in the record, there
13 had been no demand that had even been made. There were
14 only about 24 or 25 negroes in that school district,
15 out of a total school population of something over 2,000.
16 Things went all right for about 2 or 3 weeks until a
17 group of citizens organized, started holding demonstra-
18 tions, mass meetings, they threw up pickets around the
19 schools and encouraged and conspired to have boycotting
20 of the schools take place. There were some threats and
21 some intimidation also.

22 The School Board goes into Federal Court and files
23 a suit for an injunction against these private citizens,
24 alleging that, No. 1, we are under a duty under the Federal
25 Constitution, under the supremacy clause, which says that

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1 Mr. Leverett:

2 the Constitution and all laws made in pursuance thereof
3 are the supreme law of the land. We are also under a
4 duty under the oath clause, which requires that all state
5 officers take an oath to uphold, support and defend the
6 Constitution; that, therefore, the law places an affirma-
7 tive duty on us, as well as the 14th Amendment, to
8 afford all citizens equal protection of the law, and
9 having placed that duty upon us, it necessarily follows
10 as one of the implied Federal rights, just like the
11 local case involving the rights of a Federal prisoner
12 to be free from mob violence, just as clearly as in
13 that case, there is an implied right, an implied Federal
14 right, of this School Board to be free from interfer-
15 ence in the due performance of its constitutionally
16 imposed duty. The Court upheld jurisdiction on that
17 theory under the 14th Amendment directly. It went one
18 step further and said that, aside from that, there is
19 also jurisdiction under the terminology of 42 USCA 1985,
20 sub-3, which deals with interference with the duly con-
21 stituted authorities of the state in an effort to deny
22 or prohib^{it} them from according due process or rather equal
23 protection of the laws to all citizens within their
24 jurisdiction.

25 The Court also in the Brewer case upheld the question

40

1 Mr. Leverett:

2 of standing of the school board, referred to Barrow v.
3 Jackson, and said that the same theory that confers
4 the right is sufficient to confer standing, that their
5 rights are so inseparably connected with the rights of
6 the pupils of the school that they have standing to
7 maintain the action.

8 The Court also upheld the injunction against
9 picketing and boycotting as against First Amendment
10 claims, on the ground that, No. 1, that in one aspect
11 they were seeking an illegal object; No. 2, that the
12 manner and means by which they were conducting these
13 demonstrations was illegal; and lastly, the Court stated
14 with respect to 1985, sub-3, that although that section
15 itself was directly only to suits for damages, that it
16 was sufficiently definite to constitute the basis for
17 Federal equity court molding relief by injunction, that
18 that statute alone, although relating only to damages,
19 could be used by Federal equity courts in affording, not
20 only damages but an injunction and equitable relief as
21 well.

22 That theory of the Hoxie case has been followed in
23 Kasper v. Brittain in 245 F. 2nd 92; the Supreme Court
24 of the United States denied certiorari in that case in
25 355 U. S.

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1 THE COURT: Was that an Illinois case?

2 MR. LEVERETT: The Hoxie, a Tennessee case.

3 THE COURT: I'm talking about the case where the
4 Supreme Court denied certiorari.

5 MR. LEVERETT: That was a Tennessee case, may it
6 please the Court, involving John Kasper in Clinton,
7 Tenn.

8 THE COURT: In Tennessee?

9 MR. LEVERETT: That's right, where the school
10 authorities got an injunction against Kasper for inter-
11 fering with the desegregation of the Clinton schools.
12 That case also has some good language with respect to
13 First Amendment claims.

14 And the last case - not the last case either, but
15 a case that is seemingly directly on point, I under-
16 stand it's now before the United States Court of Appeals
17 on appeal, is Clemmons v. Congress of Racial Equality,
18 201 F. Supp. 737. That case is practically identical
19 to the allegations of the complaint in the instant
20 case; and I think that case was presented to the Court
21 at the time this application for restraining order was
22 made; and I don't think there's anything to be served by
23 my going over it, because I'm sure the Court is familiar
24 with it.

25 There's another case to the same effect, Douglass

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1 v. Congress of Racial Equality, in 6 Race Relations Law
2 Reporter 1161. I do not have the Federal Supplement citation
3 if it has been published, but it is to the same effect and
4 based on the same theory.

5 THE COURT: As the Clemmons case?

6 MR. LEVERETT: As the Clemmons case.

7 THE COURT: Where did that case originate?

8 MR. LEVERETT: I'm not certain about that Douglas --
9 that was in Mississippi, sir. That was in Mississippi,
10 I recall now.

11 THE COURT: How long ago?

12 MR. LEVERETT: It must be relatively within the last
13 yearx because 6 Race Relations Law Reporter 1161 would
14 have to be in about the last volume of that. I believe
15 6 is 1961. That would probably be the latter part of 1961.

16 Now, with regard to Collins v. Hardyman, we are
17 quite familiar with that case. In fact, it was briefed
18 and relied upon very extensively in the Hoxie case.
19 The Attorney-General filed a 50-page brief and probably
20 20 or 25 pages of it was devoted to this very proposition,
21 the Hardyman case relied upon, and that contention was
22 very quickly rejected. That case simply holds this,
23 that it was not the purpose of 42 USCA 1985, sub-3,
24 to confer any protection to Federally granted rights,
25 that is rights that are granted by the Constitution of

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1 Mr. Leverett:

2 the United States, aside and apart from the 14th Amendment.

3 The Supreme Court, in effect, said in *Colling v.*

4 *Hardyman*, that 1985 protects only 14th Amendment rights,

5 equal protection, and does not confer any protection to

6 these other rights such as would arise under - well, I

7 believe we normally refer to them as privileges and

8 immunities.

9 Now, our contention here is this, that our cause of

10 action and jurisdiction is conferred by the 14th Amend-

11 ment; that it is also conferred by Section 1985 in two

12 aspects. Section 1985 on its face purports to confer

13 a cause of action, even as against private individuals,

14 where there's no state action, no state involved in it

15 at all; and the Defendants have not attacked the con-

16 stitutionality of that section, as I understand it.

17 Secondly, we say that that section also contains

18 an alternative clause with reference to interference with

19 the duly constituted authorities of a state in affording

20 all of its other citizens equal protection of the law.

21 And we think on both of those theories that a cause of

22 action is conferred.

23 THE COURT: All right, anything further with

24 regard to the motion?

25 MRS. MOTLEY: Yes, Your Honor. I think that this

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1 Mrs. Motley:

2 is probably the first time I've heard the suggestion
3 that a district court has the power to overrule the
4 court of appeals. I think that, since Judge Tuttle
5 entered his order in this case, the Plaintiffs' remedy
6 was an appeal to the United States Supreme Court, and I
7 don't believe that they can ask this Court to overrule
8 Judge Tuttle's determination, and that this Court is
9 without jurisdiction.

10 I think with respect to Bell v. Hood, case relied
11 on by the Plaintiffs, that this case falls within the
12 exceptions set forth therein; and that is, when you have
13 a complaint, which on its face alleges certain jurisdic-
14 tional grounds and alleges certain sections of the Con-
15 stitution and laws of the United States, that this
16 complaint has to be examined to determine whether
17 there's any real substance to those allegations.

18 Here, in that Bell v. Hood case, the Court said:
19 "We previously carved out exceptions that a suit will
20 sometimes be dismissed for want of jurisdiction when the
21 alleged claim under the Constitution or Federal statute
22 clearly appears to be immaterial and made solely for
23 the purpose of obtaining jurisdiction, or where such a
24 claim is wholly insubstantial and frivolous".

25 I think that's what this case amounts to and I think

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1
2 Mrs. Motley:

3 that's what Judge Tuttle was ruling, when he said that
4 the order issued here was null and void because of the
5 lack of jurisdiction in this court.

6 Now, what's involved here is evidenced by a letter
7 attached to the complaint, Exhibit "A". I guess Your
8 Honor has read that, a letter written to Mr. Roos.
9 What's involved here is an attempt by these Defendants
10 to exercise their free speech First Amendment rights,
11 guaranteed by the First Amendment and by way of the Due
12 Process Clause in the 14th Amendment. And on the basis
13 of this letter these Plaintiffs say to this Court that
14 this Court ought to enjoin these people from interfering
15 with the performance of a duty on our part; and yet you
16 search the complaint in vain to find any allegation
17 which supports the theory that these Defendants have
18 directly interfered with these state officials in the
19 performance of their duties. And that was the situation
20 in Hoxie, in the Tennessee case cited by the counsel for
21 the Plaintiffs. In Hoxie the school officials were
22 carrying out the duty imposed upon them by the 14th
23 Amendment to desegregate the schools and you had a direct
24 interference with that duty by the people who picketed
25 and threw bottles or whatever they did up at the school.
So, the school officials went into court to seek an

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1 Mrs. Motley:

2 injunction against the interference with that duty, and
3 the Court ruled (1) that there was a duty on them to
4 desegregate the school, and (2) that there was an
5 implied right stemming from that duty to be free from
6 interference with that duty; and that's what the Hoxie case
7 stands for. It does not stand for the proposition that
8 state officials can use the Civil Rights Act to proceed
9 against private citizens, who have no state authority
10 and do not or have no capacity to act under color of
11 state law.

12 That was the situation in the Brittain case involving
13 Kasper. He attempted to interfere with a school board
14 which was carrying out its duty to desegregate the
15 schools, and there again we had a direct interference
16 with state officials who were engaged in the performance
17 of a duty imposed upon them by the Constitution of the
18 United States.

19 Now, there is nothing in this complaint which
20 alleges any act by any defendant which can be said to
21 be an interference with these officials in the performance
22 of any duty imposed upon them by the Constitution of the
23 United States, and that's why this Court doesn't have
24 jurisdiction of this case. And I think that Dr. Anderson's
25 letter makes clear what was really involved here; and

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1 Mrs. Motley:

2 that is, that these people sought to peacefully demon-
3 strate against the enforcement of racial segregation
4 by these officials; and what these officials are doing
5 is using the power of the court to enjoin that and
6 saying that what they're doing will cause disturbance
7 and damage to property, and so forth.

8 Well, even if we assume that there is damage or
9 violence to property, still, this does not justify or
10 give this Court any basis for enjoining the exercising
11 of constitutional rights, even on a mass scale. The
12 Court has already ruled on that.

13 The Supreme Court first ruled on that in Buchanan v.
14 Warley, 245 U. S.,⁶⁰ where they ruled that even though there
15 is this very difficult problem arising from a feeling of
16 race hostility, certainly the court cannot in view of
17 this fact deny the enforcement of constitutional rights.

18 The Fifth Circuit has also ruled in Orleans Parish
19 School Board v. Bush, that's 242 F. 2nd 156, where the
20 same problem was involved. And again, there are
21 innumerable cases involving this question of whether
22 violence is sufficient to set aside constitutional rights.

23 Now, in Orleans Parish v. Bush, this is what the
24 Fifth Circuit said, "the vindication of rights guaranteed
25 by the Constitution cannot be conditioned upon an absence

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1 Mrs. Motley:

2 "of practical difficulty". And that's what's really
3 involved here, an attempt by Dr. Anderson and the other
4 Defendants in this case to exercise their right to free
5 speech, their right to peacefully assemble, their right --
6 these two rights are guaranteed by the Federal Consti-
7 tution -- and the third right which they obviously seek
8 to exercise is the right to petition the local govern-
9 ment here for redress of their grievances. This right is
10 guaranteed by the Georgia constitution. And that's all
11 that's involved here.

12 And the question is whether, the fact that there
13 may be violence is sufficient to justify the setting
14 aside of the exercise of those rights, or whether the
15 presence of practical difficulties is enough. The
16 Supreme Court ruled on the same question in Cooper v.
17 Aaron. That was the Little Rock Arkansas case, where
18 there was a great deal of violence, as Your Honor may
19 recall; and there they said that the constitutional
20 rights of respondents are not to be sacrificed or yielded
21 to violence or disorder but follows upon the actions
22 of the legislature. Thus, law and order are not here to
23 be preserved by depriving the negro children of their
24 constitutional rights.

25 And in Buchanan v. Bell, the case to which I referred

1 Mrs. Motley:

2 a few moments ago, the quote is this:

3 "It is urged that this proposed segregation will
4 promote the public peace by preventing race conflict.
5 Desirable as this is and important as it is to prevent
6 or preserve the public peace, this aim cannot be accom-
7 plished by laws or ordinances which deny rights created
8 or protected by the Federal Constitution."

9 So that, in closing, I would like to say again
10 that we think this Court is so clearly without juris-
11 diction, as Judge Tuttle has ruled, that the action
12 must be dismissed, because the Defendants against whom
13 the Plaintiffs proceed are not state officers; that
14 there is nothing alleged in the complaint to justify
15 the issuance of an injunction on the ground that these
16 Defendants have directly interfered with the perform-
17 ance of constitutional duty on the part of the Plaintiffs
18 in this case.

19 MR. LEVERETT: May it please the Court, I don't
20 want to deprive counsel of the concluding argument, but
21 the case she read in part, Bell v. Hood, I think it only
22 fair to call the Court's attention that immediately ^{after} the
23 following statement which she read is this statement by
24 Justice Black, in which he says that, the "directness
25 of these exceptions has been questioned." So, the Supreme

50

1 Mr. Leverett:

2 Court itself is more or less questioning these exceptions
3 about colorable allegations and so forth insofar as it
4 relates to jurisdiction.

5 THE COURT: Yes, I have observed through the
6 years, as doubtless all counsel on both sides have,
7 that this question of jurisdiction, Federal jurisdiction,
8 is one of the most troublesome ones for all of us, for
9 the trial judge and for the appellate judge. In doing
10 some reading as I have with regard to this very question,
11 I have been surprised at the diversity of opinion
12 among the appellate courts on jurisdictional questions.
13 It would have been thought that through the period of
14 years that have passed, when so many of these questions
15 have been before the appellate courts, that there would
16 have been a greater degree of clarity. But, as we all
17 know, that is not the case.

18 For instance, in the case which Judge Tuttle cited
19 in the order to which reference has been made, ⁱⁿ that
20 very case, Collins v. Hardyman, the Court goes on to
21 say there that: "We do not say that no conspiracy by
22 private individuals could be of such magnitude and effect
23 as to work a deprivation of equal protection of the laws,
24 or of equal privileges and immunities under laws." And
25 yet, Judge Tuttle was citing that case as being in support

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1 The Court:

2 of his view that necessarily state officers have to be
3 involved. And yet, in that very case which he cited, the
4 Supreme Court makes that comment.

5 I felt at the time that I took jurisdiction of this
6 matter that this Court had jurisdiction of it. The
7 study which I have been able to do since that time
8 leads me to the conclusion more firmly now than then
9 that this Court has jurisdiction of this matter. I feel
10 to rule otherwise would simply be saying that this Court
11 has jurisdiction of suits which are brought on behalf
12 of minorities to protect their civil rights, but does
13 not have jurisdiction of suits which are brought on
14 behalf of majorities to protect their rights; and I
15 cannot conceive of the Congress in enacting the Civil
16 Rights statute or how the Supreme Court in its various
17 decisions which have been handed down, could mean
18 that the Civil Rights statutes are only for the protec-
19 tion of minorities; and if I held that this Court did
20 not have jurisdiction in this instance, I think that would
21 be the effect of what I would be ruling, and I do not
22 wish to so rule.

23 I rule that the ~~the~~ Court does have jurisdiction
24 and I overrule the motion to dismiss, and the Plaintiffs
25 may proceed.

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1 MR. LEVERETT: May it please the Court, at this
2 time we would like to call for the purpose of cross
3 examination one of the Defendants, Slater King.

4 MR. HOLLOWELL: May it please the Court, in behalf
5 of the Defendants' interrogation, I would submit that we
6 would want to sequester all witnesses who are not parties
7 in the case that the Plaintiffs do have any such
8 witnesses. That's No. 1. And No. 2, we would like
9 to have a list of the witnesses.

10 THE COURT: Alright, suppose we at this time,
11 suppose counsel for both sides call all witnesses,
12 we'll have them sworn and then they can be sequestered.

13 MR. LEVERETT: We call as our witnesses Mr.
14 David O. Scott, Lt. H. A. Poole, Mr. Joe Rosenberg,
15 Trooper Hill of the Georgia State Patrol, who is not
16 here but who will be; Captain Clegg of the Albany
17 Police Department. Of course, we have and expect to
18 use the Plaintiffs themselves but they will not be under
19 the rule.

20 THE COURT: All right, sir. Are you prepared
21 to call the witnesses to be used by the Defendants?

22 MR. C. B. KING: Yes, Your Honor. There will be
23 Mr. B. F. Johnson, Mr. A. G. Ferrell, Rev. Samuel Wells,
24 Mr. Andrew Young, Mr. Charles Young, Mr. Emanuel Johnson
25 or Jackson that is, Mr. Raymond Carrow, Rev. Wyatt T.
Walker, Mr. James Waters. 

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THE CLERK: All of those witnesses whose names have been called, stand and raise your right hand and be sworn. How about the Plaintiffs? Are they all here?

MR. LEVERETT: That's all we have here right now. We will bring the others in subject to call.

MR. REEVES: Do you also want to swear the parties?

THE COURT: Yes, suppose you do that.

(Witnesses called sworn by the Clerk)

Allright, Mr. Marshal, exclude all of the witnesses in the hall.

THE MARSHAL: All of the witnesses other than the parties go outside.

THE COURT: Are you ready to proceed now, Mr. Leverett?

MR. LEVERETT: Yes sir, if the witness will take the stand. Thks is a party Defendant called for the purpose of cross examination, may it please the Court.

THE COURT: Allright. Just a moment, Mr. Leverett: It's going to be necessary that we have order. We cannot hear counsel and counsel will not be able to hear the witnesses otherwise. All right, go ahead, Mr. Leverett.

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one of the Defendants, called by
Plaintiffs as adverse party, being
first duly sworn, testified on

CROSS EXAMINATION

BY MR. LEVERETT:

Q Will you state your name, please?

A My name is Slater King.

Q And where do you reside?

A At 1304 South Cleveland Drive in Albany.

Q That's in Dougherty County, in the Albany Division?

A That's right.

Q And what is your occupation?

A I'm real estate broker and insurance.

Q And you are an official, are you not, with the
Albany Movement?

A I am.

Q What is your position with the Albany Movement?

A Vice-President.

Q Now, the Albany Movement. that's an unincorporated
association of individuals in the Albany area, is it not?

A That's correct.

Q You don't have a charter from any source?

A No, we haven't.

Q Who are the other officers of the Albany Movement?

A That would be Dr. Anderson, President, myself
First Vice-President, Mrs. Irene Wright as the Second Vice-
President. The Executive Secretary is Mr. Marion Page and the

CLAUDE JOINER REPORTING SERVICE

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1 Treasurer, Mr. Emanuel Jackson.

2 Q Now, how many other or what other organizations
3 are working with the Albany Movement in connection with the
4 activities that the Albany Movement is carrying on in Albany,
5 Georgia?

6 A Well, it is a very loose thing that we have all
7 thought of as working as individuals and not an organization.
8 That's why we named a separate name, the Albany Movement,
9 because we wanted a cohesive for the people who might be
10 incidentally members in other organizations.

11 Q But you have cooperated and coordinated your
12 activities, have you not, with other groups, such as the
13 National Association for the Advancement of Colored People?

14 A We have tried to operate so that we were not
15 subordinate to any group.

16 Q You have worked with them though, have you not?

17 A That's almost a question of semantics, isn't it?

18 Q Now, I'm asking you the question: I asked you,
19 haven't you, have you not worked with officials and with the
20 authorized officials of the NAACP?

21 MR. HOLLOWELL: May it please the Court, I think
22 the question is too general. He didn't specify any time
23 or place or activities. I would submit that the manner
24 in which the question is phrased does not address itself
25 to the witness in order to be able to give an intelligent
answer.

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1 THE COURT: Well, the question was whether he
2 has worked with them, the past tense: I presume that
3 means at any time.

4 MR. LEVERETT: May it please the Court, I think I
5 can clarify that.

6 THE COURT: All right.

7 Q Mr. Leverett: When was the Albany Movement formed?

8 A Sometime back in November. As far as giving the
9 chronology on it, I would not be able to give just the exact
10 date or time and that sort of thing.

11 Q November of '61?

12 A That is correct.

13 Q Now, since that time the Albany Movement has been
14 engaged in certain activities in the City of Albany, dealing
15 with demonstrations, with picketing, with boycotting and
16 with marches, has it not?

17 A Repeat that again, will you please?

18 Q Since its formation, hasn't the Albany Movement
19 been engaged in activities in Albany, specifically the
20 making of demonstrations, parades and marches, in effort,
21 as you claim, to present your grievances to the City?

22 MR. HOLLOWELL: May it please the Court, I submit
23 here again that this would be a conclusion that he's
24 asking from the witness, unless he specifies the
25 particular category and the particular occasion, if he

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1 Mr. Hollowell:

2 has some particular one in mind.

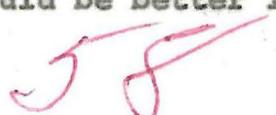
3 THE COURT: I think the witness could answer
4 that question within his knowledge.

5 A The Witness: Will you repeat it one more time,
6 so that I'd be sure that I have that, again please?

7 Q Mr. Leverett: Since its formation, has not the
8 Albany Movement conducted activities involving the holding
9 of demonstrations, the making of marches on the City streets,
10 the conducting of parades, the sending out of pickets, and
11 also haven't you conducted a bbycott? Now, if you want to
12 answer those one at a time, you can.

13 MR. HOLLOWELL: I submit here again, Your Honor:
14 No. 1, that this calls for a conclusion of law, as to
15 what constitutes a parade and what constitutes a
16 demonstration and indeed, these are all matters which
17 are set out in the Code of the City of Albany; and I
18 submit that it would be a conclusion upon this man's
19 part as a witness to have to be called upon to answer,
20 No. 1. And No. 2 that the statement is so prolix as to
21 not give the particular witness an opportunity to address
22 himself to individual rather than a complete gamut of
23 items that the interrogator desires to have him answer.

24 THE COURT: I agree with counsel to this extent:
25 I think that it would be better if the question were
broken down.



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MR. LEVERETT: All right.

THE COURT: So that it could be more intelligently answered.

Q Mr. Leverett: All right, sir. Now, at various times in the past since its formation, the Albany Movement, hasn't the Albany Movement sent pickets out to picket in front of the City Hall, with placards stating certain grievances that they were complaining of?

A I would say no because most of the time this has been a thing of spontaneity, where people have felt - this whole movement has almost been a religious one - where people have felt very aggravated at the very intolerable conditions.

Q Just a moment, I didn't ask for a speech; I asked you to answer the question.

A Well, no; thank you.

Q You say the Albany Movement has not sent out pickets in downtown Albany, Georgia?

A That's correct.

Q Have people associated with the Albany Movement engaged in picketing?

A Yes.

Q They have?

A Yes.

Q Have any officials of the Albany Movement engaged in such picketing?

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1 A Yes.

2 Q Now, what about the conducting of marches, have
3 any people, members or officers of the Albany Movement
4 engaged in marching on the public streets of Albany and
5 in and about the City Hall?

6 MR. HOLLOWELL: Here again, Your Honor, I would
7 submit that as a foundation it would have to be deter-
8 mined here what constitutes a "march", inasmuch as
9 a "march" is one of the items listed specifically in
10 Chapter 24, Section 36 or 35, it is, of the Albany Code;
11 and this would be here a conclusion of law; and that in
12 order for this witness to have to answer this, there
13 would have to be a proper foundation laid, and there
14 has been no such foundation.

15 THE COURT: You mean he would have to show
16 that he was an expert on marches?

17 MR. HOLLOWELL: It would have to be shown that
18 he has some knowledge of what constitutes a march as
19 it relates to the particular matter as is alleged in
20 this petition. They cite this as one of the allegations
21 in their petition and show that it is one of the laws
22 that allegedly some of the Defendants have been guilty
23 of breaking.

24 THE COURT: I overrule the objection.

25 A The Witness: Would you repeat that question one

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more time then?

Q Mr. Leverett: Haven't members and officials of the Albany Movement engaged in marches, consisting of groups of people anywhere from maybe 20 to 30 up to several hundred, marched down the public streets of Albany by way of demonstration to air your grievances?

A I would say no to this and shall I tell you why I say no.

Q I think it would be advisable.

THE COURT: You may explain your answer any way you want to.

A The Witness: Well, he warned me not to do it, Your Honor. I would say no because most of the time this too has been a thing of spontaneity, where people have decided that they wanted to pray upon the courthouse steps. All avenues of expressing our grievances have been cut off. And we never - I never considered it a thing of marching. It was to meet in front of the City courthouse and to pray and it has always been a thing of spontaneity.

Q Mr. Leverett: Regardless of what you consider it though, there have been occasions in which, say several hundreds of people, many of whom were with the Albany Movement, were engaged in walking down to the courthouse, to the City Hall?

A Yes.

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CLAUDE JOINER REPORTING SERVICE

1 Q They have also been walking down Jackson Street,
2 I mean Oglethorpe and coming up Jackson to Pine, is that right?

3 A Would you repeat that again?

4 Q I stated that these people, these groups of
5 people, have walked up Jackson Street, crossed Oglethorpe
6 and gone down to Pine, turn on Pine and go by the City Hall?

7 A I have never noticed the route.

8 Q You've never - you don't know that some of them
9 have walked down Jackson Street?

10 A Yes, some have; yes, some have.

11 Q Now, do you know whether or not on any of those
12 occasions any permits have ever been obtained from the City
13 Manager to authorize these groups marching or walking, as
14 you would have it, down the street?

15 A Not as I know of.

16 Q Do you know whether any application has ever been
17 made to the City Manager or any other City official for
18 such a permit?

19 A Not as I know of.

20 Q Are you saying that you don't know whether it
21 has or are you saying that no application has ever been made?

22 A I don't know whether one was or not.

23 Q Now, have you not also conferred with officials of
24 the National Association for the Advancement of Colored
25 People, with regard to the program of the Albany Movement?

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A As individuals, yes.

Q In fact, Mrs. Hurley is a regional representative of the NAACP, is she not?

A That's correct.

Q Do you know whether or not there is a local branch of the NAACP?

A Yes, there is.

Q In fact, who is in charge of the local branch?

A What do you mean when you say "in charge"?

Q Who is the highest officer of the local branch?

A Reverend M. F. Adams is the President.

Q And who is the Vice-President?

A I don't know this.

Q What about Secretary or Treasurer or Secretary-Treasurer?

A I am the Secretary.

Q Of the local branch of the NAACP?

A That's correct.

Q Now, has Reverend Adams participated in any of the discussions that the Albany Movement's leaders or officials have had with reference to your activities?

A Not as I know of.

Q You have, of course, have you not, because you are on the official board, you are an official of both?

A Now, your question is a little nebulous. Will you

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1 repeat that again, please?

2 Q I asked you whether or not you have participated
3 in activities of the Albany Movement, since you are an
4 official apparently of both organizations?

5 MR. HOLLOWELL: May it please the Court, that's
6 no question. This is a statement of fact that this
7 counsel is making, which is too broad and it's a
8 conclusion.

9 THE COURT: Yes, I sustain that objection.
10 Rephrase that question, Mr. Leverett.

11 MR. LEVERETT: All right, I'll go on to something
12 else.

13 Q Now, what is the Southern Christian Leadership
14 Conference?

15 A I know nothing of the Southern Christian Leader-
16 ship Conference, of its formation, except that Dr. Martin
17 Luther King is the President.

18 Q Are you stating to the Court that you have no
19 knowledge whatever of its objectives or its organization?

20 A Its by-laws and that sort of thing, I know nothing
21 of. I answer with an emphatic no.

22 Q What about its activities, do you know anything
23 about the activities that it pursues?

24 MR. HOLLOWELL: May it please the Court, may I
25 submit that this question is still too general. Its

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1 Mr. Hollowell:

2 activities as relate to what. It's just a general
3 nebulous fishing kind of question.

4 THE COURT: Well, he's simply asking him if he
5 knows what their activities are and he either does or
6 he doesn't. I think it's a question that he can answer.

7 A The Witness: I assume that their activities are
8 an attempt to try to bridge the gap between the tremendous
9 inequities that exist between blacks and whites in the South.

10 Q Mr. Leverett: Would you say that is the same
11 objective of the Albany Movement with regard to the situa-
12 tion in Albany?

13 A Similar, yes.

14 Q You don't know whether or not that is a corporation
15 or an individual?

16 A I haven't the slightest idea.

17 Q Now, Dr. King has been down here on numerous
18 occasions since the Albany Movement was formed, has he not?

19 A This I don't know either. I have only seen him
20 twice and that was when he was let out of jail in December
21 and then the latest, coming back for this trial.

22 Q Do you attend any of the services that are held
23 down at Mt. Zion or Shiloh Churches?

24 A When you say "services", they have church services
25 and they have BYPU, Sunday School: which ones do you mean?

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1 Q Services where speakers, that you've had speakers
2 down there to come in and speak on the racial relations
3 situation in Albany?

4 A You still aren't being specific. Do you mean at
5 mass meetings or the Albany Movement or what do you mean?

6 Q I ask you if you have been present when Dr. King
7 spoke down at those churches, either at mass meetings or any
8 other kind of meeting?

9 A I told you that the first time that I had heard
10 him, had seen him, was when he was leaving after December,
11 after the flare-up; and I have heard him speak since coming
12 back, yes.

13 Q How many times?

14 A This I couldn't tell you. I have a bad memory.

15 Q You say that you have not seen Dr. King but on
16 two occasions since the Albany Movement began activities?

17 A What I'm saying is this: You were trying to
18 infer that I had seen him many, many times. I'm saying that
19 I was in jail in December and I only saw him after he had
20 been let out, about December 18, I guess, briefly using the
21 telephone; and then I have seen him thereafter when he came
22 back for trial.

23 Q How many times have you seen him in the last
24 month?

25 A I couldn't tell you because I don't know.

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Q One time or more than one time?

A It's been many times since he's come back I've seen him.

Q Since he's come back to Albany?

A Yes.

Q You've seen him in Albany?

A Yes.

Q Now, what is the Congress of Racial Equality?

Are you familiar with that organization?

A I know nothing of it. I have heard of CORE. I know nothing of its formation or anything of that sort.

Q Do you know whether or not they have a representative in Albany now?

A I have heard that Marvin Ricks represents them. I don't know this officially.

Q Anybody else?

A I know of no one else.

Q Representing ~~as~~ CORE, as it's called?

A Yes.

Q What about Mr. Hansen, do you know him?

A Yes, I know him.

Q Isn't he a paid employee of CORE?

A This I don't know.

Q You don't know whether or not he is an employee of CORE?

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1 A I assume he's --

2 MR. HOLLOWELL: Now, may it please the Court, if
3 he's going into assumptions and conclusions, we would
4 ask that they be stricken.

5 THE COURT: Yes, let's dont' assume. If you
6 know, why just tell us; if you don't know, why so state.

7 A The Witness: I know nothing of him working with
8 CORE.

9
10 Q Mr. Leverett: He has been present at many of the
11 meetings held in the two churches here though, hasn't he?

12 A I have seen him.

13 Q And has he to your knowledge been involved in
14 any of the walking up and down the streets with the other
15 groups and picketing at the City Hall?

16 A I have not so seen him.

17 Q He has been placed in jail, hasn't he, on oae or
18 two occasions?

19 A Yes.

20 Q And he was charged to your knowledge with having
21 participated in some of these activities, was he not?

22 A Well, once.

23 MR. HOLLOWELL: May it please the Court, the record
24 will speak for itself and would be the highest and best
25 evidence.

THE COURT: Well, he can say whether he knows or

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1 The Court:

2 ~~is~~ not. He can say whether he knows and, if he doesn't
3 know, he can say that.

4 A The Witness: Once as a moral witness, I believe,
5 that he came and stood in front of the City Hall in silent
6 protest and they jailed him. I think I read that, and two
7 other boys with him.

8 MR. HOLLOWELL: Now, may it please the Court,
9 the witness said he thought he read it and I submit that
10 this would be a conclusion and opinion evidence.

11 THE COURT: Yes, I sustain that objection.

12 Q Mr. Leverett: Now, hasn't the Albany Movement
13 conducted or participated in some clinics for sit-ins and
14 picketing?

15 A Hasn't the Albany Movement conducted some clinics?
16 Are you saying clinics on sit-ins?

17 Q On sit-ins, on so-called peaceful demonstrations,
18 marching or any other activities that you've engaged in?

19 MR. HOLLOWELL: Now, we would have to object to
20 this and I apologize to the Court for having to object
21 so frequently; but right on the end he says "or any other
22 kind of activities in which they have been engaged;
23 and I submit that this is too broad; and here again,
24 it calls for a conclusion of this witness and the question
25 is just simply too broad and not pointed enough.

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CLAUDE JOINER REPORTING SERVICE

1 THE COURT: Yes, I think if you bring it down,
2 Mr. Leverett, ask him specifically about specific
3 activities rather than such an all-inclusive question.
4

5 MR. LEVERETT: Allright, sir.

6 Q Has the Albany Movement either conducted or
7 participated in any clinics on sit-ins?

8 A May I explain? Yes, they have because of our
9 interest in seeing that there was no violence and we feel
10 that this must be done.

11 Q Who conducted those, who were the teachers or
12 instructors at those clinics?

13 A We have asked consultants, people who've dedi-
14 cated themselves to this way of life, such as Reverend
15 Andrew Young and others.

16 Q Were you present at any of these clinics?

17 A No, I have not been.

18 Q Now, what about clinics on picketing, have you
19 had any clinics on picketing?

20 A Not as I know of.

21 Q Have there been any clinics on picketing?

22 A Not as I know of.

23 Q Have there been any clinics of any other nature
24 that you know of?

25 A Yes, on the meaning of non-violence, because this
is something that has been very important to us. We have

1 wanted to discourage violence in every way that we can.

2 Q How many people, do you have any idea how many
3 people actually took part in these clinics by way of
4 receiving instructions therein?

5 A I haven't the slightest idea.

6 Q Do you think it would be less than 100 or more
7 than 100?

8 A I haven't the slightest idea.

9 Q Now, in sending out at various times haven't all
10 of these organizations joined together in making and sending
11 out literature?

12 MR. HOLLOWELL: If it please the Court, I again
13 have to object, "In sending out literature haven't all
14 of these organizations" --

15 THE COURT: I sustain the objection. Let's be
16 more specific, Mr. Leverett.

17 Q Mr. Leverett: Hasn't the NAACP, the SCLC, the
18 SNVC and CORE presented petitions jointly to the City
19 Council, making demands with respect to employment of City
20 employment on behalf of Negroes?

21 A This is totally untrue. In making any demands we
22 made, like in going back to the Mayor in November, I believe
23 it was clearly stated that all of the different organizations
24 were represented but we were acting as individuals through
25 one agent or one head, and this was the Albany Movement. But

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1 this was acting as individuals and not as an organization.

2 Q All of them were seeking a common objective?

3 A Some common objectives.

4 Q Now, didn't also the Albany Movement call a
5 boycott or what you refer to as a "selective buying program"
6 in the City of Albany?

7 A No, the Albany Movement hasn't called that.
8 I think each person has had a commitment to his conscience
9 and we felt we were treated so terribly by the City that
10 we would buy where our dollars were appreciated and where
11 we were employed.

12 Q Do you know whether or not any pamphlet or any
13 letter was ever sent out, urging people not to do business
14 with certain merchants?

15 A Not as I know of.

16 Q Now, at one time you had a municipal bus company
17 operating in the City of Albany, did you not?

18 A Municipal? What do you mean, owned by the munici-
19 pality?

20 Q No, a bus company?

21 A Yes.

22 Q Public transportation?

23 A Yes.

24 Q And wasn't a boycott called of that company which
25 forced it out of business?

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1 A No, there was no - no, there was not a boycott
2 called of this company. After the flagrant and abusive
3 treatment of one of the passengers by the Albany Police
4 Department, most of us felt that in good conscience we
5 couldn't ride the bus; and, therefore, the majority of us
6 refrained from it.

7 Q Well, are you saying that there was no announcement
8 made by the Albany Movement or any leaders of the Albany
9 Movement, urging the people not to trade with the bus company?

10 A I think that I and many other people made announce-
11 ments that they would not ride, but it was a commitment that
12 a person would have to make up in their own mind.

13 Q In fact, when you hold these meetings at these two
14 churches, you discuss all of these problems that you have
15 in this area, do you not?

16 MR. HOLLOWELL: All of what problems that we have
17 in what area, Your Honor?

18 MR. LEVERETT: May it please the Court, I have
19 interrogated this witness about some demands that they've
20 made to the City and we've gone over it and I think the
21 witness is familiar with what I'm asking him about; and
22 I'm asking him if he has discussed these things that he
23 says they have done in any discussion down at the church.

24 MR. HOLLOWELL: If it please the Court, he's trying
25 to get an injunction and he must be specific. There has

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Mr. Hollowell:

been no delineation of any of these things whatefer it is that we're talking about, and I submit that any response would be a conclusion, because the question has not been properly phrased.

THE COURT: I sustain the objection. You can be more specific than that, Mr. Leverett.

Q Mr. Leverett: Allright, I'll askyou whether or not not the matter that you complain of or the treatment that you complain on by the transit company, has that ever been discussed down at the Shiloh Baptist Church or Mt. Zion, or Mt. Zion Methodist Church?

MR. HOLLOWELL: May it please the Court, here again he says the treatment that he complaints of and there is no record that he made any particular complaint of any treatment.

MR. LEVERETT: That anyone made.

MR. HOLLOWELL: No. 1, just a moment, sir. And No. 2, has this ever been discussed at the church in his presence; and I would submit that here again, it would have to be more pointed than that.

THE COURT: Well, I interpret the question to relate to the statement that the witness just made a moment ago in his explanation of why he stopped riding buses. Now, the question is, was that ever discussed

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CLAUDE JOINER REPORTING SERVICE

1 The Court:

2 were these reasons for not riding the buses ever
3 discussed at these churches. I think the witness
4 understands the question.

5 MR. HOLLOWELL; What I mean, here again, unless
6 it was in his presence, it would still be of no moment.

7 THE COURT: Well, of course, unless he was
8 present, he wouldn't know whether it was discussed or
9 not. I think the question is in such form as the
10 witness knows what it means and can answer it either
11 yes or no. I overrule the objection.

12 The Witness: Would you repeat it once more, please

13 Q Mr. Leverett: The question was, do you know
14 whether or not the grievances that you've just referred to
15 against the bus company, was that matter ever discussed at
16 either the Shiloh or the Mt. Zion Churches?

17 A No, I don't call it discussions; just a statement
18 was made of the treatment that Miss Ola Mae Quarterman
19 received on the bus and was being jailed for what we felt
20 was nothing, sitting in the front of the bus was the size
21 of it.

22
23 Q Was the matter ever discussed, the fact about the
24 employment practices of the bus company with reference to
25 the employment of colored drivers? Was that ever discussed
to your knowledge?

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1 A Where?

2 Q At either the Shiloh or the Mt. Zion churches?

3 A I think it was discussed that there were no
4 Negroes employed.

5 Q And do you know whether or not the matter of
6 the employment practices of the merchants in Albany with
7 reference to the employment of Negroes, has that been
8 discussed?

9 A Employment of who?

10 Q Of Negroes?

11 A Thank you. Now, repeat that again, will you
12 please?

13 Q Do you know whether or not those practices have
14 been discussed at the two churches?

15 A It has been so stated, those places that don't
16 employ colored people.

17 Q In fact, wasn't - let me see if I understand it -
18 is it your contention as an individual or as an officer of
19 the Albany Movement, whichever way you wish to speak in,
20 that the merchants should employ, if he has 30 per cent.
21 say Negro trade -

22 A Thank you for correcting that word.

23 Q - That he should employ 30 per cent. Negroes?

24 A Would you repeat that again, please?

25 MR. HOLLOWELL: May it please the Court - well, I'll

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1 Mr. Hollowell:

2 wait and lett him repeat it first.

3 MR. LEVERETT: Will the Court Reporter read the
4 question back to the witness? He seems to be having
5 difficulty hearing.

6 A The Witness: No, I don't like the way you
7 pronounce Negro.

8 MR. LEVERETT: Read the question.

9 Q (Reporter reading): "Let me see if I understand
10 it - is it your contention as an individual or as an officer
11 of the Albany Movement, whichever wayyou wish to speak in,
12 that the merchants should employ, if he has 30 per cent.
13 say Negro trade - Answer: Thank you for that correcting that
14 word. Question: - that he should employ 30 per cent. Negroes?"

15 MR. ~~HOLLOWELL~~^{HOLLOWELL}: Now, if it please the Court, there
16 hasn't been any contention made by the witness, and this
17 is a witness that he called.

18 MR. LEVERETT: For cross.

19 MR. HOLLOWELL: He is called as a witness and has
20 not been called upon to make a policy statement for
21 the particular organization; and the other remark I
22 would want to address myself is to the effect that the
23 attorney here, although he has broad scope in cross
24 examination, it would appear that he is seeking to
25 testify rather than to elicit answers to direct questions;

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Mr. Hollowell:

And this we object to.

THE COURT: Well, I interpret the question as being a question relating to the policy of the organization of which this witness is a member, and he's in position to know, he being an official, what the policy is. I think it's proper question and I overrule the objection.

A The Witness: This is my personal opinion, that Negroes should be as much as possible hired percentagewise to the amount of business that they give to this place of business.

Q Mr. Leverett: Do you know whether or not that is also the policy of the Albany Movement?

A It is not.

Q Has that ever been discussed at any of the meetings?

A It has not been. I don't believe it has been.

Q Have you ever talked to any merchants yourself about your belief in this regard?

A I have talked to no merchants in the City of Albany regarding this.

Q As an individual, do you think that you have the right to violate the law simply because you think the law is unjust?

MR. HOLLOWELL: If it please the Court, this asks

CLAUDE JOINER REPORTING SERVICE

1 Mr.Hollowell:

2 for a conclusion and I would submit that not only that
3 but it is irrelevant and immaterial. I mean there is no
4 indication yet that there has been any law violation
5 shown and, therefore, there would be no materiality
6 to this particular question.

7 MR. LEVERETT: May it please the Court, we expect
8 to tie it up later by other evidence. One of the alle-
9 gations in the complaint is that the Defendants have
10 been violating the law, this is one of the Defendants,
11 and I think -

12 MR. HOLLOWELL: What law?

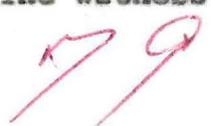
13 MR. LEVERETT: Those that are enumerated in the
14 complaint. And I think his --

15 MR. HOLLOWELL: Well, I would submit --

16 MR. LEVERETT: That his opinion on that is cer-
17 tainly relevant to the issues in the case.

18 MR. HOLDOWELL: I would submit that under the
19 circumstances, since it appears that counsel here is
20 seeking to somewhat entrap the particular witness and
21 cause him to incriminate himself as relates to some
22 criminal charge which is now pending, I would be forced
23 to instruct the witness not to answer it, based on that
24 ground.

25 MR. LEVERETT: The witness is entitled to invoke



1 Mr. Leverett:

2 the constitutional privilege against self-incrimination
3 if he wishes to. I don't deny that.

4 MR. HOLLOWELL: But I would ask the Court in the
5 light of this fact if the Court would inform the witness
6 of what his rights are in this particular, since from
7 the line of questioning and the statement just made by
8 counsel, it would appear that the things which I have
9 just stated is that which is desired; in other words,
10 trying to get the witness to testify against himself.

11 THE COURT: Well, I think you gentlemen in your
12 argument about the question have strayed from what the
13 question was. As I recall the question about 5 minutes
14 ago, the question was, does this witness personally
15 entertain such a belief. The question was not, have
16 you violated any law. That wasn't the question. The
17 question was not, have you done certain things. But the
18 question was whether he entertains a certain philosophy and
19 certain beliefs.

20 MR. HOLLOWELL: It's the same thing.

21 MR. LEVERETT: No, it is not.

22 MR. HOLLOWELL: It's the same thing and it is
23 dependent upon also, the very statement which the
24 attorney made himself relating to the petition and the
25 particular laws which are cited in the petition itself.



1 Mr. Hollowell:

2 It's the opening up of an area in which the Defendant
3 would be called upon to incriminate himself, which is
4 the reason I called upon the Court to instruct the
5 witness as to what his rights are in the light of the
6 statement made by counsel.

7 MR. LEVERETT: May it please the Court, I think
8 the abstract opinion of this witness on this question
9 would not incriminate him under the Supreme Court
10 decision in the Teamster case.

11 THE COURT: No, I don't think an answer to
12 that question would incriminate him in any way. If a
13 question is asked which I think would incriminate him,
14 I will instruct the witness what his rights are but I
15 don't think that question incriminates him, to ask him
16 what his beliefs and his philosophy are. He's not
17 pleading guilty to any crime by answering that question
18 and could not conceivably be any evidence of the com-
19 mission of one.

20 MR. HOLLOWELL: I would submit that this is true
21 but in the light of the statement which counsel now
22 makes, it appears that there would be no relevance to
23 the issue for him to state what his individual opinion
24 is as relates to the breaking of any particular law.

25 THE COURT: Well, what he alleges here, what they



1 The Court:

2 allege in this suit is that there is a movement, a joint
3 movement, by a large number of people, of whom he is
4 one, to violate the law of this community; and his
5 philosophy toward it, I conceive could have some bearing
6 on the question which is before this Court, which is
7 after all one for judgment in equity; what his philosophy
8 is could have some bearing upon further evidence which
9 may be developed in the case and for the moment - for the
10 moment - I overrule the objection. Unless I feel that
11 it has been connected up in some way, and counsel says
12 he intends to do that, later if I feel that it has not
13 been connected up in some way, I will reverse my view
14 and exclude it; but for the moment, I overrule the
15 objection.

16 A The Witness: Would you read the question back
17 please?

18 MR. HOLLOWELL: May it please the Court, I would
19 submit that there would still be the need for some
20 specification on a particular law, that there are many
21 laws, and it might be a matter of riding 35 miles an hour
22 in a 25-mile an hour zone, which is illegal; that's
23 the law. And therefore, I submit that it would be neces-
24 sary for counsel to specify. If he's talking about a
25 segregation law as relates to some particular thing, then

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1 Mr. Hollowell:

2 we speak about that, or if he's talking about some other
3 law; but this wide gap which he leaves is not suffi-
4 ciently brought down so as to enable the witness to
5 give an intelligent answer. This is what we are getting
6 at.

7 THE COURT: Mr. Reporter, would you read the
8 question?

9 THE REPORTER: "As an individual, do you think
10 that you have the right to violate the law simply
11 because you think the law is unjust?"

12 THE COURT: I think that's clear enough.
13 I overrule the objection.

14 A The Witness: No, I don't think that I have that
15 right.

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17 Q Mr. Leverett: Let me ask you this: Have you ever
18 heard Dr. King make that statement or something substantially
19 to that effect?

20 A No, I haven't.

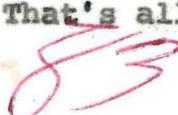
21 Q What about Dr. Anderson, one of the Defendants in
22 this case?

23 A No, I haven't.

24 Q Did you see him on television last night?

25 A No, they don't have television in jail, sir.

MR. LEVERETT: That's all for this witness at this
time.



1 (Counsel, Frank Reeves, rising to examine witness) . . .

2 THE COURT: Now, do you intend to examine this
3 witness on direct at this time?

4 MR. REEVES: No sir, on cross.

5 THE COURT: Well, he's a party Defendant, isn't
6 he?

7 MR. REEVES: I understand that they called him
8 as an adverse witness.

9 THE COURT: Well, I would suggest that you wait
10 until the presentation of the Defendants' case.

11 MR. REEVES: We may not call him, Your Honor
12 please, in connection with our case. Under Rule 43
13 I think we have the right to examine him on cross
14 examination following the examination on direct.

15 THE COURT: Well, I don't know that you have
16 the right to examine him on cross, since he's a party
17 defendant; but, if you'll read the rule, let's see
18 exactly what it does say.

19 MR. REEVES: I will read Rule 43(b) of the
20 Rules of Civil Procedure: "A party may interrogate
21 any unwilling or hostile witness by leading questions.
22 A party may call an adverse party or an officer,
23 director, or managing agent of a public or private
24 corporation or of a partnership or association which is
25 an adverse party, and interrogate him by leading questions

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1 Mr. Reeves:

2 "and contradict and impeach him in all respects as if he
3 had been called by the adverse party, and the witness
4 thus called may be contradicted and impeached by or on
5 behalf of the adverse party also, and may be cross-
6 examined by the adverse party only upon the subject
7 matter of his examination in chief."

8 THE COURT: "Upon the subject matter of his
9 examination". You may proceed.

10 CROSS EXAMINATION

11 BY MR. FRANK REEVES:

12 Q Mr. King, you stated that you were an officer
13 of the local branch of the NAACP?

14 A That's correct.

15 Q Have any of your activities in connection with the
16 Albany Movement been in that capacity?

17 A Repeat that again.

18 Q Have any of your activities in connection with the
19 Albany Movement been in your capacity as an officer of the
20 local branch of the NAACP?

21 A No.

22 Q Have you received any instructions from Mrs. Hurley
23 or from any financial officer of the Association to act and
24 participate in the activities of the Albany branch of the
25 Albany movement as an officer of the NAACP?

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A No.

Q As a matter of fact, on the contrary, isn't it true that any activities in which you or any other member of the NAACP have participated in the Albany Movement has been as an individual?

A That's correct.

THE COURT: Anything further from this witness?

MR. KELLY: Give us just a minute, Your Honor please.

RE-CROSS EXAMINATION

BY MR. LEVERETT:

Q I hand you a document marked PLAINTIFF'S EXHIBIT --

MR. HOLLOWELL: May we see what this document is?

MR. LEVERETT: I held it up and got no response.

(Document tendered to opposing counsel)

Q I hand you PLAINTIFFS' EXHIBIT #1 and ask you to take a look at it?

MR. HOLLOWELL: I didn't hear the question.

Q Mr. Leverett: I say, I hand you PLAINTIFFS' EXHIBIT #1 and ask you to look at it, and ask you if you recognize it?

A (Witness reading document) . . .) . . .

Q Does that appear to be the signature of Dr. W. G. Anderson?

A It appears to be.

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CLAUDE JOINER REPORTING SERVICE

1 Q Does that appear to be the signature of M. S.
2 Page?

3 MR. HOLLOWELL: May it please the Court, those
4 are not original documents and I submit, as I see it
5 here, this is some mimeographed copy.

6 MR. LEVERETT: I believe a mimeographed copy
7 comes within the rule.

8 MR. HOLLOWELL: You asked him does that appear to
9 be the signature, the signature; and the instrument
10 shows for itself that it is a mimeograph and not
11 original or an original duplicate copy.

12 MR. LEVERETT: May it please the Court, I think
13 under the procedures of making mimeographed signatures,
14 it would be the signature.

15 MR. HOLLOWELL: Not where there has been no expla-
16 nation as to where the original is.

17 THE COURT: Well, the question was addressed
18 to the witness and the witness has already testified
19 that "Yes, that does appear to be". So, I think it is
20 up to the witness and not counsel to decide that. The
21 witness says that appears to be the signature.

22 Q Mr. Leverett: I hand you PLAINTIFFS' EXHIBIT 2
23 and ask you to look at that?

24 A What? The whole thing or what?

25 Q Do you recognize that document?

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MR. HOLLOWELL: I cannot hear the witness nor the attorney.

A The Witness: What did you want me to read?

Q Mr. Leverett: Just to familiarize yourself with generally what it is? Do you know what that document is?

MR. HOLLOWELL: May it please the Court, the document speaks for itself.

THE COURT: Well, he's asking him whether he knows what it is. He's not asking him what is in the document; I would sustain an objection to that if it reaches that point, but the question is, does he know what the document is.

Q Mr. Leverett: Do you recognize it?

A What do you mean when you say, do I recognize it?

Q This document says at the top, "The Student Voice, Albany, Georgia", I ask you isn't this a publication that was published and distributed by the Albany Movement?

A Not officially.

Q What do you mean by "not officially"?

A By a group of individuals.

Q Who are those individuals?

A Most of them are students. I don't know them all.

Q Students?

A Yes.

Q Where does the money come from to pay for the cost

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CLAUDE JOINER REPORTING SERVICE

1 of preparing and distributing this document?

2 A Much of it was given to them.

3 MR. HOLLOWELL: May it please the Court --

4 MR. LEVERETT: May it please the Court, this
5 witness was about to answer and the attorney has no
6 right to direct him and lead him as to what his answer
7 should be.

8 MR. HOLLOWELL: May I suggest that this is a court
9 where counsel has a right to state his objections before
10 an answer is made; that's the purpose of it. There has
11 been no testimony by this witness that this was a
12 document or a publication which was published by the
13 particular organization that it has been said here that
14 he represents; and that being the case, sir, there has
15 been no testimony relating to any financing from this
16 organization and, if it was from some other organiza-
17 tion, it would not be relevant. I submit, therefore,
18 that there has been no sufficient foundation and that
19 the question should be stricken.

20 THE COURT: Well, he testified that individuals
21 distributed it and now the question is who financed it.
22 I think it's a proper question, if he knows.

23 A The Witness: I assume it was free-will
24 donations mostley.

25 MR. HOLLOWELL: Then, we ask that that be stricken,

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1 Mr. Hollowell:

2 as it is merely an assumption.

3 THE COURT: Yes, we don't want any assumptions.
4 We want what is within the witness' knowledge. If the
5 witness knows where the money came from, he's under oath
6 to testify about it, to that effect; if he doesn't know,
7 we don't want him guessing. He says it was distributed
8 by individuals who are members of his organization and
9 counsel is presuming that he knows something about it.

10 MR. HOLLOWELL: May it please the Court, I don't
11 recollect there being any testimony to the effect that
12 it was published by members of his particular organization.
13 I don't believe there was.

14 THE COURT: I understood his answer to that
15 question to be that it was not distributed by the
16 Albany Movement but by individuals who were members of
17 it.

18 MR. HOLLOWELL: I don't remember anything relating
19 to the Albany Movement. There was no such testimony,
20 to my knowledge.

21 THE COURT: I may be mistaken.

22 MR. HOLLOWELL: It was individual students.

23 THE COURT: Well, suppose we ask him again
24 and let's get it clear.

25 A The Witness: I so stated that it was by individual

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1 students. I did not say anything about the Albany Movement.
2 Most of them were students who went to Albany State College
3 who did the printing of it each week.

4 Q Mr. Leverett: Where was this mimeographing done,
5 do you know?

6 A Yes, I do. It was done in the Student Non-Violent
7 Coordinating Committee office at 414, I believe it is, South
8 Jackson.

9 Q The Student Non-Violent, what is that committee
10 again?

11 A SNVC (SNVC).

12 Q And are any of the - give me the names of the
13 particular people who prepared this, do you know?

14 A There was Miss Ruthie Harris, Miss Bernice Johnson,
15 quite a few students. I wouldn't know them all by name.

16 Q Are they also members of the Albany Movement?

17 A We have no formal membership. We consider most
18 of the Negro community members of the Albany Movement.

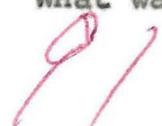
19 Q Are they members of the Negro community?

20 A They are Negroes. That's the way you classify them,
21 I believe.

22 Q No, that's the way you classify them: I asked you --

23 MR. REEVES: He's arguing with the witness, Your
24 Honor please.

25 THE COURT: What was the objection?



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MR. REEVES: He's arguing with the witness.

MR. LEVERETT: The witness is arguing with me, if it please the Court.

THE COURT; Let's keep everything cool, calm and collected now.

Q Mr. Leverett: Do you know whether any of these documents were passed out at any meetings of the Albany Movement?

A They were passed out occasionally.

Q Where were they - excuse me, go ahead?

A Not every week but they were passed out occasionally

Q Where were the meetings of the Albany Movement usually held?

A They are held at black churches all over the City.

Q At what kind of churches?

A At black churches all over the City.

MR. LEVERETT: Let's see, I want to identify this.

MR. HOLLOWELL: Is that the same one?

MR. LEVERETT: No, a different date.

MR. HOLLOWELL: A different date; it is not being tendered; you just want it identified?

MR. LEVERETT: No.

Q I hand you PLAINTIFFS' EXHIBIT 3 and ask you to look at that?

A Allright. (Witness reading document) . . .

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1 Q Does that also appear to be another copy of The
2 Student Voice?

3 A It appears to be.

4 Q The same document except a different date as
5 PLAINTIFF'S EXHIBIT #2, that you just looked at?

6 A I assume so.

7 MR. HOLLOWELL: Is that PLAINTIFFS' EXHIBIT 2 for
8 identification?

9 MR. LEVERETT: Beg pardon?

10 MR. HOLLOWELL: Which is Plaintiffs' Exhibit 2 for
11 identification?

12 MR. LEVERETT: #2 is March 5 and #3 is February 19.

13 MR. HOLLOWELL: I mean what we're getting at, Mr.
14 Leverett, is that they are not exhibits yet but they
15 are simply marked for identification.

16 MR. LEVERETT: That's right. He's with you.

17 THE COURT: Anything further from this witness?

18 You may go down.

19 MR. REEVES: Just a moment --

20 MR. HOLLOWELL: On these two items here marked
21 P-2 and P-3, you don't know as a matter of fact, that
22 these particular documents were distributed, do you?

23 A The Witness: No, I don't.

24 MR. HOLLOWELL: Or that copies of them as such were
25 distributed at any of the mass meetings, as a matter of
fact, do you?

P3

1 A The Witness: No, I don't.

2 RECROSS EXAMINATION

3 BY MR. LEVERETT:

4 Q But you do know that the document or a document
5 entitled "The Student Voice" was published as you have
6 and stated at various times was distributed at these meetings
7 though, do you not?

8 A Sometimes.

9 Q Come down.

10 THE COURT: Allright, you may go down.

11 MR. LEVERETT: Call Mr. Laurie Pritchett.

12 -----
13 MR. LAURIE PRITCHETT

14 witness called by Plaintiffs, being first
15 duly sworn, testified on

16 DIRECT EXAMINATION

17 BY MR. LEVERETT:

18 Q State your full name, please sir?

19 A Laurie Pritchett.

20 Q Where do you live, Mr. Pritchett?

21 MR. HOLLOWELL: I am sorry, sir, and I apologize
22 after you had gotten started, but I believe the Court
23 had indicated that he was going to rule after he
24 determined whether he tied that in. I didn't know
25 whether he had reference to tying in during the process
of examination of Mr. Slater King or at some time during
the trial; and if the Court had reference to at that time

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1 Mr. Hollowell:

2 then I wanted to be sure that we raised our objection
3 as of now rather than wait until later.

4 THE COURT: I interpreted counsel's statement to
5 mean at some time during the course of the trial of
6 Plaintiffs' presentation.

7 MR. HOLLOWELL: Then, we will address it to Your
8 Honor later.

9 Q Mr. Leverett: What is your address, Mr. Pritchett?

10 A I live at 1922 Lake Ridge Drive in the City of
11 Albany.

12 Q How long have you lived in the City of Albany?

13 A Since June of 1959.

14 Q What is your official position now, if any?

15 A Chief of Police of the City of Albany.

16 Q How long have you served in that position?

17 A Since June of 1959.

18 Q Prior to that time what did you do?

19 A I was Chief of Police in the City of Newnan, Georgia.

20 Q For how long?

21 A February of '56 until June of '59.

22 Q Prior to that time what did you do?

23 A I was employed by the City of Griffin in the
24 capacity of police officer with the rank of Captain.

25 Q How long have you been engaged in law enforcement

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work?

A For the last almost 14 years.

Q Chief Pritchett, have you served as Chief of the Albany Police Department during the time that the Albany Movement began its or since its formation in Albany?

A Yes, I have.

Q Do you know approximately when it first started, when it was formed in the City?

A I don't know exactly when it was formed. The first I knew of it was in October of last year, 1961.

Q During the time that you have served as Chief, have you directed the activities of the Albany Police Department with reference to the activities of the Albany Movement?

A Yes, I have.

Q Are you familiar with the leaders and the members of the Albany Movement?

A Yes, I am.

Q Do you know who is the President of the Albany Movement?

A Dr. W. G. Anderson.

Q And who are the other officers of the Albany Movement?

A Slater King is the Vice-President, Bo Jackson is the Treasurer, Marion Page, Secretary I think it is;

PC

1 and they have various other members of the Executive Com-
2 mittee, large numbers.

3 Q M. S. Page, is he a resident of Albany, Georgia?

4 A Yes, he is.

5 Q And Dr. W. G. Anderson, do you know whether or not
6 he's a resident of Albany?

7 A He's a resident.

8 Q Now, do you know Charles Jones?

9 A Yes, I do.

10 Q Where does he reside?

11 A His home, legal residence, is in Charlotte, N. C.
12 He makes his residence here while he's been here on Hopkins
13 Street in the City of Albany.

14 Q What, if any, organization or association is he
15 connected with?

16 A He is a field representative of the Student
17 Non-Violent Coordinating Committee.

18 Q Do you know whether or not, is he their highest
19 representative or chief representative in Albany or do they
20 have other representatives above him?

21 A At times I think Charlie Jones is the head one
22 here. He has others here who join him.

23 MR. HOLLOWELL: Now, we would ask that that
24 be stricken, inasmuch as the Chief says "I think".
25

THE COURT: Yes, Chief, just testify about what
you know.

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2 A The Witness: To the best of my knowledge, he
3 is the head of the Student Non-Violent Coordinating Com-
4 mittee in Albany, Georgia.

5 Q Mr. Leverett: All right, sir, do you know Dr.
6 Martin Luther King, Jr.?

7 A Yes sir, I do.

8 Q Has he been in Albany in the last - well, since
9 the Albany Movement was formed?

10 A Off and on since the Albany Movement was formed.

11 Q Do you know how often he's been here?

12 A Quite frequently.

13 Q What is his position with any particular organiza-
14 tion, to your knowledge?

15 A He is the President of the Southern Christian
16 Leadership Conference.

17 Q Now, do you know Doctor or Reverend Ralph T.
18 Abernathy?

19 A Yes, I do.

20 Q And what is his residence, do you know?

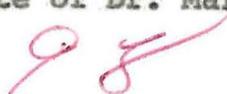
21 A His residence is in Atlanta, Georgia.

22 Q And I ask you whether or not he has been in
23 Albany frequently since the formation of the Albany Movement?

24 A Yes, he has.

25 Q Who is Rev. Wyatt T. Walker?

A He is associate of Dr. Martin Luther King in the



1 Southern Christian Leadership Conference.

2 Q Do you know what his residence is?

3 A Atlanta, to the best of my knowledge.

4 Q Now, I ask you whether or not he has also been
5 in Albany on occasions since the Albany Movement was formed?

6 A Yes, he has.

7 Q Chief, during the time that the Albany Movement
8 has been active in Albany, I ask you whether or not it has
9 conducted mass marches, involving groups of people marching
10 down the public streets of Albany?

11 A Yes, it has.

12 MR. HOLLOWELL: Now, if it please the Court, we
13 object to that unless counsel indicates what he
14 construes, not only to be a march, but also as to
15 when, where and at what time.

16 MR. LEVERETT: We're going into that, May it
17 please the Court.

18 THE COURT: I anticipated probably that counsel
19 was simply laying the predicate for some more particular
20 questions about dates and times and places; and unless
21 he does, then I will strike the answer to this question.

22
23 Q Mr. Leverett: Chief, do you recall when the first
24 such what you would consider major march or demonstration
25 conducted by the Albany Movement, do you recall when that
took place?



1 A It taken place on December 12, 1961, at approxi-
2 mately 10:00 A. M. inthe morning.

3 Q All right sir, would you tell in your own words
4 what happened on that occasion?

5 A On that occasion in December, ~~at~~ Mt. Zion and
6 Shiloh Baptist Church, Mt. Zion Methodist Church, I think
7 it is, located on Jefferson and Whitney, was the location
8 of the mass meetings; and a group of 267 Negro people
9 marched from these two churches, which is approximately
10 6 or 8 blocks from the city hall, marched out of the church,
11 marched east on Whitney to Jackson, north on Jackson to
12 Pine, and east on Pine to the city hall, in large - in a
13 group of 267 people.

14 Q Did speeches or any services precede this march
15 at those two churches?

16 MR. HOLLOWELL: Now, may it please the Court,
17 I ask him not to lead the witness. This is his witness.
18 He's not on cross-examination.

19 THE COURT: That's right. I think the proper
20 question would be, Mr. Leverett, what, if anything,
21 did precede the march, without suggesting anything to
22 him.

23
24 Q Mr. Leverett: All right, I will re-state the
25 question:

A There was a meeting at these two churches and there

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1 was a large - this meeting went on for maybe two hours or
2 better before this march originated and left there.

3 Q Do you know who was present of the Defendants
4 in this case? Were any of the Defendants present?

5 A Yes.

6 Q Will you name them?

7 A Dr. Anderson, W. G. Anderson was there at this
8 meeting; Marion Page was at this meeting and Slater King.

9 Q All right sir, go ahead and tell what happened,
10 Chief?

11 A We knew when they come out, we had detectives
12 downthere who came with this march. It was accompanied by
13 large groups of Negro citizens and they marched two-abreast,
14 maybe less than a foot apart up the street, sidewalks,
15 blocking the sidewalks completely, blocking the street as
16 they crossed it where the string was so long and continuous
17 that the cycle of the light, traffic light, would change
18 and the march would continue.

19 They were stopped at the City Hall, questioned
20 as to their - as to what their business was, as to whether
21 or not they had a permit to have this demonstration or
22 parade. They did not. They were asked to disperse and go
23 about their normal ways of life, to clear the streets and
24 cooperatè with us; and they refused to do so, and they
25 were arrested.

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Q Do you know who was leading the march?

A I can't recall who was leading the march at this time, no.

Q Were any of the Defendants present in court today participating in the march?

A These Defendants have participated in a lot of them, in more than one, and it's hard to -- I don't think that any of these present now were in the first march, no.

Q I believe you stated that two of the Defendants were present in the church?

A That is correct.

Q Do you know whether or not either of those Defendants made any addresses or speeches to the marchers in the church prior to the march?

A Only what was told to me, but not to my own knowledge.

Q Not to your own knowledge?

MR. HOLLOWELL: May it please the Court, we would have to move, on the basis of this, to strike that.

THE COURT: He so stated. He said he didn't know of his own knowledge. He gave no answer. If he did give one, I sustain the objection to it and order it stricken but I do not recall him identifying anybody. He said "only what was told to me" and he didn't call any names.

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1 _____ Q Mr. Leverett: Chief, do you recall whether or
2 not any announcement was made in advance by the marchers
3 of their intention to march?

4 A Made to me?

5 Q Either through the news media or to you?

6 A Not to my knowledge.

7 Q Now Chief, I ask you whether or not you were
8 required to block off the streets in order to permit these
9 people --

10 A After this march --

11 MR. HOLLOWELL: We object to this leading of
12 the witness, Your Honor.

13 MR. LEVERETT: "Whether or not", may it please
14 the Court, I believe has been held by the Georgia
15 Supreme Court not to be leading.

16 MR. HOLLOWELL: I think that he should ask what
17 he did, Your Honor; and this equivocation here, we
18 submit, is improper on direct examination of his own
19 witness.

20 THE COURT: Well, whether or not he blocked the
21 street off. I think it's just a simple question or
22 whether he did or did not do a thing. I don't consider
23 that - if it is leading, it is of such a nature that
24 I'm going to allow it.

25 A The Witness: Yes, we did. In these marches of all

1 of these masses of people --

2 Q Mr. Leverett: This particular one I had reference
3 to?

4 A In this march it necessitated the blocking off
5 of streets; it necessitated the use of all of my personnel,
6 numbering at that time 65; it necessitated bringing in
7 all of this personnel to control the crowds which had
8 gathered and to keep the peace and quiet.

9 Q On this particular occasion, which is December
10 12, how many patrol cars did you have or mobile units,
11 did you have on the scene to direct activities near the
12 scene of the march?

13 A We had all of our personnel assigned to this
14 march. We only had one patrol car to answer all calls
15 in the City of Albany. Everything else we had was assigned
16 to this demonstration.

17 Q Normally, under normal circumstances how many
18 patrol cars and motorcycles would you have had assigned to
19 other areas of the City, other than this particular area?

20 A Under normal conditions we would have had at
21 least 8 cars and 5 motorcycles running at all times.

22 Q And how many did you say you actually had on
23 this occasion?

24 A One.

25 Q Do you recall whether or not you received any

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1 complaints of law violations in other parts of the City
2 during this time?

3 A Yes, we did.

4 Q Were you able to attend to those complaints
5 with the forces that you had, with the one car, in the
6 other areas?

7 A No, we were not able to attend to this as
8 sufficiently as we should have.

9 Q Now Chief, did I understand you to say that
10 these marchers marched across the intersections where the
11 lights were and the lights changed and they observed the
12 red lights and stopped?

13 A The march would continue on its way.

14 Q Did they block traffic on a red light facing them?

15 A Definitely.

16 Q Chief, how many people started out on the march,
17 do you know approximately?

18 A No, I don't know approximately. They've had ^{at} those
19 two churches at the time of the marches as high as 1500 to
20 2000 people in both churches and around the immediate area,
21 and larger groups would leave but thin out before they got
22 to town. The biggest group that we had consisted of 267
23 people.

24 Q Before or by the time the groups arrived at the
25 City Hall, had any other marchers joined them?

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1 A It's possible that some could have joined them
2 coming through the south part of town.

3 MR. HOLLOWELL: Now, may it please the Court,
4 "it is possible that some others may have joined
5 them", we submit that this would be a complete conclusion
6 of the rankest order and that it should be stricken.

7 THE COURT: Yes, I sustain that objection.
8 If the witness knows, he can so state.

9 A The Witness: Not to my knowledge, no.

10 Q Mr. Leverett: Chief, did any of the marchers -
11 let me ask you this: How did they behave themselves?

12 A They were singing different songs, freedom songs,
13 during their marches.

14 Q Did they make - were they making much noise?

15 A They were - you take 267 people singing, there's
16 quite a bit of noise.

17 Q And what did they do when they got to the City
18 Hall?

19 A They continued to sing.

20 Q Did they stand out there or did they continue to
21 move or just what?

22 A No, once on failure to disperse and once they were
23 placed under arrest, they continued to sing marching into
24 jail, while the booking and processing was going on.

25 Q Did you make any statement to them yourself?

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1 A Yes, I did.

2 Q What did you say to them?

3 A I asked them their intentions, I asked them if
4 they had permission or written permission or any permission
5 from the City Manager or from the City Commission. They
6 told me that they did not; they said they were coming to
7 the City Hall to pray and to demonstrate. They were told
8 that they had no permit, that they were in violation of
9 City ordinances, that they were congregating on the side-
10 walks, blocking the sidewalks, blocking the flow of traffic;
11 and I asked them to disperse and go about their normal ways
12 of life and no one would be arrested if they dispersed
13 and went about their own ways. They refused and they were
14 placed under arrest.

15 Q Were any threats made at that time, on this first
16 occasion by anybody -- in the group?

17 MR. HOLLOWELL: May it please the Court, he began
18 to tack on, I thought he was through; I would like to
19 hear the question again before I offer my objection.

20 MR. LEVERETT: I asked were there any threats made
21 by any members of the group at this time?

22 A The Witness: By the members of the marchers?

23 e Yes sir?

24 A No threats were made.

25 Q Chief, was this at night or was this in the day?

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A This was at 10 o'clock in the morning.

Q 10 o'clock in the morning?

A Yes.

Q I ask you whether or not on this occasion you were required to close any business establishments in the path of the march?

A Not on this occasion, no.

MR. HOLLOWELL: May it please the Court, here again, I submit that he's leading the witness; and I submit further that counsel knows better. This is his witness.

MR. LEVERETT: May it please the Court, I state again I believe the rule is that a question preceded by whether or not is not a leading question.

THE COURT: Well, as I interpret it, as I interpret the situation, Hollowell, it is simply a means of expediting the examination of the witness; and I don't think it's so suggestive as to have to be objectionable in the circumstances. I'm going to allow the question. As a matter of fact, he's already answered the question that he did not do so on this occasion.

Q Mr. Leverett: Chief, the parties participating in this march, what was their race?

A Their race, they were Negro citizens here. I think

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1 in this first one it was a mixed - no, we had no white
2 people involved in the first one, I'm pretty sure. We've
3 had so many marches it's hard to tell. But in this first
4 march of 267, they were Negro people of Albany and surround-
5 ing area.

6 Q Were there any, did any other people congregate as
7 observers or --

8 A We had great numbers of white people who were
9 onlookers and this was what created the problem of us -

10 MR. REEVES: Objection, Your Honor. The answer
11 is going beyond the question. The question was, were
12 there people standing there and he's now going into
13 some opinion about something else, which is not res-
14 ponsive to the question.

15 THE COURT: I wasn't following his answer too
16 closely and I'm not sure whether the objection is good
17 or not. Mr. Reporter, will you read the question and
18 the answer up to the point of the objection.

19 THE REPORTER: "Question: Were there any, did
20 any other people congregate as observers, or --

21 Answer: We had great numbers of white people who
22 were onlookers and this was what created the problem
23 of us -- "

24 THE COURT: I think that's responsive to the
25 question, were there other people congregating there.

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1 MR. REEVES: Congregating, that part certainly;
2 but it's where he's going from there, that I object to.

3 THE COURT: Well, of course, I don't know
4 where he's going, but so far his answer is responsive,
5 I think, to the question.

6 A The Witness: And during these demonstrations
7 there were great numbers of white people --

8 MR. HOLLOWELL: May it please the Court, which
9 demonstration. He says "these demonstrations". We're
10 talking about a particular situation.

11 THE COURT: All right, identify the demonstra-
12 tion that you refer to.

13 A The Witness: This is on December 12. I thought
14 that was the only one we were speaking of.

15 MR. HOLLOWELL: Then, it couldn't have been "these".

16 THE COURT: As I understand it now, the
17 testimony relates to December 12?

18 A The Witness: Yes sir. On December 12 during
19 this demonstration, there was large numbers of white people
20 and large numbers of Negro people both gathered observing;
21 large groups, which necessitated the use of all of our men
22 and our personnel, of not only my department but the
23 Department of the Sheriff and the County Police under my
24 direction, to see that nothing happened, that peace and
25 order was preserved during these marches. At one time during

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1 this march, this one march, the only thing that separated
2 large numbers of people, Negro people and white people,
3 was Oglethorpe Avenue, where approximately a thousand was
4 on one side and approximately a thousand or better on the
5 other side.

6 Q On this occasion?

7 A That's correct.

8 Q All right, was anything said by either of the
9 groups that congregated there?

10 A There was harrassment hollered at the police
11 officers and --

12 Q By whom?

13 A By the Negro people gathered around the Trailway
14 Bus Station on the corner of Oglethorpe and Jackson Avenue.

15 Q What did they say, do you remember some of the
16 things they said?

17 A There was such things as "Send down Big Red to us",
18 who is a police officer, referring to Officer Grady Wills;
19 and other things that I can't remember, other phrases, other
20 statements.

21 Q In what tone of voice was these statements made?

22 A They were in loud voices.

23 Q Were they threatening, were they made in a threaten-
24 ing manner or were they made in a quiet tone?

25 MR. HOLLOWELL: Now, may it please the Court, he

///

1 Mr. Hollowell:

2 asked him what was the tone of voice but now he's
3 attempting to lead the witness again, instead of asking
4 him what was the tone of voice or how was it said.

5 THE COURT: Yes, I think so. Ask him in that
6 manner, M r. Leverett.

7 _____ Q Mr. Leverett: Chief, do you know whether or not
8 any threats were made by either side at this time?

9 A The only threats or intimidations were insults
10 to the police officers from one side of the street to the
11 other side, which were loud boisterous tone.

12 Q Chief, what, if anything, did you do as a result
13 of this situation that developed as you've described it?

14 A These crowds were dispersed by members of the
15 Albany Police Department and by law enforcement officers
16 under my direction. All of it was dispersed and put back
17 to normal conditions after the arrests were made.

18 Q Was the situation changing as time went on or
19 was it getting any better or any worse?

20 A During this demonstration, this one march that
21 we had that we're speaking of here, it taken about an hour,
22 or I would say an hour and a half to disperse and get things
23 back to normal on the streets, get the traffic flowing
24 normally and opening the streets back up on this particular
25 march.

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1 Q Chief, was the - I withdraw that - All right, Chief,
2 what was the next, or first let me ask you this: Were there
3 any other similar marches conducted after that time?

4 A Yes, there were.

5 Q When was the next one that you recall?

6 A The next one was on December 13, 1961 at approxi-
7 mately 6:50 P. M.

8 Q All right sir, now where did it start?

9 A It originated in the same location, Mt. Zion and
10 Shiloh churches.

11 Q Who were down there at that time?

12 A Now, to answer that question, I couldn't -- the
13 only thing I know is what was told to me, and I can't say
14 exactly who was down there.

15 Q All right sir, now go ahead and tell in your own
16 words what happened?

17 A Basically the same thing that happened on the
18 first one, only they were not - they were met closer to the
19 Harlem or the colored section of town; and after they left
20 these two churches. And they were stopped at the intersection
21 of Broad and Jackson and inquired as to the same method, as
22 to whether or not they had a permit. They were told that they
23 were in violation of City ordinances; told that they were
24 in violation of the ordinances pertaining to blocking the
25 sidewalks and blocking traffic and creating a general

1 disturbance in the uptown area of the City of Albany, and
2 were asked to disperse and go about their normal ways. Upon
3 being refused to disperse, they were all arrested.

4 Q Were any of the Defendants in this group at this
5 time?

6 A Not to my knowledge, not in this one.

7 Q Do you recall how many people were involved in
8 this march, Chief?

9 A It was in excess of, it was more than 100, in
10 excess of 100. It was probably 150 or 175, I'm not exactly
11 sure, I can't say, but it was between 100 and 200.

12 Q Were there any other people who congregated on the
13 scene along the path of the march?

14 A Great numbers of both races, white and Negro
15 gathered as they did in the other.

16 Q Do you know how many people were involved in
17 the congregation on the side there?

18 A I would say maybe - I would say 2,000 or better
19 of both races.

20 Q All right sir; now, what was the nature of the
21 conduct of the crowd at that time?

22 A It was, in this second one the tension had gained
23 somewhat and it still necessitated the use of all of my
24 forces, along with other forces supplementing me and they^e
25 were still remarks issued at my officers.

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1 Q What sort of remarks?

2 A Insulting remarks, remarks of different nature.

3 I can't recall these remarks. They were insults. My officers
4 have been insulted on many occasions.

5 Q What area of town did the colored people come from
6 that were on the side, that you say were engaging in this?

7 A Large numbers were assembled or gathered at the
8 intersecgion of Jackson Street and Oglethorpe Avenue, which
9 is located in the south part of town, in the vicinity of the
10 Trailways Bus Station, large numbers on the south side of
11 Oglethorpe.

12 Q In which direction did they come from to arrive
13 there?

14 A They came from the south section of Haflem.

15 Q Do you know whether or not any of them had been
16 down at the church just before the march started?

17 A I would say that some had been at the church.

18 Q Do you know?

19 A I know that some were at the church, yes.

20 Q Now, what, if anything, did you do when the
21 marchers came up the street?

22 A They were placed under arrest for the charges
23 that I have mentioned previously. Then, the crowds were
24 kept moving, the people were kept moving, to cooperate with
25 the enforcement officers. And at that time, at that time of

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1 night, it's a busy time; it's the time of people coming from
2 work and going from work from one side of town to the other.
3 There were a great number of cars that necessitated probably
4 2 to 2½ or 3 hours to get the normal flow of traffic and
5 the normal business back to normal conditions in the City
6 of Albany.

7 Q Chief, what about this group, did they abide by
8 traffic signals?

9 A At the beginning when the first ones went across,
10 they went across on a green light but the lines were so long
11 that the interchange of the lights, they did not stop, they
12 continued their march.

13 Q Chief, were the streets blocked off?

14 A Yes, they were.

15 Q On whose order?

16 A Upon my order.

17 Q Will you tell the Court why?

18 A The streets were blocked because we wanted to keep
19 people out of the area for the protection of these people
20 and other people because of the congestion and the situation
21 which we had in the City of Albany at that time. It was
22 winter time; it was dark or beginning to get dark at this
23 hour, and it necessitated the closing off of the uptown
24 area, so we could handle and afford these people the protec-
25 tion which we had to and to afford the protection of the

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1 onlookers, to see that they were kept moving. And this is the
2 reason we blocked off the uptown area.

3 Q How far did the crowd of people that were on the
4 side, how far up the street did they extend, up Jackson
5 Street, I believe it is?

6 A Well, at one time there I would say from Oglethorpe
7 Avenue to Pine Street or to the north end, to the north side
8 of Pine, that the crowds were not stopped but moving upon
9 the direction of the officers. But it was a complete mass of
10 people that were trying to go about their normal way of
11 life.

12 Q Did you block the street off just to vehicular
13 traffic or to pedestrian traffic too?

14 A We blocked it off for everything to facilitate
15 the moving of these marchers into the City Hall.

16 Q Did you give the marchers and the people on
17 both sides of the street, did you or your officers give
18 them any directions as to what to do?

19 A Yes, we did.

20 Q What directions did you give them?

21 A The marchers were given the opportunity to
22 disperse and go about their way. They refused to. They
23 were placed under arrest and all of the onlookers and
24 people who had gathered in large numbers were given the
25 orders to disperse and move about their business, to keep

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1 moving; and these citizens of both races, Negro and white,
2 answered the command of the officers by doing so.

3 Q Was that before or after the arrests were made?

4 A It was before and after.

5 Q Chief, on any occasions when you arrested any of
6 these marchers, did you ever find any weapons on any of them?

7 A The first march that we had, after --

8 Q Now, which date, let's get the date?

9 A This was on the 12th. After the first march we
10 put them into this alley right adjacent to the City Hall.
11 After we had booked them, there were large numbers of
12 knives picked up in the area which were dropped there by
13 these people.

14 Q Do you know whether or not these knives were there
15 before these marchers came in?

16 A No, they wasn't. We had cleared the alley com-
17 pletely of anything, so we would have room to facilitate
18 the booking of these prisoners.

19 Q Chief, how many mobile units did you have on the
20 job in the area where the demonstrations had taken place on
21 this occasion?

22 A We had, the motorcycles were riding, but they --

23 THE COURT: Which date?

24 A The Witness: On the second occasion. We had
25 motorcycles, one motorcycle riding the downtown area to help

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1 the people, help the traffic afterwards; but during the
2 marches we still only had one vehicle, which was subject to
3 call and to answer all the calls that the Albany Police
4 Department normally does receive.

5 Q Now, under normal circumstances how many mobile
6 units would you have?

7 A We would have 13 to 14 units at all times.

8 Q During this occasion were any complaints received
9 from other parts of the City?

10 A Yes, there were.

11 Q And were you able to handle them all right?

12 A Not as efficiently as we would have.

13 Q Now Chief, you stated a while ago that you had to
14 block off the streets, was this at night time? Were any of
15 the business establishments closed in that area?

16 A On the last march, which was December 17, it was
17 on a --

18 Q Before we get to that, about this 13th, this
19 December 13th?

20 A There were no businesses closed on that march.

21 Q Chief, would you describe the situation that
22 developed on the 13th as a result of the march and the
23 gathering of groups of people on the streets there?

24 A It was a tense situation. It was a tense climate
25 which existed during these marches. It interrupted the

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1 normal activities of the City of Albany and its people,
2 and it was a tense climate which prevailed at that time
3 and it taken all of the facilities of all of the law
4 enforcement located in Albany and Dougherty County to
5 see that nothing happened.

6 Q Based on your experience as a law enforcement
7 officer and your appraisal of that situation, will you
8 state whether or not the situation of mob violence was
9 about to erupt?

10 MR. HOLLOWELL: If it please the Court, there has
11 been no statement or foundation that would justify
12 any such conclusion as that being given, nor has there
13 been any testimony that he is an expert on violence,
14 mob violence, that he's a psychologist or can read the
15 minds of people or a phrenologist and can read the
16 heads and faces of people; and I submit that it would
17 be completely a conclusion.

18 MR. LEVERETT: He's a law enforcement officer,
19 may it please the Court, and he was on the scene, and
20 I think this qualifies him as an expert.

21 MR. HOLLOWELL: It would be completely speculative.

22 THE COURT: Well, he testified initially that
23 he's been a law enforcement officer for a number of
24 years and occupied various ranks in doing police work,
25 a man of extensive experience. I think he's qualified to

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1 The Court:

2 give an opinion as to what the dangers inherent in a
3 situation are from a policeman's viewpoint.

4 MR. HOLLOWELL: May it please the Court, we have
5 policemen who do nothing but stay in the office and
6 we have policemen who are administrative law men; and
7 we have had no testimony to the effect that this
8 particular policeman or police officer has at any time
9 had any occasion in which he was involved in any such
10 matter, upon which he could base a conclusion. That
11 would be speculative as he is being asked here to
12 relate.

13 THE COURT: Well, don't you think that all the
14 experience that he's had here in Albany in the last
15 8 or 10 months would support an opinion?

16 MR. HOLLOWELL: At that time, there is no testimony
17 that even as of that time there had been any.

18 THE COURT: Well, he's asking him the question
19 now about what his opinion is, whether at that time
20 there was such a situation.

21 MR. HOLLOWELL: There is none even that is in the
22 testimony now; there's none in the record.

23 MR. LEVERETT: May it please the Court, I think a
24 man that's been a law enforcement officer this long,
25 been chief of police and who's testified that he's been

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1 Mr. Leverett:

2 in on these two situations, I think that his qualifica-
3 tions as an expert duly qualify him.

4 MR. HOLLOWELL: He has been Chief of Police in
5 this City for three years, three years. He was Chief
6 of Police of Newnan, Georgia, for a period of three
7 years. And certainly that does not qualify one to draw
8 these kind of conclusions, unless there is some founda-
9 tion.

10 THE COURT: Well, at Griffin, Georgia too, I
11 believe. I think a man with his experience -- it would
12 be different if the man was new in police work; but I
13 think a man who's had the years of experience that
14 Chief Pritchett has had is qualified to have an opinion
15 and to testify concerning it, as to what in his judgment
16 in his view as a police officer, based upon his exper-
17 ience, what the potential was in a situation.

18 MR. HOLLOWELL: I submit, Your Honor --

19 THE COURT: But, of course, that is only his
20 opinion and it does not exclude the possibility of
21 somebody else testifying to the contrary as to their
22 opinion. It is simply opinion evidence.

23 MR. HOLLOWELL: I submit that but since what we
24 are complaining of is that the opinion evidence would
25 not be relevant here and would be a conclusion, it,

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1 Mr. Hollowell:

2 therefore, should be stricken. I say there would have
3 to be a sufficient basis or background laid or founda-
4 tion laid to permit him to testify as an expert police
5 officer. I mean, one might be a police officer for 50
6 years and it still would not qualify him to make the
7 kind of determination that he's being called upon to
8 make. There has been no foundation laid.

9 MR. LEVERETT: I can clarify that, may it please
10 the Court with another question or two.

11 Q Chief Pritchett, have you in your police work
12 in Albany and other cities, have you had occasion to
13 deal with large groups of people?

14 A Yes, I have.

15 Q Would any of that experience extend to situations
16 involving tense situations where large groups of people are
17 congregated and the problem arises of preserving the public
18 peace?

19 A Yes, it would.

20 Q Where was that, please sir?

21 A In Griffin.

22 Q What type of experience did you have in Griffin?

23 A In the handling of labor situations, labor disputes.

24 Q Labor disputes?

25 A Yes, and other, telephone situations, labor disputes;

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1 large groups of people at different other occasions where
2 disorder erupted, on numerous occasions.

3 MR. LEVERETT: Now, read the question back that
4 was objected to.

5 THE REPORTER: (Reading): "Based on your experience
6 as a law enforcement officer and your appraisal of that
7 situation, will you state whether or not the situation
8 of mob violence was about to erupt?"

9 MR. HOLLOWELL: And we would renew our objection
10 on every ground that we have made because this certainly
11 does not qualify him.

12 THE COURT: I overrule the objection.

13 Q Mr. Leverett: Go ahead and answer the question?

14 A In my opinion, it was a tense situation, where
15 disorder could have erupted at any time, at any given place
16 by any group. If any little incident had happened, there
17 would, in my opinion, have been serious disorder in the City
18 of Albany.

19 Q Now, on this occasion, Chief, had you given any
20 directions to the participants involved?

21 A Yes, we had given them directions to go about their
22 business, after they were informed that they were in violation
23 of city ordinances, they were given the opportunity to
24 disperse and go about their regular ways, and refused to do
25 so and consequently were placed under arrest.

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1 Q Now, Chief, are there any other occasions of
2 comparable magnitude that you recall?

3 A On December 17 at 6 o'clock or 5 minutes after
4 6:00 in the evening, which was the last march in December,
5 '61; in which Dr. Martin Luther King and Dr. Ralph Abernathy
6 and Dr. W. G. Anderson led. This was a situation of large
7 magnitude, more so than others, because the people, the
8 normal routine, the lives of the normal citizens of Albany
9 had been aroused to such an extent that they were now coming
10 not only from the City here but from the surrounding areas
11 to look at this and anticipating these demonstrations and
12 waiting for these demonstrations to happen. And that night
13 we did close all alcoholic beverages, places who deal in
14 these.

15 Q In what areas of the City?

16 A In all areas of the City.

17 Q In all, the entire city as a whole?

18 A Yes, and the military personnel was restricted
19 to bases, both the Air Force and the Marines.

20 Q Was there a march on this occasion, Chief?

21 A Yes, there was a march.

22 Q Where did it begin?

23 A It began at Shiloh and Mt. Zion.

24 Q Do you know who was leading the march at this time?

25 A As I stated before, Dr. Martin Luther King, Dr.

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1 W. G. Anderson, Dr. Ralph Abernathy and Mrs. W. G. Anderson,
2 Dr. Anderson's wife.

3 Q How many people were involved in the march?

4 A I think it numbered 266, if I'm not mistaken;
5 might give a little or take a little.

6 Q Did you say that it started at the two churches?

7 A The same place it originated from as the others.

8 Q The same route or did they follow a different
9 route?

10 A The same route.

11 Q And started about 6:05?

12 A That's correct.

13 Q Were there any other people that congregated as a
14 result of this march?

15 A Yes, this necessitated the blocking off of the
16 entire area from Oglethorpe Avenue to Pine, and from
17 Washington to Jefferson, in order that - we felt that if
18 these great numbers of people came into the City on the
19 sidewalks, we felt that disorder would be there, that the
20 tensions were such at this time and had mounted on such -
21 on both sides, on the Negro and white, that we did not allow
22 them to come in. We met them at the intersection of Oglethorpe
23 and Jackson. They were on the west side of Jackson Street
24 headed north. The sidewalks were completely blocked by this
25 congregation. They were stopped and asked to disperse and go

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about their normal ways and refused to do so.

Q Chief, did you receive any prior notice on this occasion that this march was going to take place before it actually began?

A Yes, we did.

Q Who did you receive it from?

A We received it from the personnel of the Albany Police Department, who were on the scene, sitting outside the church and observing and seeing that nothing happened at this assembly, seeing that this information was received by them by their own knowledge and relayed to us by radio.

Q Do you know whether or not any public announcement had been made prior to the beginning of the march by anybody?

A Yes, the Albany Movement had announced for them to gather at this time and to wear their - I think this announcement was made by Dr. W. G. Anderson, who advised them to "eat a good meal, wear warm clothes and wear your walking shoes."

Q Now, where did you say you met this group?

A At the intersection of Jackson and Oglethorpe on the south side of town.

Q And what directions - first, let me ask you this: Did any of the Defendants in this case that you stated were leading the group, were they giving any directions to the group or not?

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1 A They were leading the group. They were in front of
2 them, bringing them up the street.

3 Q Now, what happened after you confronted them at
4 the intersection that you've just mentioned?

5 A They stated to me, Dr. Martin Luther King, that
6 they wanted to go to the City Hall to pray. He was advised
7 of his violations of the City ordinances, given them by name
8 and by charge, and told on three different occasions to
9 disperse and go about their way. Upon refusal on the third
10 time, they were placed under arrest and instructed if the
11 line continued, they would all be placed under arrest; and
12 at this time they continued on their way.

13 Q All right sir, now what was the attitude or
14 activity of the surrounding crowd at this time?

15 A It was very riotous; a lot of talk from both
16 sides, which necessitated at that time the State Patrol
17 had been alerted and was then under my command, the officers
18 which had been sent here, we had approximately 140 or -50
19 officers at that time; and it necessitated the use of all
20 we had, to see that the streets were kept open, that we
21 used this Oglethorpe Avenue with the influx of traffic, the
22 heavy flow of traffic, to separate one side of the street
23 from the other. And it was probably 3 to 4 hours before the
24 City of Albany returned to its normal pace after this march
25 on the 17th.

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1 Q On this occasion, Chief, did you inquire of the
2 Defendants whether they had a parade permit?

3 A Yes sir, I did.

4 Q And what did they state?

5 A They stated they did not.

6 Q When you asked them to disperse, what did they
7 state?

8 A They didn't say anything.

9 Q Who did you address your remarks to?

10 A Dr. Martin Luther King.

11 Q Was he at the head of the group or not?

12 A He was.

13 Q How were the marchers going? Were they 1, 2 or
14 3-abreast or just single file?

15 A They were 2-abreast and sometimes 3-abreast. It's
16 according to - after they began to move out, there was a
17 lot of excitement there, a lot of singing and hollering
18 and carrying on ; which necessitated the use of placing
19 them in the middle of the street surrounded by officers of
20 my department, officers of the County and Sheriff's office
21 and the use of the State Patrol.

22 Q Q How many of your mobile units did you have on the
23 job down policing this particular demonstration?

24 A At the particular time of arrest, we had none.
25 After the arrests were made and the people began to move,

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there was one car that was put back in service.

Q You didn't understand my question: How many mobile units did you have down on the scene of the demonstration?

A We had everything we had down on the scene.

Q Did you have any cars or any mobile units in other parts of the City?

A No, we didn't.

Q Do you know whether or not you had any complaints from other areas of the City?

A Yes, we did.

Q Were you able to investigate those?

A Not until approximately an hour later.

Q All right sir. Now, Chief, I don't know, did you say that you did or did not block off the streets yourself on this occasion?

A Yes, we blocked off the streets.

Q What about the traffic signals, did the group abide by the traffic signals at this time?

A After they were placed under arrest, we stopped the flow of traffic to move them; but prior to that, at the intersection of Highland and Jackson, they had waited on the light, my detectives were in this march along accompanying Dr. King as observers, to see that nothing happened on the way up; and they went across the light on a green light but a large number at Highland and Jackson

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1 necessitated the changing of the signals through the cycle.

2 Q Now, during all of this time what was the - first,
3 let me ask you this: Were there both white and colored
4 spectators and people on the sides at this time?

5 A Great numbers.

6 Q What were they doing, Chief?

7 A They were looking. The officers there, we had
8 uniform officers and we had Revenue Agents from the State
9 in civilian clothes with their badges showing mingling in
10 the crowd to keep them moving, to see that nothing happened
11 to try to keep the people in cooperation with us moving
12 and dispersing; and this was our intentions in what we were
13 attempting to do.

14 Q Now, what time of night - it started at 6:05 -
15 what time was it that you confronted the marchers and
16 stopped them?

17 A That was the time of arrest.

18 Q The time of arrest; 6:05 was the time of arrest?

19 A Yes.

20 Q On that occasion, Chief, were you required to close
21 any businesses in the area?

22 A That Saturday night we had closed all business
23 establishments which dealt in alcoholic beverages.

24 Q Will you state to the Court why you felt like you
25 should close them?

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1 A We were in a tense situation, which I felt at any
2 time could erupt into open violence in the City of Albany.

3 THE COURT: Was it dark at that time, Chief?

4 The Witness: Yes sir, it was beginning to get
5 dark, and it was a cloudy day.

6 THE COURT: 6:05, what was the date again?

7 The Witness: The 17th of December. It was a
8 cloudy day and it was beginning to - before these people
9 were booked and transported to other places, it was
10 8:00 or 9 o'clock at night.

11 Q Mr. Leverett: Chief, let me ask you this: Did
12 the marchers follow the same route on all three of the
13 occasions?

14 A On all three, on all occasions they followed the
15 same route.

16 Q What is the nature of the area in which these
17 streets are located that the marchers followed?

18 A In the south part it is almost predominantly
19 colored business establishments. As it crosses Oglethorpe
20 Avenue headed north on Pine, it is business, all business
21 establishments.

22 Q Is this in one of the main business parts of town
23 or is it residential area or what is it?

24 A It's the main business part of town.

25 Q What is the main street in Albany, in the business

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1 section?

2 A Jackson is one of the main streets.

3 Q One of the main streets?

4 A Yes.

5 Q And what about the normal traffic load on this --

6 A There was no normal traffic on this street. It
7 was completely blocked off, as was Broad Avenue, which is
8 the main business area.

9 Q Normally, is this an area of heavy traffic
10 congestion?

11 A Yes.

12 Q Now, did the people, any of the spectators,
13 were any remarks made by any of them?

14 A Remarks made on both sides, yes.

15 Q By both sides, you mean both colored and white?

16 A Both negro and white.

17 Q What type of remarks were made?

18 A Harrassing and intimidating remarks.

19 Q Do you remember exactly what some of them said?

20 A I don't remember the exact words, no.

21 Q All right sir, now any other occasions of comparable
22 magnitude, Chief, that you recall?

23 A Comparable to the last march in December?

24 THE COURT: Chief, before you go any further:

25 Is there another march in December?

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A The Witness: No sir.

THE COURT: Is that the last march in
December?

A The Witness: Yes sir.

THE COURT: Before we go any further then,
this will be an appropriate time for us to take a
recess u ntil tomorrow morning at 9:30.

5:17 P. M., JULY 30, 1962: Hearing RECESSED
9:30 A. M., JULY 31, 1962: Hearing RESUMED

THE COURT: All right, Mr. Leverett, I
believe you had Chief Pritchett on the stand yesterday
when we recessed.

MR. LEVERETT: Yes sir. May it please the
Court, subsequent to the hearing yesterday, Chief
Pritchett advised me that there were some other
witnesses that we would like to call. So, I would like
to call them at this time, so that they may be put
under the rule.

THE COURT: All right, you may call their
names.

MR. C. B. KING: If Your Honor pbeases, antecedent
to that, I respectfully request that counsel be given
an opportunity to introduce Mr. Rachlin, who is chief

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Mr. C. B. King:
counsel for CORE, a member of the New York Bar. I would like to introduce him to the Court and request that he be admitted for purposes of this hearing.

THE COURT: Glad to have you with us.

THE REPORTER: q May I ask counsel's full name and address?

MR. RACHLIN: Carl Rachlin, 280 Broadway, New York 7, N. Y.

MR. LEVERETT: May it please the Court, we call:

Al Morris

Assistant Chief J. J. Lairsey

Mr. R. V. Hammontree

R. A. Janelle

George Johnson

Charles Stanfield

Lt. B. L. Manley

Capt. J. E. Friend

Capt. Melvin R. Clegg

W. E. Sweeting

R. G. Wills

Patrolman R. E. Summerford

That's all we have at this time. We may have some more.

THE CLERK: Will all of the witnesses who are

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1 The Clerk:

2 standing raise your right hand and be sworn? (Witnesses
3 as called above sworn and sequestered) . . .

4 MR. LEVERETT: May it please the Court, with
5 the Court's permission, we would like to excuse some
6 of these police officer witnesses, so that they can go
7 back to their duties, subject to call at such time as
8 we might need them.

9 MR. RAWLS: In the Court please, in view of
10 the fact that Mayor Kelley is also a member of the Bar
11 of this Court and is more intimately acquainted with
12 the facts which we desire to develop in Chief Prit-
13 chett's testimony, we ask permission that Mr. Kelley
14 be given the opportunity of examining him.

15 THE COURT: Allright.

16 MR. HOLLOWELL: If it please the Court, I think
17 this would be most out of the ordinary, unless it is
18 to be understood that any one or all of counsel for
19 the Defendants in this case will be authorized to
20 examine any witness that might be called. It is most
21 irregular for more than one counsel to be in a position
22 to interrogate any one witness. Now, if we're going to
23 suspend the general rules and let this be applicable,
24 then I would certainly submit; but otherwise, I would
25 certainly have to object to it.

1 MR. COOK: May it please the Court, I can
2 assist the Court in this regard by moving the Court
3 that Mr. Asa Kelley be made counsel of record - made
4 counsel of record for the purpose of this examination.

5 MR. HOLLOWELL: We have no objection and would
6 not care whether he was counsel of record or otherwise
7 but I think my objection would still obtain.

8 MR. LEVERETT: May it please the Court, we have
9 no objection to more than one counsel examining and
10 cross-examining this witness, party Plaintiff, so long
11 as it is not abused in an effort to wear him down. We
12 certainly don't think that would be proper, but just
13 the fact that more than one of them would like to ask
14 him questions, we have no objections to.

15 MR. HOLLOWELL: I would presume that this would
16 run to any witness during the trial?

17 THE COURT: Yes, suppose we just have this
18 understanding: You see, Mr. Kelley is a member of the
19 Bar?

20 MR. HOLLOWELL: I understand that, sir.

21 THE COURT: He's qualified to practice in
22 this Court, there's no question concerning that. And
23 if Plaintiffs want Mr. Kelley to examine this witness
24 or any other witnesses, he will be allowed to do so,
25 just as any one of counsel for the Defendants in this

1 The Court:

2 case will be allowed to examine or cross-examine any
3 witness in the case. The only thing that I want to
4 avoid, and which we will avoid, is if that privilege -
5 or if the Court gets the impression that that privi-
6 lege - is in any way being abused, why, of course, we
7 will modify the procedure. Of course, as we all know,
8 it will be conducive to better order and orderly pro-
9 cedure if only one counsel at a time representing the
10 Defendants or the Plaintiffs attempt to participate in
11 the actual conduct of the trial, in the examination of
12 the witnesses, or in making objections, or in any other
13 way. But there again, it is not my attitude to apply
14 that rule with any great degree of strictness. All we
15 want is simply an orderly procedure, and by Mr. Kelley
16 being allowed to examine this witness, I see no varia-
17 tion in that rule.

18 MR. HOLLOWELL: We appreciate that clarification.

19 MR. KELLEY: Thank you, Your Honor.

20 DIRECT EXAMINATION

21 BY MR. KELLEY:

22 Q Are you the Chief of Police of the City of Albany?

23 A I am.

24 Q As such, what is your responsibility to the City?

25 A My responsibility to the City is to see that all

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1 City ordinances, all state laws or any laws which are broken
2 in the City limits, are enforced and to afford equal protec-
3 tion to the citizens of Albany of both races, white or Negro,
4 and to see that every one has equal protection and equal
5 protection under the color of the law.

6 Q Is it a part of your responsibility to maintain
7 the peace?

8 A It is.

9 Q Is that the obligation you have assumed in this
10 community?

11 A It's the oath that I've undertaken when they
12 appointed me Chief Of Police.

13 Q When Reverend Dr. Martin Luther King came to
14 Albany, did you know of the fact that he was coming?

15 A Yes, I did.

16 Q Q What action, if any, did you take when you
17 learned of his arrival within the County?

18 A Upon my learning that he was arriving in Albany,
19 Georgia, there was a detail of two detectives assigned to
20 Dr. Martin Luther King and to Dr. Ralph Abernathy for their
21 protection. They were assigned to them permanently while he
22 was in Albany, Georgia, to see that his travels here from
23 place to place, that he was protected and unharmed in his
24 business here.

25 Q Why did you feel it necessary to assign two

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1 detectives?

2 A We had information and from talking to sources of
3 people and our sources of information --

4 MR. HOLLOWELL: May it please the Court, we
5 are going to object to that line of testimony on the
6 part of the Chief, "we had information", which is purely
7 hearsay and would be improper.

8 MR. KELLEY: Your Honor please --

9 MR. HOLLOWELL: Just a moment, sir. And this
10 would be completely an opinion and a conclusion on the
11 part of the Chief, not based upon any foundation which
12 has been laid.

13 THE COURT: Well, he's offering this in
14 explanation of why he took certain action. He's not
15 offering it, he's not testifying as to the accuracy of
16 his information which he received. He's simply explain-
17 ing why he assigned the protection which he did, and
18 I will allow the testimony.

19 Q Mr. Kelley: Will you answer the question,
20 please?

21 A We knew that by the attention - we had had
22 demonstrations and marches here before he arrived; I knew
23 that the tension among the white and colored citizens of
24 Albany and surrounding areas was such that the tension was
25 at a great pitch here in December, and that his mere presence

1 here tended to -

2 MR. C. B. KING: If Your Honor please, I would
3 object to the Chief's use of the word "tension".
4 I think that there must necessarily be shown condi-
5 tions or statements of facts which would sustain this
6 as a conclusion. I think the use of "tension" here
7 is a conclusion, and to that extent is objectionable.

8 THE COURT: I overrule the objection.

9 A The Witness: We knew that the tension and
10 the climate here amongst both Negro and the white was such
11 that his mere presence here stimulated the following of the
12 Negro community; he was their national image, their leader;
13 and for this reason we felt that anything that happened to
14 him while his stay was here, that it would have an adverse
15 effect on the Negro citizens and cause them to come up in
16 arms, and the peace and the quiet of this City would have
17 been broken, and we would possibly, there's no doubt in my
18 mind, have gone into mob violence.

19 Q Now Chief Pritchett, when was it that the
20 Reverend Dr. King came to Albany, do you recall?

21 A The first march was on December a 12th and I
22 think it was either Tuesday or Wednesday upon his arrival
23 here. I was not positive but it was during that week.

24 Q Of what year?

25 A 1961.

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1 Q After the first demonstration on December 12,
2 did you communicate with me relative to additional help?

3 A I did, I talked to you on Wednesday, which was
4 the 14th of December, 1961, in an effort to contact the
5 Governor of the State of Georgia, Ernest Vandiver, to allow
6 us the use of State Patrol to supplement our Police Department
7 here.

8 MR. HOLLOWELL: May it please the Court, I'm going
9 to have to object to this line of testimony on the part
10 of the Chief. He's talking about some conversation
11 that he had. There's no testimony to the effect that
12 any of these conversations took place in the presence
13 of these defendants; and, as far as we are concerned,
14 this is a matter of hearsay, unless he has some com-
15 munication that he can show that he directed. This
16 would be purely speculative and would be objectionable.

17 THE COURT: Well, Mr. Hollowell, he's not
18 proposing to testify about what anybody may have said
19 to him about any facts in relation to King. He's simply
20 saying and his testimony is simply that he contacted
21 the Governor and, as a result of his contact, he did
22 certain things.

23 MR. HOLLOWELL: No sir, there is no testimony in
24 this trial that he contacted the Governor.

25 THE COURT: I understood him to say that

1 The Court:

2 somebody contacted the Governor.

3 MR. HOLLOWELL: No sir, the testimony that he
4 gave was to the effect that he talked to the Mayor
5 relative to contacting the Governor; and I submit
6 it doesn't have to run directly to King, if it runs
7 to any matter in this case, that it is objectionable;
8 any conversation that they had which was out of the
9 presence of the Defendants in this case would certainly
10 be a matter of hearsay and would be objectionable.

11 THE COURT: He has not related any --

12 MR. HOLLOWELL: It's a self-serving type of
13 declaration.

14 THE COURT: He's not relating any of the
15 details of the conversation but he's simply stating
16 that he had a conversation and as a result of it, he
17 did certain things. I overrule the objection.

18 A The Witness: After this conversation with
19 the Mayor, the Mayor in my presence contacted the Governor
20 of the State of Georgia, and through him we contacted the
21 Director of Public Safety and had additional --

22 MR. HOLLOWELL: Now, if it please the Court, he
23 can't tell about who somebody else contacted. I mean
24 this goes on and on. He may have contacted me or
25 somebody else. He says "through him".

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MR. KELLEY: Let me rephrase the question, if
Your Honor please.

THE COURT: You may rephrase the question.

Q Mr. Kelley: Did members of the Georgia
State Patrol come into Albany?

A Yes, they did.

Q When did they come in?

A They came in, began coming in on Wednesday,
December 14, 1961.

Q Why did you want the Georgia State Patrol in
the City of Albany on that particular occasion?

A These troopers were called in to supplement my
Department because my Department was completely assigned
to these demonstrations and to this situation and crisis
which we were facing. We could not afford equal protection
to the citizens of Albany as we had in the past, because our
time was devoted to the handling of these demonstrations,
to afford protection to Dr. Martin Luther King and his
associates while they were in the City; and the need for
these State Patrolmen was of such nature that we had to have
them in here to supplement, to see that the peace and the
quiet and the dignity of this City was preserved.

Q Did you as the chief law enforcement officer
of the City of Albany also request that the National Guard
be alerted?

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1 A Yes sir. On Thursday, which I think was December
2 15, it was my belief --

3 MR. HOLLOWELL: May if please the Court,
4 counsel here knows better, I submit to you, Your
5 Honor: These questions are completely leading.
6 I mean, he could ask him who, if any one, did he
7 contact.

8 THE COURT: I agree.

9 MR. HOLLOWELL: And he knows that these ques-
10 tions are leading, all of these questions are leading.

11 MR. KELLEY: I was simply trying to save
12 time, Your Honor please. I'll go about it the hard
13 way, if he insists.

14 THE COURT: I sustain the objection and
15 suggest, Mr. Kelley, that you let the witness testify.

16 Q Mr. Kelley: What else did you do, Mr.
17 Pritchett, in order to accomplish whatever purpose you
18 had in mind?

19 A During this week of this crisis that we were
20 facing, of tension in the City of Albany, it was my honest
21 belief that this City was at the point of explosion, at
22 the point of violence on both sides of the citizens of
23 Albany, both Negro and white; and it was my belief and strong
24 conviction that the National Guard should be alerted, after
25 this had taken place here, with the tensions and the situation

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1 at such a high feverish pitch, that the National Guard
2 should be alerted on a stand-by basis to come in and take
3 over and assist and do everything to keep the peace and
4 the dignity and the tranquility of this City, and order.

5 Q As a matter of fact, Chief Pritchett, on
6 December 15, 1961, what did the Defendant Anderson and the
7 Defendant Walker say to you relative to the observance of
8 our local ordinances?

9 A They advised me that they had no intentions -

10 MR. C. B. KING: If Your Honor pleases, I am
11 interested to know what was the name of the other
12 person - Walker - was it Walker?

13 A The Witness: Solomon Walker, Dr. W. G.
14 Anderson and I think Dr. Martin Luther King was not present
15 and Dr. Abernathy was not present. But he assured me that he
16 would not be responsible for the spontaneous conduct of
17 the Negro people and of its conditions which existed here;
18 and that they had no intentions, unless the City gave in
19 to their demands, to call off any demonstrations or abide
20 by our laws and regulations of the City of Albany.

21 Q You say "demonstrations", what is a demonstration?

22 A These demonstrations were mass demonstrations
23 of people who were marching, who were signing and praying on
24 the streets and sidewalks of the City of Albany in large
25 numbers.

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1 Q As a police officer was it or not your responsi-
2 bility to enforce the ordinances of this City?

3 A It was my sole responsibility to see that the
4 ordinances and laws of the City of Albany were obeyed and
5 regulated.

6 Q Did any of the marchers ever have a permit to
7 parade?

8 A Never at any time.

9 Q Did you or not make inquiry on each march?

10 A On each march inquiry was made as to whether
11 they had a permit, and I also checked with the City Manager's
12 office prior to it, to see if any had been issued, and none
13 was issued or displayed to me at any time.

14 Q During these days in December, from around the
15 10th or 11th of December, 1961, and throughout the month of
16 December, do you know of your own knowledge whether or not
17 the Albany Movement sponsored and conducted mass meetings
18 within the City of Albany?

19 A Yes, I do.

20 Q Do you know the frequency with which they were
21 conducted and approximately how many people attended?

22 A During the month of December, beginning a day
23 or two before December 12, these mass meetings were conducted
24 at Mt. Zion and Shiloh Baptist churches, which are located
25 in the south part of the town in the predominately Negro

1 section, where 2- to 3,000 people would meet in these
2 churches, congregate on the outside and hold their mass
3 meetings. These meetings were held sometimes 2 and some-
4 times 3 times a day, during these demonstrations we exper-
5 ienced in December.

6 Q Can you give us an idea of how many people
7 would attend, both inside and outside the churches?

8 A The churches, Mt. Zion's capacity, it has been
9 related to me by Dr. W. G. Anderson, holds 850. Shiloh, as
10 told to me by Dr. W. G. Anderson, is 650. And they were
11 standing, sitting in windows, standing around the walls.
12 I would say that at least 2,000 or 2,500 people were
13 inside and outside the buildings.

14 Q What did this situation of this mass congre-
15 gating, how did that affect the peace and good order and
16 dignity and tranquility of this City?

17 A These mass meetings that we experienced
18 necessitated the use of sometimes 2 to 3 to 4 cars and
19 motorcycles, sitting and seeing that nothing happened to
20 these people while they held their peaceful demonstrations
21 or assembled in these churches. We had to necessitate the
22 placing of officers in the immediate vicinity with motor-
23 cycles patrolling in the area, to see that nobody come into
24 this area to disturb them; and it necessitated the use of
25 taking my men away from their normal duties to afford these

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1 people protection while they were holding these assemblies
2 in the churches.

3 Q Would those congregated on the outside obstruct
4 the use of public ways and sidewalks?

5 A They did.

6 Q Did this happen on one occasion or on how many
7 occasions?

8 A This happened on many occasions, almost at
9 every mass meeting.

10 Q Now, did any of them ever get in the streets?

11 A They would cross the street from one church to
12 the next when they would interchange the speakers; but
13 mostly they were around on the sidewalks and the public
14 right of way, parks, obstructing and congregating on the
15 sidewalks.

16 Q Now, for the benefit of the Court, Chief,
17 would you explain the location of the principal meeting
18 places of the Albany Movement? Mr. Marshal, could we have
19 that blackboard if there's any chalk on there?

20 A (Witness drawing diagram of streets on blackboard)
21 . . . This will designate to you this is south and this is
22 north; this is Jefferson Street, this is Whitney, which runs
23 east and west. Mt. Zion Church is located on the southeast
24 corner of Jefferson and Whitney, the entrance facing north.
25 The Shiloh Baptist Church is located on the northeast corner

1 facing south. These mass meetings were held in both churches,
2 most - I would say 95 per cent. of the time, if the crowd
3 wassuch, it was either held in Mt. Zion or Shiloh. But
4 these people would gather inside and also gather on the
5 sidewalks and streets surrounding these churches in such
6 a way, which necessitated the use of sending patrol cars
7 to park on these corners to watch and observe these meetings;
8 and also necessitated the use of motorcycle patrolling in
9 the immediate area, to see that at night there that=white
10 people who were curious, or white people who were down there
11 for other reasons unknowing to us, were kept out of this
12 area.

13 We kept these cars here through these meetings
14 until they were hit and struck by bottles and bricks from
15 these masses of people in here. We had to move these cars
16 back to the middle of the block at a safe distance and
17 move this car back to the middle of the block at a safe
18 distance because they were being barraged with rocks and
19 bottles.

20 Q When was that?

21 A This was on one or two occasions in December,
22 mosg notably this month.

23 Q Now, you mentioned some white people trying to
24 get into that area, do you know that of your own knowledge?

25 A Yes, we know that this is a state highway and we

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1 know that people traveling down in here, because of these
2 mass meetings, curiosity and other people; and for this
3 reason my patrol cars and police personnel were assigned
4 to this area to watch the situation and talk to the people
5 and see what their business was in this neighborhood and to
6 get them out of there, if they had no business down there,
7 in order that no violence or no explosive situation or
8 nothing could happen to anyone down in this area.

9 Q Werethere any people who tried to violate your
10 instructions to stay away?

11 A The people cooperated with us. Now, I might
12 bring this into it, that we had numerous white people that
13 attended these meetings with the Albany Movement, white
14 people from Koinonia Farms and white people here in Albany
15 and white people from various other states that were in
16 here assisting the Albany Movement and attending these
17 meetings. It was a mixed gathering.

18 Q Just a minute, Chief, while you're there, now
19 going in a northerly direction describe what areas you go
20 through?

21 A Going in a northerly area, you come out of the
22 Negro section into Oglethorpe Avenue.

23 Q Now, before you get to Oglethorpe, tell us
24 almost house by house what you pass by, if anything?

25 A On Jefferson it is mostly residential.

1 Q For what period, I mean for what distance?

2 A For approximately a block or two blocks. And on
3 Jackson Street, which is east of the church, the next inter-
4 section which is Jackson and Whitney, it's all business,
5 the Harlem area of the Negro section, business establishments.

6 Q What is that commonly referred to in the City
7 of Albany, that area of the City?

8 A Harlem.

9 Q Do large numbers of Negroes congregate there
10 usually?

11 A Yes, they do.

12 Q Every day of the week?

13 A Every day of the week, normal activities.

14 Q Now, you have mentioned several marches: what
15 route did they take, if you know?

16 A They would empty these churches into the side-
17 walk here (indicating on blackboard) and usually we found
18 that it seems that Sholoh was the marching church. They
19 would empty this church and people would come out of Shiloh
20 and gather up in 2's and begin their march in this area east
21 of Whitney, to Jackson, turn left and head north up the west
22 sidewalk of Jackson Street, and proceed on into town.

23 Q When they turned left on Jackson and going in
24 a northerly direction, they were going through what area of
25 our City?

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1 A The Harlem District or trading district of
2 Albany.

3 Q Is that the area in which many of our Negro
4 citizens congregate?

5 A That's correct.

6 Q Did you observe these marches yourself?

7 A The personnel of my Department, the detectives
8 in my department, observed these marches and usually accom-
9 panied them along observing these marches.

10 Q You mean the detectives stayed with Dr. King?

11 A Entirely, in his march.

12 Q Well, why was that necessary?

13 A This was to afford him protection, to see, as
14 I stated before, that nothing happened to Dr. Martin Luther
15 King that would cause these people to be aroused and come
16 into spontaneous explosive situation.

17 Q Now, as the marchers would proceed in a
18 northerly direction along Jackson Street, would you
19 yourself observe the marching?

20 A Yes, I would.

21 Q Give us some idea of the number of onlookers and
22 followers of the parade but not participants in the parade,
23 if there were any?

24 A These marchers -

25 MR. HOLLOWELL: Well now, may it please the

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1 Mr. Howlowell:

2 Court, we want to know what he's talking and when he's
3 talking about.

4 Q Mr. Kelley: All right, let's take December
5 12, 1961?

6 A On any of these marches that taken place that
7 we experienced here, on all of the marches, the marchers
8 would line up and begin marching; and then, like a suction,
9 everybody from these churches would fall in behind and
10 follow until they come to the intersection of Jackson and
11 Oglethorpe Avenue where there's a traffic light. They would
12 all come up - the bus station is located here (indicating
13 on blackboard) - they would all come up, gather into this
14 corner here --

15 Q Which corner are you talking about, now Chief?

16 A The southwest and southeast corners of Oglethorpe
17 and Jackson, located at the bus terminal, on both sides of
18 the street, and congregate in such numbers, as 2- to 3- and
19 4,000 people.

20 Q What was the conduct of the onlookers?

21 A The conduct of these onlookers at every march
22 and during these marches was boisterous, intimidating and
23 threatening nature, such as gestures, you "pale face" - I
24 wish to apologize to the Court for this language, but this is
25 the language that will be brought out - "you pale-faced -- "

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1 MR. HOLLOWELL: Now, if it please the Court,
2 I want to know if the Chief heard this?

3 A The Witness: I heard it personally; I was
4 present here --

5 MR. HOLLOWELL: On what occasion?

6 A The Witness: On numerous occasions.

7 MR. HOLLOWELL: We want him to specify.

8 MR. KELLEY: May it please the Court, I think
9 Mr. Hollowell will have ample opportunity to cross-
10 examine him. If he has objection, I certainly have
11 no objection to him making the objection but I would
12 like to reserve the right to examine my own witness.

13 THE COURT: Yes, proceed Mr. Kelley.

14 A The Witness: These remarks were thrown at
15 the police officers who were here directing traffic and
16 doing their best to keep this situation from exploding into
17 mob violence. These remarks were thrown by the people who
18 had followed them up through Harlem to this point, and
19 throwing insulting remarks at the police officers, calling
20 them "pale faced son-of-bitches", "pale-faced-- "

21 THE COURT: Is that calling the police
22 officers?

23 A The Witness: The police officers. And "Send
24 Big Red down here, we want him".

25 Q Mr. Kelley: Who is "Big Red"?

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1 A He's a police officer here, Officer Grady Wills,
2 who is a veteran officer here, who has worked the Harlem
3 District for many years. They were insulting him to such an
4 extent that we had to withdraw him away from the area and
5 put him a block away from the area.

6 Q Why did you withdraw him?

7 A Because we felt that if we went in there, that
8 he was in danger.

9 Q Was the language loud or quiet or what?

10 A Loud and boisterous language that you could hear
11 from one side of the street to the middle of the next block.

12 Q Do you know whether or not any of these on-
13 lookers, not participants in the marches, ever expectorated
14 on any of the police officers?

15 A My officers have been spit on, cussed at,
16 abused in many ways during this crisis here.

17 Q What were your instructions to your police
18 officers?

19 A My instructions to these police officers were,
20 regardless of whether they were spit upon, cussed at,
21 struck, to meet violence with non-violence, and to meet
22 non-violence with non-violence.

23 THE COURT: Let's have order in court.

24 I want it understood , I want this understood at this
25 point, that if there is any demonstration of any kind

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1 The Court:

2 by laughing or loud conversation that this courtroom
3 will be cleared. You may proceed.

4 A The Witness: My officers have been instructed,
5 had been instructed 2 to 3 months prior to this because we
6 had knowledge that this was coming, my officers had been
7 instructed in roll-call training; they have been instructed
8 in special classes that we have conducted here , to antici-
9 pate any type of intimidation or any type of abuse that
10 would be put on these people, by these people on my officers,
11 to never act in a violent way, to have one thing in mind,
12 to carry out the duties that were expected of them and to
13 uphold the dignity of law enforcement in this City, so that
14 there would be respect for this Department and not to go
15 down and abuse these people in any way. They were told
16 that they were preaching non-violence and our job here
17 was to meet non-violence with non-violence, which we've
18 done.

19 Q Mr. Kelley: Did you ever hear any of the
20 Defendants in this case speak to the people at the church
21 relative to how they should conduct themselves?

22 A I have never personally heard in the church, only
23 on one occasion, and that was the last, I think a week ago
24 or three weeks ago tonight, when it necessitated me going
25 into Shiloh Baptist Church to talk to the masses of colored

1 people who were assembled there.

2 Q Why did you go in there? Come back to the stand,
3 please. (Witness resuming witness-stand). . .

4 A On this night we had had the night before police
5 cars rocked, the dome light on the cars busted, the
6 detective's car had been rocked, barraged with rocks; the
7 FBI had been rocked there, and passing cars had been, rocks
8 had been thrown at them. And that was the night before on
9 Monday. And Tuesday night I was sitting in my office and I
10 heard the dispatch of a radio call for Assistant Chief
11 J. J. Lairsey, put out a call to send other units to the
12 scene at Mt. Zion and Shiloh Baptist church, for the purpose
13 of dispersing the crowd. When I heard this, I immediately
14 entered my own car and went to the scene, where I found
15 approximately 25 officers on the northwest corner of
16 Whitney and Jefferson, and on the opposite corner on the
17 east side, northeast side of the street, there was approxi-
18 mately 4- to 500 or more Negroes assembled in the immediate
19 area, with two forces looking at each other. And when I got
20 there, I asked them what the trouble was and they said,
21 "We don't know, the church has emptied, there have been
22 rocks thrown at us, they have been intimidating us with
23 insults." And then, during this period of time I called on
24 Assistant Chief J. J. Lairsey and Captain Ed Friend, who is
25 Chief of the Detective Bureau, to follow me, to assist and go

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1 with me. I went into the crowd and asked the people --

2 Q Why did you go in there?

3 A Because I felt that this was a most explosive
4 situation, where violence could have erupted at any given
5 time and where no doubt in my mind, my police officers and
6 the Negro people would have been injured and maybe some
7 killed.

8 Q What did you fear?

9 A I feared at that time mob violence.

10 Q All right, sir.

11 A And for this reason I entered the church and
12 asked to speak with Dr. W. G. Anderson; and I think it was
13 Bo Jackson, who is the Treasurer of the Albany Movement,
14 escorted me into the meeting and presented me to the people;
15 and the Vice-President of the Albany Movement, Slater King,
16 introduced me to these masses of people, and told them that
17 I wanted to talk to them. And in taking the pulpit there,
18 I told them that we were interested and wanted them to have
19 their peaceful assemblies in these churches, to have their
20 meetings in these churches, but we in return requested and
21 expected them to conduct themselves in such a way that we
22 would not have violence, mob violence. And I said, "I know
23 that you don't, that you are a non-violent organization,
24 that you preach on the theory of non-violence, and for this
25 reason I beg of you to stop the rock-throwing, the bottle-

1 throwing and hold your peaceful assemblies in such a way
2 that we can afford you protection. And then, Slater King
3 again addressed them and sent people out into the crowds,
4 what he called "lieutenants", to get the people to disperse
5 and go about their normal way, and not to intimidate them
6 and not to throw rocks and not to be violent. And in this,
7 no doubt in my mind it eliminated mob violence that night.

8 Q In your judgment as a police officer, does the
9 activity or did the activity of the Albany Movement, in
10 sponsoring these mass meetings and demonstrations, incite
11 others who were not members of the Movement to break the laws
12 of our City?

13 A Definitely so.

14 Q Did the activities of the Albany Movement and
15 these demonstrations, in your judgment, incite others to
16 participate in congregating, which may have caused or
17 fomented strife in our City?

18 A Most definitely.

19 MR. HOLLOWELL: If it please the Court, I've
20 been trying to go along but I think that there's a limit
21 beyond which we can't go. I think he can ask him
22 what is his opinion, based upon his experience as an
23 officer and his experience in connection with this
24 matter and his opinion as to its effect; but here he
25 has continuously sought to put words in the mouth of

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1 Mr. Hollowell:

2 the Chief and this we have to continue to object to.

3 THE COURT: Maybe you can rephrase your
4 question.

5 MR. KELLEY: I'll be happy to, Your Honor.

6 Q What, in your judgment, was the effect or your
7 opinion of the effect of these demonstrations and mass
8 meetings upon the City of Albany?

9 A These mass demonstrations and marches, which were
10 utilized by the Albany Movement, incited the people, not
11 only the Negro but the white.

12 Q What about people from other counties?

13 A The surrounding counties, people we saw people
14 in here from all over South Georgia. At times we had
15 other organizations in here, which we had to assign
16 personnel to, to see that they didn't take any active
17 part in this stuff.

18 Q Did you ever see members of the Ku Klux Klan
19 here?

20 A I did.

21 Q Who were they? How do you know they were here?

22 A They were identified to me as such in personal
23 interviews with them: Calvin Clegg, Sheldon, who is the
24 Grand Dragon of the Ku Klux; KuKlux members from Alabama;
25 Sisk, by name, Perkins, who were identified and interviewed

1 by me personally, and who we assigned officers to, to
2 surveil, to keep them under complete surveillance at all
3 times, to see that they did nothing to break the peace and
4 the quiet and the dignity of this City in any of their
5 actions.

6 Q Did you anticipate that they might?

7 A I anticipated anything.

8 Q All right sir, get back to the original question:
9 What, in your opinion, or what effect, in your opinion, did
10 these demonstrations and mass meetings have upon the peace,
11 order, dignity and tranquility?

12 A These mass demonstrations which we experienced
13 caused a situation here in Albany, where the City of Albany
14 and Dougherty County and surrounding counties could not
15 be in a normal condition; where people could go about their
16 normal ways of life, because of interference with the
17 movement of traffic, the interference with pedestrian
18 traffic, with interference with businesses, the interfer-
19 ence of demonstrations at any time; and due to this situa-
20 tion we as law enforcement officers here could not afford
21 equal protection of the law to all people of Albany,
22 regardless of race, color or creed.

23 Q Now, most of the testimony that you've given,
24 Chief, has been addressed primarily to December, is that
25 true?

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1 A That's correct, yes sir.

2 Q Now, did you ever talk with any of these
3 Defendants relative to the situation that they were
4 creating in this City?

5 A I talked to Dr. Martin Luther King, Dr. Ralph
6 Abernathy, Dr. W. G. Anderson, Slater King and other
7 members, Marion Page and other members of the Executive
8 Committee of the Albany Movement.

9 Q Did you talk to them on more than one occasion?

10 A On more than one occasion.

11 Q And what attitude did they express to you, if
12 any?

13 A My concern was in talking with them to see
14 if I could talk to them, to relay to the people that we
15 wanted the peace and quiet of this City preserved; that
16 we wanted them to relay to their people through them as
17 leaders of the Negro people, that we wished for them to
18 observe our laws and ordinances of the City and of the
19 State and to keep it in such a way, to where we would not
20 have mob violence here. And they in turn, Dr. Martin Luther
21 King and Dr. Abernathy and Dr. W. G. Anderson, said that
22 these laws were unjust and that they could not in good
23 faith tell the people to obey our rules and regulations
24 because they were unjust laws, and in their conscience not
25 adaptable to them.

1 BY THE COURT:

2 Q You mean that was the statement made to you by
3 these Defendants?

4 A Yes sir.

5 Q That the laws were unjust and, therefore - what
6 was the exact statement?

7 A That these laws were unjust and in their con-
8 science they couldn't abide by these laws, because it
9 deprived them in their conscience of their constitutional
10 rights, and they would not abide by our laws.

11 Q That they would not abide by them?

12 A That's correct.

13 Q What laws were they referring to when they
14 said that?

15 A Laws, our city ordinances with reference to
16 permits, our ordinances in reference to blocking of the
17 sidewalks and streets and congregating, the laws of our
18 City and ordinances in failing to obey an officer's command;
19 our ordinances pertaining to disorderly conduct of creating
20 disturbances in the City of Albany.

21 THE COURT: All right.

22 BY MR. KELLEY:

23 Q Did most of these marches or demonstrations
24 follow the same pattern?

25 A All of the marches have followed the exact pattern.

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1 Q Do you know whether or not the leadership of
2 the Negro community ever notified or announced publicly
3 in advance their intention to violate the ordinances of
4 the City of Albany?

5 A They, in correspondence to the City Manager,
6 proposed a demonstration to us --

7 MR. HOLLOWELL: Now, may it please the Court,
8 I think the letter would be the highest and best
9 evidence.

10 MR. KELLEY: I think he is correct. I will
11 withdraw the question.

12 _____ Q Now, Chief Pritchett, did the people leading the
13 Albany Movement and those sponsoring the mass meetings and
14 marches, to your knowledge, ever publicly announce in
15 advance of a march their intention to march in violation
16 of our ordinances?

17 A Yes, they have.

18 Q Do you know whether or not they've done that on
19 more than one occasion?

20 A On more than one.

21 Q How did you find out about it?

22 A In conversation with Dr. W. G. Anderson, he
23 informed me in December prior to one of these marches,
24 prior to the last march I think, when he was arrested
25 along with Dr. Martin Luther King and Dr. Ralph Abernathy,

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1 In a conversation with me by phone, that they would not
2 abide by our laws, that if these people were not turned
3 out of jail and if their demands were not met by the City,
4 that they would bring a thousand up here to the City; and
5 my answer to him was, that if you intend to violate our
6 City ordinances and our laws, the only thing I request of
7 you is that you get in front of them and lead them.

8 Q As a matter of fact, Chief, did sometimes the
9 news media and television cameras and men know about the
10 marches before you did?

11 A They were always alerted prior to these marches
12 and we knew that when they left the church and set up on
13 any street, that these marches were fixing to take place.
14 We watched the news media. We could watch their activities
15 and kept them under surveillance at all times, because we
16 knew where they went, there was going to be activity and
17 demonstrations of some sort.

18 Q Did you also conclude that ^{if} the news media was
19 not --

20 MR. HOLLOWELL: Now, don't ask him "did you also
21 conclude so and so" but ask him what did he conclude.

22 MR. KELLEY: Excuse me, Mr. Hollowell; you
23 are absolutely right.

24 Q What did you conclude if you didn't see the news
25 media around?

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1 A If the newspaper media was not around, we felt
2 that we could sit back and rest a little bit.

3 BY THE COURT:

4 Q In other words, Mr. Chief, as I understand
5 your testimony, you're saying that you did not alert the
6 television and newspaperfolks?

7 A At no time. We kept these people under
8 surveillance, as we did Dr. Martin Luther King, because
9 we knew that where he went, something was subject to go;
10 we knew where the newspapermen and the cameramen went, that
11 they were not going there just to pass the time away.

12 Q In other words, they seemed to know all about
13 it before you did?

14 A They knew prior to this, to my knowledge. On
15 various times I have seen them notified to be ready in 10
16 minutes, that such and such a person will arrive in 10
17 minutes on such and such a scene, and the cameras would
18 be set up ready to start rolling at any given time.

19 BY MR. KELLEY:

20 Q As a matter of fact, Chief Pritchett, last
21 night when you reached the City Hall, what happened, if
22 anything?

23 A We were - when I received a call and went to the
24 City Hall, I was greeted with the newspaper men and the
25 cameras, who had been alerted, from their own testimony and

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1 statements to me, that there would be a demonstration in
2 front of the City Hall last night, and they were told to
3 be there.

4 Q Did you have any knowledge of it before then?

5 MR. HOLLOWELL: Your Honor, we are going to have
6 to ask that that be stricken. I suggest here again
7 that which was told to him by some reporter concerning
8 what was going to happen --

9 MR. KELLEY: He's correct, Your Honor please.
10 I will withdraw the question.

11 MR. HOLLOWELL: We will ask that the testimony
12 pertaining to it be stricken.

13 THE COURT: It is stricken.

14 MR. KELLEY: No objection to that.

15 Q When you arrived at the City Hall last night,
16 what did you see and who did you see?

17 A I saw various members of the press and news
18 media assembled in front of the City Hall, with cameras
19 set up and flashlights or flash attachments set up.

20 Q At that time did you have any knowledge of any
21 proposed demonstration?

22 A No, I didn't.

23 Q Did a demonstration, as a matter of fact, take
24 place?

25 A Yes, it did.

Q When?

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1 A Approximately 10 or 15 minutes after I arrived
2 there.

3 Q And when it did take place, were the television
4 cameras and news media still present?

5 A They were quite busy.

6 Q Chief Pritchett, did these demonstrations and
7 mass meetings, in your opinion, cause --

8 MR. HOLLOWELL: Now, we object to this, Your
9 Honor, even before he says it: "Did they cause". He's
10 going to lead the witness into another statement.

11 THE COURT: I think the question can be
12 phrased differently, whatever it is. I don't know
13 what it is yet; but whatever it is.

14 MR. HOLLOWELL: Can't cause anything, in so
15 far as the question which was propounded to him,
16 because it would be a conclusion.

17 THE COURT: I agree with you. Mr. Kelley,
18 your question needs to be rephrased.

19 Mr. Kelley: All right, sir. Chief Pritchett,
20 while these mass meetings were being conducted and during the
21 time of the marches in violation of the ordinance of the
22 City, did you observe any greater number of people in our
23 City or crowds?

24 A Yes, I did. On all occasions of these marches
25 there were great numbers of people, both white and Negro,
assembled here in Albany, riding the streets, walking,

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1 gathered here in anticipation of something happening.

2 Q Did you see any of these people transacting
3 ordinary business?

4 A Prior to these arrests they were in normal
5 transaction of the businesses; but after these parades
6 and demonstrations started, the streets and the avenues
7 of the uptown area were completely blocked off, making it
8 impossible for people to use the highways, the streets and
9 automobiles, walking, pedestrians, because these areas were
10 blocked off completely.

11 Q Now, on December 16, did you have a parade on
12 that day?

13 A Yes, we did.

14 Q When the marchers were arrested by you, tell
15 what you ordered them to do, where they went and what you
16 observed as a result of their being there, if you know?

17 MR. HOLLOWELL: Now, if it please the Court,
18 this I will object to. This is repetitive, this was
19 all gone over yesterday under the direct cross examin-
20 ation of Mr. Leverett; and this can only be repetitive;
21 every facet of it from the time they left the church
22 under this direct examination until the time that they
23 were jailed. This has already been gone over.

24 THE COURT: Well, I suppose it's impossible
25 to avoid some repetition when we go back to different
dates.

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1 MR. HOLLOWELL: I'm talking about this particular
2 date, if it please the Court.

3 THE COURT: I say, I can't know in advance
4 whether his testimony is going to be a repetition or
5 not. Of course, we want to - I agree with you, we
6 want to expedite the conduct of this matter so we can
7 conclude it --

8 MR. KELLEY: I think perhaps he is correct
9 that it has been covered, and I will go on to another
10 matter, if Your Honor please.

11 THE COURT: All right.

12 Q Mr. Kelley: Now, since the demonstrations
13 in December, have you been in communication with Dr. Ander-
14 son or any of the other Defendants?

15 A On numerous occasions.

16 Q On numerous occasions?

17 A Yes.

18 Q Now, do you recall whether or not, do you recall
19 any statement of the Defendant Anderson or the Defendant
20 Page relative to the bus company in Albany?

21 A Yes, I do.

22 Q What did they say?

23 A In a meeting with the President of the Albany
24 Movement, Dr. W. G. Anderson, and Marion Page, Secretary,
25 and at times the Vice-President, Slater King, they informed

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1 me that the demonstrations or mass demonstrations would not
2 take place, but that they were officially boycotting the
3 stores and the bus company here in the City of Albany; and
4 this was done in a manner to put pressure on people,
5 merchants, in order to put pressure on the City officials
6 of the City of Albany to give in to their demands.

7 Q As a matter of fact, is the bus company in
8 operation today?

9 A It is not.

10 Q Do you know of your own knowledge what percent-
11 age of the Negroes or what percentage of the business of the
12 bus company was made up by Negro customers, approximately?

13 A In talking with the --

14 Q Say only if you know of your own knowledge?

15 A I know that the business was probably 75 to 80
16 or 85 per cent. Negro.

17 Q You observed them when they were riding the
18 buses?

19 A Yes sir, I have.

20 Q In your judgment, was the boycott by the Albany
21 Movement of the bus company successful or unsuccessful?

22 A Very successful.

23 Q Have the members of the Albany Movement engaged
24 in any other activities, which would address themselves to
25 your office?

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1 A Yes, they've contacted me on numerous occasions
2 in respect to this "selective buying" or boycott of the
3 merchants, in order that some agreement might be reached.

4 Q Have you ever been called to the businesses
5 of any private owners?

6 A Yes, I have.

7 Q If so, for what purpose?

8 A I've been called on numerous occasions to
9 Crowe's Drugstore, to Lane's Drugstore, to the owners who
10 had called the law enforcement officers to come to
11 their business establishments, because their business was
12 being interrupted and the people who were there had been
13 asked to leave and refused to do so.

14 Q Do you know whether or not this condition
15 caused any confusion?

16 A It caused confusion because the owners of
17 these stores, particularly Crowe's, to completely close
18 down their lunch counters, and the confusion of police
19 officers having to come into their business establishments,
20 and causing undue interruption of their normal business
21 that they conducted.

22 Q Did this activity on the part --

23 MR. HOLLOWELL: Now, if it please the Court, I
24 would ask that that would be stricken, on the ground
25 that it is a conclusion on the part of the Chief, not

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1 Mr. Hollowell:

2 founded upon the proper basis. He's trying to testify
3 as to why some owner closed his business, and I would
4 submit that it should be stricken.

5 THE COURT: Yes, I think that testimony
6 could more properly come from the owner of the
7 business rather than the Chief. I sustain the objec-
8 tion.

9 Q Mr. Kelley: All right sir. Did any of the
10 owners of any private businesses close lunch counters?

11 A They did.

12 Q Did the activity of the police department in
13 this area require the use of policemen?

14 A Yes, it did.

15 Q Can you give us an idea of how many?

16 A We had at all of these, it wasn't one at a
17 time, it was a spontaneous movement on the part of the
18 Albany Movement to send negro teenagers to different drug-
19 stores, Lane's, Crowe's, Lee's, Dupree's, Mid-Town Shopping
20 Center, at 12 o'clock on a spontaneous movement. They
21 branched out and went, which necessitated calls coming into
22 our station and alerting and dispatching policemen to every
23 one of these business establishments; and in doing so,
24 taking away the normal routine and the normal activities of
25 the police department because we had to spread out in so

1 many places, to see that the peace and quiet of this City
2 was preserved and that these calls were answered.

3 Q Did this deprive citizens of other areas of
4 the protection of the law?

5 A It most certainly did.

6 Q Now, on these sit-ins, have you ever arrested
7 a Negro for going in an establishment?

8 A Never.

9 Q What occasioned the arrests, if any, that
10 were made?

11 A These arrests that have been made by me or by
12 members of my Department have been at the request of the
13 owners.

14 Q Is that the only occasion?

15 A That's correct.

16 Q Have you ever arrested white people at the
17 request of the owner?

18 A We have.

19 Q Can you give us an idea of the total number of
20 Negroes and whites who have been arrested as a result of
21 these marches and activities of the Albany Movement?

22 A The number of cases that we have booked is
23 in excess of, probably around 1100.

24 Q What effect does this have on your jail
25 facilities and the operation of your department?

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1 A The operation, these arrests or these masses
2 of people have affected us to where we cannot afford normal
3 policing routines and policies which we have carried on
4 in the past. It necessitates the working of 12 hours and
5 16 hours and 20 hours by members of this department, where
6 normally we'd work 8 hours a day. We've had to split up the
7 forces to have people assigned at all given times to afford
8 equal protection to everybody here in the City of Albany.
9 We've had to keep these men on 24-hour alert, housing them
10 in hotels, so they would be accessible for quick return to
11 duty. We have not been at a normal condition here since
12 October of 1961. For weeks, as for example here, this
13 begins the third week of 24-hour alert by members of the
14 Albany Police Department who haven't been home but 2 or 3
15 times in this period of time. They have been assigned to
16 the uptown area, to see that people of all races are given
17 equal protection under the color of law, and thus depriving
18 even my men of their rights to be at home with their fami-
19 lies, to carry on a normal procedure; and we feel that in
20 doing this that we are deprived of our rights as citizens.

21 Q Have you had to incarcerate some of the violators
22 of our city ordinances in jails other than yours?

23 A Yes sir, we have.

24 Q Why is that necessary?

25 A Because we cannot handle this multitude of people

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1 in our jail. We have limited jail space. And so, in
2 doing so we had to utilize other jails in the County,
3 and other surrounding jails located in surrounding counties,
4 in an effort to where we could keep our jail open for the
5 normal routine of business that we had to carry on here
6 under this crisis and strain that we've been under.

7 Q Is that expensive to your Department?

8 A It's vefy expensive. This last three weeks
9 has cost us in excess of \$10,000, paying overtime for these
10 police officers who have been on 24-hour duty and alert;
11 the feeding of these officers while on this duty, the
12 housing of these officers while in hotels.

13 Q During this period of activity by the Albany
14 Movement, where have you concentrated your officers, if
15 you have concentrated them?

16 A The officers have been concentrated to these
17 people, to afford them protection and to see that the
18 peace and the quiet and the dignity of this City is
19 preserved. We felt that the area that was the most
20 explosive was where these masses of people were gathered,
21 and these officers have been assigned primarily to this
22 location.

23 Q During this time did you receive other complaints
24 of law violations?

25 A Yes, we have.

1 Q In other parts of the City?

2 A Yes, we have.

3 Q Were you able to give it your prompt and
4 expeditious handling?

5 A Not as effectively and as efficiently as we
6 have in the past, no.

7 Q Now, Chief Pritchett, I want to show you
8 EXHIBIT "A:", which is attached to this complaint, and
9 ask you if this same information contained in this exhibit
10 was communicated to you by any member of the Albany Movement
11 or by any of the Defendants?

12 A This letter here was received by the City
13 Manager, not me.

14 Q Yes sir?

15 A But a copy was forwarded to me, a carbon copy
16 was forwarded to me, which I have of this exhibit.

17 Q In this letter, did the Albany Movement state
18 that they would obey the traffic signals?

19 A They say here that the group will walk on the
20 sidewalk and observe all traffic signals.

21 Q As a matter of fact, did they?

22 A No, they did not.

23 Q Now Mr. Pritchett, has Dr. Anderson, one of the
24 Defendants in this case, and Marsion S. Page, one of the
25 Defendants in this case, ever represented to you what

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1 organizations make up the Albany Movement?

2 A Yes, they have.

3 Q Can you relate - identify that please, Mr. Clerk-
4 I will show you PLAINTIFFS' EXHIBIT --

5 MR. HOLLOWELL: May I see it counsel?

6 MR. KELLEY: Yes sir, you certainly may.

7 (Document tendered to defense counsel) . . .

8 MR. HOLLOWELL: We would object to its use as
9 such unless there could be some showing that this was
10 in fact - well, there's no date on it, nor is it
11 signed? Is there another part of it? Is this a
12 part of the same thing? I'm objecting to this,
13 which they have marked as P-7, this is not marked.

14 MR. KELLEY: That's a part of this.

15 MR. HOLLOWELL: You're saying that. Well,
16 it isn't so identified and that's the only way I
17 know, Counsel.

18 THE CLERK: Well, put them together and
19 let me mark them.

20 MR. HOLLOWELL: Well, may I take this for a
21 moment? . . .

22 MR. KELLEY: May it please the Court, I have
23 2 or 3 other documents here.

24 THE COURT: Just a moment, Mr. Marshal,
25 let's have order, please.

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MR. KELLEY: I have three other exhibits that I think at this time I would submit to counsel, with the Court's permission. (Three additional documents submitted to defense counsel) . . .

THE COURT: Suppose, Mr. Kelley, since you apparently have 2 or 3 exhibits that you want to submit to opposing counsel before you use them, suppose at this time we take about a 10-minute recess and you can do that during that time.

MR. KELLEY: Fine, thank you, sir.

RECESS: 10:45 AM to 11:00 AM 7-31-62

Q Mr. Kelley: Chief Pritchett, I'll hand you PLAINTIFFS' EXHIBIT No. 7, and ask you whether or not you received a copy of this exhibit in your normal course of business as a police officer in the City of Albany?

A Yes, I did.

Q Does that exhibit state the name of some of the organizations participating in the Albany Movement?

A Yes, it does.

Q Do you know of your own knowledge or do you know from having learned it from any of the Defendants that the organizations named therein are participating in the Albany Movement?

A In my many conferences and discussions with Dr. W. G. Anderson and other members of the Albany Movement,

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1 these organizations named here were told to me to be
2 consolidated into the Albany Movement.

3 Q What are the names of those organizations?

4 A The Youth Council, Ministerial Alliance -

5 MR. HOLLOWELL: May it please the Court, they
6 show.

7 MR. KELLEY: I would like for the record to
8 show, if Your Honor please.

9 MR. HOLLOWELL: Well, it hasn't been introduced
10 in evidence. He wouldn't be able to read from it.

11 Q Mr. Kelley: Do you know of your own know-
12 ledge?

13 A Yes, I do.

14 Q Well, refresh your recollection, if you like,
15 and give us the names?

16 A It's the Youth Council, the Ministers Associa-
17 tion, the Federal Women's Clubs, the NAACP, the Student
18 Non-Violent Coordinating Committee and the Negro Voters
19 League.

20 Q Now, I will show you PLAINTIFFS' EXHIBIT No. 8
21 and ask you to identify this exhibit, and tell us what it
22 purports to be?

23 A This is a communication I received on November
24 25, 1961, from Charlesd Jones, Charlie Jones, relative to
25 certifying that he along with --

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1 MR. HOLLOWELL: Here again, Your Honor.

2 THE COURT: Yes, the witness can state
3 whether he received the document.

4 A The Witness: I received this document.

5 THE COURT: And not testify concerning the
6 contents.

7 A The Witness: I received this document from
8 Charlie Jones on November 25, 1961.

9 Q Mr. Kelley: Did the Defendant, Charles
10 Jones, ever tell you who he represented?

11 A He identified himself to me as the Field
12 Representative of the Student Non- Violent Coordinating
13 Committee.

14 Q All right sir, now Chief Pritchett, did you
15 ever have any conversations with Dr. Martin Luther King?

16 A On a number of occasions.

17 Q Did he ever relate to you the organizations
18 he represented, if any?

19 A He related to me his organization of Southern
20 Christian Leadership Conference and he as President of
21 this organization.

22 Q Did he ever relate to you the aims and ambitions
23 of this organization?

24 A He told me that he was here to assist the Albany
25 movement in their gaining of their dignity and their rights

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1 and the doing away with the evil system of segregation.

2 Q Did he make any mention of the observance of
3 our ordinances and state statutes?

4 A Yes, he has.

5 Q What did he say?

6 A He has on a number of occasions expressed to
7 me his concern for the violation of these laws, in that
8 he felt that they were unjust laws and in his conscience
9 could not be obeyed by him.

10 Q Did you ever discuss with the Defendant, Dr.
11 King, and the defendant, Dr. Anderson, and the Defendant,
12 Marion S. Page, and the Defendant, Jones, the effect of
13 the mass meetings and demonstrations on other Negroes
14 and whites? If so, what was the conversation?

15 A I talked to them in regard to this, what the
16 effect had on the people; and they stated to me that they
17 would continue to preach to the people for non-violence,
18 but if any came that they would have assume part of the
19 responsibility for it, because they were here and leading
20 these people.

21 Q What comment did they have to make relative to
22 continuing the marches or demonstrations, if any?

23 A They remarked that they would continue these
24 demonstrations, these mass demonstrations, until the City
25 had consented to their demands.

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1 Q Now, in April of 1962, did you receive a letter
2 from the Albany Movement?

3 A I did.

4 Q I will show you PLAINTIFFS' EXHIBIT No. 6 and
5 ask you whether or not that is the letter?

6 A It is.

7 Q Did you respond to that letter?

8 A I did, the same day.

9 Q And is your response also a part of PLAINTIFFS'
10 EXHIBIT No. 6?

11 A Yes, it is.

12 Q Without reading the letters, tell the Court in
13 substance what the leadership of the Albany Movement
14 demanded of you as a representative of the City, and what
15 you did as a representative of the City?

16 A In this letter that I received here on April
17 16, in correspondence, signed by the President and the
18 Executive Secretary, M. S. Page and President, Dr. W. G.
19 Anderson, they stated to me in this letter that if we would
20 meet certain demands --

21 MR. HOLLOWELL: Now, if it please the Court,
22 he's going to tell about what the letter states and
23 the letter speaks for itself.

24 THE COURT: Yes, the letter would be the
25 highest and best evidence of what it states. Of course,

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1 The Court:

2 he can testify generally about what the demands were
3 but he can't testify about what's in the letter.

4 Q Mr. Kelley: If you would, Chief, refrain
5 from referring to the letter and state to the Court what
6 Dr. Anderson and Marson S. Page stated to you?

7 A They wanted an agreement with us that we would
8 not interfere with interstate commerce of the bus station
9 or the train terminal; they wanted from us an agreement that
10 we would abide by the ICC ruling; and they wanted from us
11 to have a bi-racial committee, of the return of the bond
12 money which was posted by these people, the cash bond
13 money. They wanted us to establish a bi-racial committee,
14 consisting of people who were appointed by both sides.
15 They wanted us to agree to the future operation of the
16 local bus company, regardless of race, color or creed.
17 They also wanted a final disposition which was satisfactory
18 to both the Albany Movement and the officials of the City
19 of Albany.

20 Q Was this communicated to the City?

21 A Yes, it was; and in return for this, they stated
22 that they would calloff all demonstrations and implications,
23 the boycotts and all of the activities of the Albany Move-
24 ment, if these things were agreed upon.

25 Q And did you respond?

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1 A Yes sir, I did.

2 Q What response did you give them?

3 A I responded to them the same day. In answer
4 to that, I said that we would and had been abiding by the
5 ICC regulations as of November 1; that we would, upon
6 exhibit of good security and sound security bonds, return
7 the cash money back to the individuals. We - I stated to
8 them that I had no authority to speak of a biracial com-
9 mittee, but their grievances could be channeled as any
10 other citizen, regardless of race, color or creed, through
11 the City Manager, as any other average citizen of the City
12 of Albany can. In regards to the bus station, in regards
13 to the local bus company, we stated in this letter that we
14 had no intentions of interfering with private enterprise
15 and private business. And we also stated in this letter
16 here that no disposition of the remaining cases would be
17 made until the Recorder had made a final decision in the
18 cases then pending. And also in this letter I stated to the
19 President of the Albany Movement and to the Albany Movement
20 that these things should be accepted; and if the Albany
21 Movement was acting in good faith, that they would call
22 off these demonstrations and implications and boycotts,
23 and return to the peaceful way of activities in the City
24 of Albany.

25 Q Was that agreement acceptable to them?

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1 A This communication was referred back to me,
2 that they would have to take it before the Executive Com-
3 mittee for passage.

4 Q Did you ever hear anything further from it?

5 A I heard that it was not accepted, that they
6 would not accept this.

7 Q Did they have demonstrations and mass meetings
8 thereafter?

9 A Yes, we did.

10 Q How often during February and March, April and
11 May and June of this year did the Defendants conduct mass
12 meetings?

13 A Their regular mass meetings were on Monday night,
14 on every Monday night, and on special occasions, other
15 days of the week, depending on when the main speakers could
16 be here from out of town.

17 Q During the month of July, have they had mass
18 meetings?

19 A During the month of July we have had almost
20 continuous mass meetings, some during the day starting at
21 12:00, some at 4:00, some at 6:00, some at 8:00, during
22 this month.

23 Q Now, were there any demonstrations or marches
24 sponsored by the Albany Movement in protest of arrests made
25 of its members for violation of the City ordinances?

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1 A Yes, it was.

2 MR. HOLLOWELL: Your Honor, I will ask counsel
3 not to lead the witness.

4 MR. KELLEY: All right, sir, I'll reframe the
5 question.

6 _____Q Did any of the leaders of the Albany Movement,
7 including the Defendants in this suit, ever state to you
8 why the marches were conducted?

9 A These in July, after the Rev. Dr. Martin Luther
10 King and Dr. Ralph Abernathy were sentenced by Recorder's
11 Court for their participation in the December demonstra-
12 tions, the same day that they were sentenced, we had pro-
13 test marches, protesting the jailing of Dr. Martin Luther
14 King and Dr. Ralph Abernathy.

15 Q Were they incarcerated because of violation
16 of City ordinance?

17 A Because of violations of City ordinances of the
18 City of Albany.

19 Q Did the members of the Albany Movement tell you
20 that?

21 A They told me, in conversations with the members,
22 that justice had died in Albany, Georgia, on that Tuesday,
23 the 11th I think it was, when Dr. Martin Luther King and
24 Dr. Ralph Abernathy and others were convicted and sentenced
25 in Recorder's Court; and that they planned to demonstrate

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1 until justice was revived in Albany, Georgia.

2 Q On each of the marches, to which you have
3 referred and to which you will refer, can you give us
4 an estimate of how long a period of time traffic has
5 been blocked or congested, if it has?

6 MR. HOLLOWELL: Now, if it please the Court,
7 I think I would certainly have to object to this
8 question "on each of the marches to which you have
9 referred and to which you will refer". He's going
10 to give some information about something that he's
11 going to refer to in the future.

12 MR. KELLEY: I think he's correct, Your
13 Honor. I was just trying to save a little time.

14 Q During the marches in December, 1961, can you
15 give us an estimate as to how long traffic was blocked,
16 if it was blocked?

17 A On various marches, all of the marches, on the
18 12th I would say 2 hours or better; on the last march,
19 which was on - that Dr. Martin Luther King and Dr. Aber-
20 nathy and Dr. W. G. Anderson taken part in - it was probably
21 from 6 o'clock until 10:00 or 11:00 before we returned to
22 normal conditions in the City of Albany.

23 Q Did you block off entire blocks?

24 A Yes, we did.

25 Q Did that have any effect, to your knowledge,

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1 upon the businesses located in those blocks?

2 A It certainly had an adverse effect on the
3 businesses because they were deprived of normal and
4 regulated conditions which they had experienced in the
5 past.

6 Q Did you permit the pedestrian traffic --

7 MR. HOLLOWELL: Now, may it please the Court,
8 here again, I submit that this is a conclusion
9 drawn by the Chief of Police. He doesn't know
10 what the business situation was. And not only that
11 but the hours that he mentioned, I submit that the
12 stores, many of them, would be closed anyway.

13 THE COURT: Well, I think the Chief can
14 testify about whether people could get to the
15 business establishments by virtue of the traffic
16 situation, but I don't think he would be qualified
17 to testify about what effect it might have had on
18 the business itself, but I think the owners of the
19 businesses would be better to testify about that.

20 I sustain the objection.

21 _____ Q Mr. Kelley: Do you know whether or not
22 pedestrian traffic was able to get to the businesses
23 during these demonstrations?

24 A During these demonstrations, pedestrian traffic
25 and the motoring traffic was completely stopped, people

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1 coming into these areas. The only people that were there
2 werethe ones that were caught in the area during the demon-
3 strations.

4 Q Or people like you?

5 A Or people like me and other law enforcement
6 agents.

7 Q Now, what were your instructions to your police
8 officers as to the conduct of pedestrians in other parts
9 of the City, if any?

10 A They were told to keep the pedestrians, to keep
11 them moving, to try to get them away from the area. We
12 used, not only voice commands, but we used cars to circle
13 the area, using loud speakers for the people to clear the
14 area and to cooperate with us.

15 Q What is the population of Albany?

16 A The population is roughly 57,000.

17 Q And Dougherty County?

18 A In excess of 70- or 75,000.

19 Q Do you know what percentage of our population
20 are Negro?

21 A I don't know exactly. I think it's between
22 33 and 35 per cent.

23 Q I'll ask you, when did the recent demonstrations
24 start, if they did?

25 A They started on the Tuesday that Dr. Martin

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1 Luther King and Dr. Ralph Abernathy were sentenced and
2 placed in the City jail, to begin a 45 day sentence.

3 Q Prior to that time during the mass meetings
4 sponsored by the Albany Movement, were there any acts of
5 violence or throwing of anything?

6 MR. HOLLOWELL: Please ask him don't lead the
7 witness, Your Honor.

8 Q Mr. Kelley: Well, before Dr. King was
9 sentenced, was there anything unusual that happened at
10 any of the mass meetings sponsored by the Albany Movement
11 or in proximity thereof?

12 A They had had large gatherings but nothing to
13 compare with after he was placed in jail on his 45 day
14 sentence.

15 Q After he was placed in jail, relate what
16 happened, if anything, which was brought to your atten-
17 tion as an official of the City?

18 A After he was placed in jail and decided to
19 serve the 45 days, rather than to pay the fine, mass
20 meetings were immediately called. And on Tuesday, the
21 same day, at 11:30 the first march came from the church,
22 the two churches that were located there, with approximately
23 32 marchers, protesting the jailing of Dr. Martin Luther
24 King and of the dying of justice in Albany, Georgia, on
25 that date.

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1 Q That night was there a mass meeting?

2 A Yes, there was.

3 Q What happened, if anything?

4 A On that night, there were no further marches,
5 but there were great crowds there, I would say 2,000 to
6 2,500 probably.

7 Q Where were they?

8 A They were - all of these meetings are located
9 at the same place or most of the time during these marches,
10 at Mt. Zion and Shiloh churches.

11 Q Well, what happened near these meetings, if
12 anything?

13 A We had some instances of rock throwing and
14 bottles.

15 Q Were any of your officers struck?

16 A Not at that time, no.

17 Q Do you know whether or not any of your police
18 equipment and cars have received any injury?

19 A Yes, we've had cars damaged to the extent of
20 their beacon light, their red signal lights on top were
21 smashed; bricks thrown against the sides of the caes,
22 while they were observing these meetings.

23 Q Did anything ever happen to your paddy-wagon?

24 A Yes, during one of these meetings which was held
25 at Koikee Church, Third Kiokee, which is located in the south

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1 part of town, the paddy-wagon's mirror was splashed by
2 gun-shot and the paddy-wagon was set on fire by groups
3 of people while the officers were out trying to disperse
4 the crowd.

5 Q Was that in proximity to the church?

6 A In the immediate area of the church, across
7 the street in a lot from the church.

8 Q From the church?

9 A Yes.

10 Q Now, on December 21, I mean July 21, 1962 --

11 MR. HOLLOWELL: Did you say 21st or 22nd?

12 MR. KELLEY: 21st.

13 _____Q What was the situation in Albany, in your
14 judgment, insofar as the peace, good order and tran-
15 quility of the City was concerned?

16 A On that date on Saturday, we had, the City
17 had received an injunction against the Albany Movement.

18 Q Before we get to that now, before the City
19 was granted a restraining order by Judge Elliott, what
20 was the situation?

21 A The situation was very tense, very explosive;
22 and, in my honest opinion not only as an individual but
23 as a law enforcement officer, it was an erupting point in
24 the City of Albany.

25 Q Had additional State patrolmen been called in

1 at that time?

2 A Yes, they had.

3 Q Why?

4 A Because we felt that we needed supplement,
5 to see that the peace and the quiet and the dignity
6 of this City was preserved at all cost.

7 Q Were there any other law enforcement officers
8 made available to you; if so, who were they?

9 A The Revenue Department, Agents of the Revenue
10 Department were made to our use to use in surveillances,
11 to use in the crowds; the County police were put under
12 my command and members of the Sheriff's Department were
13 placed under my command to supplement my own officers.

14 Q On Friday, the 21st, approximately how many
15 law enforcement officers did you have under your command?

16 A Mr. Mayor, to --

17 Q On July 20, I guess it was?

18 A On the 20th we had approximately 160 to -80
19 officers under my command in the City of Albany.

20 Q Was it necessary, or did you, as a matter of
21 fact, utilize the services of all of these people?

22 A Yes, I did, on the following night, Saturday
23 the 21st.

24 Q For what purpose?

25 A On the 21st of the month of this month, we had

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1 a march originate from the church, two churches, at
2 approximately 10 o'clock. They were led by Rev. Samuel
3 Wells, and consisted of 161 people, of which 112 were
4 juveniles, to march on the streets of the City of Albany;
5 and after which the situation grew so tense and so at the
6 erupting point that we had to call out all the law enforce-
7 ment that I had under my command to assure that the peace
8 and the quiet of this City was preserved.

9 Q From January of 1962 up until July 20 of 1962,
10 describe the situation in Albany, insofar as the enforce-
11 ment of our laws and ordinances are concerned, what hap-
12 pened from that January until July?

13 A During this time we had spontaneous demonstra-
14 tions, such as set-ins and during that time we were still
15 under tension, but our forces up until these last demon-
16 strations started, we were pretty well to normal until the
17 return of Dr. Martin Luther King to trial on the 11th of
18 July.

19 Q At that time did you as a law enforcement
20 officer detect anything unusual about the City of Albany
21 and Dougherty County?

22 A After the sentencing of Dr. Martin Luther King,
23 in my opinion, in my honest opinion, the situation was
24 developing into a very serious situation because --

25 Q Would you say a gradual development?

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1 A It started upon the immediate sentencing of
2 Dr. Martin Luther King and Dr. Ralph Abernathy and them
3 entering our jail to begin serving a 45-day sentence, & they
4 immediately began calling mass meetings and the tension
5 began to rise.

6 Q Was that among the Negroes or the whites or
7 who?

8 A The Negro citizens were aroused at that time
9 because of their statement that justice had died, and in
10 these mass meetings that they had and the multitude of
11 people that they had attending these meetings, naturally
12 they aroused the curiosity and whims of the white people
13 also in the City of Albany.

14 MR. HOLLOWELL: Now, we have to object to
15 all of these conclusions of the Chief here. I
16 don't think he's qualified, nor has there been
17 any foundation laid for him to determine what
18 happened in the minds of the whole white community,
19 some 50,000 people, based upon the fact that there
20 were some Negroes having some meetings out there.

21 THE COURT: Yes, I don't think he could
22 testify about what happened or rather what was in the
23 minds of the people. I think he can testify about
24 what happened and his judgment as an experienced
25 officer of what the situation was; but I don't think

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1 The Court:

2 he can testify about what was in the minds of the
3 people. I sustain the objection.

4 Q Mr. Kelley: As a police officer, on July 20
5 of this year, in your judgment, what was the situation?

6 A In my opinion and my judgment, the situation
7 was very tense; as I have stated, on numerous occasions,
8 that the occasion or the situation was of such nature that
9 we had to utilize, not only my forces on a 24-hour alert,
10 but also the forces of the City, County and State on a
11 24-hour alert, stationed and living in the hotels directly
12 across the street from the City Hall, where they could be
13 mobilized in a matter of minutes.

14 THE COURT: Now, that question related
15 to the date, July 21?

16 MR. KELLEY: July 20.

17 THE COURT: Your question was July 21.

18 MR. HOLLOWELL: If it please the Court, the
19 question was as to July 20.

20 THE COURT: Well, suppose you clarify it
21 by asking the question again because apparently there's
22 some confusion about when you meant.

23 MR. KELLEY: I intended to say July 20, on
24 Friday.

25 MR. HOLLOWELL: That's what I have.

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1 A The Witness: That was my answer as to the
2 conditions on July 20.

3 THE COURT: All right, then it will not be
4 necessary to go over it again. I just wanted to be
5 sure we had the date right.

6 Q Mr. Kelley: Now, Chief Pritchett, as a
7 law enforcement officer, knowing the situation that you
8 have described here on July 20, what was your opinion as
9 to the necessity of a court order restraining violations
10 of City ordinances?

11 A I thought it was of great demand that this
12 restraining order be placed, because I felt that the
13 straining point was reaching such that it could snap at
14 any time, either on the Negro or the white; and I felt
15 that my men, being under stress and the strain of 24-hour
16 a day alert, not only my men but the State Patrol, were at
17 the straining point, and I didn't know whether, in my own
18 judgment and opinion, that these officers could continue
19 to hold their restrain and face the abuse and the intima-
20 tion and the insults which they had been confronted with.
21 And for this reason I felt it was imperative that immediate
22 relief be given to us.

23 Q Even as late as July 20, were the officers
24 being intimidated by inflammatory language?

25 A On various occasions, yes.

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1 Q Do you know that of your own knowledge?

2 A Yes.

3 Q Did you hear it yourself?

4 A We had during these meetings officers stationed
5 down there, where we had to move them from the area to
6 afford them protection, in order to afford the Albany
7 Movement protection.

8 Q And other citizens?

9 A And other citizens, that's correct.

10 Q In your judgment, after Judge Elliott signed
11 this restraining order and it was served upon the
12 Defendants, based on your experience as a law enforcement
13 officer, and your knowledge of the situation that existed
14 here in the City of Albany on July 21 of 1962, state, in
15 your opinion, whether or not the signing and serving of
16 that order saved lives in Albany, Georgia?

17 MR. HOLLOWELL: Now, if it please the Court, I
18 submit that this is going far beyond the scope in
19 which this officer would be able to testify as to the
20 effect of the particular order, so far as the matter
21 of saving lives is concerned.

22 THE COURT: I overrule the objection.

23 A The Witness: I feel that the signing of
24 these papers and the serving of these Defendants and the
25 knowledge that this restraining order was effective as of

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1 that date and certainly relieved the tension in a great
2 amount and, in my opinion, possibly saved violence and
3 mob action at the time of this signing.

4 Q Even so, was there a demonstration that night
5 of any kind?

6 A On Saturday night, the 21st, there was a
7 demonstration.

8 Q How many were there?

9 A There was 161, 112 of which were juveniles,
10 led by Rev. Samuel Wells of the Albany Movement, who is
11 an officer of the Albany Movement.

12 MR. HOLLOWELL: May it please the Court, this
13 is repeating. He's been over that, he has been over
14 that, this counsel here and he's been over that again
15 this morning and now he's coming back over it again;
16 and I submit that this is repetitive.

17 MR. KELLEY: Your Honor please, I am trying
18 to take it in chronological order. We have a few more
19 marches to go.

20 MR. HOLLOWELL: I submit that they've been over
21 it twice already.

22 THE COURT: Well, Mr. Hollowell, he's been
23 over some phases of it. Now, as I understand the
24 reason he's coming back to it, is that he's trying to
25 get it into the chronology of what happened after the
restraining order.

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1 MR. KELLEY: That's right, Your Honor.

2 THE COURT: And for that reason I will allow
3 him to go back into it again; but, of course, as I
4 have previously stated, I do not want to go over
5 matters simply for the purpose of going over them;
6 but as I understand, the purpose of it is to get it
7 in chronology and I will allow it.

8 Q Mr. Kelley: Relate what happened, if you
9 will, on that Saturday night, July 21?

10 A At approximately 10 o'clock there was a
11 demonstration and a march of 161 people or more, who
12 left the churches and marched through the Harlem district
13 into the uptown area of the City of Albany. These marchers
14 brought along with them great numbers of people, which
15 congregated and assembled on the southwest and the south-
16 east corners of the intersection of Oglethorpe and Jackson.
17 The marchers continued on their way in the number of 161,
18 and when encountered at the intersection of Broad and Jackson,
19 stopped them, inquired as to their intentions, related
20 their violations of the law, asked them to disperse and go
21 about their way of life, that we did not want to arrest them
22 but we asked for their cooperation in returning to their
23 homes and their meetings, they refused to do so and were
24 arrested.

25 Q What was the condition of the crowd at the bus

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1 station that night?

2 A At this time the crowd at the bus station on both
3 corners -

4 MR. RACHLIN: May I suggest that the
5 witness state if he was there or not?

6 THE COURT: Well now, before we go any
7 further, let's have this understood: There are a
8 number of counsel, of course, representing the
9 Defendants, and I would prefer orderly procedure
10 and that one of counsel make objections rather than
11 all counsel participating.

12 MR. HOLLOWELL: Now, if it please the Court,
13 there are a number of individual counsel and each
14 of the organizations or individuals who are present
15 have a right, as I understand the law and procedure,
16 to be represented by counsel; and if they have their
17 own counsel here, I would certainly submit that I
18 would have no prerogatives insofar as any objection
19 that might be made by another counsel who represents
20 one of the individual defendants that are herein
21 listed as defendants.

22 THE COURT: I suggest then that we follow
23 this procedure: that if any of counsel, if any of
24 counsel or any of the Defendants have any objection
25 they wish to make, that they indicate to the Court

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1 The Court:

2 that they wish a moment to do so, but let only one
3 counsel make the objection. In other words, if counsel
4 for one particular Defendant wishes to assert an
5 objection, let him communicate the objection he
6 wants to make to some one counsel and let that
7 counsel do all of the talking on the objection.

8 MR. HOLLOWELL: I would submit, Your Honor,
9 that here again I would not want to be saddled with
10 this burden. I mean this isn't as if there was one
11 counsel or one group of counsel representing a par-
12 ticular individual. You have 4 or 5 or 6 separate
13 organizations. They make up the persons who became
14 the Defendants; and as a result, each of them is
15 entitled to have representation and each of them,
16 as I would see it, would certainly have the authority
17 to raise an objection pertaining to any particular
18 thing, if he felt that it was an appropriate objection.
19 And I don't think that there would be or that we should
20 be saddled with such a burden as to have to make our
21 coordination here in connection with raising a par-
22 ticular objection.

23 I say this to the Court, certainly we will try
24 to do this, in order to expedite the matter and in
25 order to make the trial go on, but I don't want to be

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1 Mr. Hollowell:

2 limited to that extent that this would be required
3 as a matter of policy and procedure and conduct of
4 this trial.

5 THE COURT: All right, based on represen-
6 tations by counsel that they will attempt to cooperate
7 with the Court, I will relent in my ruling.

8 MR. HOLLOWELL: Thank you.

9 THE COURT: And will allow counsel to make
10 their objections, with the understanding that counsel
11 will cooperate with the Court to avoid confusion.
12 All right, now what was your objection?

13 MR. RACHLIN: The Chief was testifying as
14 to an incident at the bus station, and I would like
15 to have counsel inquire whether the Chief was there
16 or not.

17 THE COURT: All right, you may have him
18 state whether he's speaking from his own knowledge.

19 Q Mr. Kelley: Were you present?

20 A I am speaking from eye-witness knowledge. I was
21 on the scene.

22 MR. RACHLIN: I am afraid that is not
23 responsive to counsel's question.

24 Q Mr. Kelley: State whether or not you were
25 present?

A I was present at the intersection of Oglethorpe
and Jackson, of which the bus station is located on the

1 southwest corner. I was there.

2 MR. RACHLIN: Excuse me, sir. This still is
3 not responsive to the question of whether he saw the
4 incident but he simply says he was there.

5 THE COURT: Suppose you ask him that.

6 MR. LEVERETT: He stated he was an eye-witness.

7 THE COURT: Just ask him what he saw.

8 Q Mr. Kelley: Did you see the people con-
9 gregated there?

10 A I did.

11 Q What, if anything, did you do?

12 A We attempted to disperse this large gathering of
13 Negro people there, who were hollering insults and boister-
14 ous language back and forth across the street, running
15 from one side of the street to the other and, in general,
16 causing a general disturbance around the vicinity of the
17 bus station.

18 Q What then did you do, if anything?

19 A We dispersed the crowd.

20 Q How?

21 A With the use of personnel of the Albany Police
22 Department and other personnel. And also I would like to
23 bring out at this time that members of the Albany Movement
24 were there policing their own crowd, encouraging them to
25 assemble back at the church and not to violate the law and

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1 not to be in this riotous condition; and they were there
2 attempting with loud commands to go back to the church
3 and not to have violence there at the time.

4 Q Were they successful?

5 A They along with my officers. We were successful,
6 yes.

7 Q What happened to the State Patrolman who
8 was hurt, if he was hurt?

9 A That was not at that time.

10 Q Not at that time?

11 A That's correct.

12 Q All right sir, now did you have any further
13 demonstrations after July 21? If so, when?

14 A We had one on Tuesday, July 24.

15 Q July 24?

16 A That's right, at approximately 10:55 P. M. at
17 night.

18 Q Describe that one?

19 A We had a group of 40 to come, of which 23 of
20 those were juveniles, to march from the church. Larger
21 groups come out of the church in the march but when they
22 reached the intersection of Oglethorpe and Jackson, those
23 people stayed on the corners and did not come across. These
24 people were arrested for the same thing, and then in turn
25 the crowds on the corner that night were in excess of 3- to

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1 4,000 Negro people, which necessitated the use of every man
2 that I had under my command, to enter Harlem to try to
3 restore peace, at which time officers of my Department
4 were struck with bottles, officers of the State Patrol
5 were struck with rocks, knocking out teeth, and at which
6 time we had to disperse this crowd and move them back a
7 block or block and a half away from there in order to
8 relieve the tension and in order to prevent violence,
9 more so than which we had had. The bottles were raining
10 on us like mortar shells coming into the middle of the
11 street, rocks and bottles. Our men were standing fast,
12 giving voice commands. At no time was our sticks, our
13 night sticks taken off of our belts. We tried our best to
14 control this mob without violence on our part, to let them
15 know the only thing we were there for was to see that the
16 peace and quiet of the City and no violence was caused,
17 and in return we were greeted with rocks and bottles,
18 striking my officers and officers under my command.

19 Q In your opinion, did the demonstration sponsored
20 by the Albany Movement incite those present to do what
21 they did?

22 A The people when these marchers came --

23 MR. HOLLOWELL: Now may it please the Court,
24 here again, I don't think that this man is capable of
25 giving his opinion based upon knowledge of what
incitations are, insofar as these particular acts

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1 Mr. Hollowell:

2 are concerned. I don't think there is any basis or
3 a sufficient foundation for him to make this kind
4 or give this kind of an opinion statement, for it
5 would be a complete conclusion.

6 THE COURT: I think as a police officer he
7 can state whether the massing of the people under the
8 direction of the Albany Movement incited the difficulty.

9 MR. HOLLOWELL: There is no testimony to the
10 effect that the mass of people were directed by the
11 Albany Movement as to this particular incident. As
12 a matter of fact, he indicated that there was some
13 40 people, not that there was any massing of a large
14 number of people. I am saying that this would not
15 be a sufficient basis.

16 THE COURT: All right, do you want to
17 rephrase your question, Mr. Kelley?

18 MR. KELLEY: Yes sir, I will.

19 THE COURT: I'm inclined to think it's
20 all right as it is but for the record possibly you had
21 better bring out more detail.

22 Q Mr. Kelley: When did this large aggregation
23 of 3- or 4,000 people assemble on this night in the area
24 of the bus station?

25 A When these people left the churches, they left --

1 Q Which church?

2 A They left Mt. Zion and from Mt. Zion to Shiloh
3 and out of Shiloh into the street. They brought with them
4 onlookers from the Mt. Zion and Shiloh churches, and when
5 they entered the intersection of Oglethorpe and Jackson,
6 only 40 marchers proceeded north, while all of the other
7 masses of people stayed on the corner.

8 After these people were arrested, it was drawn
9 to my attention by Staff officers of my Department that
10 a situation had developed on the intersection of Jackson
11 and Oglethorpe to such an extent that it required my
12 immediate supervision; and I immediately went to this
13 area and, upon seeing the situation as it was and knowing
14 that this situation could erupt at any time, then for the
15 first time during all of these demonstrations, I decided
16 to take all of my personnel, every man that I had that
17 was on the street, just disregarding the office personnel,
18 every one of my personnel under my direction entirely into
19 the Harlem district to disperse and restore this place back
20 to peace and quiet.

21 And that was the only time that the situation -
22 and we went in there with the only idea of restoring peace
23 and quiet. And that's when we were greeted with rocks,
24 bottles, insults, cusses, being spit upon, being threatened;
25 but at no time - and I want to make it known to everybody -

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1 that these men under my command held the best respect and
2 restraint that I have ever seen of law enforcement, to be
3 spat upon, rocked and bottled, and still hold their line
4 against any of this.

5 MR. HOLLOWELL: May it please the Court, this
6 is about the 11th time that we've had this same thing.

7 THE COURT: Well, it seems to have happened
8 about that many times.

9 MR. HOLLOWELL: I submit that we are talking
10 about a specific occasion.

11 THE COURT: All right.

12 MR. HOLLOWELL: And this constant repetition
13 applies to the same occasion which is certainly
14 improper.

15 THE COURT: This is the first testimony
16 about the night of July 24 that we've had, the first
17 testimony about it. Go ahead, Mr. Kelley.

18 Q Mr. Kelley: This took place on the night of
19 July 24, after Judge Tuttle had stayed the restraining order
20 issued by Judge Elliott, did it not?

21 A That's correct.

22 BY THE COURT:

23 Q Was that the worst situation you've had compared
24 to all the others?

25 A Yes sir, it was the most explosive and dangerous

1 situation that we've had here, which could have erupted
2 and had bodily harm and possibly death in the City of
3 Albany that night.

4 Q And that happened on the night of July 24, which
5 was a few hours after Judge Tuttle had lifted my restraining
6 order?

7 A That's correct, Your Honor.

8 THE COURT: All right, go ahead.

9 Q Mr. Kelley: Describe the language and
10 activities of the people assembled in the area of the bus
11 station and across the street?

12 A Your Honor, if you can imagine 3- to 4,000
13 jarring people on either side of the street, jarring at
14 you, insulting at you, threatening you, intimidating you,
15 spitting at you, throwing rocks, throwing bottles, then
16 you can imagine the situation that my men and other men
17 under my command were placed in that night.

18 Q Did these people congregate only after the --

19 MR. HOLLOWELL: Ask him where they congre-
20 gated, may it please the Court. We would like to
21 have this counsel to quit leading the witness.

22 THE COURT: All right, don't lead him, Mr.
23 Kelley.

24 MR. KELLEY: I won't lead him quite so badly.

25 Q Chief Pritchett, were the people who had been

1 congregated at the Shiloh Church participating in this
2 activity?

3 A They would and I would like to state that
4 Wyatt T. Walker, Rev. Wyatt T. Walker, Rev. Andy Young and
5 others of the Albany Movement, who are associated with the
6 Albany Movement, were there attempting and ordering the
7 people to return that night, to keep down any violence;
8 and they were trying to assist us to keep down any bodily
9 harm that night. And they were there and we could hear
10 them and my men moving these people. Yes, they were a
11 part of the Albany Movement and when we dispersed them,
12 they went back to the Shiloh and Mt. Zion churches.

13 Q And things settled down then?

14 A Things settled down.

15 Q All right sir, on that same night, do you
16 know of your own knowledge whether or not there were
17 any fire alarms?

18 A Yes, I was requested to put police personnel
19 with fire personnel to answer these false alarms, because
20 they were going off in the south of town faster than they
21 could answer them.

22 Q How many did they have?

23 A To the best of my knowledge, in excess of 5 or 6.
24 I was busy with other things and don't know exactly how
25 many they had.

1 Q You did hear the fire trucks though?

2 A Oh yes.

3 Q Were these calls, to your knowledge, in the
4 south part of town or Harlem?

5 A Yes, they were.

6 Q Do you know whether or not there was actually
7 any fire that night?

8 A There were no fires that night.

9 Q Now Chief Pritchett, did you have any other
10 demonstrations after that, after the 24th?

11 A The only other demonstration we have had, not
12 of that nature, not of marches, that night after this I was
13 informed the next day by Rev. Wyatt T. Walker, an associate
14 of Dr. Martin Luther King, that there would be - and by
15 Dr. Martin Luther King - that there would be no more night
16 marches because they could not control the people and they
17 would have to go out on pilgrimages through the City to
18 speak to the people and to preach to the people on non-
19 violence.

20 Q Did he assume any responsibility for the
21 violence which had occurred?

22 A Yes, he did.

23 QW What did he say?

24 A He said that they would have to assume part of
25 the responsibility because they were here leading the people.

2 14

1 THE COURT: Who said that?

2 The Witness: Dr. Martin Luther King.

3 Q Mr. Kelley: I show you PLAINTIFFS' EXHIBIT
4 No. 5, which is dated July 22, 1962, and ask you what that
5 is, if you can identify it?

6 A This is a joint statement of Dr. Martin Luther
7 King ^{Jr.} and Dr. W. G. Anderson, President of the Albany Movement,
8 for release on Sunday, July 22. This was immediate press
9 release after he held a press conference at the residence of
10 Dr. W. G. Anderson that Sunday.

11 Q Now, Chief Pritchett, what activities have
12 been carried on by the Defendants, if any, since that date,
13 the 22nd or since the 24th?

14 A I was looking at this. I was a little confused,
15 there have been so many of these. This was on the 22nd.

16 Q Now, since the 24th, after that big demonstra-
17 tion then, what has been taking place?

18 A They held other press conferences there at
19 the residence of Dr. W. G. Anderson.

20 Q Have there been any other demonstrations or
21 any other activities sponsored by any of the Defendants?

22 A There have been demonstrations and such at the
23 City Hall, in groups of 10, 9 or as high as 25 or 28.

24 Q Did any of these people relate to you why they
25 were demonstrating?

1 A They were demonstrating because the City
2 Commission, in their own words, "would not yield to their
3 demands".

4 Q Did they assign any other reason for congregating
5 in front of the City Hall?

6 A Their statement to me was that they were there
7 to protest the activities of the City Commission.

8 Q All right sir. Now, on July 25, I show you
9 PLAINTIFFS' EXHIBIT No. 4, and ask you to identify that if
10 you can?

11 A This is a statement by Dr. Martin Luther King
12 and by Dr. W. G. Anderson.

13 THE COURT: Just a moment - Mr. Hollowell,
14 what was your question?

15 MR. HOLLOWELL: I was just asking what was
16 the exhibit number. I've got it; thank you, sir.

17 A The Witness: P-4, which was released at
18 11:00 A. M. on the 25th of July, 1962.

19 Q Mr. Kelley: Now, Chief Pritchett, did Dr.
20 Martin Luther King to your knowledge call or request a day
21 of penitence, as he put it?

22 A Yes, he did.

23 Q Did you discuss this with any members of the
24 Albany Movement or any of these Defendants?

25 A Yes, I did.

1 Q During this day of penitence for a 24 hour
2 period, were there any marches or demonstrations or other
3 violations of the City ordinances?

4 A No, there wasn't.

5 Q Do you know of your own knowledge how much
6 money you have had to spend by reason of your activities,
7 more than you would have ordinarily spent, if any?

8 THE COURT: Does that now relate to the
9 Police Department?

10 MR. KELLEY: Yes sir, to the Police Depart-
11 ment.

12 A The Witness: During these demonstrations
13 which began in December up until now, it has cost the City
14 of Albany in excess of \$36,000 above normal expenditures
15 which we would have experienced to combat and to pay these
16 officers and to feed these officers, to house these
17 officers, and to keep them here on alert of 24 hours a
18 day, in excess of - this information was given to me by
19 the City Manager - in excess of \$36,000.

20 Q Now Chief Pritchett, have you discussed the
21 matter of marches and demonstrations and other activities
22 of the Albany Movement with any of these Defendants recently?

23 A Yes, I have.

24 Q What has been their attitude, Mr. Pritchett?

25 A Their attitude has been such that they felt,

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1 they said they felt compelled - that they would not have
2 any mass demonstrations now, because of the people not
3 being willing to follow their non-violence; that they
4 would have only small groups, consisting of 10 and as
5 high as 27, to come to the City Hall to pray; but they
6 said they would not - that they would continue their
7 demonstrations and violations of our laws.

8 Q Did any of these -

9 BY THE COURT:

10 Q Said what?

11 A That they would continue to hold --

12 Q That they would continue to do what?

13 A To demonstrate and not to observe our rules and
14 regulations and ordinances of the City of Albany.

15 Q How recently have these -- now, which
16 Defendants have made that statement to you recently?

17 A Rev. Wyatt T. Walker.

18 Q Any others?

19 A I can't recall, Your Honor. I would rather
20 not answer because I can't recall, and the only one I know
21 positively is Rev. Wyatt T. Walker.

22 Q That he intends to continue to violate the
23 City ordinances?

24 A He said that he intended to follow the instruc-
25 tions of his leader, Br. Martin Luther King, who has during

1 his jail stay had immediate and daily contact with his
2 lawyers and people of his organization and instructed them
3 as to what the activities would be.

4 BY MR. KELLEY:

5 Q Chief Pritchett, can you tell us how many people,
6 who have been arrested for participating in the marches
7 without a permit or other City violations, are repeaters;
8 how many people have been arrested more than once for the
9 same offense?

10 A There has been in excess of 1,000 or 1100 arrests
11 but this involves probably not more than 400 or 450 people,
12 less than 500 people, because of the repeated arrests. For
13 instance, Dr. Martin Luther King has two arrests; Dr.
14 Anderson has, I think, one or two. Charlie Jones has 5 or
15 6 or maybe 7 arrests. These people would make bond and
16 then come back.

17 Q Chief Pritchett, after Dr. King was sentenced
18 and incarcerated did he state to you, after his fine was
19 paid, whether or not he wanted to stay in jail or be
20 released?

21 A He stayed he wanted to remain in jail.

22 Q Did he assign any reason for that?

23 A Because he felt it was against his conscience
24 to leave the jail, that he would be letting his people down.

25 Q And what other comment did he have to make about

1 his release, if any?

2 A In my conversation with him after his immediate
3 release, he was visibly disturbed because he did not want
4 to leave jail, because of his relations to his people; and
5 that he would continue to remain in Albany, regardless of
6 whether he was in or out of jail, to lead this fight.

7 Q Did he at that time make any mention of the
8 ordinances of the City?

9 A He did.

10 Q What did he say?

11 A He stated there in my office on his release
12 that he would continue to fight this struggle to do away
13 with the evil system of segregation, in his own words.

14 Q Did he say anything about demonstrations or
15 marches, or anything like that?

16 MR. HOLLOWELL: If it please the Court, counsel
17 is leading the witness.

18 THE COURT: Yes, I think that was leading.

19 MR. KELLEY: Alright, sir, I'll withdraw
20 that.

21 Q Chief Pritchett, did you hear the Defendant,
22 Dr. Anderson, on the nationwide television program last
23 Sunday?

24 A I did.

25 Q Was any mention made by the Defendant Anderson in

1 this nationwide television program as to the ordinances of
2 the City of Albany?

3 A There was.

4 Q What was that?

5 A He stated in his statement to the audience
6 over this MEET THE PRESS that any laws that they felt were
7 unjust would not be obeyed or in their conscience were unjust
8 would not be obeyed.

9 Q What reference did he make to the restraining
10 order issued by this honorable Court, if any?

11 A He stated publicly that he did not know whether
12 he would obey a restraining order or not, that he would
13 have to take it before his Executive Committee and decide
14 as to whether or not to honor any injunction.

15 Q In your judgment as a law enforcement officer,
16 Chief Pritchett, and a man charged with the responsibility
17 of enforcing the ordinances of this City and the statutes
18 of this State, is there a need at this time for an order
19 restraining the violation of laws of our City and State?

20 A In my honest opinion as an individual and as
21 the Chief of Police and the chief law enforcement officer
22 of the City of Albany, it is my firm belief that a restrain-
23 ing order and a permanent injunction is needed to preserve
24 the peace and the quiet and the dignity of this City from
25 mob violence.

MR. KELLEY: The witness is with the Court.

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CROSS EXAMINATION

1
2 BY MR. HOLLOWELL:

3 Q Chief, you have been the chief law enforcement
4 officer here for about how long?

5 A Since June of 1959.

6 Q You've had some special training in the handling
7 of law enforcement functions, haven't you, Chief?

8 A I have.

9 Q What are those?

10 A I attended in 1951 southern police institute for
11 a period of three months in police administrative and law
12 enforcement.

13 Q This pertained generally to law enforcement
14 activities, is that correct?

15 A All phases of law enforcement activities.

16 Q And they issue you some certificate, do they
17 not, a copy of which is in your office with your name
18 beautifully enlarged and inscribed thereon?

19 A There is a few hanging in that office, yes.

20 Q In these courses they also - excuse me, strike
21 that - you say there a few: What others are there, Chief?

22 A There's one from Northwestern.

23 Q What was your attendance about there?

24 A Traffic institute.

25 Q Traffic institute, where they teach you how to

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1 better handle traffic problems, and you put those into
2 practice in the City of Albany, I suppose?

3 A I try my best.

4 Q And you say there were a few others; what others
5 are there, there?

6 A The FBI National Academy, which I attended in
7 1955.

8 Q How long was that course?

9 A Three months.

10 Q And this was where?

11 A Washington, D. C.

12 Q In Washington, D. C., this was in what year?

13 A 1955.

14 Q In '55; this was before you went to Newnan?

15 A Newnan, Georgia.

16 Q I mean Newnan, yes; it was before you went to
17 Newnan?

18 A That's correct.

19 Q And are there some others?

20 A I have attended various schools conducted in the
21 State, pertaining to law enforcement in general.

22 Q Do they have memory courses to help you to
23 identify and to retain images and to retain sets of facts,
24 do they not?

25 A It is helpful, yes; none specifically to that

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1 phase of police work, where we are taught to memorize all
2 of these things, but it is in general, just police training.

3 Q I mean you have others, where they have
4 accidents and they show you certain scenes and have you
5 to remember or try to remember that which happened, so
6 as to show you how people forget sometimes?

7 A That is correct.

8 Q And you took this kind of study?

9 A It has been included in the curriculum of these
10 schools.

11 Q How many of these kinds of courses or rather -
12 let me rephrase it: How many courses did you attend where
13 you had this kind of training?

14 A I would say some of this training was involved
15 in any or all of it.

16 Q In all of it?

17 A Yes.

18 Q So, at least on 4 or 5 occasions you've had
19 some training that taught you to keep in mind specific
20 things, so as to be able to make proper and legal and
21 true reports of that which you have seen?

22 A I would say that it helped to try to enable me
23 but not to make it positive in my mind that I can remember
24 any given things at any given time.

25 Q I'm not suggesting that, but you've had these

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1 courses which have gone to the matter of retaining informa-
2 tion which you receive, so as to give a report that has
3 complete verity, insofar as is humanly possible?

4 A I have, as I have stated before.

5 Q Now, you were the Chief of Police in November
6 of '61, were you not?

7 A I was.

8 Q In the City of Albany?

9 A In the City of Albany.

10 Q Now, during that time were there any occasions
11 to make any arrests in the vicinity of the Greyhound Bus
12 Station or the Trailways Bus Station?

13 A There was.

14 Q Was this subsequent to November 1?

15 A That's correct.

16 Q Is it not true that you made arrests or men of
17 your staff made arrests of individuals who were ticketed
18 and were seeking to utilize what is known as the main
19 waiting room of the Trailways Bus terminal; isn't that
20 correct?

21 MR. LEVERETT: May it please the Court, we
22 object to this line of testimony, on the ground
23 that it's irrelevant and immaterial to the issue
24 in this case. There is another case pending, to which
25 this testimony might be relevant, but it has no

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1 Mr. Levetett:

2 relevancy whatever here, because, even assuming that
3 there were some illegal arrests or rather arrests for
4 statutes or ordinances which the Defendants claim were
5 void, that would not justify any illegal conduct that
6 is the subject matter of this case.

7 MR. HOLLOWELL: May I submit to counsel that
8 the distinguished Mayor here put in the letter that
9 Chief testified relating to what he had said about the
10 ICC ruling and the fact that they had not only complied
11 with it but would continue to comply with it; and this
12 is in direct and this has opened it up, I submit that
13 we have the right under the ordinary elementary law
14 of evidence to probe it further. They opened it up;
15 I did not.

16 THE COURT: I overrule the objection. Go
17 ahead.

18 MR. HOLLOWELL: Mr. Reporter, would you re-read
19 the question, please.

20 THE REPORTER: "Is it not true that you made
21 arrests or men of your staff made arrests of individuals
22 who were ticketed and were seeking to utilize what is
23 known as the main waiting room of the Trailways Bus
24 terminal; isn't that correct?"

25 Q Mr. Hollowell: Yes or no, Chief?

A Could I explain myself, explain this answer, Your
Honor?

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1 THE COURT: Yes, yes.

2 A The Witness: We have made arrests at the
3 Trailways Bus Station, located in the City of Albany, of
4 individuals, both white and colored, who were attempting
5 to afford themselves transportation to different parts of
6 the State. We have arrested on numbers of occasions these
7 people since November 1 and before November 1 of 1961.

8 Q Mr. Hollowell: And they were arrested, these
9 Negroes that - well, excuse me - Were there Negroes arrested
10 after November 1, who were seeking to utilize this facility?

11 A They were not arrested for seeking to utilize
12 this --

13 Q What were they arrested for?

14 A They were arrested for disturbing the peace. 11

15 Q In what, in that what?

16 A Can I explain that, Your Honor?

17 THE COURT: Yes sir.

18 A The Witness: On October 26 of last year
19 we had a police officer killed in the vicinity of the bus
20 station by a transit Negro enroute --

21 MR. HOLLOWELL: If it please the Court, this
22 is not responsive.

23 MR. LEVERETT: May it please the Court, --

24 MR. HOLLOWELL: Just a moment, sir --

25 THE COURT: Now, just a minute, one at a

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1 The Court:

2 time and then I will rule. All right, Mr. Hollowell.

3 MR. HOLLOWELL: My statement was to the effect
4 that this answer that he is giving is not responsive
5 to the particular question asked.

6 THE COURT: Well, the question you asked
7 him was whether arrests had been made and why they
8 had been made and he is answering that question.

9 MR. HOLLOWELL: I mean, I'm not talking about
10 something that happened in the past; I'm talking about
11 why were the particular individuals arrested, on this
12 particular occasion.

13 THE COURT: He is answering that. He's
14 saying that arrests were made and he is explaining
15 why they were.

16 MR. HOLLOWELL: Well, I'll withdraw the question
17 and ask this question.

18 Q With what were the people charged who were
19 arrested on November 22?

20 A Your Honor, I still --

21 Q -- for using the Trailways?

22 A Your Honor, I still request an opportunity to
23 explain it.

24 THE COURT: Well, the question now is
25 with what were the people charged who were arrested
on a particular date?

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1 A The Witness: They were charged with disorderly
2 conduct.

3 Q Mr. Hollowell: And in what way was their
4 conduct disorderly?

5 A On the days of these arrests there were great
6 numbers of colored and white, and due to the tension which
7 surrounded the bus station, and due to the death of this
8 police officer, which occurred on October 26 --

9 MR. HOLLOWELL: I would, Your Honor, object to
10 these conclusions which are being drawn and state
11 that this is not responsive to the question asked.

12 THE COURT: I think it is, Mr. Hollowell.
13 The question is why were they arrested, and he has
14 said that he arrested them for disturbing the peace
15 or whatever the charge was, and he is explaining
16 why they were arrested.

17 MR. HOLLOWELL: No, but just a moment, sir, I
18 asked with what were they charged and he said
19 "disorderly conduct"; and I said, "what about their
20 conduct was disorderly." Now, I submit that there's
21 nothing that happened some months ago could have
22 anything to do with what these individuals did.

23 THE COURT: Well, it might have.

24 MR. HOLLOWELL: I said, with what were they
25 charged and why were they disorderly, not something

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1 Mr. Hollowell:

2 that happened a month ago; why were they disorderly,
3 that was the charge at that time.

4 THE COURT: He's explaining why they were
5 arrested and I think it's an appropriate answer to the
6 question.

7 MR. HOLLOWELL: But the question is not why were
8 they arrested, sir. The question is, in what way were
9 they disorderly, because he said this is what the
10 charge was.

11 THE COURT: All right.

12 Q Mr. Hollowell: Now, in what way were they
13 disorderly?

14 A Can I continue?

15 THE COURT: Yes.

16 A The Witness: These people, when they were
17 arrested, there were large groups.

18 Q Mr. Hollowell: Just a moment, sir! That is
19 not responsive. The question was, in what way were those
20 defendants disorderly?

21 THE COURT: I think he's going to answer it
22 if you'll let him.

23 MR. HOLLOWELL: But I want to direct his atten-
24 tion to the question, sir: In what way were they
25 disorderly?

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1 THE COURT: Go ahead, Mr. Witness.

2 A The Witness: They were charged with disorderly
3 conduct -

4 Q Mr. Hollowell: Now, what did they do?

5 A - by creating a disturbance in the vicinity of
6 the bus station, due to the fact that there were large
7 groups of Negro and white people gathered at this bus
8 station, due to the fact that we had a police officer
9 killed 5 days prior to the ICC ruling going into effect
10 by a transit Negro person --

11 MR. HOLLOWELL: Now, if it please the Court,
12 I will have to move that this -- due to the fact of
13 something that happened back in October, he said 5
14 days prior to the ICC ruling, which would have been
15 about the 26th of November, as relates to something
16 that we are addressing ourselves on, the 22nd, I mean
17 the 26th of October, as relates to something that we
18 are addressing ourselves to on November 22, and con-
19 clusions which he is drawing: I submit that these are
20 conclusions that I have not asked for; it is not
21 responsive and I move formally that that portion of
22 the answer be stricken.

23 THE COURT: All right, I sustain the motion
24 and it is stricken. Now, the question, Chief, is why
25 were the people arrested --

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MR. HOLLOWELL: As we referred to -

THE COURT: -- to whom counsel has referred,
and in what way were they disorderly?

MR. HOLLOWELL: Disorderly, that's right, in
what way were these people disorderly.

Q In other words, Chief, what did these people do
to cause you to arrest them?

A Attorney, I can answer your question. They were
charged with disorderly conduct by tending to create a
disturbance.

Q No, no, Chief, I want you to answer what did
these people do?

THE COURT: He's answering it, now counsel.

MR. HOLLOWELL: Sir?

THE COURT: He is answering; he is answer-
ing your question. He says they were charged with
disorderly conduct, in that - now, go ahead. In that
they did what, Chief?

A The Witness: That they were tending to
disrupt the peace and quiet of the City. This was the
ordinance they were charged with.

Q Mr. Hollowell: Now, what did they do?

A They were there - well, we had large groups --

Q They were where?

A In the waiting room of the Trailways Bus station.

CLAUDE JOINER REPORTING SERVICE

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Q Doing what?

A Walking and sitting in this area, which was made up of both white and Negro.

Q Did they curse anybody? They did not, did they?

A They did not cuss anybody.

Q Did they hit anybody?

A They did not hit anybody.

Q Were they normally dressed?

A They were normally dressed.

Q They didn't make any unusual noise?

A Not to my knowledge.

Q And they didn't strike or attempt to strike anybody?

A They did not.

Q And they didn't insult anybody?

A No, they did not.

Q But they were arrested?

A They certainly were.

Q Did you arrest any of the people who were around - I mean, these folks that you say were around the station, did you arrest any of them?

A No, we didn't.

Q And this happened more than once, didn't it, Chief?

A I believe so.

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1 Q Under the same or similar circumstances?

2 A Under the exact circumstances.

3 Q Did you arrest any white persons under the same
4 or similar circumstances?

5 A At that particular time?

6 Q On the 22nd or any time during the month of
7 November, '61, under the same or similar circumstances?

8 A Yes, we did.

9 Q Name me one?

10 A We arrested a number of white people for dis-
11 orderly conduct in the City of Albany on those dates.

12 Q For doing what?

13 A For creating general disturbances in the
14 City of Albany.

15 Q Like what?

16 A By fighting, by acting disorderly, by
17 cursing, by striking people.

18 Q None of which things were any of the Negroes
19 guilty by your own testimony, right?

20 A That's correct.

21 Q You are charged with the enforcement of all of
22 the City ordinances, are you not?

23 A I am.

24 Q Do you know whether or not there are any that
25 require the separation of the races in the use of the public

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1 facilities, such as the Trailways Bus Station?

2 A There is ordinances pertaining to that.

3 MR. LEVERETT: I think the highest and best
4 evidence would be the ordinances.

5 MR. HOLLOWELL: He can state whether or not he
6 knows and that is all that he was asked. That's all I
7 asked, whether he knew.

8 Q You know that there are some, is that correct?

9 A I answered that, to my own knowledge, that there
10 are ordinances of the City of Albany.

11 Q At the time that you made these arrests of these
12 people, who under your own testimony were doing nothing
13 except being present - I'm speaking of these Negroes that
14 you said that you have arrested subsequent to November 1?

15 A They were charged with ordinances of the City
16 of Albany which pertain to both Negro and white, of all
17 races, color and creed, not only to white and not only to
18 colored.

19 Q But you didn't arrest any whites during that
20 period --

21 A During that period we --

22 Q Just a moment, please sir -- for just sitting in
23 the waiting room, attending to their own business, not
24 hitting, not insulting and not attempting to strike anybody;
25 you didn't arrest any white people during that period or

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1 since for doing that, have you? Yes or No?

2 A No.

3 Q As a matter of fact, on the 10th of December
4 you even arrested Mrs. Norma Anderson for being in the
5 bus station, didn't you?

6 A I did not.

7 Q Did one of your men arrest her?

8 A They did not.

9 Q Nobody in your Department arrested her on the
10 10th of December in the Bus Station?

11 A She was placed in protective custody by me.

12 Q Oh, placed in protective custody - excuse me -
13 by you: Where was she?

14 A She was in the bus station, I think in the
15 restaurant, located within the facilities of this bus
16 station.

17 Q Did she ask for your protection?

18 A No, but in my judgment and in my opinion as a
19 law enforcement officer -

20 Q I didn't ask you that; did she ask for it?

21 MR. LEGERETT: He has a right to explain his
22 answer.

23 THE REPORTER: Judge, I cannot report this
24 with three people talking at one time.

25 THE COURT: We're not going to have it that
way. I'm not going to have any argument between counsel.

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1 The Court:

2 We're going to proceed in an orderly fashion. If
3 there's a question to be asked, the question will
4 be concluded. If there's an objection, the objection
5 will then be made and I will rule on it and the
6 witness will either be permitted to answer or not
7 answer the question. Now, the question is what?

8 MR. HOLLOWELL: The question is, did she or
9 anybody that she commissioned as an agent request
10 your protective custody?

11 THE COURT: Now, in answering that ques-
12 tion, Mr. Witness, you can answer that yes or no,
13 and then if you wish to explain it, you may do so.

14 A The Witness: I wish to explain it, Your
15 Honor.

16 THE COURT: You answer it first and then
17 explain it.

18 A The Witness: No one asked me, no, for her
19 to be placed in police custody, but I would like to elaborate. JLV

20 THE COURT: Go ahead and explain it.

21 A The Witness: I would like to explain that
22 in my opinion as a law enforcement officer, due to the great
23 surrounding crowds which were there at the bus station,
24 both white and colored, it was to my belief and to my
25 knowledge that she be placed in my custody under police

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1 custody for her own protection, to be taken away from
2 there; and at such time when she was taken away from it,
3 she was explained the situation and escorted back to her
4 residence by police protection of the Albany Police Depart-
5 ment.

6 Q Did you take any other persons into protective
7 custody on that morning?

8 A There was a group accompanying Mrs. Anderson.

9 Q Answer my question, sir?

10 A Yes, we did.

11 Q Now, who were they?

12 A I do not know them by name. There was a group
13 accompanying her.

14 Q How many people were in the waiting room and
15 the restaurant at that time?

16 A I would say a rough estimate in the waiting
17 room and restaurant and the facilities of the bus station
18 2- or 300 people.

19 Q I'm talking about in the waiting room, Chief;
20 how many people in the waiting room?

21 A I would say 20 or 25.

22 Q In the waiting room - excuse me. All right, now
23 how many in the restaurant?

24 A I would say 15 to 20.

25 Q So, about 35 people in the whole facility, and

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1 would you suggest that that facility is at least as large
2 as the distance from the gate here to the end or to the
3 bench there, at least that large?

4 A At least that large.

5 Q As a matter of fact, your police officers have
6 from time to time continued to come through the waiting
7 room and to harass and intimidate persons of color who
8 utilized that facility at the Trailways, isn't that correct?

9 A It is not correct.

10 Q They come in and ask them whether they have
11 tickets and "shouldn't you go over on the other side, do
12 you want to be arrested," - are you submitting that this
13 has not happened?

14 A I am submitting that that is not true.

15 Q Thank you, Chief --

16 THE COURT: Now, at this time I know you
17 will be probably some time longer -

18 MR. HOLLOWELL: Yes sir.

19 THE COURT: At this time we will take a
20 recess until 2 o'clock.

21 LUNCH RECESS: 12:25 PM to 2:00 PM 7-31-62

22 Q Now, Chief, I believe before we adjourned we
23 were discussing the matter of arrest incidents at the Trail-
24 ways station, is that correct?

25 A That's correct.

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1 Q And I believe that you stated that they were
2 arrested just before they were sitting there, or words to
3 that effect, is that right?

4 A I said they were arrested for violating City
5 ordinance charging them with disorderly conduct or tending
6 to create a general disturbance.

7 Q Even though they had not been boisterous and
8 had not assaulted any one or attempted to insult any one,
9 and even though they were properly dressed and they were
10 doing nothing but sitting there, and they had tickets on
11 those occasions authorizing them to ride the bus, is that
12 correct?

13 A I couldn't testify as to whether they had
14 tickets or not. I seen no tickets personally.

15 Q You don't deny that they had them?

16 A I have to deny it; I don't know it personally
17 that they had them.

18 Q I mean you don't deny that they had them;
19 you're merely saying that you didn't see any, is that right?

20 A I say that I don't know personally whether they
21 had tickets or not.

22 Q Now, do you recall that back on the 27th of
23 November, there was the trial of one Julian Carswell and
24 others, pertaining to an incident in the bus station; and
25 you had the occasion to testify at that time, did you not?

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1 A That's November the what?

2 Q 27th?

3 A On a Monday.

4 Q Yes?

5 A I had occasion to testify on that date.

6 Q Let me show you this document, which is
7 entitled "City of Albany versus Julian Carswell, Recorder's
8 Court, City of Albany, before His Honor Abner M. Israel,
9 November 27, 1961, Dorothy S. Beatty, Official Reporter,
10 Albany Judicial Circuit, Moultrie, Georgia": You say you
11 have some recollection of testifying at that trial?

12 A Yes, I do.

13 Q Is this your name here on page 9, at the top of
14 the page?

15 A That's correct, that's my name.

16 QT That's your name?

17 A Yes.

18 Q What does it say?

19 A "Police Chief Laurie Pritchett, being duly sworn,
20 testified as follows".

21 Q Now, turn each page over from that page to page
22 17 and see if there was any one being examined other than
23 you?

24 A (Witness reading transcript handed him) . . .

25 Q If you can go down the sides, if you don't mind--

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1 A Well, I'm going to examine this thing, the
2 testimony.

3 Q I understand that but what I'm saying is, I
4 believe there are some indices as to who was being ques-
5 tioned, and see if you see that anyone else was being
6 examined other than yourself within those pages?

7 A (Witness reading transcript) . . .

8 Q You're on page 17 now; was there any testimony
9 within those pages other than - any one being interrogated
10 other than you?

11 A No, there wasn't.

12 Q "No, there was not"?

13 A That's correct.

14 Q Now, I'll ask you whether or not on that
15 occasion you were asked the question, "Just the fact
16 that they were sitting there, is that right?" And your
17 answer was, "That's right"?

18 A That's correct.

19 Q Now, even as late as June of this year, you
20 have arrested Negroes or caused them to be arrested because
21 of the fact that they sought to utilize the facilities of the
22 Trailways Bus Station, isn't that correct?

23 A It certainly, most certainly is not correct.

24 Q Are you denying that there have been arrests
25 made of individuals who did nothing but go in to use those

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1 facilities?

2 A I'm not denying that they were arrested but they
3 were not arrested by officers of my department, only on
4 complaint of the owners or managers of the bus station.
5 Warrants were taken and we served those warrants as any
6 duly constituted officer has the authority to do.

7 Q Do you have a copy of any such warrant?

8 A A copy of such warrant is on file in the
9 Sheriff's office and I feel sure that you could get it.

10 Q As a matter of fact, the arrests were made before
11 any warrants were issued, isn't that correct?

12 A The people were taken --

13 Q Well, please, just a moment, Chief; if you
14 will answer it yes or no, and then we will certainly
15 permit you to explain: This was the --

16 A On --

17 Q Just a moment, sir, let me ask the question:
18 On the 6th of June, there were LeRoy Rogers, Joseph Pitts
19 and Ulysses Crawley who were arrested at the bus terminal
20 restaurant, is that correct?

21 A That's correct.

22 Q Was there a warrant obtained before they were
23 arrested? Yes or no?

24 A I would like to address myself to His Honor.

25 Q Yes or no?

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THE COURT: You just hold on now, Mr. Hollowell. The witness is addressing me now.

A The Witness: Your Honor, I would like to answer this with a "No" but with the understanding I can explain it.

THE COURT: You may do so. Answer the question yes or no and then you explain it any way you wish.

A The Witness: No, there was no warrant -

MR. HOLLOWELL: For the record, if it please the Court, I would certainly like to say that at no time did this counsel intend or desire to cut off any explanation by any witness, but we would like to certainly also have the witness understand that we are entitled to a categorical answer prior to that explanation.

THE COURT: Now, you leave that up to me to instruct the witness.

MR. HOLLOWELL: Yes, that's what I'm asking.

THE COURT: I'll instruct the witness.

MR. HOLLOWELL: Thank you very much.

Now, we would like to have the record or the Reporter to read what the question is.

THE COURT: He has already the question "No", and now you may go ahead and explain it.

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1 A The Witness: These officers were called to
2 the bus station, Your Honor, by the operator of the lunch
3 room, which is housed in the Trailways Bus Station. They
4 were called there because of these people who were there,
5 not ordering anything, not buying anything; they were told
6 to leave; they refused to do so; he called the officers.

7 MR. HOLLOWELL: May it please the Court, just
8 a moment: I submit that this answer is not responsive,
9 inasmuch as there has been no testimony by this
10 witness that he was there and saw or heard anything;
11 and that this is a matter of opinion and conclusion
12 upon his part.

13 THE COURT: Well, suppose we proceed this
14 way, Mr. Hollowell: You see, we're not trying this
15 case before a jury and the danger which might other-
16 wise be incident to a witness being allowed to make
17 statements which might later be deemed immaterial
18 does not exist as it would if we had a jury trial.
19 Suppose we allow the witness to answer and then if
20 you should consider, after he has completed his answer,
21 if you consider that he has not responded, that his
22 answer is not pertinent to the question, then move
23 me to exclude it and I will rule on it.

24 MR. HOLLOWELL: Very well, Your Honor.

25 A The Witness: Shall I continue?

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1 THE COURT: Yes, go ahead.

2 A The Witness: Your Honor, my officers arrived
3 on the scene, namely Assistant Chief Lairsey, who instructed
4 the owner or proprietor of this business that we had no
5 right to take these people out of this restaurant because
6 of their color; that if he asked them to leave, he had the
7 right to refuse them and if he wished to take warrants,
8 then it could be done. And upon this, he said "I will take
9 warrants, that I want to take warrants now." The officers
10 put the people in their custody and also taken the manager
11 or proprietor of this business at the same time to the
12 City Hall, where they were held while the man taken a
13 warrant and brought the warrant back, and the warrant was
14 served on them for trespassing under the State law.

15 Q Mr. Hollowell: You don't know, as a matter
16 of fact, whether they were or were not any items ordered?
17 Do you?

18 A No, I don't.

19 MR. LEVERETT: May it please the Court, that
20 being so, if the Chief was not down there, I think
21 all of this testimony would be incompetent.

22 MR. HOLLOWELL: We submit that only that
23 relative to the fact that they ordered certain things
24 and that relative to the fact that these persons were
25 brought in the car, unless he can further qualify it

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1 Mr. Hollowell:

2 and state the circumstances as of the time that they
3 arrived. I would agree that this is true, but only
4 as go that matter, not that which went before.

5 THE COURT: Well, there may be some
6 details in the narrative which are not strictly
7 admissible, but I think his question is an effort
8 on the part of the witness to respond to the question
9 about the circumstances under which the arrests were
10 made, and I'll admit the testimony.

11 - Q Mr. Hollowell: There is nothing to your
12 knowledge that the three persons named, namely Rogers,
13 Pitts and Cauleya, were doing other than sitting at the
14 counter in the Trailways lunch-room seeking to get food
15 or to get service; there's nothing of your knowledge
16 that they were doing other than this?

17 A Not of my knowledge.

18 Q And what did you charge them with?

19 A Under State law, trespassing. The proprietor of
20 this business charged them.

21 Q I'm sorry?

22 AT The proprietor of this business or the manager
23 of this business, charged them and swore to the warrant, not
24 my department or any personnel of my department.

25 Q Did you mean the proprietor, sir?

1 A Swore to the warrant, that's correct, Hammontree;

2 Q What's his name?

3 A Hammontree, I believe that's correct.

4 Q Did you at any time inform him that under the
5 ICC ruling that all persons traveling in interstate
6 commerce - excuse me - were supposed to be authorized
7 to use any of those facilities?

8 A I did.

9 Q You told him this?

10 A Could I explain this, Your Honor?

11 THE COURT: The question was, you did?

12 A The Witness: I did, and I would like to
13 explain.

14 THE COURT: Just a moment, do you have
15 an objection you wish to make, Mr. Leverett?

16 MR. LEVERETT: The objection I wanted to make
17 was that this witness is not a lawyer. Of course, if
18 he knows what the ICC ruling was, that's fine.

19 THE COURT: He says he told him. Now, you
20 may go ahead and make any explanation of that, that
21 you wish.

22 A The Witness: Your Honor, we were called
23 prior to these arrests, that these three people - of these
24 three people; and he was instructed by me that we could make
25 no arrests at this terminal, either in his restaurant or

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1 inthe premises of this terminal based on race, color or
2 creed, that there had to be some violation of the law
3 for us to enter into it, and that if he did not wish to
4 serve them, that he could certainly serve them upon his
5 wishes or refuse them and ask them to leave under State
6 law, that we did not enforce segregated laws at the bus
7 station.

8 Q When was it now that you told him this?

9 A This arrest was on Wednesday and I told him
10 that on Tuesday, when these people were at the bus station,
11 the same people, at 6 o'clock in the afternoon on Tuesday,
12 the 5th, or whatever the date was; and my officers were
13 called down there, namely Assistant Chief Summerford, who
14 instructed this owner or proprietor of this business that
15 we could not remove these people based on race, color or
16 creed and refused to take them out.

17 Q You didn't hear him say that, did you?

18 A He followed my instructions.

19 Q I say, you didn't hear him say that?

20 A No, I didn't hear him say it because I don't
21 think the manager will contradict it.

22 MR. HOLLOWELL: He didn't hear it and I move
23 that it be stricken, Your Honor.

24 THE COURT: Yes, that would not be pertinent
25 or rather would not be admissible, if the witness didn't
hear it.

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1 Q Mr. Hollowell: Now, Chief, I believe you
2 testified on yesterday that there were some arrests on the
3 12th of December, 1961 - right?

4 A On December 12, 1961, there was.

5 Q I believe you so testified, did you not?

6 A I so testified.

7 Q And you further stated that you went to Pine
8 Street or rather that there was some 267 Negroes arrested
9 about 10 o'clock that morning - right?

10 A In the approximately number of 267 or thereabouts;
11 maybe a little more or maybe a little less.

12 Q That there had been a two hour meeting before
13 that time at the church, Mt. Zion to be exact, and that
14 Dr. Anderson, M. S. Page and King, Slater King that is,
15 were there; is that correct?

16 A To the best of my knowledge, that's correct.

17 Q And that they were walking two-abreast in
18 a line coming up Jackson Street, and they were stopped
19 and asked whether or not they had a permit?

20 A Who was stopped? Now, are you talking about
21 Slater King?

22 Q The line?

23 A Whoever was at the head of the line was stopped,
24 that's correct.

25 Q Now, were you at the church on that morning?

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1 A I was by that church on a number of occasions.

2 Q Were you at the church between 8 o'clock and
3 10 o'clock, inside the church, on the morning of December 12?

4 A No.

5 Q Then, you don't know who was in there, of
6 your own knowledge?

7 A To my own knowledge, I do.

8 Q To your own knowledge, you do when you said
9 you weren't there?

10 A That's correct.

11 Q Well, Chief, that's interesting to me; tell
12 me how you know who was there of your own knowledge if
13 you were not there?

14 A The people who were on surveillance at the
15 church relayed this information to me.

16 Q No, no, excuse me, Chief: I said of your own
17 knowledge?

18 A Not of my own knowledge but information that
19 was sent to me. That's exactly what I testified to.

20 Q Well, maybe I had better ask you again:
21 Were you at Mt. Zion Church on December 12, between
22 the hours of 8:00 and 10:00?

23 A Not inside the church, no.

24 Q Did you in fact see Dr. Anderson or Slater King
25 or Mr. Marion S. Page between the hours of 8:00 and 10:00 AM

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1 on the morning of December 12, inside that church?

2 A Not inside it, no.

3 Q Where did you see them?

4 A I don't remember seeing them personally.

5 Q You don't remember seeing them? Well, don't
6 you know that you testified yesterday that you did in
7 fact see them and that they were at the church?

8 A No, I don't recall that.

9 Q You don't deny that you said it?

10 A I deny that - if I said I saw them, I said
11 through sources of information that was brought to my
12 attention.

13 Q You said they were also blocking traffic, this
14 group?

15 A That's correct.

16 Q On that morning, is that correct?

17 A During the march, that's correct.

18 Q During the march; and that they blocked traffic
19 at the red lights?

20 A That's correct.

21 Q And that you stopped them, you stopped them
22 on that morning and asked them if they had a permit, and
23 when they said that they didn't have a permit, they were
24 arrested and were brought on to the station; is that
25 correct?

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1 A That's correct.

2 Q Now, calling your attention to the morning of
3 the 10th or the 12th of December, I'll ask you whether you
4 recollect that there was a trial in session on that morning?

5 A Yes, there was.

6 Q You were present at that trial, weren't you?

7 A I was present off and on during the trial, in
8 and out, as best I could due to the circumstances.

9 Q And you were present at the trial until such
10 time as the group that were walking on that morning had
11 actually circled the block in which the station was, isn't
12 that correct?

13 A That's correct.

14 Q Now, I'll ask you whether or not it was
15 necessary for them to cross any streets in the process
16 of circling that block?

17 A It was when they arrived there. They crossed
18 the street there, to the best of my knowledge, at Pine and
19 Jackson, from the west side to the east side.

20 Q Isn't it true that, as a matter of fact, when
21 you came out they were in the process of circling that
22 block?

23 A They were in the process of coming across
24 from Rhodes Furniture Company, which is located on the
25 west side of Jackson, to the east side of the street.

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1 Q When did you first see them?

2 A I first saw them as they passed the City Hall
3 on the first march around the inside of the block.

4 Q So, that was the time you had seen them, that
5 you saw them; so, you didn't see them cross any street?

6 A Yes, I did; I just testified I did.

7 Q And you say you saw them on the first time
8 around the block?

9 A As they were beginning their first march.

10 Q As they were beginning the first march from
11 where?

12 A They had proceeded up the west side of Jackson
13 Street to Rhodes, which is located on the southwest, turned
14 right which was across Pine or Jackson Street, on to the
15 east side of Jackson Avenue, Jackson Street, and proceeded
16 east.

17 Q Proceeded east?

18 A To Washington, turned right on Washington, went
19 south on Washington, to the best of my knowledge, to Broad,
20 turned right on Broad and went west, come back to the inter-
21 section of Broad and Jackson and turned north, come back
22 to the City Hall, to the best of my belief and knowledge.

23 Q Now, I believe you were inside of the courtroom,
24 were you not, at the time that they had first arrived in the
25 vicinity of the courthouse or the City Hall?

1 A I was in and out of the courtroom, that's correct.

2 Q Now, you said that there were a lot of people
3 that were around?

4 A That's correct.

5 Q But there were no threats made, is that right?

6 A Not to my knowledge, that's correct.

7 Q No businesses closed?

8 A None closed.

9 Q Is that right?

10 A That's correct.

11 Q No fisticuffs?

12 A That's correct.

13 Q No intimidation by anybody? To your knowledge?

14 A I couldn't testify to that.

15 Q I mean, you can't testify that there was?

16 A That's correct.

17 Q That's correct, that you cannot testify that
18 there was any intimidation?

19 A Yes.

20 Q How many people would you say were on the street
21 between Jackson and Pine or rather Jackson and Washington,
22 on Pine Street, that morning between the hours of 9:45 and
23 10:30?

24 A I couldn't give you an estimate. I know there
25 was over 200 in the march that was on that street.

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1 Q I mean, other than those?

2 A That I couldn't tell you. I couldn't make a --

3 Q There wasn't but a few, isn't that correct?

4 A I tell you, I was more or less interested in
5 the number; I couldn't testify to the exact number. There
6 were people going about their business out there, standing
7 and observing. As to the number I couldn't say.

8 Q Oh, I see; so, that is right, people were going
9 about their business?

10 A (No answer) . . .

11 Q And there were no crowds that had assembled?

12 A Yes, there were crowds that had assembled.

13 Q Where?

14 A In the uptown area where this march was con-
15 tinuing.

16 Q Where in the uptown area?

17 A Pine, Jackson.

18 Q How many people?

19 A That I couldn't say.

20 Q You said there was a crowd; how many people?

21 A I would say there was in excess of probably 100.

22 Q In excess of 100, in the vicinity of the four
23 corners of Pine, that is Pine and Jackson?

24 A I would say in the intersection at the corners
25 of Pine and Jackson and Washington and Pine.

Q Maybe 100 people?



1 A Maybe 100, maybe more.

2 Q The people were generally going about their
3 business?

4 A As best they could, with the interruption of
5 everything that was going on there.

6 Q What was being interrupted? Who was interrupt-
7 ing anybody?

8 A These marches were interrupting --

9 Q Who did they interrupt?

10 THE COURT: Let him answer the question.

11 A The Witness: They were interrupting the
12 normal peace and quiet of this City. The City was not used
13 to 200 or more marching in the street.

14 Q Mr. Hollowell: Tell me who they interrupted?

15 A They interrupted --

16 Q Who?

17 A In my opinion, businesses; the normal flow of
18 the traffic, the normal --

19 Q Did you count anybody who was kept from going
20 into a building?

21 A No, I didn't.

22 Q Now, who was it that you asked if they had a
23 parade permit?

24 A Attorney, I've asked so many of them --

25 Q No, I mean on this occasion, sir?

1 A I do not know who was leading them.

2 Q But you asked somebody?

3 A That's correct.

4 Q Where were they when you asked them?

5 A They were on the east - on the west side of the
6 City Hall, on Pine, on the west side coming in, right there
7 to the alley adjacent to the City Hall.

8 Q You mean after you had had your police to direct
9 them into the hole there, which is between the City Hall
10 and the next building to the right as you face --

11 Q That is not correct.

12 Q That is when you asked them?

13 A That's incorrect. They were asked on the
14 sidewalk and when they did not have it, and when I told
15 them that they were under arrest, after I told them to
16 disperse and they refused to do so, they were placed
17 under arrest and then placed into the alley south, into
18 the south end there or the west side of the building.

19 Q Now, you remember everybody else you asked;
20 do you have some notes there that tells you who you
21 asked, if any one?

22 A No.

23 Q Sir?

24 A No, I don't.

25 Q Well, you've kept pretty copious notes on these

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1 matters, haven't you?

2 A I've tried to keep my memory here but you
3 know you're dealing with so many folks that it's sort of
4 hard to keep up with.

5 Q Well, you were pretty exact on your direct
6 examination. Is it your testimony that you have no notes,
7 nor any recollection of the person that you asked if they
8 had a parade permit on the morning of December 12, '61, as
9 of the time that you placed the whole group under arrest;
10 is that your testimony?

11 A No, I don't.

12 Q In other words, your answer then is yes, you
13 have no recollection and you have no notes indicating who
14 the person or persons were that you asked about a parade
15 permit, is that correct?

16 A Leading the parade, that's correct.

17 Q You didn't charge them with failing to get a
18 permit, did you?

19 A We charged them with -

20 Q Yes or no?

21 A Yes, we charged with failing to have a permit
22 to parade.

23 Q Now, could you name me one person that was
24 arrested on December 12 that you charged with failing to get
25 a permit, just one?

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1 A Eddie Jackson. I'm pretty sure he was in the
2 crowd.

3 Q All right now-- excuse me, were you finished?

4 A I'm not sure but I think he was.

5 Q Were you finished?

6 A Yes.

7 Q Would you be willing before this trial is over
8 to furnish me with a copy of charges of any one --

9 A I believe --

10 Q -- just a moment sir, that was arrested at that
11 time, with whom you charged with failure to obtain a
12 permit? Would you be willing to do that, sir?

13 A I think the records are there at the Police
14 Department. You could have any of them you want.

15 Q They would be available?

16 A They would be available to you.

17 Q Well, we would like to ask you if you would ,
18 to accommodate the Court and save time, to bring any records
19 which you have?

20 A You're their defense; I'm not handling it -
21 you're welcome to any you want.

22 Q I just want to know whether or not you will or
23 will not?

24 A No, I won't.

25 Q But you think you have some?

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A You can inquire at the Police Station and the records are available to any one. They are made public.

Q Chief, if the people were going about their business, as you have testified, what caused you to determine that there was a great amount of tension among both on this morning?

THE COURT: Now, are we still talking about --

MR. HOLLOWELL: December 12.

THE COURT: -- December 12?

MR. HOLLOWELL: Yes sir.

 A The Witness: I think if the record shows that, I testified that these people were not, that they were going about their business as best they could, due to the circumstances of these people who were congregating on the sidewalk.

MR. HOLLOWELL: This is not responsive, may it please the Court, and we ask that it be stricken, and I will re-ask the question.

THE COURT: I think it is responsive. I think it was responsive to your question. In what respect was it not responsive? You see, the difficulty is, Mr. Hollowell, you phrase your questions in such a manner that if he answers it in any other way, he will have indicated that your statement of fact is what he testified. He is saying he didn't

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1 The Court:

2 testify what you say he did.

3 MR. HOLLOWELL: Well, actually there is no --

4 THE COURT: There's no way he can respond
5 to a question like except to clarify it.

6 MR. HOLLOWELL: In this particular instance,
7 sir, I don't think I made any statement; I asked him
8 in the light of the fact that he said that people were
9 going about their business.

10 THE COURT: Well now, he is trying to make
11 it clear that he didn't say it that way; that what
12 his testimony was is that they were going about their
13 business as best they could under the circumstances.

14 MR. HOLLOWELL: There may be --

15 THE COURT: You see, there's quite a
16 difference and in all fairness to the witness, you
17 cannot insist upon him answering a question you
18 ask him yes or no, when the question is phrased in
19 such a manner as to be premised on him having testi-
20 fied in the manner in which he says he didn't testify.

21 MR. HOLLOWELL: I will re-direct the question,
22 sir.

23 THE COURT: All right.

24 Q Mr. Hollowell: Upon what did you base your
25 statement on direct that there was tension on this
occasion?

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1 A Because of the fact that we had in excess of
2 200 people who were marching on the streets, congregating
3 on the streets, singing, hollering, freedom songs and such,
4 where the people of the City of Albany had not been accus-
5 tomed to this in any way; that this was certainly interrupt-
6 ing the normal procedure in the City of Albany on this
7 day in a way that we had not been accustomed to and in a
8 way that the citizens of this City had not been accustomed
9 to, when people come up town in such numbers as to com-
10 pletely surround the uptown area almost entirely; that
11 they were not accustomed to this mass demonstration, and
12 in such way did cause tension in the City of Albany.

13 Q Thank you. So, this is what you base your
14 statement on?

15 A That's what I said and that's what I testify
16 to.

17 Q How wide are the sidewalks here in front or
18 there in front of the police station; they're about
19 between 15 and 20 feet, isn't that correct?

20 A I couldn't testify; I've never measured them,
21 to be exact.

22 Q Approximately?

23 A Could be; could be more, could be less.

24 Q Would you suggest that I would be in error if
25 I would say that the sidewalks in front of the police station

1 and as you generally circle the blocks of Pine, Jackson,
2 Broad, Washington, are as wide as from where I stand to
3 the wall there, Chief?

4 A It's possible.

5 Q And you would estimate that to be not less
6 than 12 feet, would you, Chief?

7 A I would say approximately 12 feet, maybe more
8 or maybe less.

9 Q 12 or 15?

10 A Could be more, could be less.

11 Q I believe you said that the people were walking
12 in a column of two's?

13 A That's correct.

14 Q As a matter of fact, they were also walking
15 on the outside edge of the sidewalk, weren't they?

16 A That's incorrect.

17 THE COURT: What was that answer?

18 The Witness: That was incorrect; they were
19 not walking on the outside of the street or sidewalk.

20 -----Q Mr. Hollowell: They were not?

21 A They were not.

22 Q Where were they walking?

23 A They were walking at one time in the middle of
24 the sidewalk and the last time they were more or less on
25 the inside next to the buildings.

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1 Q There was at no time then that people were
2 unable to pass?

3 A They could pass going east and west, but they
4 could not go into a store, unless they went through the line.

5 Q Well, wouldn't that depend upon when it happened
6 to be?

7 A Certainly it would have to be when they passed
8 by the business, whether or not they could get in and out of
9 it.

10 Q But you've already testified that you can't
11 name one person that was prevented from going in, that
12 wanted to go in; you have stated that this was true, is
13 that not so?

14 A I couldn't testify to anybody who tried to go
15 through, but I say that they couldn't have if they had
16 tried.

17 THE COURT: You say they couldn't have
18 if they had tried?

19 The Witness: If they had tried, that's
20 correct.

21 Q Are you suggesting, Chief, that with a 12-foot
22 sidewalk and people walking in a column of 2's, even if
23 they were on the middle of the sidewalk, that would be
24 the distance of about from here to your foot, and there's
25 three times that much difference between you and the wall,

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1 that people couldn't get by?

2 A If they had been on the outside, they couldn't
3 have gotten through the line.

4 Q I beg your pardon?

5 A I said if they had been on the outside of that
6 line, they couldn't have come through that line into any
7 business on --

8 Q They could have been - excuse me, if they
9 were on the inside?

10 A If they had been on the inside.

11 Q Or if they had waited a couple of minutes, they
12 could?

13 A If they waited an hour or two, I imagine they
14 could have.

15 Q If they had waited a couple of minutes, they
16 could?

17 A No, not a couple of minutes, because that
18 line was there --

19 Q You had --

20 THE COURT: Just a minute now, Mr. Hollowell.
21 Go ahead.

22 Q Mr. Hollowell: You didn't have any occasion --

23 THE COURT: Mr. Hollowell -

24 MR. HOLLOWELL: Yes, Your Honor.

25 THE COURT: The witness was in the process

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1 The Court:
2 of answering your previous question and you cut him off.

3 MR. HOLLOWELL: Well, it was unintentional, sir.
4 If you'll notice, he has his finger up at his mouth
5 and I couldn't tell --

6 The Witness: I thought I was audible all
7 over this courtroom, but I would like to continue --

8 MR. HOLLOWELL: There was no intention to cut
9 the witness off.

10 THE COURT: I am sure you didn't but what-
11 ever your intention was, let's don't do it. Now,
12 Chief, you go ahead and answer the question just as
13 you were in the process of doing.

14 A The Witness: I was attempting to state that
15 people who were walking on the sidewalk normally and had
16 wanted, say they were going west on Pine by the City Hall,
17 had they wanted to and been on the north side of the side-
18 walk and wanted to enter the City Hall, that they could not
19 have entered until this line had continued and had passed
20 in front of the City Hall. If they had been on the south
21 side of the sidewalk, they could have.

22 Q Mr. Hollowell: And you don't know but what
23 the line may have stopped to let somebody through, if the
24 occasion arose, do you?

25 A When I was there, it was a continuous line.

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1 Q I say, you don't know but what they would have
2 stopped but you said nobody could get through the line?

3 A I couldn't testify as to what it would have
4 done.

5 Q I beg your pardon?

6 A I couldn't testify as to what it could have
7 done.

8 Q So, you saw nobody who was stopped; that's your
9 testimony?

10 A All I saw was a mass of people walking the street.

11 Q There were no incidents whatsoever surrounding
12 the walking of this group around the block, was there?

13 A There were no incidents.

14 Q If I told you that the paper reported that
15 there were small lots of curious white persons who gathered
16 in the 200 block of Pine Avenue as the Negroes began their
17 demonstration and that it further said no violence occurred,
18 would that be a correct delineation of what the situation
19 was?

20 A That would be what the --

21 MR. LEVERETT: May it please the Court, I
22 object to the question being propounded in asking
23 this witness to pass upon the credibility of the
24 paper. I think if he wants to ask him the question
25 he can ask him the question as to what happened, or

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1 Mr. Leverett:

2 did this happen, but to ask him as to whether the
3 paper is correct is improper.

4 MR. HOLLOWELL: If it please the Court, we are
5 on cross-examination and there would be no difference
6 between my propounding the question in that way than
7 in my reading from a particular delineation which has
8 already been made. The witness is capable of testifying
9 as to whether this is or is not an accurate statement
10 of fact and that's all we're asking him to do. We're
11 not asking him to pass upon the credibility but for
12 him to state whether or not this is correct.

13 THE COURT: I will allow the question.

14 MR. HOLLOWELL: Thank you. Mr. Reporter, would
15 you read the question, please.

16 THE REPORTER: "If I told you that the paper
17 reported that there were small lots of curious white
18 persons who gathered in the 200 block of Pine Avenue
19 as the Negroes began their demonstrations, and that
20 it further said no violence occurred, would that be
21 a correct delineation of what the situation was?"

22 A The Witness: At the beginning of this
23 demonstration, it could be true; but at the end of this
24 demonstration, I would have to reserve the right to testify
25 to that.

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1 Q Mr. Hollowell: Well, tell me what the situation
2 was at the end?

3 A At the end of this, after these people were
4 put into - under arrest and the booking had started,
5 booking procedure had started, there was quite a bit of
6 confusion.

7 Q Well, the demonstration, as you refer to it,
8 had ended at that time and they were under your jurisdic-
9 tion, is that not correct?

10 A That's correct.

11 Q Now, Chief, you testified concerning another
12 activity which occurred around December 17 or December 16?

13 A That's correct.

14 Q And you further testified that there were
15 other demonstrations, as you put it, between December 12
16 and December 16, did you not?

17 A I did.

18 Q And I believe you further stated that there
19 was great tenseness - and let's see what the words were -
20 "there was great tension and the people were unable to go
21 about their business and some of the businesses were closed,
22 and couldn't have normal traffic, and that there were
23 intimidating remarks made in certain demonstrations
24 between December 12 and December 16, is that correct?

25 A That's correct.

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1 Q Now, I want you, if you will, to pin-point for
2 me the first demonstration, as you term it, and as I use
3 the word it shall be in that light, after the 12th, and
4 where it occurred?

5 A All of these demonstrations originated from
6 the same place, out of the same --

7 Q Now, what was the date of the next one to which
8 you made reference?

9 A The 13th.

10 Q December 13, and that one was where?

11 A Originated from Mt. Zion and Shiloh, and
12 followed the same route; was stopped at the intersection
13 of Broad and Jackson, if my memory is correct.

14 Q How many people were there involved in that
15 one?

16 A Something over 100, between 100 and 200, to
17 the best of my knowledge. I don't have the exact figures.

18 Q And there was no violence in connection with
19 that one, was there?

20 A I would like to answer and explain it.

21 THE COURT: All right.

22 Q Mr. Hollowell: Was there or was there not any
23 violence, Chief?

24 A There was no violence.

25 Q There was no violence?

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1 A Can I explain it, Your Honor?

2 THE COURT: Yes, go ahead.

3 A The Witness: There was no violence on these
4 marches and I contribute that to the fact that all of the
5 personnel of the Albany Police Department, along with all
6 law enforcement in this County, was assigned to the
7 immediate area, taking all precautions to see that there
8 was none, encouraging by voice commands, also by public
9 address system, for the people to cooperate, not to get
10 excited, not to do anything which would reflect on the
11 City of Albany; and through these people, these law
12 enforcement officers that were there, the whole compart-
13 ment of the police, the Sheriff's office and the County
14 Police, I feel prevented any violence from occurring.

15 Q All right, now on what occasion was this?

16 A On all occasions.

17 Q Well, we're talking about now the 14th: how
18 many officers did you have assigned --

19 A We're talking about the 13th.

20 Q Beg pardon? Or the 13th?

21 A All during this week we had all of the officers
22 assigned to these marches.

23 Q On the 13th you had your whole force?

24 Q With the exception of one, I think one automobile,
25 to answer calls which we would normally have 5 or 6 cars

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1 with the addition of 5 or 6 motorcycles.

2 Q How many arrests did you make that day, other
3 than the persons who were coming down to see some one in the
4 City Hall?

5 A I don't know. I don't have the record here.

6 Q I beg pardon?

7 A I don't know how many people were arrested.

8 Q You don't have an estimate?

9 A I don't even have an estimate.

10 Q Doyou have a record that would show show many
11 other folk were arrested that day?

12 A No, I don't.k

13 Q You don't have any record?

14 A Not by day, no.

15 Q You don't keep a record of arrests by day at
16 your City police station?

17 A No, we don't.

18 Q How do you keep them, Chief, by what?

19 A By arrest cards, which you are perfectly invited
20 to inspect our record system. We think we have one of the
21 best.

22 Q And they are not kept by date?

23 A That's what I testified to.

24 Q How are they kept, Chief?

25 A They're kept by arrests, not each day showing ho

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1 many arrests or no information is given to me for any day,
2 if 15 or 1,000 are made in one day. It's general routine
3 for arrests to come in, be booked, processed, proper records
4 made and filed in our office, but no daily report as to how
5 many drunks, how many this or how many that were arrested.

6 Q But you have a report that would show the
7 total number of arrests for a particular day?

8 A Not for the day, for the month.

9 Q For the month?

10 A That's correct.

11 Q You have a docket, don't you, an arrest docket?

12 A That is correct.

13 Q When a person comes in and he was arrested for
14 an offense on this particular day, you would have a card
15 made out for him?

16 A Have a record made out, that is correct.

17 Q Now, is this transferred to any other record
18 that is kept for that day?

19 A It is transferred, his previous record if any
20 is brought up and attached to this and filed and kept until
21 court date. After such court day then, if disposition is
22 made, whether by fine or forfeiture or dismissal or what,
23 then it is filed away for future reference.

24 Q Are the records for the arrests for December 13,
25 14th and 15th of 1961 available at your office?

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1 A They are.

2 Q Isn't it a custom, Chief, that wherever the
3 occasion necessitates, that's where you send your officers,
4 isn't that so?

5 A That's correct.

6 Q If there is a serious accident out at the city
7 limits, why, you send all available officers out there,
8 isn't that right?

9 A We send as many as needed.

10 Q And if there is some other occasion in some
11 other part of town that requires the use of the officers,
12 you send them there?

13 A As needed.

14 Q Do you consider that - you don't consider that
15 when they are being used for any other particular situation
16 that demands the attention of the Police Department, that
17 they are denying the rest of the town due process and equal
18 protection of the laws, do you?

19 A We have not had --

20 Q Yes or no, sir?

21 A I would like to answer that and explain it.

22 THE COURT: Yes, you may do that.

23 A The Witness: Rephrase your question there.
24 Your question there is no and I would like to explain the
25 situation.

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1 THE COURT: All right.

2 A The Witness: We have not had in the City
3 of Albany any occasion, other than these mass demonstra-
4 tions, these mass protests, for any of our personnel and
5 all of our personnel to be detailed to one spot. We have
6 never, until these demonstrations started, had to put
7 24 hour alert on the police officers, keep them housed in
8 hotels, keep them housed where they could be brought out
9 at any moment's notice under any circumstances, to see that
10 the peace, quiet and tranquility of this City is preserved.
11 On all other occasions it is normal routine, where officers
12 are on 8-hour shifts, that can answer any calls which we
13 receive and effectively handle these situations; but during
14 our experience here in this crisis, during these demon-
15 strations, during these protests, we have been unable to
16 afford equal protection to citizens in the City of Albany,
17 due to our having to be in the vicinity of these demonstra-
18 tions, being there to see that no violence occurred, being
19 there to facilitate all of the traffic and handle the pro-
20 cedure as we saw fit.

21 Q Now, what do you mean by "facilliate"?

22 A To see that the people are moving, to see that
23 the traffic is handled as best it's possible, to see that
24 the people who are in these demonstrations are afford
25 protection, that everybody is afforded protection in the

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1 immediate area.

2 Q So that, if this is what the occasion desires
3 or demands here, then this is what you do; and if there's
4 something happening in another area that demands the full
5 attention, then you would give it there, isn't that correct?

6 A In normal times we would but now we have to
7 give them the best we can because we've got everything
8 attributed to you all.

9 Q So, this is what you did, you gave the very
10 best service that you could, consistent with the situation,
11 is that right?

12 A Under the circumstances of the situation, that's
13 correct.

14 Q And you got around to all, didn't you?

15 A I don't testify to that -

16 Q Well, you don't testify -- excuse me --

17 A -- because there's some that we did not get to.

18 Q Name me one?

19 A Well, here recently my detectives -

20 Q Name me one, Chief - excuse me -- I don't want
21 to cut you off?

22 THE CHIEF: He is trying to do it. He's
23 trying to do it but you cut him off.

24 A The Witness: My detectives have been assigned
25 only when they have been in jail to the Rev. Dr. Martin Luther

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1 King and his associates; and these burglary calls, or any
2 other calls we have been unable to do because we had to
3 afford these people ample protection and let the other
4 section of the City and other people wait.

5 Q Mr. Hollowell: Chief, name me one?

6 A I don't have them here.

7 Q Now, on this December 16 occasion - strike that
8 and let me ask one other question: Is there any person
9 that has ever been arrested from the time the so-called
10 demonstrations began until December 16, who has been charged
11 with the failure to have a parade permit?

12 A During these - say that again, Attorney?

13 Q Is there any person or are there any persons
14 who were charged with failing to have a parade permit
15 from the time there was the first so-called demonstration
16 up until December 16?

17 A You're talking about other people, other than
18 the marchers and protesters and demonstrators?

19 Q I'm talking about anybody, whether they were
20 with a group or not with the group?

21 A No, there were no other people arrested during
22 that time, to my knowledge.

23 Q Were there any arrested during that time for
24 failure to have a permit?

25 A These people were arrested for -

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1 Q Excuse me, sir - if you can answer my question,
2 if you know, if you know?

3 A I'm attempting to answer his question, Your
4 Honor.

5 THE COURT: Yes, I'm somewhat confused
6 myself about what is sought to be elicited by the
7 question. I'm not clear myself. I can understand
8 how the witness might not be.

9 Q Mr. Hollowell: Well, it's very simple, I will
10 redirect it, if I might, sir: Were there any charges made
11 against anybody by your Police Department between December
12 1 and December 16 for failure to have a parade permit?

13 A Yes, these people were arrested.

14 Q And tell me one?

15 A These people were arrested for disorderly
16 conduct by creating a general -

17 Q Excuse me, sir; this is not responsive --

18 A I am trying to answer.

19 Q I asked you a simple question about parade
20 permit, not disorderly conduct.

21 THE COURT: I understand. The question,
22 Chief, is was anybody arrested during the period -

23 A The Witness: Yes, there were, Your Honor.

24 THE COURT: For failure or for parading
25 without having a permit?

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1 A The Witness: That is correct, between
2 December 1 and December 16, there were people arrested.

3 Q Mr. Hollowell: Have you got that in your
4 notes, let me see your notes, Chief?

5 A I don't have any notes.

6 Q Aren't these your notes?

7 A These are confidential notes that I have down
8 here that have nothing to do with whether or not anybody
9 was arrested, with just the dates of these marches.

10 Q These are the notes from which you are testify=
11 ing, aren't they?

12 A These are to refresh my memory.

13 Q These are to help you to recollect?

14 A That's correct, the same as your notes are on
15 that pad.

16 MR.HOLLOWELL: Your Honor, we would like to
17 see these notes.

18 MR. LEVERETT: May it please the Court, I
19 don't think counsel has a right to see those notes.
20 This is a police officer, he may have his own personal
21 notes, his own work product; he may have information
22 there as to informers and other confidential matters;
23 and I don't think any right or any rule of procedure
24 gives counsel the right to them.

25 THE COURT: I'm not going to require him to
show him the notes.

1 MR. HOLLOWELL: I submit, Your Honor, that if
2 these are the notes with which he is refreshing his
3 recollection, then we would be entitled to see those
4 notes, to see whether or not his recollection was
5 accurate and to test his memory as to whether or not
6 his recollection was accurate.

7 THE COURT: I'm not going to require him
8 to show them to you.

9 MR. HOLLOWELL: Very well, sir, the record will
10 show.

11 Q Now, your testimony was to the effect that there
12 was great tension between December 12 and December 16, is
13 that correct, in the City of Albany?

14 A That's correct.

15 Q And that you had the occasion to call upon
16 the services of the State Patrol and other law enforcement
17 agencies, to be sure that the peace was preserved; is
18 that so?

19 A That's correct.

20 Q That great crowds assembled on adjacent streets
21 in connection with these demonstrations?

22 A That's correct.

23 Q On each and every one of them, and that this
24 caused great tenseness?

25 A That's correct.

1 Q Chief, if I told you that the Albany Herald of
2 about December 15 said this, could you or could you not
3 say whether this was a statement of fact: "Despite a
4 half dozen demonstrations by Negroes, the white populace
5 has practically ignored the incidents. There has not been
6 one racial clash reported, no violence of any kind. Several
7 leaders offered their explanation of the situation in sharp
8 contrast to the behavior of groups in similar situations
9 at other southern cities. Slender, quiet spoken Mayor Asa
10 Kelley said one basic reason was that race relations had
11 been excellent over the years";

12 Do you deny that this is accurate?

13 MR. LEVERETT: May it please the Court, I
14 think that question certainly is incompetent. He
15 is asking him to pass upon the conclusions reached
16 by the Mayor and again we take the position for the
17 purpose of the record that it is immaterial whether
18 any of these statements come out of the Albany Herald
19 or the Atlanta Journal or any other paper. Counsel
20 can ask him the question as to certain state of facts
21 and that question can be answered, regardless of whether
22 it is in or outside of any paper.

23 MR. HOLLOWELL: I submit that this is absolutely
24 true, Your Honor, and this is the set of facts that I
25 am stating, and I am asking him to merely indicate

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Mr. Hollowell:

whether or not this is true or whether or not it is not true.

THE COURT: I overrule the objection.

MR. LEVERETT: May it please the Court, before the Court rules, I don't think there has been any proof that this is in fact an extract from the Albany Herald.

THE COURT: Well, here's my view of the situation: The witness is on cross-examination and counsel is asking him whether if this statement here is a full and correct statement. Now, I think that's a legitimate question and I will allow the question to be asked and the witness can answer either yes or no, and whichever way he answers it, he can explain his answer if he desires to do so.

Go ahead.

A The Witness: Could I see that piece of paper?

Q Mr. Hollowell: (Handing newspaper clipping to witness) . . .

A (Witness reading newspaper clipping) . . . I would like to answer his question and explain it, Your Honor.

THE COURT: Mr. Hollowell -

MR. HOLLOWELL: Yes, Your Honor.

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1 THE COURT: All right, go ahead.

2 A The Witness: I would like to answer this
3 question. Give me the question.

4 THE REPORTER: The question was: "Chief, if
5 I told you that the Albany Herald of about December
6 15 said this, could you or could you not say whether
7 this was a statement of fact" --

8 A The Witness: I would have to answer this
9 yes and I would like to explain myself.

10 THE COURT: Yes, go ahead.

11 A The Witness: I think - I take no objections
12 to what is wrote here in this paper by the Associated
13 Press, but I still say that the reason that there has
14 been no racial disturbance here in the City of Albany
15 was that through the efforts of all law enforcement
16 officers of the County, supplemented by the State, that
17 their total efforts have been aimed at one thing, to see
18 that no racial violence of any sort has broken out in the
19 City of Albany, through these efforts of these police
20 officers, who have devoted themselves entirely to this
21 situation on 24-hour basis, some working as high as 44
22 hours without rest; have eliminaged and kept things under
23 control in the City of Albany, while devoting their full
24 attention to their responsibility to the public and to the
25 citizens of the City of Albany, to afford protection to all

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1 peoplet, to see that no violence has occurred here during
2 these demonstrations; and I contribute that to this remark
3 here that no violence has erupted in this City.

4 Q Mr. Hollowell: As a matter of fact, on many
5 occasions, you have told even these reporters that the
6 situation was at all times under control, haven't you?

7 A I have felt all along -

8 Q Excuse me, sir -

9 THE COURT: Now, are we talking about,
10 still talking about December; are we still talking
11 about December, 1961?

12 MR. HOLLOWELL: Actually, that particular
13 question related to the general area.

14 THE COURT: Wasn't that newspaper article
15 published in Decembrr, 1961?

16 MR. HOLLOWELL: That particular one was, and
17 the question that was related to it, Your Honor, I
18 believe has been answered. Now, I was asking another
19 ^q question.

20 THE COURT: I just want the record to be
21 clear on what date you're talking about.

22 MR. HOLLOWELL: That is correct. Now, would
23 you re-read the question that was last propounded?

24 THE REPORTER: "As a matter of fact, on many
25 occasions you have told even these reporters that the

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1 The Reporter:

2 "situation was at all times under control, haven't you?"

3 A The Witness: I would like to answer that yes
4 and explain myself?

5 THE COURT: Yes sir.

6 A The Witness: On all occasions to the
7 members of the press, radio and all media, it has been
8 brought to their attention that there has been no racial
9 clashes here, but it has always been brought out due to the
10 fact that the police officers and the law enforcement
11 officers of this County have done everything within their
12 power and everything within their ways and everything
13 within their means to prevent this.

14 Q Mr. Hollowell: Let me ask you this question:
15 There is no way in which you consider that the Plaintiffs
16 have denied, or rather the Defendants have denied the
17 Plaintiffs of due process and equal protection of the law,
18 other than the fact that, as you say, the total forces or
19 nearly the total forces of the police department and those
20 under your command have been utilized in the servicing, shall
21 we call it, of these so-called "demonstrations" is that
22 correct?

23 MR. LEVERETT: May it please the Court, at
24 that point I would like to object. Counsel is asking
25 the witness a question relating to equal protection and

1 Mr. Leverett:

2 due process of the law. The United States Supreme Court
3 can't even agree on what is due process and equal
4 protection and this witness is not even a lawyer.

5 MR. HOLLOWELL: I suggest Your Honor --

6 THE COURT: You're suggesting that he's
7 asking for a legal conclusion?

8 MR. LEVERETT: Yes sir.

9 THE COURT: I sustain the objection.

10 MR. HOLLOWELL: Before I can even address
11 myself to it?

12 THE COURT: Well, it seems to me to be so
13 clear, but go ahead.

14 MR. HOLLOWELL: Thank you, sir. I submit to
15 you, sir, that this witness has used that term not
16 less than 25 times during the interrogation both on
17 direct and on cross, at least 25 times he has related
18 the fact that the use of his force was denying due
19 process and equal protection to the other people in
20 the community of Albany, at least 25 times; and I
21 submit that my question was proper, in that I asked
22 was there anything other than this that in his mind
23 was denying due process and equal protection to the
24 Plaintiffs and others whom he has mentioned that was
25 an activity by the Defendants.

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1 MR. LEVERETT: May it please the Court, No. 1,
2 this witness has not made reference to "due process".
3 No. 2, on the occasions that he has used the term
4 "equal protection", I believe that he has used it
5 with reference to or in a lay sense, in the terms
6 of the fact that he had all of his force concentrated
7 intown and he was unable to afford equal protection
8 in that lay sense of having his officers out in other
9 areas of town.

10 Now, counsel on the other hand is asking this
11 witness for equal protection in a legal connotation
12 and that is what we take exception to.

13 THE COURT: Yes.

14 MR. HOLLOWELL: If it please the Court - excuse
15 me, sir, may I finish?

16 THE COURT: Yes.

17 MR. HOLLOWELL: I don't think that I had indi-
18 cated in what sense. Now, he has injected a "lay"
19 sense. The Chief has been testifying as the chief
20 law enforcement officer of the City, with all of this
21 experience and all of these opinions have been elicited
22 on direct, based "upon your knowledge as a police
23 officer"; and I'm saying to him, based upon his know-
24 lege as a police officer, have there been any other
25 things surrounding these so-called "demonstrations",
which he is testifying is denying due process to the

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1 Mr. Hollowell:

2 Plaintiffs. That's my question.

3 THE COURT: Well, I think the way was
4 phrased does call for a legal conclusion. I suggest
5 it would be appropriate, if counsel wishes to do so,
6 since it is true that the witness on direct examina-
7 tion used the term "equal protection of other citi-
8 zens", I think it would be appropriate and would not
9 be subject to objection, if you asked him when he has
10 used that term, what has he meant by that term? But
11 when you ask him, as you have done in the language
12 you have used, I think you're asking for a legal
13 conclusion.

14 Q Mr. Hollowell: I will restate the question,
15 sir, excuse me just a moment: Of course, what I was
16 getting at, I think he has explained many times what he
17 meant by that, but what I am asking is, Your Honor, whether
18 or not there is any other activity based upon his opinion
19 and which is associated with these so-called "demonstrations",
20 which he has concluded is denying equal protection to the
21 Plaintiffs. This is what I was asking?

22 THE COURTE In other words, what you're
23 asking, as I understand it, I think we're really
24 dealing in semantics here more than anything else,
25 I think what you're trying to get from him, Mr.

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1 The Court:

2 Hollowell, is whether the details which he has related
3 are all of the details upon which he relies, in his
4 claim that equal protection has been denied to other
5 people. Is that what you're asking?

6 MR. HOLLOWELL: I will accept that as the
7 question, sir.

8 THE COURT: I think that would be an
9 appropriate question and you may ask that, and I
10 think you'll get the same information but in a proper
11 fashion.

12 MR. HOLLOWELL: If the Reporter would read the
13 question, read the form of the question as - I'm sorry
14 strike that - would you read the statement made by the
15 Court, and this is the question which we are propound-
16 ing to the witness?

17 THE REPORTER: "In other words, what you're
18 asking, as I understand it, I think we're really
19 dealing in semantics here more than anything else,
20 I think what you're trying to get from him, Mr.
21 Hollowell, is whether the details which he has related
22 are all of the details upon which he relies in his
23 claim that equal protection has been denied to other
24 people"?

25 A The Witness: I will answer that yes.

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1 Q Mr. Hollowell: Now, Chief, you testified that
2 on December 16, there were a number of arrests made between
3 the hours of 5:00 and 6 o'clock or thereabout, and that
4 Rev. King was in the City and he made the approach down the
5 street with a number of people, that they came down from
6 Shiloh or up from Ship up the east or north side of Witney
7 and made a left turn, and proceeded up the west side of
8 South Jackson Street?

9 A That's correct.

10 Q That they were marching or walking rather in
11 perhaps a column of 2's generally, and that they were
12 stopped by you?

13 A That's correct.

14 Q At Oglethorpe and Jackson?

15 A That's correct.

16 Q That there were hundreds of people around and
17 that the traffic was blocked by them?

18 A No, I didn't testify to that. I said I stopped
19 them as they entered the street, Oglethorpe Avenue, at the
20 intersection of Jackson and Oglethorpe. There I inquired
21 as to their business, whether or not they had a permit,
22 instructed them of their violation of the City ordinances,
23 asked them to disperse, and when they refused to do so,
24 they were placed under arrest, placed in the middle of the
25 street in a corridor of police officers, state patrol and

1 other law enforcement officers and walked to the City Hall,
2 booked, processed and transported out of the City.

3 Q Now, is it your testimony that you did not
4 testify that they blocked the streets?

5 A I did testify that they blocked the streets
6 on the west side of Jackson Street, from the intersection
7 all the way from Whitney to Oglethorpe.

8 Q Well, you don't have but one street, do you
9 Chief, that you cross, and that's at Highland, isn't that
10 true?

11 A That's correct. I said the west side from
12 Whitney to Oglethorpe.

13 Q Well, I mean they didn't cross but one street
14 until the time that they were arrested, did they?

15 A You didn't ask me how many streets. You asked
16 me what they had blocked.

17 Q Well, did they?

18 A They crossed one intersection, that's correct.

19 Q Did they block that intersection?

20 A Yes, they did.

21 Q Against the light?

22 AT They walked with the light but as they passed
23 through the light, the line was so long that the cycle
24 changed.

25 Q Did you see this?

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1 A No, I didn't see it.

2 Q Then, this is a matter of hearsay, is that
3 not right? You didn't see it?

4 A Detectives of my Department.

5 Q But you didn't see it?

6 A I told you I didn't see it.

7 MR. HOLLOWELL: Then, I move that that be
8 stricken, Your Honor, that which relates to the matter
9 of blocking the streets.

10 THE COURT: Yes, that testimony will better
11 come from the Detectives.

12 Q Mr. Hollowell: As a matter of fact, you met
13 the line at the corner of Jackson and Oglethorpe with this
14 mass of people that were all around and that were being
15 kept from going to their businesses, and to and fro in the
16 general area, is that not correct?

17 A The masses were met at Oglethorpe and Jackson,
18 where the sidewalk was completely congested, completely
19 blocked from there to Highland, by masses of people,
20 where people could not enter the Trailways Bus Station,
21 where people could not enter the negro businesses, for
22 the large group that was congregating and blocking the
23 sidewalk.

24 Q Let me ask you this: Did the people ever stop
25 walking except at stop signs, prior to the time that you

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1 stopped them?

2 A They never did stop walking, that's correct,
3 until I stopped them.

4 Q Let me show you DEFENDANTS' EXHIBIT #1 and
5 ask you to look at it and see if you redognize it?

6 A I think this, to the best of my - the best I
7 can see it, it's a pretty poor picture - but this picture,
8 I believe, was taken at the intersection of Jackson and
9 Broad.

10 Q Jackson and what?

11 A Jackson and Broad.

12 Q Excuse me a moment - at Jackson and Broad?

13 A To the best of my belief, it is. They were --

14 Q Are you sure it wasn't taken at Jackson and
15 Oglethorpe?

16 A I'm positive.

17 Q You're not positive?

18 A I am positive this was not taken there.

19 Q You are positive that this was not taken there?

20 A Yes.

21 Q Alright, as a matter of fact, this is one of
22 the pictures taken by the Police Department?

23 A I don't know whether it was or not. I see no
24 Albany Police Department name on it.

25 Q I want you to identify it for me, Chief - I mean

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1 excuse me, Chief, let me cross that out, if you will, strike
2 it -- Do you recognize that as being Dr. King and Dr.
3 Anderson and others who were arrested on the occasion
4 of the 16th, and who were leading that particular line?

5 A I recognize this to be Dr. Martin Luther King,
6 Dr. W. G. Anderson, Dr. Ralph Abernathy and Dr. Anderson's
7 wife.

8 Q And you recognize that as being the occasion
9 that we are discussing, which is the time that they were
10 arrested on the 16th of December, 1961?

11 A That's right, and this is the intersection of
12 Broad and Jackson.

13 Q All right now, I want you to show me this
14 crowd of people that you're talking about in this
15 exhibit, other than those who are in the line?

16 A The only thing I can show you is the traffic
17 backed up there while these people are marching in the
18 streets.

19 Q Who is - under whose custody and direction
20 are they as of that time?

21 AT They're under the direction of the Police
22 Department.

23 Q Allright, now had they been in the street at
24 any time prior to the time that this police department
25 directed them into the street?

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1 A No, they wasn't.

2 Q Look at DEFENDANTS' EXHIBIT #2, do you recognize
3 that as a part of that same line?

4 A I don't know whether it's the same line or not.
5 It's one of the lines we experienced here in December, at
6 the intersection of Oglethorpe and Jackson; but whether
7 this is the same line or not, I do not know.

8 Q Do you remember being at a trial on the 27th
9 of February, at which you had the occasion to examine those
10 same photographs?

11 A Yes, I stated - I testified -

12 Q Excuse me, sir, excuse me - answer my question,
13 if you will, sir?

14 A I testified --

15 MR. LEVERETT: May it please the Court, I
16 think the witness should be permitted to complete
17 his answer and give his explanation.

18 MR. HOLLOWELL: If it please the Court, I
19 asked him whether or not he recollected being on
20 trial on a particular date, February 27, and having
21 identified these same photos, that's my question.

22 A The Witness: I remember being a witness for
23 the City but not being on trial.

24 Q Mr. Hollowell: Well, if I - I didn't mean, sir,
25 that you were on trial. Have you seen that picture before?

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1 A Yes.

2 Q Or one like it?

3 A Yes, I've seen one like it or something similar
4 to it. I don't know who made this reproduction or who
5 made it.

6 Q You don't recollect that it was City of Albany's
7 exhibit?

8 A Yes.

9 Q In that particular trial on February 27?

10 AY Yes.

11 Q Now, I want to see - I want you to point out to
12 me the crowds that are associated with the line?

13 A There's none here in this picture, only the
14 people who were in mass marches; but I don't know whether --

15 Q Now, I ask you - excuse me - did I ask you
16 about D-1; show me the crowds in D-1 there, please sir?

17 MR. LEVERETT: May it please the Court, the
18 witness was about to answer and counsel interrupted
19 him and asked him another question.

20 MR. HOLLOWELL: I am sorry.

21 A The Witness: As far as I am concerned,
22 this is the City of Albany's Exhibit No. 1, which is
23 crossed out here; and I don't know whether it was exhibit
24 here of ours or not. It has been completely crossed out.
25 They have no markings on this picture. I don't know whether

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1 it was exhibit of ours or not.

2 Q I'm not asking you whether it is an exhibit of
3 yours?

4 A You said it was.

5 Q I said it was, yes?

6 A But you asked me to identify it, which I
7 cannot identify as City Exhibit.

8 THE COURT: All right, the witness says he
9 cannot identify it.

10 MR. HOLLOWELL: That he cannot identify it as
11 a City's exhibit.

12 Q Do you recognize it as a photo that you have
13 seen before?

14 A It is a photo that I have seen like this or
15 similar to it.

16 Q No, no, one like that one exactly?

17 A I would not say it is exactly like it. It's
18 something similar to it. We have numerous pictures.

19 Q Have you had the occasion to be in the court-
20 room as a witness, other than or where that picture was
21 exposed, other than at the hearing on the 27th of February?

22 A I was in court during the trial of Dr. Martin
23 Luther King, and we had a lot of pictures in evidence, but
24 they were marked as evidence on the back as to the number --

25 Q Do you recognize that as being one of them?

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1 A No, I don't.

2 Q You don't recognize it; well, let me show you
3 another one: Do you recognize anybody in there, looking at
4 D-1 again, other than Dr. King and Dr. Anderson?

5 A Yes, I do.

6 Q Who else do you see in there?

7 A Detectives of my Department.

8 Q Detectives of your Department?

9 A Yes.

10 Q Do they look like the detectives that you had
11 assigned for the protection of Dr. King?

12 A They are the detectives that were assigned
13 and stayed with him entirely.

14 Q Were they with him on this particular walk
15 from the church up to the City Hall?

16 A They certainly were.

17 Q Now, let me show you PLAINTIFFS' EXHIBIT 3
18 and ask you if you have any recollection of ever seeing
19 that photograph before?

20 A Yes, I do, and I would like to explain this.
21 I think this picture definitely shows the bus station
22 here, a large amount of people, the inability of people
23 to cross that street, the inability of the people to go
24 in and out of that bus station, if they wanted to.

25 Q All right, would you indicate what is being

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1 done in connection with this line?

2 A It appears to me they're going across the
3 street.

4 Q As a matter of fact, they are a part of the
5 line which has already been put under arrest, isn't that
6 right?

7 A I couldn't testify to this, whether this is the
8 same line or not.

9 Q Have you ever seen that photo before?

10 A Yes, I have. It could have been on the 12th,
11 it could have been on the 13th or it could have been on
12 the 16th. There's no date here to say what date this march
13 was.

14 Q Show me if you might these large groups of
15 people that have assembled around the line?

16 A There's none in that picture.

17 Q Are these Police Department pictures or some
18 like them that you've seen before?

19 A They are some similar. I couldn't say that they
20 are police pictures.

21 Q Do you have any other pictures of that particu-
22 lar situation?

23 A We have particular pictures of all of those
24 situations.

25 Q Would you produce them for this Court?

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1 A If my attorneys there wish them for our case.

2 Q Are they here?

3 A They are not.

4 Q Do you know that they are not here?

5 A I am positive that they are not here.

6 Q Let me show you DEFENDANTS' EXHIBIT #5, and
7 ask you do you recognized DEFENDANTS' EXHIBIT #5; and, if
8 you do, tell me what that is?

9 A This shows the marchers as they were being
10 marched to the City Hall. This also shows the inability
11 of people to use this street, to use any street that is
12 nearby. It also shows the large amount of the crowd in the
13 southeast corner here, of people --

14 Q How many - I'm sorry - go ahead?

15 A -- and the inability to use these streets as
16 they have normally been used to in normal times before
17 these mass demonstrations attempted to override and take
18 over the City.

19 Q How many people do you see, other than those who
20 are in the line or the police officers, or the persons who
21 are presumed to be connected with the press?

22 A A large number of people but I'm unable to count
23 them.

24 Q About how many?

25 A I couldn't testify to how many because I can't

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1 count them.

2 THE COURT: Suppose at this point, before
3 we go further, we take about a 10-minute recess.

4 RECESS: 3:35 PM to 3:45 PM 7-31-62

5 Q Mr. Hollowell: Chief, if my memory serves me
6 correct, you testified that you stopped Rev. King and Dr.
7 Anderson and Rev. Abernathy there at the corner of Ogjethorp
8 and south Jackson - right?

9 A That's correct.

10 Q And asked them if they had a parade permit?

11 A Yes.

12 Q Now, calling your attention to the 27th of
13 February, I will ask you isn't it true that you were a
14 witness at the hearing in which those said persons were
15 tried for failure to obtain a permit; that is, Chapter
16 24, Section 35?

17 A Could I see that?

18 Q I asked you, Chief, whether or not you were a
19 witness?

20 A Is that February of this year?

21 Q February of this year, the 27th?

22 A I was a witness at the trial of Dr. W. G. Anderson.

23 Q I will ask you whether or not on that trial you
24 were asked these questions and you gave these answers:

25 MR. LEVERETT: May it please the Court, before

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1 Mr. Leverett:

2 he goes into this, I don't believe this was gone into
3 on direct.

4 MR. HOLLOWELL: I beg your pardon?

5 MR. LEVERETT: This matter was not gone into
6 on direct examination.

7 THE COURT: Well, of course, I presume that
8 counsel is questioning him about some testimony that
9 he gave at that time, which might or might not be at
10 variance with the testimony that he has given here.

11 MR. HOLLOWELL: That is correct.

12 THE COURT: All right, go ahead. You may
13 proceed.

14 _____Q (Mr. Hollowell reading from transcript):

15 "Have you seen" - excuse me, strike that, sir - "Question:

16 I mean, is there anything that tells what a parade is?

17 Answer: Nothing here. It says any parade or demonstration.

18 It doesn't give the definition of what constitutes a

19 parade. Question: There is no place where you see in

20 the Code that defines what a parade is, isn't that right?

21 I don't see it in this book. Question: Have you seen any

22 place that indicates what a demonstration is in the City

23 Code? Answer: No, I haven't. Then, it is whatever you

24 make it, isn't it, sir? In my opinion. Question - The

25 Answer: In my opinion. Question: In other words, it is

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1 "whatever your opinion construes to be a parade, that is
2 what a parade is, isn't that correct? Answer: As far as
3 this case is concerned, that is my opinion."

4 Is it not true that those questions were asked
5 of you on that occasion and those are the answers
6 that you gave?

7 A If my memory serves me right, that is correct.

8 Q Now, you were never south, on that occasion
9 you were never south - strike that, sir - Referring back
10 to the time when the arrests were made on the 16th, at the
11 time that you stopped the line which you said had never
12 stopped until you stopped it, is it not true that you at
13 no time were ever to the south of Jackson and Oglethorpe?

14 A At the time of this arrest?

15 Q Yes?

16 A That's correct.

17 Q Now, did you have the occasion to arrest
18 any people outside of the immediate area of the line of
19 walking on this particular occasion?

20 A Not to my knowledge, no.

21 Q Were people going about their business during
22 this particular time and shopping in the heart of town?

23 A On this parade that you are --

24 Q On that date?

25 A On the 16th?

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Q On the 16th?

A I would like to answer that and explain it, Your Honor.

THE COURT: Go ahead.

A The Witness: They were going about their business and I say this in effect, that they were as best they could due to the circumstances which were surrounding the City of Albany at that time, due to the fact that the streets were blocked off, due to the fact that the streets were full of people, due to the fact that it taken from 2 to 3 hours to process and to get these people out of the street completely away from the area; that these people then did the best they could under the circumstances which were caused by these demonstrators or masses of people which were protesting in town.

Q Well, there were no persons who were arrested or complained to you about the inconvenience of being able to shop, were there, Chief?

A I had numerous complaints from people who were inconvenienced and couldn't shop in the uptown area due to these circumstances.

Q Name me one?

A I don't recall. They were numerous, I said.

Q Well, just one, if they were that numerous, certainly you would remember one: Name me one?

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1 A Well, for one, my wife.

2 Q Anybody else?

3 A You just asked for one. I don't remember but I
4 know there were others --

5 Q Do you remember another? You said they were
6 numerous. Do you know another?

7 A I don't remember. They were statements that were
8 given to me on the streets, statements given to me on the
9 telephone and wanting to know why they couldn't get up town,
10 wanted to know why this and why that. Numerous complaints
11 come in.

12 Q But you can't name any, other than Mrs. Pritchett?

13 A That's correct.

14 Q Allright; as a matter of fact, there was no
15 trouble whatsoever, was there?

16 A There was plenty of trouble up there, yes.

17 Q Now, let me ask you this question: Calling
18 your attention again to this particular trial on the 27th
19 of February, I'll ask you whether or not you were asked
20 these questions and you gave these answers: The question
21 was "whether or not there were any arrests made of persons
22 in other portions of the City, who may have been in congested
23 areas as they crossed the sidewalk? Answer: There were
24 none arrested. Now, I would like to explain myself on that.
25 Question: All right, you may explain that? Answer: Now,

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1 "the reason for no arrests of anyone else was that these
2 people were congregated from all over the streets, we
3 instructed them to move on and every one dispersed and
4 moved on; no one was standing, everybody was walking; we
5 had no trouble whatsoever":

6 Was that not your testimony? Yes or no?

7 A I would like to answer this and explain it,
8 Your Honor.

9 THE COURT: Yes.

10 Q Mr. Hollowell: The question is, was that your
11 testimony?

12 A That is my testimony and, as I stated before,
13 the reason for this was that the people were instructed,
14 commanded by our law enforcement officers who were there,
15 and they obeyed and did everything within their power to
16 cooperate with us.

17 MR. HOLLOWELL: Now, may it please the Court,
18 we would like to have all of that stricken about
19 what his law enforcement officers said to people
20 somewhere else that he didn't testify that he saw
21 or did.

22 THE COURT: Well, I'm not sure what, if
23 any of it, falls in that category. I think he's
24 entitled to explain his testimony. You asked him
25 if that's what he testified, the way he testified

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1 The Court:

2 and he said it was, and then he is explaining why that
3 was his testimony. I think the witness is entitled
4 to some latitude, just as you are entitled to latitude
5 in cross-examining him.

6 MR. HOLLOWELL: Well, may I say this, Your
7 Honor, I submit that this is an explanation which he
8 is giving.

9 THE COURT: He is now, and the record
10 shows it, that he testified that was at some hearing
11 to which you referred in February. Now, having so
12 answered, he is entitled to explain it. So, I admit
13 the testimony.

14 Q Mr. Hollowell: Now, you didn't stop the opera-
15 tion of the City, just because these marchers as you
16 refer to them were in progress, did you, Chief?

17 A We never stopped the operations of the City.
18 We increased the operations of the City by adding supple-
19 ment officers here to take care of the situation. We
20 increased the operations of the City above normal to take
21 care of all of this business. We didn't decrease anything.

22 Q So, things went along --

23 A We increased our forces to take care of the
24 situation, but had to decrease the services to the other
25 citizens to afford the protection of these people during

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1 these demonstrations.

2 Q Name one to whom you decreased your protection,
3 name me one?

4 A I would say a great number --

5 Q That called upon you for it and you didn't give
6 it?

7 A I would say that we deprived the people of all
8 areas of the City by not having the personnel that we nor-
9 mally have in those areas.

10 Q Can you name me one person that you were unable
11 to serve that requested service?

12 A No, I can't name them.

13 Q Now, let's move down a little further to
14 January: There weren't any other activities along this
15 line during the month of December, were there?

16 A All during the month of December, from the
17 12th to the 16th.

18 Q We just talked about the 16th?

19 A You asked me during the month of December and I
20 answered your question, Attorney.

21 Q Were there any from the 16th to the 30th?

22 A No marches.

23 Q No violence?

24 A That's correct.

25 Q You had a peaceful city?

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1 A I would like to answer that and explain it.

2 THE COURT: Very well.

3 A The Witness: It was a peaceful city due to
4 the fact that there had been a cooling off period of 60
5 days agreeable by the Albany Movement and the City offi-
6 cials, that these trials or no demonstrations would take
7 place during this period, and that no implications or
8 nothing would take place during this period of time; and
9 that's the reason there was none.

10 Q Mr. Hollowell: This is your opinion?

11 A This is my answer.

12 Q I say, this is your opinion?

13 A That is the statement that I received from the
14 members of the Albany Movement, that I can testify to.

15 Q I mean as you say, these are the reasons why
16 and I say this is your opinion as to the reasons why?

17 A This is the statement that I make, that's
18 correct.

19 Q Now, at all times from November that we have
20 discussed and through December up until this time, the
21 persons that you had association with in connection with
22 the Albany Movement were, even in their statements to you,
23 protesting the processes of segregation in the City of
24 Albany as related to facilities of the City, as related to
25 the buses and as related to employment, is that correct?

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1 A I would like to answer that and explain it,
2 Your Honor.

3 THE COURT: Go right ahead.

4 A The Witness: That is correct. The Albany
5 Movement relayed these things to me and in turn I relayed
6 to the Albany Movement, to Dr. Martin Luther King and other
7 members of the Albany Movement and other groups that were
8 associated with them, that the City of Albany Police
9 Department was not enforcing any segregated laws inside
10 the City limits, had not made any arrests based on segre-
11 gation during this time; that the only thing we ask you to
12 do was to abide by our rules, our ordinances and laws of the
13 City, which you refuse to do in regards to parading without
14 a permit, congregating on the sidewalk, and failing to obey
15 an officer, of blocking the traffic. We informed you that
16 we had not on any occasion made a case based on segregation
17 or race, color or creed.

18 Q But you just said that you were going to
19 enforce the laws and the ordinances, is that not correct?

20 A Pertaining to --

21 Q The laws and ordinances --

22 A Pertaining to --

23 Q Just a moment --

24 A Pertaining to the laws which I just have given
25 you as to parading without a permit, congregating on the

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1 sidewalks, blocking the flow of traffic, failing to obey
2 an officer, and any other ordinance, such as disorderly
3 conduct. We informed you that we had and would not at
4 any time make arrests on segregation, based on race,
5 color or creed; and I ask you to produce to me one arrest
6 based on this.

7 Q Oh, you would?

8 A Yes, I would.

9 Q Are you suggesting that you would not enforce
10 the segregation ordinances as delineated in the Albany Code,
11 Chief?

12 A I'm telling you that we haven't.

13 Q Beg pardon? You haven't?

14 A That's correct.

15 Q Are you saying that as the chief law enforce-
16 ment officer, you have not and don't propose to?

17 A We have had no reason to enforce any of the
18 segregation laws that are on our books. I would say to
19 you that as chief law enforcement officer of the City of
20 Albany that I have not enforced any segregated laws since
21 I've been here, since December or since June of 1959; and
22 I respectfully ask you to produce some, if I have.

23 Q And this goes to your Department also?

24 A This goes to my Department.

25 Q Now, what you actually do is arrest them for

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1 say loitering or vagrancy or for disorderly conduct, or
2 conspiring to breach the peace; this is the kind of charge
3 that you make generally, isn't it, Chief?

4 A We make the charge which they are in violation
5 of, that's correct.

6 Q Doyou recollect on this same morning of the 27th
7 of February that the trial was almost completely disrupted,
8 because one person by the name of Zellner and who was of
9 Caucasian extraction took the liberty ~~wo~~ sit with some of
10 his Negro friends and this almost disrupted the court,
11 didn't it?

12 A I fail to agree with you there because this
13 courtroom had no segregation in this courtroom except
14 first come-first served and was announced to the public
15 when we opened the court.

16 Q Nobody was asked to move?

17 A To my knowledge, no.

18 Q Let me ask you, do you remember a young man by
19 the name of Sherrod, who was a person of my extraction and
20 who was sitting on the side which is usually reserved to
21 white persons, and whether or not this also caused great
22 concern by your Department, and that he was about to be
23 forcibly moved prior to the time that the particular
24 Judge, being Judge Israel, asked counsel who is now
25 addressing you to go back and speak to the young man:

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1 do you remember that?

2 A I don't remember exactly.

3 Q Well, what do you remember un-exactly?

4 A I don't remember - I remember situations up
5 there but I do not remember this particular situation, as
6 to whether or not you talked with Judge Israel, or you
7 talked with anybody. I testified just a few minutes ago
8 that the courtroom is on first-come first-served, that to
9 my knowledge no incidents were there.

10 Q Are you denying that these incidents took place?

11 A No, I'm not denying it. I'm saying = not to my
12 knowledge.

13 Q Let me call your attention to the date of
14 January 15, 1962: You had the occasion to make an arrest
15 of Charles Jones and Charles Sherrod and they were taken
16 to court for idling and loafing, is that not correct?

17 A What date was this?

18 Q The 15th of January, of '62?

19 A I remember Charlie being arrested on a number
20 of occasions. I don't remember exactly this.

21 Q You don't remember this occasion: do you remember --

22 A He was arrested 6 or 7 times.

23 Q Do you recall that they were in the bus station
24 also and they were arrested and that when they came to trial,
25 this charge was thrown out, and that Attorney Rawls said,

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1 "That won't stand up; we've got to charge these niggers with
2 something" - do you remember that?

3 A I do not. I will address myself in answering
4 this question and ask to explain the situation, Your Honor.
5 We had a Recorder's Court Judge, who was in possession of
6 this Court; when the charges - when the case was presented,
7 he in his own direction asked that the case be dismissed
8 and he in turn taken a State warrant for trespassing himself,
9 as he is a Justice of the Peace and had the authority to do
10 so in his Court, when he sees that there is a direct viola-
11 tion of State law. And he instructed the City counsel, the
12 City Attorney, to drop this case and he in turn taken a
13 State warrant for State violation of the law.

14 Q Was that before or after the statement made
15 by Attorney Rawls?

16 A I don't know anything about a statement of
17 this type and cannot testify to it.

18 Q Attorney King was there on that occasion, was
19 he not?

20 A I don't care who was there.

21 MR. HOLLOWELL: May it please the Court, we
22 will ask that the Court instruct the witness to answer
23 the question asked.

24 A The Witness: I've answered the question,
25 Your Honor, on three different occasions.

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1 MR. HOLLOWELL: I am addressing the Court--
2 just a minute.

3 THE COURT: Just a moment!

4 MR. HOLLOWELL: The question was, whether or
5 not Attorney King was there on that occasion, if he
6 knows.

7 THE COURT: I think possibly the witness
8 didn't realize you were asking him a question or were
9 simply making a statement. Chief, the question was
10 asked whether you knew whether Attorney King was
11 present on that occasion: Do you know whether he
12 was or not?

13 The Witness: When this statement was made?

14 THE COURT: Yes.

15 The Witness: Not to my knowledge, no sir.

16 THE COURT: All right.

17 Q Mr. Hollowell: Do you recall whether or not
18 Rev. Gay was there?

19 A No, I don't, not to my knowledge. I cannot
20 remember Rev. Benjamin Gay there. He possibly could but
21 now I can't remember it, unless you can show me something
22 to refresh my memory on it.

23 Q What about Mr. Page or Mr. Slater King?

24 A Who was being tried?

25 Q Beg pardon?

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1 A Who was on trial?

2 Q These two persons, Charles Jones and Sherrod?

3 A I believe that Slater was there but I couldn't
4 testify as to whether he was. It's my belief, I've seen him
5 so many times here in the last 7 or 8 months.

6 Q Once again I ask you if you were in court on
7 the 7th of November, 1961, were you not?

8 A Whose trial was this?

9 Q In the case of the City versus Blanton Hall?

10 A I suppose so.

11 Q Sir?

12 A May I refresh my recollection from this thing
13 here? Show me.

14 Q Well, let's see; you want to see - I believe
15 it shows Captain Friend was the Chief --

16 A I don't see where I was there --

17 Q Just a moment - Captain Friend was the chief
18 City witness, and I ask you whether you have a recollection
19 of being there on that occasion?

20 A Not to my knowledge, I don't.

21 Q You have no recollection of being there?

22 A If you could refresh my memory with some
23 article, I will be glad to try to remember.

24 Q Now then, let's pursue the matter for a few
25 minutes, Chief: Let's see, is that your name, right there,
sir?

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1 A This is, "Chief of Police, Your Honor,
2 Secretary of the Student Non-Violent Coordinating
3 Committee, who came here from Atlanta, was disturbing
4 the court."

5 Q Did you make that statement?

6 A What's this in, the Sherrod thing? Blanton
7 Hall? I don't remember making it, Your Honor. I could
8 have, Attorney, and I couldn't. I don't remember.

9 Q You don't deny, I mean that is your name there,
10 the Chief of Police Pritchett, colon?

11 A Yes, that's what it says.

12 Q And it says, "Your Honor, the Secretary of
13 Student Non-Violent Organization who came here from
14 Atlanta, who is disturbing your court", that's the
15 statement?

16 A That's the statement, yes.

17 Q And it's attributed to you?

18 A My name is there but I don't remember making
19 that statement. But I don't -- it's possible I did and
20 possible I didn't. I don't remember. And there's nothing
21 there directing anything to me. It just says my name.
22 I don't remember. It's possible that I did. I don't deny
23 it and I don't claim it.

24 Q And then the Court says, "Will counsel approach
25 the bench, please, I want to try this case here today with

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1 as little interference and disruption of the orderly judi-
2 cial processes as you are entitled to. What is now being
3 injected into this case would be something extraneous
4 and make it difficult for us to conduct it in a judicial
5 atmosphere; to test one thing at a time, I think that
6 would be the wiser thing from the best judgment this
7 Court is able to suggest. I'm asking you to tell him to
8 remove himself from where he is sitting and we will conclude
9 this case and then dispose of anything else that is neces-
10 sary" - You recollect that this is true? And then, it
11 says "Hollowell: I would like to make this clear" and I
12 went on to make a statement.

13 A I remember the Judge directing you to something
14 but I was no part of the case.

15 Q Well, you called it to his attention and that
16 was the result of three of your great big officers having
17 their hands upon the particular subject and about to bodily
18 remove him from the seat in which he was sitting; is that
19 correct?

20 A That's incorrect as far as I'm concerned. I
21 have stated here that this case here, I'm not there every
22 time; if I'm not a witness, I was not a witness in this case.
23 I know I was there for a few minutes. As to what happened
24 there, I do not know. I remember the Judge directing ques-
25 tions to you but not to me; and to the best of my belief I

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1 just can't answer.

2 Q But you don't deny that you directed this
3 matter to his attention?

4 A I don't know whether he asked me a question
5 or not.

6 Q That isn't the question, sir. Al say you don't
7 deny, you don't say that this record is incorrect?

8 A No, I don't say it's incorrect and I don't say
9 it's correct either.

10 Q Chief, you know that there is a segregation
11 ordinance dealing with the separation of - I'm sorry -
12 dealing with the matter of signs being on the taxicabs,
13 indicating white and Negro, and that --

14 MR. LEVERETT: May it please the Court --

15 Q Mr. Hollowell: -- and that there is also an
16 ordinance, which requires that white drivers only drive
17 white persons and Negro drivers only Negro persons; you
18 know that there is such an ordinance, do you not?

19 MR. LEVERETT: May it please the Court, before
20 the witness answers, I object to that question, on
21 the ground that it's immaterial and irrelevant in
22 this case, has no relevance to the issues involved
23 in this case, was not gone into on direct examination.

24 MR. HOLLOWELL: Allright, if it please the
25 Court, I submit that the Chief has testified that

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1 Mr. Hollowell:

2 he isn't and hasn't enforced the segregation laws
3 as relates to Negroes in the City of Albany, as I
4 understood his testimony; and I want to be clear in
5 my mind and for the record, inasmuch as he has also
6 testified that even all of these persons who are
7 Defendants from time to time have indicated that
8 the purpose for their seeking audiences with the
9 City Commission and the multiple discussions has
10 been for the elimination of segregation; and I
11 certainly think that it is proper to have his
12 attention addressed to the City ordinances which
13 require segregation, and to have him to indicate
14 for this Court and for this record whether he does
15 or does not and intends or intends not to enforce
16 these ordinances which are on the City Code's books.

17 THE COURT: Well, the only reason for
18 being gone into here at all, of course, would be the
19 fact that the Chief has testified that he has not
20 made cases for the enforcement of any segregation
21 ordinances. That's the only way that it becomes
22 pertinent. In other words, I will allow the question
23 to be asked, simply for the purpose of cross-examina-
24 tion on that point.

25 I do not intend now by allowing you to ask him

1 The Court:

2 this, just as I have allowed you to ask some other
3 questions for the purpose of cross-examination, I
4 do not intend during the course of this proceeding
5 to go into the collateral questions which are raised
6 by other litigation which is pending at this time,
7 concerning which and with which we are all familiar.
8 But I do allow the question for the purpose stated.

9 MR. HOLLOWELL: Thank you, sir.

10 Q Will you answer the question?

11 A Will you state it again, Attorney.

12 Q I can make it briefly to keep the Elefk from
13 having to read it: Do you enforce the segregation laws
14 as relates to taxicabs? The segregation laws under the
15 ordinances of the City of Albany?

16 A We do have ordinances pertaining to segregation
17 of people in the taxicabs, yes.

18 Q And you enforce those laws?

19 A I've had no occasion to enforce them.

20 Q Are you denying that just very recently there
21 was a man whose permit was taken because he had the occasion,
22 a Negro man who had the occasion to transport a person of
23 Caucasian extraction?

24 A No, I'm not denying it.

25 Q You're not?

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1 A No.

2 Q And there are segregated laws as relates to
3 the use of the buses in the City - right?

4 A We have --

5 Q I mean yes or no; do you know whether or not there
6 are?

7 A I would like to answer this and explain it.

8 THE COURT: Go ahead.

9 A The Witness: Yes, there are laws here
10 pertaining to it, but we have stated in letters and com-
11 munications to the Albany Movement that we had no inten-
12 tions of interfering with private business.

13 Q Mr. Hollowell: It's one thing to interfere
14 with private business and it's another thing to enforce
15 segregation laws, and that's what I'm asking: do you not
16 enforce the segregation laws and intend to enforce them
17 as relates to the use of City busses?

18 A No.

19 Q You do not plan to?

20 A No.

21 Q What about the matter of theaters and other
22 places of public amusement?

23 A That's a business, private business, so the City
24 has stated. These laws are on the books but we have no
25 intentions of interfering with private enterprise.

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1 Q Do you have any intention of enforcing the
2 regulation, known as Chapter 22, Section 4, requiring
3 racial segregation in the matter of theaters and other
4 places of public amusement?

5 A These laws, these ordinances are on the books
6 and, as far as I am concerned -

7 Q Excuse me, sir, I don't want to restrict you
8 from answering or from explaining, but I would like for you
9 to answer my question, yes or no; and then whatever expla-
10 nation you want to give I certainly do not want to restrict
11 you?

12 A With regards to your answer there, we have not
13 made any arrests in segregation of these places.

14 Q The law is still on the books?

15 A That's correct.

16 Q Are you now enforcing it?

17 A We have not enforced it but it's still on the
18 books.

19 Q Are you now enforcing it?

20 A No, we're not enforcing it but the law is
21 still there. It's a valid law so far as the City is
22 concerned. It hasn't been ruled unconstitutional, and
23 until it's taken off of the books, we are required to enforce
24 all of the laws or ordinances on the books.

25 Q I see. So, as a matter of fact, you would

3 25

1 enforce it and that would be true even as to the busses,
2 since you are required to enforce all laws that are on the
3 books?

4 A We haven't enforced them on the busses and
5 have no intention of doing so. We've made ourselves
6 plain and clear to these people.

7 Q You have no intentions of enforcing them on the
8 books, but you do have intentions of enforcing them on
9 theaters and places of public amusement?

10 A I didn't say we had the intentions of enforcing
11 them. I said they were on the books.

12 Q I see.

13 A And were still valid ordinances here that have
14 not been stricken from the books or ruled unconstitutional.

15 Q And as the chief law enforcement officer, you're
16 saying that you have no alternative but to enforce them, is
17 this your statement?

18 A They're on the books and that's correct.

19 Q And that is correct; that is right?

20 A Yes.

21 Q And the same would be true as to the publicly
22 owned parks and playgrounds and swimming pools and tennis
23 courts and other municipally owned recreation facilities?

24 A Until these ordinances are removed from the
25 books.

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1 Q Until such time as they are, then you will
2 enforce them, is that the idea?

3 A If they need be, yes, that's correct.

4 Q If need be?

5 A I will enforce all of the rules and regulations
6 and ordinances on that book.

7 Q I see, and the same is true, I presume, of
8 the library, public library?

9 A If it's in this ordinance, that's correct, until
10 it's stricken.

11 Q Of course, you know that there hasn't been any
12 suit as relates to the busses: how do you distinguish
13 between the passive, as to the passivity as to the one,
14 and the enforcement in the other?

15 A This was an agreement that was reached by the
16 City and the bus officials and the Albany Movement, in an
17 effort to cease all of this turmoil and crisis.

18 Q Did the City ever make this known to the public?

19 A Yes, it made it known.

20 Q Tell me when?

21 A By the news media and by other means, we
22 announced that we had no intentions --

23 Q Do I understand - let me see if I understand -
24 it is your statement that the City has at some time in the
25 past made announcements that it would not enforce the segrega-
tion laws?

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1 A That's correct.

2 Q On the books of the City of Albany as relates
3 to the use of City busses?

4 A That is correct.

5 Q Can you remember when this was?

6 A I can't remember the exact date. It was at
7 meeting, I think, of the Chamber of Commerce or some
8 meeting, I can't remember exactly.

9 Q Excuse me - do you remember the media which was
10 used for this purpose?

11 A No, I don't.

12 Q Was it in the newspaper or over the radio or
13 on the TV station, to the best of your recollection?

14 A Not to my recollection.

15 Q Well, these are the normal modes of communica-
16 tion; can you name me some other one, in which this was
17 said?

18 A As I've stated, this was made in open meeting
19 with the people. It was made in meeting with the Albany
20 Movement. We have letters here that state that.

21 Q Could you show me one, sir?

22 A This No. 4 here.

23 Q Read it for me, sir?

24 A (Reading): "Neither the Albany Police Department
25 nor the City of Albany will interfere with the operation of

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1 the local bus facilities".

2 Q "Will interfere with the operation" of it,
3 but it does not say that they will not enforce the
4 segregation regulations dealing with the busses, does it?

5 A It doesn't state so.

6 Q I see, and it doesn't state so and it hasn't
7 ever stated so, has it?

8 A Yes, we've stated thatt --

9 Q In any communication --

10 THE COURT: Just a moment now.

11 MR. HOLLOWELL: I am sorry, I was enlarging
12 upon the question --

13 Q -- in any communication that you know has
14 this ever been communicated beyond the point that it
15 states there, in this paper that you were holding up,
16 No. 4?

17 A Yes, it has.

18 Q Could you indicate what it was?

19 A We indicated to Dr. W. G. Anderson, to Page
20 and Slater King and others that we would not enforce this
21 or interfere with this business, or whether they rode on
22 the front of the bus or on top of the bus.

23 Q But there is no media that you know of that this
24 has ever been said; in other words, no newspaper, no radio,
25 no television, to your knowledge?

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1 A I have no knowledge of it and know no reason
2 for it because we relayed it to them.

3 Q And no repeal of your ordinance by the City
4 Commission?

5 A That's correct.

6 Q Now Chief, your petition indicates that there
7 has been illegal picketing from time to time and there
8 have been arrests made of persons who have picketed in
9 the downtown area, in protest against the segregation
10 policies as adhered to and enforced by the Commission, and
11 also as they related to the matter of employment, have there
12 not?

13 A I would like to answer with a "yes" and
14 explain it.

15 THE COURT: All right.

16 A The Witness: There have been arrests made
17 but not - they have been allowed to picket. On occasions
18 they have been asked to move on, due to the circumstances,
19 and due to -

20 Q What circumstances?

21 A - due to the circumstances surrounding the
22 picketing.

23 Q What were the circumstances?

24 A On one occasion where a young Negro boys were
25 snatching pocket-books or snatching packages and attempting

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1 to intimidate colored people who were attempting to shop
2 in the uptown area --

3 Q All right, now, could you --

4 A -- snapping their pictures.

5 Q Could you hold on that one right there -

6 MR. LEVERETT: May it please the Court, he
7 asked the witness the question and he got an answer.

8 MR. HOLLOWELL: I have no intent --

9 THE COURT: Yes.

10 MR. HOLLOWELL: I have no intent, Your Honor,
11 of shutting him off.

12 THE COURT: Well, if you don't have any
13 intent, let's don't do it without any intent.

14 MR. HOLLOWELL: What I want to get at is this,
15 Your Honor. I'm trying to, since he was going on a
16 series, I wanted to see if I could get him to explain
17 as he moved down the line. I don't want to cut him
18 off.

19 THE COURT: Let's let the witness answer
20 the question the way the witness wants to and not the
21 way you want him to. Now, Chief, you answer the ques-
22 tion and after he has completed his answer, Mr.
23 Hollowell, if it is not adequate, you can question
24 him about the details contained in the statement.

25 MR. HOLLOWELL: Very well, Your Honor.

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1 THE COURT: Go ahead, Chief.

2 A The Witness: During this time that the
3 picketers were asked to move on, they refused to do; and
4 at times they did move on and ceased their operations and
5 at a later time come back and continued their picketing.
6 On other occasions they refused to move on and just com-
7 pletely ignored the officers and were arrested for failing
8 to obey an officer and move from the premises.

9 Q Mr. Hollowell: Now, do you know when any of
10 these occasions were?

11 A No, I don't have the dates with me.

12 Q Do you have any pictures taken of any of these
13 occasions?

14 A No, I don't.

15 Q Are there any in the Police Department?

16 A We have moving pictures that were taken at
17 one time showing the conditions there.

18 Q Are they available?

19 A They're not in the courtroom.

20 Q I mean, will you produce them?

21 A If my attorneys request me to.

22 MR. HOLLOWELL: We would like to request the
23 Court that he have them produced.

24 THE COURT: Of course, legal processes
25 are available to you. I'm not going to take it upon

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1 The Court:

2 myself to direct anybody to produce anything without
3 the usual procedure being followed.

4 Q Mr. Hollowell: Do you know what particular
5 incident that they refer to?

6 A No, I don't.

7 Q Well, calling your attention to the 24th of
8 March, '62, did you not have the occasion to arrest Dr.
9 Anderson and Mr. Slater King and Mr. Emanuel Jackson and
10 Mr. Elijah Harrison in the 100 block of North Washington
11 Street?

12 A Did I arrest them?

13 Q Were they arrested?

14 A They were arrested.

15 Q Do you know what they were charged with?

16 A I believe they were charged with failure to
17 obey an officer's command.

18 Q And they were also charged with parading
19 without a permit, weren't they, and disturbing the peace?

20 A That I can't remember. I would have to see
21 something to --

22 Q Well you don't deny that that is true?

23 A I don't deny it and I don't admit it.

24 Q Do you know the circumstances surrounding their
25 arrest?

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1 A I don't remember the officers, whether I was
2 the officer or whether some other officer of my Department
3 made these arrests.

4 Q I asked you, do you remember the circumstances
5 surrounding them?

6 A On what date?

7 Q On the 24th of March, '62?

8 A I don't remember the circumstances, unless you
9 can show me something to revive my memory.

10 Q Do you recollect whether there were any persons
11 picketing except the four?

12 A Not to my knowledge.

13 Q Since you are the interpreter of what consti-
14 tutes a parade by your own statement, do you construe
15 four pickets operating within one block as constituting
16 a parade?

17 A I don't think that I've testified as to what a
18 parade is.

19 Q I believe you testified that it was whatever you
20 said it was?

21 A Not here I haven't. I haven't testified to
22 anything here as to what a parade is or what it is not.

23 Q You don't recollect my calling your statement
24 to your attention and you saying that this is in fact
25 what you have said?

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1 A Sometime last year or the first of this year.

2 Q I mean in this trial, about 30 minutes ago,
3 when you were asked the question, "In other words, it is
4 whatever your opinion construes it to be, a parade, and
5 that is what a parade is, isn't that correct? And your
6 answer was, as far as this case here is concerned, that
7 is my opinion" -- you don't remember that?

8 A I remember that statement.

9 Q Sir?

10 A Yes, I remember that statement.

11 Q Now, I'm saying, based upon the fact that it's
12 what you say it is in your opinion, do you construe that
13 four pickets in one block constitutes a parade? Sir?

14 A No, I don't think that would constitute a
15 parade.

16 Q Well, don't you know that's what you charged
17 them with, that you charged them with that, that we were
18 charged with that?

19 A I don't remember the circumstances, as I told
20 you. If you can show me something here to refresh my
21 memory, then I'll be glad to testify as to what I know,
22 but I cannot testify as to what I don't know.

23 Q Well, let me ask you about June 23, '62: I
24 believe there were some Rev. Samuel Wells and Rev. Joe
25 Smith and Reverend - and Emory Harris; do you have a

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1 recollection of them being on the street picketing?

2 A I have a recollection of it, yes.

3 Q Were they arrested or do you know?

4 A They've been on the street a number of times
5 and I can't say that on that date whether they were or
6 not. They've been on the street a number of times picketing.

7 Q Let me ask you about June 24: Isn't it true
8 that Rev. Alford, Luther Woodall, Shirley Woodall and Ola
9 Mae Quarterman were arrested for picketing -

10 A They were --

11 Q -- in the 100 block?

12 A They were arrested by members of my department.

13 Q They had been picketing about how long? Do
14 you know?

15 A No, I don't.

16 MR. LEVERETT: May it please the Court,
17 the witness stated they were arrested by members
18 of his Department and I submit, unless he was there
19 and he knows, that he would not be competent to testify.

20 MR. HOLLOWELL: He's the Chief Law Enforcement
21 officer and administrator of the Police Department
22 and he would be able to testify whether or not they
23 were arrested, if he knows. He has already testified
24 as a matter of fact that they were.

25 THE COURT: Well, I believe he's indicated

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1 The Court:

2 that that's all he recalls about it, that they were
3 arrested; so, I don't see any need in prolonging the
4 questioning about it. He says that's all he knows
5 about it.

6 MR. HOLLOWELL: I don't recall his saying that.
7 Maybe we had better elicit that.

8 Q Do you know the circumstances of their arrest?

9 A I know that they were arrested but I don't remember
10 the circumstances revolving around it.

11 Q Do you also know that they were fined \$27 apiece?

12 A I think by checking the records of the Police
13 Department that I know that.

14 Q Do you also know that there were only four pickets
15 in the whole 100 block on Washington on that occasion?

16 MR. LEVERETT: May it please the Court, there
17 has been no evidence as to the charges that the
18 pickets were arrested upon.

19 MR. HOLLOWELL: I'm asking him what he knows.

20 THE COURT: Yes, if the witness doesn't
21 know the answer to the question, he can simply say
22 that "I don't know".

23 A The Witness: I don't recall. I don't.

24 MR. HOLLOWELL: (To Clerk): Would you mark
25 this for purposes of identification.

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1 Q Now, on these various occasions of the picketing
2 there were these crowds that gathered, I believe under
3 your testimony, that made it difficult for the people to
4 get by and for them to be able to perform their natural
5 functions, isn't that right?

6 A I have not testified as to any crowds which were
7 prohibited by these picketers from going about their way.
8 I said in my testimony that on occasion they were young
9 Negroes, who were there snapping pictures of people, of
10 colored people who were attempting to go about their normal
11 way; attempting to snatch packages and such. I have not
12 testified to any large crowds of people that were prohibited
13 from using the streets by these pickets.

14 Q Let me ask you, did you arrest any such person
15 taking a picture?

16 A No, we didn't.

17 Q Did you arrest any such person snatching a
18 package?

19 A No, we didn't. We attempted to.

20 Q Now --

21 THE COURT: What was that? I missed that.
22 You attempted?

23 The Witness: No, we didn't, we attempted to.

24 T THE COURT: You attempted to?

25 The Witness: Yes, Your Honor.

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1 Q Mr. Hollowell: How many such persons were there --

2 A There --

3 Q Excuse me just a minute --who snapped a picture?

4 A There were a number of people snapping pictures.

5 Q Well, how many? One?

6 A More than one. I would say more than 2.

7 Q More than 2 and less than what? Lessthan 5?

8 A I would say more than 2 and less than 5.

9 Q Less than 5?

10 A Yes.

11 Q How many persons snatched packages?

12 A There was three that attempted to and were chased
13 into the south part of town and eluded the police in
14 between the houses down there.

15 Q That was three?

16 A A That's correct.

17 Q And on that occasion?

18 A On that occasion we asked the picketers to cease
19 their operation until we could get all of this under normal
20 or stopped. They ceased, come back and continued their picket-
21 ing for the rest of the day.

22 Q Now, all of this, you mean taking pictures, some
23 3 or 4 people taking pictures and you say there were 3
24 persons who sought to snatch a package?

25 A That's right.

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1 Q Three persons sought to snatch a package?

2 A (No answer) . . .

3 Q Well, why did you arrest Rev. Alford?

4 A If my memory serves me correct, he was asked to
5 move on, refused to do so and was arrested for failure to
6 obey an officer.

7 Q When you say "move on", you mean move from the
8 area in which he was picketing?

9 A That's correct.

10 Q Now, let me show you DEFENDANTS' EXHIBIT #9 and
11 see if you recognize that?

12 A I recognize Rev. Alford.

13 Q Beg pardon?

14 A I recognize him.

15 Q Is that he?

16 A That's he.

17 Q He's picketing there, is that not right?

18 Appears to be?

19 A Appears to be.

20 Q Is that what you would recognize as the condition
21 of the streets and the circumstances surrounding the picket-
22 ing when it was being done by him?

23 A I would not testify that this was a picture that
24 was snapped of him but not of the crowd or anybody else.

25 Q As a matter of fact - excuse me -

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1 A It could have been but there was none taken only
2 of this individual.

3 Q You don't see any crowds around anywhere, do you?

4 A No, I sure don't.

5 Q Let's show you Plaintiffs' Exhibit or DEFENDANTS'
6 EXHIBIT rather #10, and I believe this sign says "Open your
7 account with dignity", that's the sign that he's wearing?

8 A That's what it says.

9 Q Now, let me show you DEFENDANTS' EXHIBIT 10 and
10 ask you if you can identify that person and what the circum-
11 stances were surrounding the arrest?

12 A No, I can't identify that person.

13 Q You cannot?

14 A No, I don't know him.

15 Q What is it that's being done by Alford in
16 DEFENDANTS' 10 that would in any wise, as far as you
17 are concerned, give rise to his being arrested?

18 A Nothing shows there.

19 Q Do you know of anything that he was doing that
20 would have given rise to his being arrested? If so, please
21 state?

22 A No, I don't.

23 Q But you know he was arrested?

24 A I know he was.

25 THE COURT: Did you make the arrest, Chief?

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1 A The Witness: I don't remember, Your Honor.
2 I don't believe I did.

3 Q Mr. Hollowell: So, you don't know whether the
4 person in D-10 was arrested or not?

5 A No, I don't.

6 Q Well, let me ask you this, we can prove that by
7 someone else: Do you see anything about the condition of
8 the street, about her dress, about the sign that she's
9 carrying or anything about her demeanor or the circumstances
10 of the situation described in the photograph, that would
11 give rise to any arrest? If so, then please state?

12 A Not in the picture, no.

13 Q Do you know anything about the circumstances
14 would would give rise to her arrest?

15 A I don't know anything about that. I don't
16 remember the person. I don't remember the date.

17 Q This was in June?

18 A I don't remember.

19 Q You have no remembrance in that connection?

20 A No.

21 Q Now, I believe you indicated that Shirley Woodall
22 and the other Woodall boy were arrested and let me show you
23 D-12 and ask you to indicate whether you see anything in
24 that photograph of Shirley Woodall that would give rise to
25 any circumstance which would subject her to arrest?

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CLAUDE JOINER REPORTING SERVICE

1 A Not in the photograph.

2 THE REPORTER: I didn't get an answer.

3 MR. HOLLOWELL: He said not in the photograph,
4 I believe, is that not right?

5 A The Witness: That's correct.

6 Q Do you know of any circumstances surrounding
7 her picketing on this occasion?

8 A I don't remember.

9 Q You don't remember any?

10 A No.

11 BY THE COURT:

12 Q Did you make the arrest, Chief?

13 A Not to my knowledge. I could have but I don't
14 remember now. If he could show anything to state that I
15 did or to bring it to my memory. There have been so many
16 of these, Your Honor, made by various members of the
17 Albany Police Department that I don't recall. But if he
18 has it, I feel sure that he being their attorney should know
19 who the arresting officer was.

20 Q As a matter of fact, isn't it true that these
21 people were charged with failing to move on under the
22 direction of the officer?

23 A Failing to obey an officer.

24 Q And that was addressed against them due to the
25 fact that they would not move from the area but merely

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1 continued to picket?

2 A That's correct.

3 Q In the fashion indicated in the picture?

4 THE COURT: Well, the witness has testified
5 that he didn't make the arrest - right?

6 The Witness: I have made some, Your Honor.

7 THE COURT: I believe we're wasting a good
8 bit of time by cross-examining the Chief, who has said
9 that he has no recollection of the circumstances about
10 these various particular incidents. I think it would
11 be better if the cross examination were directed to
12 whoever the officer was who made the arrest and save
13 time.

14 Q Mr. Hollowell: Did you arrest Dr. Anderson? Sir?

15 A I don't remember.

16 Q You don't remember?

17 A No. Dr. Anderson was there and if he will --

18 Q All right, let me show you D-16, which purports
19 to be a letter from Dr. Anderson and M. S. Page, a copy of
20 which it says you received, which was addressed to the
21 matter of picketing; I ask you do you have a recollection
22 of receiving the letter?

23 A This letter was addressed to Attorney Rawls and
24 it's possible that I got a copy of it. At this time I don't
25 remember. If it was addressed to me, it would be made a

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1 permanent part of my file and it's possible that it did
2 come to my office, but I don't recall it, Your Honor.

3 Q Do you know whether or not the original of the
4 letter is here?

5 A You can address that to the man that it was
6 addressed to. I don't know. I can't testify.

7 Q I ask you, do you know?

8 A Not to my knowledge, I don't.

9 Q You don't deny receiving the letter?

10 A I don't deny it and I don't admit receiving it
11 either.

12 Q Do you deny having been requested by Dr. Anderson
13 and M. S. Page, by way of letter seeking to know what, if
14 any, regulations there were pertaining to picketing, in
15 order that they might not violate them?

16 A Not to my knowledge; I don't remember this.
17 If I did, I'd tell you.

18 Q You don't remember ever getting a copy of this
19 letter?

20 A Not to my knowledge.

21 Q Not to your knowledge?

22 A No.

23 Q Would you be willing to check your files and see?

24 A I would be most happy to.

25 Q And bring that back with you?

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1 A (No answer) . . .

2 Q Now, in July there were other arrests, some 32
3 as a matter of fact on or about the 12th, is that not correct?

4 A Did you say the 12th or 11th?

5 Q On or about the 11th or 12th of July?

6 A There was 32 arrested, marchers arrested on the
7 11th of July.

8 Q Where was that group stopped?

9 A They were stopped at the intersection of Broad
10 and Jackson.

11 Q Broad and Jackson?

12 A That's correct.

13 Q Now, was that the occasion when Mr. Steele was
14 at the head of the line with other persons?

15 A I believe that's correct.

16 Q And I believe you testified that there were
17 crowds which gathered along the route - I'm sorry, strike
18 that: I believe you testified that there were crowds
19 which had gathered around the streets and along the streets
20 and made the job of the Police Department difficult --

21 A I testified that --

22 Q -- on that date, blocking traffic --

23 A I testified that --

24 Q ---and that there was great --

25 MR. RAWLS: If Your Honor please, I submit

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1 Mr. Rawls:

2 that the witness ought to be allowed an opportunity to
3 answer.

4 THE COURT: Yes. I think the difficulty in
5 this situation arises from the fact that Mr. Hollowell
6 was pausing between phrases and the witness thought
7 that it was a period instead of a comma.

8 MR. HOLLOWELL: That is true, sir.

9 THE COURT: So, if you will re-state your
10 question.

11 MR. HOLLOWELL: Will you read the question, sir?

12 THE REPORTER: "And I believe you testified that
13 there were crowds which gathered along the route -
14 I'm sorry, strike that - I believe you testified that
15 there were crowds which had gathered around the streets
16 and along the streets and made the job of the Police
17 Department difficult - on that date, blocking traffic?
18 Answer: I testified that -- Question: And that there
19 was great tension", and then the objection.

20 Q Mr. Hollowell: Let me redirect it and connect it
21 up, sir: I believe you testified that on the occasion of
22 this march, as well as the others, there were great crowds
23 around on the streets, that there was much tension, that the
24 streets were blocked and that the City had to have all of
25 its forces in the area, in order to keep the peace and to

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1 keep down any violence, is that corre ct?

2 A That's correct.

3 Q And that was true even on the situation of July
4 12, as well as all of these other occasions; is that correct?
5 This is your testimony?

6 A On July 12, I don't recall a march on July 12.

7 Q Well, let me show you DEFENDANTS' EXHIBIT #15 and
8 ask you to tell me who this gentlemen is in the center
9 of the picture? Who is that?

10 A That's me along with other officers of this
11 Department, and Rev. Alford and I think Rev. Steele.

12 Q That's you?

13 A That's me, yes.

14 Q Doyou recollect the occasion?

15 A That was the 11th, on Tuesday, after the sentencing
16 of Dr. Martin Luther King, as evidenced by the black band
17 on Reverend Alford's arm there. This march originated in
18 protest of justice dying in Albany, Georgia, on July 11.

19 Q Now, was the traffic blocked at the corner of
20 Oglethorpe and Jackson?

21 A The pedestrian traffic was blocked on the sidewalk
22 where these 32 people were in front of business, which is
23 located on the corner, the southwest corner of Jackson and
24 Broad.

25 Q Did you walk down that line?

A

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1 A I did.

2 Q As a matter of fact, isn't it true, Chief, that
3 you never did get beyond the point where you stopped them?

4 A That is not so. I walked down to the middle of
5 the line, informing the people of their violations.

6 Q This was after they stopped, isn't that correct,
7 after you stopped them?

8 A That's correct.

9 Q After you stopped them?

10 A That's right.

11 Q But prior to the time that you stopped them,
12 you hadn't been down that line?

13 A Not prior to stopping them, no.

14 Q Sure, and they hadn't blocked the traffic at
15 Oglethorpe and Jackson, had they?

16 A They were stopped at - no, they hadn't -- I didn't
17 see any obstruction of the traffic; if they did, I didn't
18 see it.

19 Q As a matter of fact, you stopped them before they
20 even started across that street, isn't that true?

21 A What street?

22 Q Jackson and Oglethorpe?

23 A No, I didn't. They were at Broad and Jackson when
24 they were stopped.

25 Q They were where?

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A B road and Jackson.

Q Is that where you stopped them?

A That's correct.

Q Let me show you DEFENDANTS' EXHIBIT 15 again and let you refresh your recollection a little?

A I wish you would.

Q There's no such rail as that on the southwest corner of Broad and Jackson?

A No, I wish to withdraw that and admit an error; that this was at the intersection of Oglethorpe and Jackson.

Q So that, as a matter of fact, the people had never even crossed that street; you stopped them before they ever started across?

A That's correct. And I wish it to go in the record there that I did make a mistake.

Q Now, let me show you D-13, which also shows the front of that line at the corner of Broad, I believe, and ask you to point out to me all of these crowds that you talk about? How many people, how far can you see in that photograph?

MR. LEVERETT: May it please the Court, before the witness answers, I don't believe it's been identified as to when this picture was taken.

MR. HOLLOWELL: I think it addresses itself to the same line in which Rev. Alford, that he has identified

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CLAUDE JOINER REPORTING SERVICE

1 Mr. Hollowell:

2 in the other picture and Rev. Steele were heading the
3 line.

4 THE COURT: It will be up to the witness now
5 about that, as to whether the picture is sufficiently
6 identified for him to know what he's testifying about.
7 I can't help him with that and counsel can't help him.
8 That's up to the witness. If he knows what it is, he
9 can testify about it; if he doesn't, he can't.

10 A The Witness: This is a picture of the march
11 coming across Broad and Jackson. It shows the southwest
12 corner but it does not show the east side of the street,
13 where these people were. There were people there on that
14 side and other people there in numbers. This only shows
15 one angle of the picture.

16 Q Det me ask you --

17 A -- that's the only thing that I can testify.

18 Q Well, let me ask you, Chief, this is the people
19 coming up the middle of the street after they had been
20 directed into the middle of the street by your officers,
21 isn't that correct?

22 A That's correct.

23 Q And you can see virtually, you can see pretty
24 well up and down the street there, can't you, on Jackson
25 Street? Tell me how many people you can see, other than

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1 those who are in the line of march and those who are
2 identifiable as police officers or in the press?

3 A There is a number of people over there.

4 Q How many?

5 A 15 or less or more.

6 Q I mean, how many more than 15?

7 A There is - let's see - there's 10 to 15 people
8 on this corner.

9 Q 10 to 15 people?

10 A Yes.

11 Q Doyou call that a big crowd?

12 A I say that this is a picture showing one side
13 of the street and not all of the area which I testified to.

14 Q Doyou see any cars that are being blocked
15 other than -- As a matter of fact, there are none, are
16 there?

17 A Yes, there are.

18 Q Where?

19 A Let me have the picture a second . . . There's
20 some behind these people here that the street is blocked
21 and the cars are backed up here behind.

22 Q You don't know whose cars they are, do you?

23 A No, I don't.

24 Q As a matter of fact, they might be police cars
25 bringing up the rear, might they not?

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A No, they are --

Q You said they were all around in the area?

A There are no police cars.

Q Now, let me show you again D-15 and see if you can identify anybody other than yourself and other police officers and the press and the front of the line of this July 12 group? Anybody?

A No, I can't. This picture was taken by parties unknown to me, who did not take pictures of the crowd but only the people who were being talked to.

Q Well, it represents the situation as of the time that you were addressing them, is that not true?

A The situation confronting me and Alford and Rev. Steele.

Q Do you have any photographs that were made by the Department on that particular occasion?

A No, I don't.

THE COURT: Suppose we take a recess at this time until tomorrow morning at 9:30 o'clock.

5:00 P. M., JULY 31, 1962: HEARING RECESSED

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VOLUME II

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT.

NO. 20501

U. S. COURT OF APPEALS
RECEIVED
APR 19 1963
NEW ORLEANS, LA.

W. G. ANDERSON, ET AL,

Appellants,

versus

CITY OF ALBANY, ET AL,

Appellees.

Appeals from the United States District Court for the
Middle District of Georgia.

RECORD ON APPEAL

U. S. COURT OF APPEALS
FILED

APR 24 1963

EDWARD W. WADSWORTH
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

Asa D. Kelley, Jr., Mayor of the
CITY OF ALBANY, GEORGIA, et. al.
Plaintiffs

v.

M. S. Page, Dr. W. G. Anderson,
THE ALBANY MOVEMENT, et. al.
Defendants

Civil Action

No. 727

AT: ALBANY, GEORGIA,
AUGUST 1-2, 1962

FILED AT 10:00 A.M.

APR 12 1963

David C. Campbell
DEPUTY CLERK, U.S. DISTRICT COURT

VOLUME 2

PAGES: 326 to 618

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PRITCHETT - CROSS

BY MR. HOLLOWELL:

Q Now, Chief, I believe when we ceased on yesterday or adjourned, we were discussing some aspects of picketing: I ask you whether or not you had the occasion to arrest Dr. W. G. Anderson, Emanuel Jackson, Slater King and one other by the name of Harris, during the month of June or July, '62, while in the process of picketing?

I believe, if I might change that date, about the 10th of March. That's Anderson, Jackson, Elijah Harris and Slater King? Sir?

A I heard your question. I'm sort of thinking now, if you'll give me a little time on it. . . I either arrested them or they were arrested by members of my Department.

Q Do you recollect what they were arrested for?

A If my memory serves me right, I think it was for failure to obey an officer.

Q And disorderly conduct, is that not correct?

A I'd have to be refreshed with something there: I know it was for either failure to obey an officer or disorderly conduct by failing to obey an officer.

Q Let me show you this record or transcript of proceedings, City of Albany versus W. G. Anderson:

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A Let me look at this front, if you don't mind. I don't believe I arrested these men. I believe they were arrested by Assistant Chief Summerford. I was in court there that morning for the court to start and announced that the City Attorney was in a Bankruptcy Court and couldn't be there and we'd have to have a delay of court until he got there.

Q Now, the question is, with what were they charged?

A Failing to obey an officer and disorderly conduct.

Q Did you stay there throughout the proceedings?

A I don't think I stayed there in its entirety. I think I was in and out of the proceedings.

Q Did you have the occasion to see Defendants - strike that - Tell me if you recognize the persons shown in that photograph, which is D-17?

A That's Dr. W. G. Anderson.

Q Dr. W. G. Anderson?

A Yes.

Q What is he doing?

A He appears to be holding up a sign which says, "Walk, live and spend in dignity".

Q Now, let me show you D-19 and see if you recognize that person?

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A That's the Assistant Chief, one of the patrolmen of my office, of my department, and from the side view there it looks similar to Slater King but I couldn't testify it was him but it's similar to him.

Q And D-18, do you recognize anybody there and the location?

A Yes, I recognize Bo Jackson and I think this boy's name is Harris, the paddy-wagon and one of the officers of my Department.

Q Now, you mentioned Assistant Chief Summerford, was it?

A That's correct.

Q Would you indicate whether or not he is shown in D-19 with Slater King there?

A He is shown in this D-19 with someone who I say resembles Slater King and I presume it is him. I don't deny it's him and officer of my department, Joe Gordon.

Q By looking at 17 and 19, would you be able to testify that that was or those - strike that please - That those particular photographs, D-17 and D-19, are a photographic representation of what the circumstances were as of the time of the respective arrests of Slater King and Dr. W. G. Anderson on that occasion?

A Attorney, to the best of my knowledge, I wasn't at the scene, and the only thing I have here to go by are

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these pictures and I can't come to any conclusion from these pictures here about the surroundings or what the circumstances were in this case.

Q You do know they were arrested?

A I do know that.

Q Do you know - Did you bring with you the photographs that were subpoenaed?

A I brought the photographs here, the only photographs that we have pertaining to the protests.

Q Do you have any pertaining to the picketing?

A No, I don't. (Handing photographs to counsel for Defendants) . . . On those things now, I'd like for them to be kept in the same order.

Q I show you D-20 and ask you do you recognize that location and any of the personnel who are shown there?

A Yes, I think this is at the Salvation Army or somewhere in the vicinity of Second or Third Avenue; and I recognize Slater King and I believe this is Dr. Anderson, Bo Jackson and Harris; and the others I don't -- I know they're prisoners of the City of Albany on a detail.

Q They're what?

A Prisoners of the City of Albany on a work detail.

Q Do you know how they come to be prisoners of the

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City of Albany on a work detail?

A They were arrested, convicted and sentenced to the work detail.

Q Pursuant to those charges that we just addressed ourselves to a moment ago, failing to obey the command of an officer and disorderly conduct?

A I would assume that is. They have been arrested on a number of occasions.

Q I mean on this occasion?

A To the best of my knowledge.

THE CLERK: D-21 is 13 photographs in an envelope.

Q Mr. Hollowell: Now, Chief, you recognize that this folder contains some 13 photographs, which were brought over by you?

A I don't know how many is in there but I hope they're all there.

Q Well, we~~'t~~ count them as we go along, but they were produced by you at our instance?

A That's correct.

Q These are photographs of the Police Department?

A They are photographs that were made by the Police Department but I can't see them there. If you'll let me look at them. (Photographs handed to witness) . . . Yes, these were made and have the dates on all of them.

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Q Now, would you indicate what this represents on the cover here?

A December 12, '61, 200 block of Pine, Violation of Chapter 14, Section 7, violation of Chapter 24, Section 36. I think that's the --

Q Now, is that the particular incident or time that we discussed yesterday, where you said that the persons who were on the so-called demonstration walked around the blocks of Broad, Jackson, Pine and Washington, and were finally directed into the chute by the City Hall?

A That's correct, and charged with that section.

Q Now, would you look at these photographs and show me how many people you can count on any one photograph other than those in the line of march?

MR. LEVERETT: May it please the Court, I think the pictures themselves speak for themselves.

THE COURT: I think so.

Q Mr. Hollowell: I will ask you whether or not you see - I want to find out what he sees - as many as 15 additional people, other than those in the line of march and your personnel in any one photograph?

MR. LEVERETT: May it please the Court, I think this witness can see what everybody else can see and I think again that the pictures speak for themselves.

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MR. HOLLOWELL: I would submit that --

THE COURT: Do you intend to introduce those pictures into evidence?

MR. HOLLOWELL: We intend to introduce them into evidence, yes.

THE COURT: Well, I don't see the point in having him count people in pictures and such as that, if you're going to introduce them in evidence. There will be there for me to look at.

MR. HOLLOWELL: Very well; we have no objection.

THE CLERK: 12 photographs is D-22.

Q Mr. Hollowell: Now, Chief, I show you D-22 and ask you to indicate whether or not all of said photographs are police photographs, Police Department photographs, and were brought to this Court by you at the instance of the Defendants?

A That's correct.

Q Can you tell whether those photographs were taken before, during or after the arrests?

A They were taken, during, before and after.

Q Show me one where it was taken before the arrests?

A (Handing photographs to counsel) . . . This one was during the arrests, during the arrests, before the arrests, during the arrests, during the arrests. I'm not

positive but I think that's before the arrests, and this one is during the arrests.

MR. HOLLOWELL: Mr. Cowart, I wonder if for our purposes we may make these -- could we make an exhibit for this group; we could make each of those 22-1, all of those, and these 22-2 or A, B, C; that will be fine.

Q Now, as I understand your testimony, 22-a through (g) are those which you say were taken prior to the arrests; is that correct?

A That's correct.

Q And 22-h through (L) were those taken after your officers had directed the line of walking into the chute to the right of the police station, is that correct?

THE COURT: I'm not sure I understand the word "chute". I haven't heard any testimony about any "chute". What is it you are referring to when you say "chute"?

MR. HOLLOWELL: When we say "chute", sir, we mean the passageway, the small alleyway that is immediately to the right of the police station going in from Pine Street.

THE COURT: An alleyway?

MR. HOLLOWELL: An alleyway.

A The Witness: That's correct.

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Q Is that correct?

A Yes.

Q (h) through (l) are taken after the line of march has been directed into the alleyway that is immediately to the right of the police station on Pine?

A That's after they had been placed under arrest.

Q After they had been placed under arrest?

A That's correct.

MR. RAWLS: If Your Honor pleases, I move that the word "chute" heretofore used be stricken from the record.

THE COURT: Yes I sustain that. I was puzzled about the use of it because no witness has used the word "chute" that I recall and since it is an alleyway, suppose we use that word.

MR. HOLLOWELL: Well, when he says that it be stricken, I would suggest that in order for the record to be complete, that it would say that wherever the word "chute" appears that the reference is to the alleyway which has been described.

THE COURT: It is to the alleyway and I suggest that if we're talking about an alleyway that we call it that, so that there will be no confusion.

MR. HOLLOWELL: Yes sir.

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THE CLERK: 22 photographs in EXHIBIT D-23.

Q Mr. Hollowell: Now, Chief, I show you D-23, containing 22 photographs and ask you whether or not those were the photographs or among the photographs that you brought to the Court at the instance of the Defendants?

A That's correct.

Q Do you recognize the date?

A December 13.

Q December 13?

A Yes.

Q This was one of the occasions when you indicated in your direct examination that there were certain Negroes who knelt and prayed outside of the City Hall?

A I don't think there's any testimony in there where I said anybody knelt in front of the City Hall on this date. There was a march of some sort, I said; but it was a prayer service and this is the first thing I've said about it.

Q I'm not sure that I heard that, Chief?

A I don't think I said anything in this testimony here prior to this about any kneel-in at the City Hall. I said a demonstration in front of the City Hall on the 13th.

Q Is this the demonstration to which you refer?

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A Yes.

Q And this is when you testified that the sidewalks were blocked and there were many people congregated around, and that there was much tension?

A These pictures were -

Q Sir?

A These pictures were in the exact order but they've been shuffled since they hit that table back there, Your Honor.

THE COURT: You take your time and you get them in the order in which you want to testify about them.

A The Witness: This is the march on the 13th and this is in reference to the kneel-in by Slater King and Rev. Boyd on the 13th, two different occasions, two different things.

MR. HOLLOWELL: Allright, mark that 23-b.

A The Witness: I don't think this is all of them either, Attorney.

Q You think you brought more than that?

A I would think so.

Q You would think so; do you know, Chief, whether you brought more than that?

A I think there's one back there that shows Slater King and Rev. Boyd kneeling and I think, if you'll

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search back there, you'd find it.

Q Do you think there were more in this envelope than that?

A I do.

Q Will you describe that which you think was in there?

A There's a picture there of a group kneeling, as these are, Slater King, Rev. Boyd and picture of Rev. Boyd sort of looking up to the sky and Slater King beside him.

Q Pertaining to the same date?

A Wearing a raincoat, white slicker raincoat, Slater King.

Q Pertaining to the same date?

A The same date.

Q Now 23(a) through 23(p), you say show a march as you describe it on the 13th of December, is that correct?

A Yes, I think that's the date on the back on these, taken by detectives in my Department.

Q And 23(q) through (v) you say pertain to kneeling and praying in front of the City Hall?

A That's correct.

Q It couldn't be that that was in another group, could it, Chief?

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A Not to my knowledge.

Q Not to your knowledge?

A Because everything that I have was brought here.

Q Now, could you look at 23(p) - strike that -
(a) through (p) and tell me whether these are the crowds
that you described on yesterday as being incident to the
demonstration on that date?

A Your Honor, these pictures were taken here on
this date to show the -

Q I'm sorry, sir, we can't hear you?

A This shows the route and the closeness to the
buildings of these marchers, which the detectives taken
to show that the entrance to these buildings were impaired
and that they could not be reached in normal way --

MR. HOLLOWELL: May it please the Court --
excuse me, sir -- if it please the Court, as has
been indicated by counsel for the Plaintiffs, the
pictures are the best evidence of what they show;
and, therefore, we will submit that his statements
should be stricken because they are not responsive
to the question asked.

MR. RAWLS: If Your Honor please, I submit
the question asked the Chief was, do these pictures
depict the group and the crowds that you testified
about; and the Chief was simply explaining that they

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Mr. Rawls:

did not purport to represent picture of the crowds but that they show the inaccessability to the entrance to the buildings; and I think the question was responsive.

THE COURT: Well, I think it was more than responsive. I think that Mr. Hollowell's criticism of the answer is well founded. I think that the witness has not yet responded really to the question. The question, does the picture represent the crowds referred to by you in your previous testimony concerning this incident. Now, so the witness will understand what is required of him, he is required to answer whether the picture does or does not represent the crowds referred to; and then, Mr. Witness, you can explain, if you wish, what is in the picture; that is, what the picture does represent, what portion of the crowd it does represent and what portion it does not. But answer the question, whether it does or does not represent the crowd.

A The Witness: I can answer this with a yes or no, and then explain myself?

THE COURT: Yes.

MR. HOLLOWELL: And - excuse me - I take it that the prior answer has been stricken?

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THE COURT: Yes, I sustain that objection.

A The Witness: The answer is - state your question, again?

MR. HOLLOWELL: Would you please read the question, Mr. Reporter?

THE REPORTER: "Now, could you look at 23(p) - strike that - (a) through (p) and tell me whether these are the crowds that you described on yesterday as being incident to the demonstration on that date?"

A The Witness: I would answer that with a "no", Your Honor, and explain myself.

THE COURT: You do not have to explain. I did not mean by my instructions to you that whenever you give a yes or no answer, that you are required to give an explanation. I simply wanted you to understand that after you have answered the question, if you wish to explain, you may.

A The Witness: I wish to. These pictures were taken, not of the crowd, at this time but to show that the businesses on this street, that the normal entrances and that the entrances that the people had access to were blocked and could not gain entrance as they could on normal conditions. And this shows - that's what I'd like to say.

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Q Mr. Hollowell: You submit that those photographs show the general vicinity of Pine Street and the corner of Washington and the corner of South Jackson, in the vicinity of Pine Street, does it not?

A This shows Pine and Jackson. I don't think there's any here --

Q It shows up and down Pine Street, does it not?

A Yes, it does.

Q And that's where the persons were arrested on that date, those whom you say constitute the marchers?

A That is correct.

Q Now, let's look as 23(q) through (v) a moment and ask you whether or not those photographs, the pictures that are depicted there, represent the crowds to which you alluded on yesterday as related to that particular matter?

A Yes, it does.

Q And this shows the area in the general vicinity of where the kneel-ins or the kneelers, I shall call them, were; is that correct?

A That's correct.

Q And it shows the area up and down that street, does it not?

A It does.

THE CLERK: D-24 is 25 photographs.

 Q Mr. Hollowell: Chief, take those photographs,

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that are under D-24, and tell me whether or not that is also a group of photographs which were brought from the Police Department by you this date at the instance of the Defendants?

A That's correct.

Q These are photographs of the Police Department?

A It's photographs that were taken during and after these demonstrations in front of the City Hall.

THE COURT: On what date?

A The Witness: On the 13th; it's the kneel-ins.

THE COURT: Do the photographs have dates on them, on the reverse side of them? Do all of them have dates on them?

A The Witness: All of them have dates on them, yes sir.

 Q Mr. Hollowell: They are the property of the Albany Police Department, are they not?

A That's correct.

Q And they constitute all, that is all of the photographs that you have brought here this morning at the instance of the Defendants, constitute all of the photographs which you have pertaining to any of the so-called demonstrations from December to date, is that correct?

A All of the photographs that I brought here this morning, they are all here in this building.

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Q That isn't what you were asked, Chief?

A You asked me if this represented all of the photos that were taken in December?

Q No sir, if it please, Mr. Reporter, would you read the question, sir?

~~THE~~ THE REPORTER: "Question: And they constitute, that is all of the photographs that you have brought here this morning at the instance of the Defendants, constitute all of the photographs which you have pertaining to any of the so-called demonstrations from December to date, is that correct?"

A The Witness: That's correct.

Q Mr. Hollowell: And all of them that you brought over this morning have been turned over to the Defendants, is that correct?

A That's correct.

Q Now, could you look at those photographs and recollect what they represent, generally?

A They represent and show a group of Negroes kneeling and praying in front of the City Hall. They represent the crowds and congestion around the area which was caused by these kneelers and prayers, and the crowds which surrounded the area.

Q In other words, these are the photos upon which you based your statement yesterday that there were

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large crowds incident to the demonstrations on this particular date and there was great tension among the people and things were about to erupt and, in your opinion, there was great tension, and it is based upon the things that are shown in those photographs; is that correct?

A That's correct.

THE COURT: On what date?

MR. HOLLOWELL: On the 13th.

THE COURT: We're talking about December 13?

MR. HOLLOWELL: Yes sir.

THE COURT: Let the record show that.

THE CLERK: D-25, consisting of 8 photographs (a) through (h).

Q Mr. Hollowell: Look at 25(h) - well, first, let me ask you whether or not you brought these eight photographs that are listed as D-25-(a) through (h) to court and they are the property and indicate whether they are the property of the Police Department of Albany, Georgia?

Q They are.

Q Can you tell me whether or not 25(a) was before or after the arrests?

A I think it's before.

Q Was 25(h) before or after?

A Before.

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Q Who is the large police officer that you see there in the foreground?

A That's me.

Q Do you know what time you arrived at that spot?

A No, I don't. It says on here the picture was taken at 5:00 P. M. If it was taken at 5:00 P. M., I was on the spot.

Q At 5:00 P. M.?

A Yes.

Q 25(g), was this before or after?

A This was before.

Q 25(f), was this before or after?

A This was after.

Q Who's the large man in the rear that is bringing up the rear?

A That's Sergeant, Detective Sergeant Harold Jeter of the Albany Police Department.

Q 25(e), before or after the arrests?

A Before.

Q 25(d)?

A After.

Q This is after?

A That's correct.

Q And the same is true of (c), is that not correct, the same general group?

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A That is correct.

Q And 25(b), was this before or after the arrests?

A This is before.

Q And it is upon these photographs or the scenes as depicted that you made your testimony yesterday concerning the large crowds and the tension that was incident to this particular demonstration on this date?

A That's correct.

THE COURT: All right, let's move along Mr. Hollowell.

MR. HOLLOWELL: Now, we have three photographs here, sir; mark them all one number.

THE CLERK: D-26 is 3 photographs, marked a, b and c.

____Q Mr. Hollowell: Now, Chief, these three photographs in D-26 were also brought by you and are the property of the Albany Police Department, are they not?

A That is correct.

Q I ask you whether or not you have any recollection of there having been a so-called "demonstration" on February 16, '62?

A That date there doesn't correspond to the date that is on these pictures. These pictures were taken on December 16, 1961 in the 200 block of South Jackson by Price Lee Westbrook, detective of the Albany Police Department.

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Q Then, you're saying that this 2-16-62 should be 12-16-61?

A 12-16-61.

Q Do you have any objection if I change that on the envelope?

A I have no objection whatsoever. I don't know who wrote it on there.

Q I don't know either, sir. Now, let me show you 26(b) and ask you, isn't that a photograph showing the group after they had been arrested and are being brought up the street by your officers, up South Jackson toward Pine, after which they were directed into the alley, which is between Pine and Broad, running off South Jackson?

A This shows that just south of the intersection of Broad and Jackson they were --

Q Now, excuse me, sir, you're not answering my question: Would you repeat the question for me, please, Mr. Reporter?

THE REPORTER: "Question: Now, let me show you 26(b) and ask you Isn't that a photograph showing the group after they had been arrested and are being brought up the street by your officers, up South Jackson toward Pine, after^{which} they were directed into the alley which is between Pine and Broad running off of South Jackson?"

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A The Witness: I would like to answer that with a yes to the question and explain it. This does show a picture of them being in the middle of the street after their arrest. It also shows officers of the Albany Police Department trying to disperse the large gathering of people on the sidewalks here.

Q Mr. Hollowell: Those on the sidewalk?

A Yes.

Q Now, as far as you know, these people are shoppers, is that not correct?

A In my own honest opinion the day that was taken, that's what you're asking, they were onlookers who were there to see this demonstration and to be on hand during this demonstration.

Q Well, answer my question, Chief?

A I just answered it.

Q As far as you know, they are shoppers?

A As far as I know, they were there as curiosity seekers and onlookers of these demonstrations. Whether they were shopping, I do not know. I know they were there.

Q So, you really don't know whether or not they are shoppers?

A I didn't see them shopping, no.

Q The people in the street represent those who are being taken to jail, whereas those on the sidewalk

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are the ones whom you say your police officers were dispersing, is that correct?

A That is correct.

Q Now, 26(a) represents some of your officers in the street still directing the group that was being taken on up Jackson to the jail?

A That's correct.

Q And shows some onlookers on the sidewalk?

A It shows larger gatherers, large gatherings of onlookers here which my men were trying their best to control and disperse.

Q Can you show me one of your officers in the process of - I'm sorry - in the process of dispersing anybody on the sidewalk; show me one of the officers?

A (Witness pointing on picture) One - two. . . .

Q That's up at the corner, I mean in that block?

A You didn't ask me about there. You said dispersing them and I showed you.

THE COURT: Is it in the picture?

The Witness: Yes sir.

THE COURT: Allright.

____ Q Mr. Hollowell: I mean, in that whole block, other than at the corner?

A This shows two officers coming south towards the group attempting to move them.

Q Where are those two officers? I mean from point of location?

A They are coming down, right at the intersection, coming down as it plainly shows right here in this picture.

Q They are at the intersection of what?

A Jackson and Broad at Stem's Restaurant heading south, as the picture shows, as the picture so states.

Q Who are those officers?

A I cannot identify them only as officers of the Albany Police Department.

Q So that, they are at the corner, are they in the street?

A I can't testify as to whether they're in the street or not. The only thing I know they are in the crowd trying to do their duty.

Q Well, you don't know what they were trying to do now, do you, Chief?

A I was there.

Q I mean you don't know, you didn't see them; you didn't hear them say anything?

A I was there at the time when they were dispersed--

Q Excuse me - Chief --

A I heard them dispersing the crowd.

Q Excuse me, Chief?

A They were there to keep order, to keep the people

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moving as that picture so states.

Q Show me - can you tell me one thing that you said to this officer that you don't know who it is?

A My officers were under directions during this thing to keep all the people moving, to disperse all crowds and that so states, that they are in the crowd trying to do their best to do it.

Q Now, will you answer the question?

MR. HOLLOWELL: Would you repeat the question, Mr. Officer?

THE COURT: Suppose you repeat it, Mr. Hollowell.

MR. HOLLOWELL: I'm not sure that I know it accurately, sir, and I want to be sure that I do not misquote it.

THE REPORTER: "Question: Can you tell me one thing that you said to this officer that you don't know who it is?"

A The Witness: My commands were given to all the officers, Your Honor, as to what their duties was and as to how to perform their duties; and they were there doing their best to do this. I did not speak to each one individually but I spoke to them collectively in the group that were out there. They all knew what their duty was.

____ Q Mr. Hollowell: Do you see yourself in this

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photograph?

A Not at the present but I was there.

Q You mean you were somewhere on Jackson Street?

A Somewhere right in that vicinity, that's correct.

Q How do you know that you were somewhere in this vicinity, where in that vicinity?

A As this march come up the street, I was in the front of it.

Q Therefore, you are beyond the point which is shown in here?

A No, I think I was behind the point because it shows the detectives' car riding along the front of the thing here and it didn't get all of it. All this picture shows and was taken for the benefit to show was the crowds, the great milling, the great crowd, and the officers trying to disperse these crowds.

Q Now, I want you to point out for me now, if you will - first, let me ask you this: How much distance block-wise is shown in this photograph 26(a)?

A It shows about half of the block there at the intersection, south of the intersection of Jackson and Broad; it shows the whole block from Jackson and Broad to the New Albany Hotel; it shows the congestion and the confusion.

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Q Well, I asked you the blockage?

A You asked me what it represented.

Q No, I asked you how much area?

A Approximately a block and a half, two blocks at the most.

Q And the only officers that you can point out are the officers in the street here and the officers at the other intersection?

A There are other officers in the crowd there I pointed out to you.

Q I mean at the intersection?

A I don't know whether they're at the intersection or not.

Q Do you recognize there under that Stem's sign that Stem's is right there at the corner?

A It's in the vicinity of the intersection, that's correct.

Q And you see no other, on the sidewalk or any place else other than in the street?

A No, not at the present I can't.

Q All right, now let me show you 26(c) and ask you isn't that a picture of the same general area except looking from Stem's to the south?

A This is in the same vicinity looking south.

Q Alright, now these are the photographs taken

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at 5:15 after the arrests on the 16th of December, 1961?

A That's correct.

Q And represent the basis for your statement on yesterday to the effect that there were large crowds and that there was much tension among the people?

A That is correct.

Q You didn't see anybody who was glaring at somebody standing next to him, did you? Did you?

A No, I didn't.

Q You didn't see anybody about to fight, did you, in those photographs?

A I would like to answer this and explain myself, Your Honor.

THE COURT: Yes.

A The Witness: I did not because I was busy at the front of this line. I was busy giving orders to my police department, the Sheriff's officers, the County police, the State Patrol, in order to facilitate the safety of the people, to try to disperse the large crowds that these pictures here represent; and to keep the peace and the quiet in this City under this tension which was caused by these demonstrations.

Q I think - excuse me - were you finished?

A Yes, I'm through.

Q In all of these photographs that you have

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brought here, did you see anybody spitting on an officer?
Yes or no, Chief?

A No, and I still request the right to say that I wasn't everywhere at once. I wasn't everywhere in the vicinity. My officers were in the crowds that were milling with the people; they were asking the people to go. You'll have to ask the officers who were spat upon.

MR. HOLLOWELL: Now, if it please the Court, I would ask that all of that be stricken as not responsive. I asked him did he see anybody in all of these photographs that he has brought that showed anyone spitting upon an officer, and the other was not responsive.

THE COURT: Well, I sustain the objection to all of the answer, except the statement that he did not see, that he in these pictures did not see such. But I admit that portion of his answer which explains that he was in the process of directing all of the officers and that the testimony about spitting should come from the officers who can testify for themselves.

____ Q Mr. Hollowell: Did you see in all of these photographs - let me ask - strike that and let me ask you: Did you try to - in the taking of the photographs you gave some instructions to the photographers or your departmental head who would control the taking of the pictures, didn't you?

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A I told him I wanted as many pictures as possible of the crowds, of anything that he could get; and that's what he tried to get.

Q Now, have you at any time seen a photograph among all of those that have been taken and were brought here, showing any individual throwing a rock at a police officer or at a police car?

A Not in these photographs that I brought here today, no.

Q And these are all that you have?

A They are all that were taken by the police department, that's correct.

Q And you asked them to take all that they could get, of everything that they could get, by your testimony a moment ago?

A I would like to answer this and explain myself, Your Honor.

THE COURT: Well, let me get myself straight on that. I tried to follow these dates. It would be very helpful to me when these questions are asked if they could be related to specific dates. My impression is that all of these pictures that have been brought here relate to December 16 or 13th, 14th and 16th of December; Am I correct in that?

MR. HOLLOWELL: That is correct, but I also asked --

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THE COURT: Well, I was just trying to get myself straightened out.

MR. HOLLOWELL: Excuse me.

THE COURT: And none of these pictures relate to any other dates, such as July, 1962? Am I correct in that?

A The Witness: That's correct, Your Honor; and that's why I would like to explain.

THE COURT: Well now, you answer his question and then you can explain it. I was just trying to get myself straight, on that. So, the question now was - Do you recall the question, Chief?

A The Witness: I think he asked me were these -

THE COURT: Whether any of these pictures show anybody throwing a rock at a policeman, I believe.

A The Witness: That's correct. These pictures - I say no, and I explain myself, that none of these pictures show it. These are December (December); and nothing here in this month. These were all last -- or rather last month. These are all December, 1961, all of these pictures; that's when they were taken.

___ Q Mr. Hollowell: And you have no other pictures?

A Of December?

Q Of any time from December to July involving any of this?

A Not taken by the Albany Police Department, no.

Q Do you have any pictures under your custody and control, regardless of whom they were taken by, that show any of these so-called "demonstrations" or activities?

A In my custody?

Q In the custody and control of the Department?

A Not under mine or the custody of the Department, no.

Q Do you know of any other photographs which were taken by anyone which may not have been under your custody and control?

A Yes, I think they are under the custody here.

Q Who's that, Mr. Leverett?

A I think that's correct.

MR. HOLLOWELL: Is that so? We would like to see those photographs, if we might.

MR. LEVERETT: May it please the Court, the only photograph I have is a film. I don't have any photographs.

A The Witness: Film, that's the only thing we have.

MR. HOLLOWELL: What does that cover?

MR. LEVERETT: This is July.

MR. HOLLOWELL: All of July.

MR. LEVERETT: I do not know. The subpoena

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Mr. Leverett:

did not refer to films, may it please the Court; it referred only to pictures.

Q Mr. Hollowell: Now, Chief, from December 10 up until the first of July, did you make any arrests of any persons in the vicinity of any of the so-called demonstrations, other than those who were in the line?

A Yes, we have.

Q Would you indicate how many?

A More than 5, probably 5 or 6.

Q 5 or 6; now, when was this?

A Some were arrested in December.

Q How many?

A I think there was 3 arrested in December.

Q Now, where were they arrested?

A They were drunk white people arrested in front of the - while the demonstrations were going on, in front of the City Hall.

Q Drunk white people arrested; now, did you arrest any Negroes in the vicinity of a demonstration from December 10 to the 1st of July; that is, December 12 to the 1st of July?

MR. LEVERETT: May it please the Court, I think he ought to make it clear what he makes reference to, whether they were demonstrators or were not demonstrators?

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MR. HOLLOWELL: May it please the Court, this is exactly what we've done, but I'll rephrase the question so there won't be any question about it.

Q Did you arrest any Negro or any white person in the vicinity of any so-called demonstration from December 12 to the 20th of July, other than you say --

A When you say in the vicinity of a demonstration -

Q Excuse me, sir - let me finish - other than, as you say, some 4 or 5 white persons who were drunk in the vicinity and you arrested them?

A When you say vicinity of this, are you including Shiloh, Mt. Zion or in South Haven there wherethey come through, in the vicinity of these demonstrations?

Q Along the route, shall we say?

A That would be in the vicinity, wouldn't it?

Q That's right; along the route?

A Yes, we made arrests there of both Negro and white.

Q For what?

A Some for drunk, some for disorderly conduct, some for other charges.

Q During the time of the so-called marches?

A You said from December to July 20.

Q Yes but I say during the time of the actual process of the marching, as you related?

A If I remember right, you said in the vicinity of these things, not during.

Q I said in the vicinity and during, Chief?

A Yes, yes.

Q How many?

A I have no knowledge as to how many.

Q Who were they? Can you remember any one person?

A From December 1 until July 20?

Q That's right, let's narrow it down, Chief:

On December 12, from the time that the line left its point of origin until the time of arrests of the line --

A No.

Q -- can you name any person that was arrested, other than those who were in the line?

A No, we didn't arrest - I would like to answer that with a "no" and explain myself. No, we didn't make any, because all of my officers were assigned to this area; we had no one out to do any or to answer any calls or patrolling the streets as you would under normal conditions; and we did not have units out patrolling. These officers were confined to one area, for the sole purpose of seeing that the peace and the quiet and the dignity of the City was preserved while these demonstrations were going on, all law enforcement officers of the City, County and State were right there.

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Q Were right in the area of the march, as you call it?

A Right in the area, that is correct.

Q Right along in that general area?

A That's right.

Q They were all assigned to this general area?

A They were assigned to the general area, to see that the peace and quiet was maintained, that no one was hurt, and that we had no trouble; and to keep the crowds and the congestion moving.

Q All right, let us go to December 13: Were there any arrests from the point of origin to the time of arrest of any persons, white or Negro, along the line that was coursed by the so-called "marchers", other than the marchers?

A I again say, answer it with a No, with the explanation that the officers--

Q With the same explanation?

A That's exactly right, that they were confined to the area and unable to do routine police work, unable to efficiently answer calls that were received in the Department.

Q About how many officers would you say comprised this total unit that was throughout this area where the line of march was?

A My Department consisted at that time of 60-some

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odd men. We had the Sheriff's office, the County Police, and possibly 60 to 70 State Troopers, which made about 150 or -60 officers.

Q About 150 or -60 officers?

A Yes.

Q And what is the furthest distance that any of these so-called demonstrations have originated from to the police station?

A Possibly 6 to 8 blocks.

Q Do you know of any point of origin other than the vicinity of Shiloh Church?

A Not to my knowledge.

Q All right, so actually you have a block east from the corner of Whitney, that is the south - that would be the northeast corner of Whitney and Jefferson; you have one block to the east to Jackson, a second block would be from Jackson to Highland; a third block would be to Oglethorpe; a 4th block to Broad, and the fifth block to Pine: So, the longest distance that has ever been involved has been approximately 5 blocks, is that correct?

A I stated 5 to 6 blocks.

Q I believe you stated 7 or 8 blocks, and that within that area you had under your control approximately 150 or '60 or '70 officers?

A That's correct.

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Q And yet, there was never at any time on the 12th or the 13th or the 15th of December of '61 that there were any arrests made, other than you say perhaps 4 or 5 drunks, white as you've indicated, other than the marchers: now --

MR. LEVERETT: May it please the Court, he didn't say that. That was not his testimony.

MR. HOLLOWELL: I beg pardon?

Q Is it not your testimony that there were no arrests made, other than the so-called marchers on the days given respectively; that is, the 12th, the 13th and the 16th of December, '61, along the route of march, is that correct?

A During the demonstrations and the marches?

Q Yes?

A I did not say that there were 5 or 6. I said 5 or 6 from the period in December until the date you said.

Q Oh I see, which was actually to July?

A During the marches, that's correct.

Q During the marches?

A Because, as I stated in my answer that I gave you, I gave you my answer with the explanation that we did not and could not handle routine and do routine police work, because we were assigned to the protection of these marchers and demonstrators, in trying to keep the peace and the quiet of the City, to keep these large gatherings, which these

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pictures denote, from mingling and staying in the vicinity where we knew if we kept them moving that we'd have less danger of violence; and these officers were there assigned to this area to do this; and they did a wonderful job in doing it, and this is the reason we couldn't carry on routine police work in the City of Albany during these demonstrations.

Q Now, Chief, during that same period from December 12 to the 20th of July, December 12, '61 to 20 July '62, during any so-called demonstration, was there ever an arrest of any person along the general route of march for spitting on an officer? Yes or no?

A I would like to answer that and explain myself?

THE COURT: Yes.

A The Witness: With a "No" because I was not everywhere. I was at different places. I can't speak for every officer of my Department and every State Trooper here that was abused, spat upon, intimidated; and I can't speak for them. I think they would be the ones to talk. I did not see it because I was not everywhere at once.

Q Mr. Hollowell: I didn't ask you whether you saw it; I asked you whether there was an arrest? None to your knowledge, you answered "No"?

A None to my knowledge.

Q Now, let me ask you this: During the period from December 12 to July 20, was there ever an individual arrested

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for throwing a rock at a policeman or any person along the general route of march during any of or before or immediately after any of the so-called demonstrations? Was there ever an arrest to your knowledge?

A I would like to answer this and explain myself. No, there was not an arrest, but there were rocks thrown at patrol cars, thrown at other people who were in the vicinity of these churches, before these marches or during these marches. But there was never any arrest made because our cars and our men were tied up and couldn't answer calls to any part of the City to investigate and look into these things which were reported.

Q Let me see if I understand your testimony, Chief, that to the best of your knowledge, there were no arrests, other than the 4 or 5 persons indicated, from December 12 until December 20, of any person along the general route of march, of any demonstration, other than the marchers themselves, is that correct?

A No, I think I testified that during this that there were some people who were arrested during the marches other than the demonstrators.

Q I'm sorry, sir?

A I say, I testified that during these marches, other people, 2 or 3 or 4, were arrested, other than the marchers.

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Q And that was from December 12 until July 20, you say: I said other than those, those in the marches?

A That's what I testified to.

Q And they were drunks?

A I would like to explain this.

Q And you further explained that the reason for this was -

THE COURT: Well, let him explain it. You go ahead.

A The Witness: I would like to explain it.

THE COURT: Alright, go ahead.

A The Witness: I answered this, yes, there was, and there were some charged with drunk; there were some charged with disorderly conduct; and prior to - I don't know whether it was the 20th or the 21st or 22nd or 23rd, there were people who were arrested toting pistols in their pocket, charged with carrying concealed weapons and transferred. There were other people who were carrying pistols in their pocket that were arrested for drunk, that had permits to carry these pistols, and were put in jail by officers of my department, in the vicinity of these disturbances.

Q Now, Chief, don't you know that that's directly contrary to the statement that you made less than five minutes ago?

A

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A No, I don't.

Q Name me one person, one person that was arrested other than the marchers during the time of the so-called marches, in the vicinity of the route of march, from December 12 to July 20; name me one, other than 4 or 5 drunks for disorderly conduct or being drunk on the street?

A He says during the marches and the marches continued past the 20th. I would like to explain myself.

I MR. HOLLOWELL: Well, if it please the Court, I want him to answer the question that I asked.

THE COURT: Well, I think, if I understand what the situation is, I think the witness is now encompassing in his answer some date which was not encompassed in his original answer.

MR. HOLLOWELL: Well, we want it --

THE COURT: And, of course, there's no use for the witness to be confused, no reason for it, or counsel being confused. The question now, Chief, that he is asking you stops with the date, July 20. The question that he has asked you is from period beginning December 12 and ending July 20 --

The Witness: What was the 20th, Your Honor.

THE COURT: Well, I don't know.

MR. HOLLOWELL: Sunday, I believe it was, sir.

THE COURT: No, on Friday.

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MR. HOLLOWELL: On Friday, let's see - July 20 was on a Friday.

____ Q Now, from December 12, 1961 to July 20, 1962 --

THE COURT: Now, just let your answer to this question, Chief, relate to that period; and then, after you have answered it, if you are asked a question starting with another period, then you would give that information with regard to that. If you are not asked, of course, there would be no reason for your relating your testimony to any other period.

A The Witness: There were 2 or 3.

____ Q Mr. Hollowell: 2 or 3?

A That's correct.

Q And none of those were for spitting on an officer? Right?

A That's correct.

Q Or throwing any object at an officer?

A That's correct.

Q Nor cursing or calling an officer other names, is that correct?

A That's correct.

Q Now, during the month of June, 1962, I believe you indicated that you had some conversations from time to time with Dr. Anderson and Slater King and Marion Page and Rev. Gay: do you remember a conversation that you had on or

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about June 12, 1962? . . . Sir?

A Attorney, I'm trying to remember. We've had so many meetings and so many dates and so many conferences with these executive members that it's hard to remember. I don't recall July or June 12. If you can show me something that would refresh my memory, I'll be glad to testify to it and give you what I know about it.

Q Well now, during that general period you had been appointed by the City Commissioner or the City Commission as the official representative of them in connection with matters pertaining to the Albany Movement, is that not correct?

A I would like to answer that and explain it.

THE COURT: All right.

A The Witness: I was and I was given permission to talk to the Albany Movement and the other people connected with it, pertaining to the policies set forth by the City Commission, as related to me in my discussions with them.

Q Mr. Hollowell: Now, on or about the 12th of June, you had a conversation in your office with the parties mentioned, namely, Mr. Slater King, Marion Page, Attorney C. B. King and Dr. Anderson; you have had such conversations with those persons, haven't you?

A I have had many.

Q Do you have any notes which would help you to

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remember that particular date?

A No, I don't.

Q Well, at no time were you ever able to get the City Commission to actually meet with that group, did you?

A I would like to answer that and explain myself.

THE COURT: All right.

A The Witness: I say "no" and it was not my responsibility to get the City Commission to meet with the Albany Movement. My only capacity was to be a spokesman for the City Commission in meetings with these people and not to use any type of influence to get the City Commission to meet with the members of the Albany Movement.

Q Mr. Hollowell: Does the Commission have a chairman?

A The Commission as a Mayor.

Q Is he the Chairman?

A I would guess he would be called the chairman, the executive officer of the Commission.

Q As far as you know, the City Commission has never met with the leaders of the Albany Movement, have they?

A Members of the Commission have met with the -

Q The City Commission?

THE COURT: Let him answer the question.

A The Witness: - have met with the Albany Movement.

Q Mr. Hollowell: You say members of. Has the

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Commission en banc, has the total Commission?

A The Albany Movement -

Q Excuse me, sir, would you answer that yes or no?

A No, but I'd like to explain it.

Q All right.

A That the Albany Movement through its President requested me, with the Police Committee of the City of Albany, at which time it was set up and met with the members of the Executive Committee of the Albany Movement, with the Police Committee of the City of Albany. And this was the only request that I know of to meet with this group and they have met with them in open council meetings, as any other citizen, regardless of race, color or creed has a right to do, whether they're invited or whether they are not.

Q You say they have met with them; you mean they have sat and there were some members of the Albany Movement there; and this was just a regular meeting at which anyone could attend, is that not correct?

MR. LEVERETT: May it please the Court, No. 1, I think the minutes would be the highest and best evidence; and No. 2, I don't think it's been indicated whether this witness was there or not; and unless he was there, he certainly could not testify or furnish the information called for.

THE COURT: Yes, I presume this witness, as

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The Court:

always, understands that it is not only not required but it would not be proper for him to testify about anything about which he has no knowledge.

Q Mr. Hollowell: Do you have any knowledge of the City Commission as such ever meeting with the leaders of the Albany Movement? Yes or No, Chief?

A I have knowledge that the President of the Albany Movement and the Executive Secretary met.

MR. HOLLOWELL: If it please the Court -

A The Witness: I would say "Yes" and explain myself, Your Honor.

Q Mr. Hollowell: When?

A In open Commission meeting - the date was unknown, it was shortly after - let's see, it was 60 days after the demonstrations were called to a halt in December, at the first council meeting, I think after, or the second one in January, I believe it was, where the Albany Movement President, W. G. Anderson, and Marion S. Page were escorted to this meeting by me in person.

Q This was at a regular meeting?

A At a regular meeting.

Q And that was when?

A If my memory serves me right, it was the second or third meeting in January.

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Q All right, has there ever been a time when there was a meeting of the Commission with the leaders of the Albany Movement, at which there were no other persons to your knowledge?

A I would like to answer that "Yes" and explain it. There was a meeting.

Q And when was that, sir?

A I would like to continue to explain this.

Q Allright, go ahead?

A There was , and there was a meeting which was called at the request of the President of the Albany Movement to meet with the Police Committee and the City Manager of the City of Albany.

MR. HOLLOWELL: Now, if it please the Court, I submit that that was not at all responsive and I move that it be stricken and that the witness be directed to answer the question.

THE COURT: Doyou know the date when that meeting was held, Chief, that you just referred to?

A The Witness: No sir, I don't know the date.

MR. HOLLOWELL: If it please the Court, that was not the question asked. I didn't ask him about any 2 or 3 people. I asked about the City Commission, and he has referred to some separate --

THE COURT: Maybe I can get at it - let me

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The Court:

see I can satisfy the situation?

MR. HOLLOWELL: Thank you, sir.

THE COURT: You testified, Chief, that the City Commission, that members or representatives of the Albany Movement did attend a meeting of the City Commission at some time, a regular meeting of the City Commission, I forget what date you referred to, it's in the record -

A The Witness: Yes.

THE COURT: But sofar as you know, the City Commission as a body has not held a special meeting with representatives of the Albany Movement, the City Commission as an entire body?

A The Witness: That's correct.

THE COURT: Has not held a special meeting?

The Witness: That's correct.

THE COURT: Is that the information you wanted, Mr. Hollowell?

MR. HOLLOWELL: Yes sir.

___Q Now, Chief, at this conference - excuse me - do you ever or have you ever had a conference in which Mr. Searles was present?

A Yes, I have.

Q And at the same time with Dr. Anderson and Attorney

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King and Slater King and Mr. Page?

MR. LEVERETT: May it please the Court, at this time we would like to object to this testimony. I think all of this line of testimony is immaterial and irrelevant. This is not a labor relations case, in which the issue is whether the parties have bargained, and for that reason we think that all of the testimony is irrelevant and should be stricken.

THE COURT: What is the point of this, Mr. Hollowell?

Now, you've already developed something which there was no objection to, about whether there had ever been a meeting, whether there had ever been a special meeting and such as that. Now, all details about any contacts between the City Commission and representatives of the Albany Movement, what is the purpose of all of that?

MR. HOLLOWELL: Well, I think No. 1 --

THE COURT: In the first place now, this man on the stand is the Chief of Police. He's not a member of the City Commission. He's not a member of the body. Now, he did testify that he was designated to contact and be a contact with the representatives of these people. But the details of any particular meeting on any particular day, what is the purpose of all of that?

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MR. HOLLOWELL: I think because, Your Honor: No. 1, on direct examination the Chief opened it up in stating that there had been many meetings with the leaders and even on some occasions in which Rev. Martin Luther King was present. There have been statements as to what was said on occasions relative to the compliance with certain laws. There were statements introduced - or they haven't been introduced yet but which were submitted for perusal by the Chief - pertaining to certain releases, and I would submit that it goes to their - to the answering of certain evidence which was elicited on direct examination, at the instance of the Plaintiffs' counsel. They put it into issue.

THE COURT: Well, he testified about the meetings that he knows about; but to ask him questions about what went on between these people and the City Commission, I don't see that this witness is the proper person to question about that. And as I say, I'm not sure about the materiality of it anyhow. In other words, what went on in the meetings, how is that pertinent to the question that is before me now, about whether an injunction should be issued with regard to these mass demonstrations?

MR. HOLLOWELL: I would submit there, sir --

THE COURT: Unless there's some connection

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The Court:

between the mass demonstrations and the meetings.

And what may have been said in a meeting, which might have used as an excuse or as a reason or as a justification for mass demonstrations would be going a step beyond, I think, what is pertinent. In other words, these Defendants may, when they testify, they may say that because they couldn't get what they wanted, they felt like they had a right to do whatever they wanted to do. I don't know what they're going to testify.

But to go into what was said in those Commission meetings seems to me to be going beyond the realm of pertinency. I wondered why counsel hadn't made some objection to some of it before this time, but I didn't wish to take it upon myself to restrain it, and I don't want to do so unduly now. But this witness has been on the stand now for quite a while.

MR. HOLLOWELL: Very true.

THE COURT: And if we simply throw this open to any ramifications that anybody might think has anything to do with the overall situation, a great deal of which you're going into would be pertinent and would relate to a suit which you have filed, which will come up for hearing in due course, these suits that you have filed involving the City of Albany and

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The Court:

Its officials; but with regard to this issue that is before me now, I think a great deal of it is clearly not relevant to what we're talking about.

MR. HOLLOWELL: By the Court's statement - was Your Honor through?

THE COURT: Yes.

MR. HOLLOWELL: By the Court's statement, the Court doesn't mean to indicate that these matters which have been opened up by the Plaintiffs on their direct cannot be pursued on cross-examination within reasonable bounds?

THE COURT: Within reasonable bounds. That's the reason I've let it go as far as I have. And you've cross-examined him, I think, rather fully already on all of this sort of business; and now, to go ahead and ask him questions about exactly what was said at meeting on such and such a date and what was said at a meeting on another date seems to me to go too far. I've allowed you to ask him about whether there were meetings or whether there were not, because he himself testified that there were meetings; and he testified about a letter which was written. And that's the reason I've allowed you to cross-examine him about matters that were referred to in the letter. But I ask you to cooperate with us in trying to expedite it

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The Court:

by not going into these side issues and details, which really go beyond the realm of pertinency, as I see it.

MR. HOLLOWELL: Well, this we will certainly try to do, but I would certainly want the record to show, as I know it does, that this witness, who was on for the Plaintiffs for the period of some 5 or 6 or 7 hours prior to cross examination, has testified as to statements made by certain of the Defendants in meetings; and I would submit that it would be most appropriate and within the proper scope of cross examination for the Defendants to address themselves to these matters. And this is what I shall try to do, but certainly shall also seek to cooperate so as not to go outside of the reasonable limits of cross examination, sir, I assure you.

THE COURT: All right, go ahead and let's see how far it goes. I don't want to unduly restrain you but I do ask your cooperation in keeping out these issues, which, after all now, would be matters for determination and would be material in another suit which you have pending, which will be tried in due course.

Suppose at this time, so that maybe you can

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The Court:

review what you had in mind, suppose we take a recess for about 10 minutes.

RECESS: 11:12 AM to 11:25 AM 8-1-62

Q Mr. Hollowell: Chief, at this meeting in your office at which Mr. Searles and Page and Slater King and Attorney King were on or about the 12th of June, what did you mean by the statement, "I don't mind and you don't matter" - do you recollect that?

MR. RAWLS: Now if Your Honor pleases, we object to that question, upon the ground that it's irrelevant, illegal and immaterial and throws no light on the issues before the Court in this case.

MR. HOLLOWELL: May it please the Court, he hasn't answered yet.

MR. RAWLS: I'm objecting, Your Honor.

THE COURT: I'm not sure I understand the question. Repeat the question.

MR. HOLLOWELL: The question was, at the meeting of June 12, when Mr. Searles, Slater King, Dr/ Anderson, M. S. Page and Attorney King were present, I asked him whether or not he recollects making this statement to the effect that "I don't mind and you don't matter".

THE COURT: I sustain the objection.

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The Court:

I don't see any pertinence to a question like that to the issue before us. I sustain the objection.

MR. HOLLOWELL: Without a statement from counsel on it?

THE COURT: I'll hear from you but whether he made, whether he recalls having made such a statement in June, I don't see that it has any pertinence here. I'll hear from you but I don't see what pertinence it has.

MR. HOLLOWELL: He has testified as to statements made by Defendants; he has testified to that which he says was resulting from demonstrations and from statements made by the Defendants. I want to find out what he means by certain statements that he made as the Chief of Police and as the representative of the City Commission to these particular persons with whom he was talking. I submit that it would be most appropriate and certainly within the scope of the cross examination, unless he says that he did not make the statement. All I'm asking is, did he make the statement and, if so, then I want to know what he meant by it.

THE COURT: I sustain the objection to the question.

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Q Mr. Hollowell: Chief, on July 21, I believe there was one of these so-called demonstrations: do you recollect how many so-called marchers there were on that occasion?

A 161, more or less.

Q 161, and you had approximately 120 to 160 officers, is that correct?

A That's correct.

Q Now, what was the route of that group?

A It was the same route that was followed by the other marchers.

Q Sir?

A The same route that was followed by the other marchers.

Q That is, generally down from Shiloh east on Whitney to South Jackson and north on South Jackson, is that correct?

A That's correct.

Q Now, where were they stopped?

A They were stopped at the intersection - to the best of my knowledge - the intersection of Jackson and Broad. I think they were led - they were stopped at that intersection, I'm pretty sure.

Q Do you recollect who was leading that group?

A I think it was the Rev. Samuel Wells or Willis.

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Q Do you have any photographs pertaining to that particular occasion?

A I would like to answer that and explain myself.

THE COURT: Yes.

A The Witness: No, and the reason I have no photographs of that occasion is because that all of the personnel of my Department were assigned, and I did not have enough detectives to let loose to take pictures. They were traveling in a car with a loud speaker, encouraging the people to go about their business, to disperse from the area, to stay out of the area, and were down on the intersection of Oglethorpe and Broad - Oglethorpe and Jackson, at this intersection with a loud speaker, asking the Negro people who had gathered on the southwest and the southeast corners to disperse and go about their business, to where this trouble of the jeering and the cursing and the abusive language that was being thrown at the officers who were stationed at this intersection, that we did not have the personnel that we could turn loose sufficiently to take pictures of this demonstration, because it was our intention to use everything we had to see that nothing happened that night, and that violence did not erupt in the City of Albany.

Q Did any of the 160-odd officers that you had under your control make any arrest of any person, other than

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- in the vicinity of the route - let me rephrase that, and strike that, if you please -- Did any of the 160 officers under your command make any arrest of any person along the route up to the time of the arrests, for spitting on an officer? Yes or No?

A I would like to answer that and explain that.

THE COURT: Well now, right there, that's an example of what I'm trying to avoid. That has already been covered in a question previously asked this witness, when you asked him during the period from December 12, 1961 to July 20, 1962 -

MR. HOLLOWELL: We're on the 21st, sir. This is the 21st.

THE COURT: I understood that your question now related to a date in June?

MR. HOLLOWELL: No sir.

THE COURT: It relates to July?

MR. HOLLOWELL: July 21.

THE COURT: July 21, alright; I'm wrong then. Go ahead.

Q Mr. Hollowell: The question was, did any of the 160-odd officers under your control make an arrest of any person along the line of the 160-odd persons that you say were marching?

A I would like to answer that and explain myself.

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Q Just a moment, I'm not finished - on the night of July 21, other than marchers? Yes or No?

A I would like to answer that with a "No" and explain my situation.

THE COURT: All right.

A The Witness: These officers were in lines, had been placed in lines; they had not - they had been told not to break these lines, not to move out of these lines, and they were insulted, abused -

MR. HOLLOWELL: Now, if it please the Court, we're not --

THE COURT: I will allow the witness to answer and, if there's any portion of the answer that you think is immaterial, you may move to strike it.

A The Witness: -- abused in many ways; but these officers had been instructed to the point that they would not break this line under any circumstances, regardless of whether you were hit with bricks, bottles, spat upon, cussed at or anything. And for this reason, no arrests were made because they did not break the chain or the line, because they were there to see and to protect the people and to keep the peace and quiet. And they held this line and never did break it under all of these adverse conditions, which they had been straining and suffering under since these demonstrations started in July.

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Q Mr. Hollowell: Now, where did this line begin, this line off-officers?

A This line of officers began at the middle of the 200 block of South Jackson and extended down South Jackson to Oglethorpe Avenue.

Q Now, where is the middle of the 200 block on South Jackson?

A It's where the alley goes behind the City Hall.

Q Isn't the 200 block on South Jackson the block between Pine and Oglethorpe?

A I'm sorry. These officers extended from North Jackson, the 200 block, middle of the 200 block of North Jackson. It was my error in stating South Jackson, because we've been down in there so much this month until it's sort of hard to keep it straight.

Q Now, would you want to indicate again where they extended from?

A These officers extended from the alley behind the City Hall south to Oglethorpe Avenue.

Q On which side of the street?

A On both sides of the street in single lines.

Q On both sides; were they on the sidewalk or in the street?

A They were in the street.

Q In the street; now, name me one officer on the

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night of the 21st who was hit with a rock? Name me any officer that you know?

A On the 21st, there was none.

Q On the 21st?

A On Saturday night there were none that were hit with rocks.

Q Name me one officer who was spat on, on the night of the 21st?

AY Your Honor, I'd like to explain this again, that I was not present at all times and I can't speak as to what happened at all times down there, only where I was at.

MR. RAWLS: May it please the Court, we state in our place that we expect to place on the witness stand the officer who claims that he was spat on.

THE COURT: Well, under those circumstances the witness can simply answer, if he can name one, name him; if he can't name one, he can state that he personally cannot name one, but the question can be answered.

A The Witness: I can't name one.

Q Mr. Hollowell: You can't name one: Did any report to you on that night that he was spat on, on the night of the 21st? Yes or no?

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A Not to my knowledge, no.

Q Were there any arrests, I ask you again, of any persons other than those along the line - those in the group of marchers?

MR. RAWLS: Now, Your Honor please,= he's already covered that.

THE COURT: That's already been covered.

Q Mr. Hollowell: I believe the answer was "No", is that correct?

MR. RAWLS: Your Honor please --

THE COURT: You've already asked the question, he's already answered it, and no purpose could be served by going over that again.

MR. HOLLOWELL: I didn't recollect whether I had.

THE COURT: That was the occasion where I had misunderstood your date.

MR. HOLLOWELL: All right, thank you very much, sir.

A The Witness: Is this on the Saturday night?

Q Mr. Hollowell: Saturday night, the 21st?

THE COURT: I have sustained an objection to that question as being repetition.

Q Mr. Hollowell: I believe you said that the crowd was dispersed on that night without incident, on your direct examination; is that correct?

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A I don't think I said without -- this crowd was dispersed -- I would like to answer this question and explain myself.

Q I mean, did you not say this?

A This crowd was dispersed on this night as other crowds were by members of the Albany Police Department and all law enforcement that was assigned to them.

Q Now, on the 24th of July, I believe you indicated that there were some 40 individuals, of which 23 were in a line, and moving in the direction of City Hall on Jackson and Oglethorpe, is that correct?

A I think I testified that on the 24th of this month 40 marchers were arrested, of which 23 were juveniles.

Q I believe that's what I said? This is true?

A THE COURT: Now, so the record will show. Is the witness saying that what Mr. Hollowell said is true or is the witness saying that what the witness just said is true? What Mr. Hollowell saying is different to what the witness said.

A The Witness: What I am saying is what I say is true, Your Honor.

Q Mr. Hollowell: Well, let's see, maybe we'd better clear it up: There were 40 in the group of the so-called marchers, of which 23 were under 21 years of age?

A I think your statement was --

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Q Well, I'm asking the question now, is this correct?

A That's correct, 40 of which 23 were juveniles.

Q About what time of day was this?

A This was 10:55 P. M.

Q Now, where did this group leave from?

A It left from Shiloh and Mt. Zion churches.

Q And which way did they walk?

A East on Whitney to Jackson, north on Jackson towards town.

Q Were they walking in the sidewalk area?

A They were.

Q Were they - Who were they being led by? Whom were they being led by?

A I can't recall who they were led by.

Q Let me ask this: On either the night of the 21st, the day of the 21st during the time of the march which we've discussed, or the night of the 24th, did you see any of the Defendants in the march?

THE COURT: By that, do you mean individual Defendants?

MR. HOLLOWELL: That is correct.

A The Witness: I would like to answer that and then explain myself, Your Honor.

THE COURT: All right.

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A The Witness: The answer is, no, I did not see them in the march, but I saw Dr. W. G. Anderson -

Q Mr. Holbywell: When?

A The same night -

Q Which night?

A On the 24th.

Q Where?

A At the --

THE COURT: Let him answer the question, Mr. Hollowell.

MR. HOLLOWELL: I'm trying to, sir.

THE COURT: Instead of interrupting him by saying, "when, where". You have already covered the whole thing in your original question and let him, give him his opportunity to answer your question; and then, if it isn't adequate, we'll get the answer. But try not to interrupt him so much. Go ahead.

A The Witness: I saw Dr. Anderson and his party of, I think the Rev. Dr. Martin Luther King was in this party; I saw Bo Jackson in the vicinity, when these crowds of 3- to 4,000 were ranting and raving, at the intersection of Jackson and Oglethorpe, before we marched in there to quell this. They were there hurling insults, cursing us, inviting us down there, calling us "pale-faced son-of-a-bitches", and other vulgar language, such as

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"sons-of-bitches"; all of these instances, until we went in. And I asked, as Dr. W. G. Anderson drove by, I said to him, I said "Get out and let's join them, Doctor". And he went on about his way.

And then, at that time we entered Harlem, where we were abused, throwed at, hit at, spit at, cussed at, and every other way that anybody could be done; and in order for us to move this mob, to move this tension from one place, to disperse it, and these people come in hollering for these people to return to Shiloh, return to the churches, as these rocks, like mortar shells, were popping in the street, and hitting these people up side of the head and in the chest; and being spat upon and threatened with gestures. And these men never broke that line and that's the reason there were no arrests, because we kept it in line, these men kept the line as they were instructed to do and restored peace and quiet as best we could to the Harlem District of Albany on that night.

MR. HOLLOWELL: Now, if it please the Court, I move that the answer be stricken as not responsive to the question which was asked.

THE COURT: Well, the question, as I recall it, was were any of these Defendants present; and if so, when, and where and what were they doing.

MR. HOLLOWELL: That's correct.

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THE COURT: And that's what he's answering. His answer is relevant and responsive to that question.

MR. HOLLOWELL: His answer is not relevant, may it please the Court, as relates to what these Defendants were doing, and those were the only ones that I have referred to. Your Honor asked the question, as I recollect, am I referring to these particular Defendants individually, and I would submit that all of this long tirade was not responsive and I move that it be stricken - everything after "saw Dr. Anderson there and I asked him to join me and he drove off - ask that that be stricken from the record.

MR. RAWLS: His explanation, Your Honor please, is given to explain his position that Dr. Anderson didn't care what happened to the police officers there; and that's the reason the Chief went into detail and explained to the Court what the situation was that Dr. Anderson saw.

THE COURT: Well, as I interpret his answer now, let's get it straight, I don't want to be unfair to Dr. Anderson, I don't want to be unfair to the Chief, I don't want to be unfair to counsel. As I interpret the answer, his answer was that Dr. Anderson was present, and you asked what Dr. Anderson did or did not do or any of the Defendants. His testimony is

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The Court:

that Dr. Anderson was present and this was the situation as he has described, and he asked Dr. Anderson to assist him, to go with him I believe was his phrase, to try to quell the situation; and that Dr. Anderson did not do that or declined to do so. Now, that's the way I interpret his answer.

MR. HOLDWELL: May it please the Court, he didn't say anything about asking Dr. Anderson to go with him to quell anything. He said that he asked Dr. Anderson, he said, to "let's join them". I believe these are the exact remarks.

THE COURT: As I say, I was placing my interpretation on the meaning of it, and, as I say, I don't want to be unfair. If that is not a correct interpretation, I want that clarified. I was interpreting that as meaning that he asked him to go with him to quell the situation. Suppose you clarify what you meant by that.

A The Witness: That's exactly what I meant, Your Honor. He slowed down as he passed the intersection, and asked him to join me, as we were going down in there to quell this and do the best we could to restore the peace and quiet back to the City, to prevent any further or any violence or any more activity; and then he drove on east on

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Oglethorpe.

 Q Mr. Hollowell: How do you know there were from 2- to 4,000 people in that general vicinity?

A It was my estimate.

Q Q On the corners, you say in the vicinity of the corners?

A It was my estimate, as it was a lot of other people who wrote this business up; and my estimate there was between 2- and 4,000 people gathered in the block between Oglethorpe and Jackson and Jackson and Highland and Whitney, back down in that area.

Q You mean, within a radius of a 3-block area?

A A radius of one or maybe $1\frac{1}{2}$ blocks.

Q Now, which blocks?

A As I just testified to, the block from Jackson - from Oglethorpe to Highland and probably half of the block from Highland to Whitney.

Q So, from the alley just south of Highland to Oglethorpe on Jackson, about a block and a half, there were some, you say, 3- to 4,000 people?

A 2- to 4,000 - I'd like to - 2- to 4,000.

Q 2- to 4,000 people?

A In my estimation.

Q Now, the officers, you say, were in the street?

A That's correct.

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Q In the middle of the street?

A That's correct.

Q Where did the line of the 100-and - no, of the 40, walk until they were stopped?

A This was after these people were placed under arrest, Attorney.

Q Oh, you mean after they were placed under arrest?

A Let me explain myself, Your Honor.

THE COURT: All right, go ahead.

A The Witness: These people, when they left the church, the whole churches emptied and like a suction, come and followed. When they crossed Oglethorpe, 40 people crossed Oglethorpe and continued on their way. The rest of these people stayed in this area, hooting, shouting, hollering, insulting, cussing. And for this, after these people were placed under arrest, we went back down and it became such an urgent need, that for the first time we entered Harlem with all of our personnel to quiet this place, to see that peace and order could go ahead, to where people could continue about their business, where cars could use this street to come out, rather than be harassed, cussed and beat on the side of cars of people trying to use this part of town. And in doing so, we moved into this section. And in doing so, Wyatt Tee Walker and other members of this Albany Movement and associates of the

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Albany Movement, after we got down there and were being barraged with these rocks and bottles and being hit and spat upon and cussed at, they were out here hollering for them to "go back to the church," "everybody go back to the church", trying to keep the peace, to aid us in keeping down what was going on, because it was a very explosive situation, where if any one of these officers, after being hit with a rock or bottle, had stepped out of line to have went in there, there would have been violence, there would have been bloodshed on the streets that night, in my opinion.

Q Mr. Hollowell: Did you see Maion Page that night?

A I haven't said I saw Marion Page, no.

Q Did you see Slater King that night?

THE COURT: Which night are you talking about?

MR. HOLLOWELL: The 24th, sir.

Q Sir?

A No.

Q Did you see Charles Jones?

A No.

Q Did you see Dr. W. G. Anderson?

A On that night, yes.

MR. RAWLS: Now, Your Honor please, I don't know whether it's specific or not, but which night is

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Mr. Rawls:

counsel talking about.

THE COURT: I clarified that a moment ago. He's talking about the night of July 24.

MR. KELLEY: The 24th? I thought he was talking about the 21st.

MR. HOLLOWELL: We left that 10 minutes ago.

Q Did you say you did or did not?

A I did.

Q Was he doing anything other than driving his car?

A He appeared to me to be driving his car and observing what was going on.

Q Well, one normally observes when he drives?

A You asked me what he was doing and I've answered your question.

Q Well, did he get out of the car?

A Unfortunately he didn't.

Q Did you see Martin Luther King other than in the car of Dr. Anderson?

A No, I didn't.

Q Did you see Ralph Abernathy?

A I don't remember, recalling whether I saw him or not.

Q Did you see Elijah Jackson - Emanuel Jackson?

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A No, I told you that I saw Rev. Wyatt Tee Walker.

Q Just a moment, sir; if it please the Court, I'm not asking about Wyatt T. Walker; I'm asking about Emanuel Jackson?

A No, I didn't see him.

Q Did you see Mrs. Ruby Hurley that night?

A You know, I would like to answer that with an explanation, that I didn't see Mrs. Ruby Hurley. I didn't see -- the people who I have mentioned, the Rev. Wyatt Walker, I do remember seeing him; I remember seeing or hearing the words spoken by members who were there that I could hear them, "Go back, go back to Shiloh, go back to Mt. Zion."

Q Whom was this, what person?

A Wyatt Walker.

Q You say Wyatt Walker, now, who else?

A That was the only one to my knowledge, but in my conversation with Wyatt Tee Walker, he tells me that Rev. Andy Young and other members of this Albany Movement or associates of the Albany Movement were in the immediate vicinity, encouraging the people to go back to Shiloh, to cease where there would not be any more eruption of violence.

Q Now, let me ask you this: Prior to the time of the arrests, were there persons marching in front of the 60 or the 40? Yes or no, Chief?

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A I can't testify to that because I wasn't -- these 40 people, there was a large group that left the church but only 40 crossed the street to continue the march.

THE COURT: Then, as I understand it, you don't know; is that correct?

The Witness: That's correct.

THE COURT: Well, just simply say "I don't know".

Q Mr. Hollowell: Were the other persons that you described as being 3- to 4,000 in a line of march behind the 40 that went across the street, Chief?

A No, they wasn't, and I would like to explain that. They were not in a march, they were in a mob, coming up both sides of the street, coming up criss-crossing across, where cars that were trying to come out of the area could not move; where officers had to go down and move them away, so people of both races, white and Negro, could come out with their cars and move their cars out of the area, because we had fear for those people who were engulfed in this mass and couldn't move for the masses of people that were criss-crossing in that street.

Q Where were they criss-crossing, Chief?

A Running from one side of the street to the other.

Q Where? I say, where?

A In Jackson, in the block in front of the Trailways

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bus station, from Oglethorpe on Jackson and on Jackson to Highland.

Q How could they criss-cross when there was a line of officers running from that point all the way on both sides, which lines were not broken?

A The line was not down there at that time. Because of this situation which existed, this is the reason we went in there to restore the place back as close to normal as we could.

Q Now, was this before or after the line of march had reached Jackson and Oglethorpe?

A This was after the line of march had been arrested and placed in jail.

Q Let me see if I understand: The line of march, these 40 had gone on, they had been directed into the center --

MR. RAWLS: Now, if Your Honor please, that's repetitious. That's already been gone over 2 or 3 times.

MR. HOLLOWELL: Mr. Rawls doesn't know what I have in mind.

MR. RAWLS: If Your Honor please, I ask that counsel address his remarks to the Court, and I make the point that that matter has been gone over in detail 2 or 3 times, and I just don't think that the question ought to be permitted to be asked, and I make that point.

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Mr. Rawls:

I say it is simply repetitious.

MR. HOLLOWELL: If the Court please --

THE COURT: Well, I, of course, don't know what he's going to ask. I myself think it's been gone over enough, but I'm going to allow the question.

____Q Mr. Hollowell: Thank you. The line of marchers, the 40, had crossed or rather had been stopped at Oglethorpe, 40 had crossed over and been arrested in the process and routed on to the jail, is that correct, before the officers went south on Oglethorpe to disperse the crowd, is this correct?

A These people were stopped, to the best of my knowledge, in the vicinity of the intersection of Jackson and Broad and had been placed in jail; and then the situation became so erupted and so violent and so in a mob action, in the block from Oglethorpe to Highland, that it necessitated every one of my men being called out, back there, with only personnel in the office; and everybody was put in line and instructed as to what we would do. And we went into the area to gain the peace back down there, to restore it.

Q So that, from the point of arrest, you had to travel a block, which is the block from Broad back to Oglethorpe, before you got into the area where these people

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were that you claim were doing these things? Right?

A That's not correct and I would like to explain it. Once these 40 marchers or how many marchers there were were arrested, there was assigned to them 4 or 5 or 6 officers to transport them; and for the necessity and the need of all the officers being at this intersection of Oglethorpe and Jackson, everybody was detailed and ran on double time down there, in double time march, to the intersection of Oglethorpe and Jackson, where they were immediately lined up on each side of the street, instructed as to what we were to do; and "under no circumstances, regardless of whether you are hit, spat upon, cussed at, you're down here for one motive and that's to disperse this crowd, stay in the line, move the crowd out, don't break this line under any circumstances." And this is exactly what we did.

Q Now, how are you going to disperse a crowd by staying in a line, Chief?

A I think the action speaks for itself, that the crowd was dispersed.

Q You're not answering the question, sir?

A We did this - I would like to explain it, Your Honor.

THE COURT: Did you disperse them?

A The Witness: We did disperse the crowd and the reason we put these officers in two lines was to keep

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It where no one could engulf us, that one side was here with all the people against the buildings and moving; this side the same way, where they could not engulf us and separate us, where they could cut us off from one group to another group; and we moved these people with motorcycles in front of us, pushing the people back, and with voice commands moving; and during this time the bottles and the stones and the abusive language of being spit at, cussed at, throwed at and hit, we moved these people down.

 Q Mr. Hollowell: Now, how many officers do you know that were struck with a rock or any other item?

A There were two officers that were hit directly. Many were spattered with crashing glass, and was the news media and other people who were in that area.

Q Do you know anybody that threw a rock or a bottle?

A Do I know them personally?

Q Did you arrest anybody?

A No, and I would like to explain the situation.

It was because -

Q Excuse me, sir

A - the officers had -

THE COURT: You see now, we're going over it all over again, the same thing that has been covered previously. You've already asked him about whether

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anybody was arrested on July 24 for rock throwing -

MR. HOLLOWELL: No sir, the 21st, not the 24th.

We have not been over that.

THE COURT: You haven't been over it on the 24th?

MR. HOLLOWELL: We have not.

THE COURT: All right, go ahead.

A The Witness: I would like to explain myself.

THE COURT: Go ahead and answer the question he asked.

A The Witness: I would like to answer that with a no and give my explanation as to why.

THE COURT: Allright.

A The Witness: As I stated, these officers were told to hold the line, not to break the line or put a link that was broken in this line in any way, regardless of whether they were hit with bottles, spit at, cussed at, abused or rocked or any other way, not to break this chain and not to break this line, which we had put into this area to move these people and restore back to as near normal as we could.

Q Mr. Hollowell: Did you ever write out these instructions?

A No, the instructions were give by word of mouth to the people. Before we moved out, they had been instructed

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prior to this, roll-call training. Prior to these people, these State Patrolmen being imported in here, they were briefed and schooled as to what we expected of them. They were told that we did not expect any violence or to use any violence unless it was a case of have to.

MR. HOLLOWELL: May it please the Court, I asked the question, did he ever write this out; and the rest of it is not responsive.

THE COURT: Well, he's explaining how the orders were, that it was not written but he's explaining how they were instructed.

 Q Mr. Hollowell: Was there any bulletin ever issued by your office to any of these 160-odd persons that were under your command?

A I would like to answer that with a no, and explain it, as I have before, that this was done by word of mouth, individually, in front of all of these people --

THE COURT: And no other way?

The Witness: And no other medium.

THE COURT: Then, it would not be necessary to ask him about whether it was done in other ways. He says it was done by word of mouth and only that way.

 Q Mr. Hollowell: Now, I presume that the same reasoning which you have previously given accounts for the

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fact that there was no person arrested for throwing a rock or throwing a bottle or cursing an officer; is that correct?

A As I have stated, the reasons were --

Q I say, I presume that the same reasons pertain?

A That's correct.

Q Have you at any time in your police career ever had one of your officers spat on and didn't do anything about it, except on the occasion which you've testified these things happened?

A I would like to explain myself on that.

Q Yes or no?

A Have I ever had an officer - rephrase it.

MR. HOLLOWELL: I will let it be repeated.

THE COURT: He asked you whether you had ever at any time, any previous time, had an officer spat upon, when you didn't have the person arrested, previous to this. That was the question.

MR. RAWLS: Your Honor please, we contend that whether he has or not is entirely illegal and irrelevant.

THE COURT: I think it is too. Are you objecting to it, whether he had ever allowed it before?

MR. RAWLS: That's right.

THE COURT: I think the objection is good. I sustain the objection.

MR. HOLLOWELL: If I might address myself to

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THE COURT: All right.

MR. HOLLOWELL: I think it is important to know. This is the chief law enforcement officer who has given many opinions, who has had much training, who has been an officer many years; and who has indicated what his duties are, among them being that to arrest folks who breach ordinances; and I -- and we all know it is elementary in law that to spit upon a person is a battery; and I am trying to ascertain from this Chief whether or not he has during his course of time as an officer had his officers spat upon, without there having been some arrests made, other than in connection, as he testified, with this occasion. It's a simple question, which he can answer yes or not

THE COURT: Yes, I'm sure he could.

MR. HOLLOWELL: And as to policy, I think this would be important.

THE COURT: I think he could answer it yes or no, but I don't think it would be material in any respect, as to what happened on any previous occasion, whether he ever allowed it before. What went on, on the occasions under investigation is relevant. I sustain the objection.

Q Mr. Hollowell: All right, did the persons who

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were arrested do anything other than - I'm talking about the 40 so-called marchers - walk down the street, were stopped, arrested, directed on to the station; they did nothing else, is that correct?

A That's correct.

Q This red light that you indicated on the top of one of your police vehicles had been damaged at one time, where was it at the time that this alleged damage was done?

A It was in the vicinity of Mt. Zion and Shiloh churches.

Q Mt. Zion and Shiloh?

A Yes.

Q And I believe you said some rear-view mirror on some other car was damaged; is that correct?

A That's correct. It was in the vicinity of Third Kiokee.

Q Of where?

A Third Kiokee.

Q Where is that?

A That's located in the south of town, I believe on Allen, if I'm correct.

Q That's several blocks removed from Mt. Zion, is it not?

A Several. On different occasions.

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Q Has there been any report of damage to private property in connection with the activities on the night of the 24th, to your knowledge?

A Not to my knowledge.

Q Do you have knowledge of any reports of any damage to private property on any of the other days or nights on which there were allegedly - on which there were marches, to which you have testified?

A I wish to - you've refreshed my memory here, Attorney, and I would like to restate that on the night of this 24th, that we did have complaints from property owners at the intersection of Oglethorpe and Jackson; on the southeast corner there's a boarding house, which had people gathered up around all the front yard, where the people couldn't get in and out; and the people did call and personally asked me about it the next day; that he had tried every way to move these people; and rather than to have trouble and rather than to have injury to somebody, he was asking me my opinion about putting fences up around this property. And we so instructed that he had the right to put a fence around his property to keep the people from gathering around his front steps and all over his yard. That was on that night.

MR. HOLLOWELL: Now, if it please the Court, I move that that whole response be stricken, inasmuch

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Mr. Hollowell:

as it is not responsive to the question asked.

I asked him, as I recollect, whether or not he had any knowledge of any property damage, and there has been no testimony that he has given responsive to that.

MR. RAWLS: I believe the Chief said, with reference to one complaint, who did have property damage, Your Honor please.

THE COURT: I, of course, heard all of that. You see the problem, here again we get into the meaning of a term. I gather that he had a complaint from a property owner about the crowds coming on his property. Now, whether that's property damage in the sense that counsel is using the term, or in the sense that the witness is answering the question, depends upon what is meant by property damage. Having people come upon your property and trample on it to the extent where you feel like you've got to ask the Police Department for permission to put up a fence, one person might think that's property damage and another person might not. But at any rate, I will allow the answer to stand for whatever it's worth. Now, counsel may say that's not property damage but the Chief apparently considers that it is.

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Q Mr. Hollowell: But this is all that you have any recollection of, isn't that right, Chief?

A That's correct.

Q From the 12th of December to date, as a matter of fact?

A Not all of the property damage because we had other cars injured and damaged by rocks from December up until this date.

Q In the vicinity --

A -- That wasn't the only instance of property damage, as you so speak, and I want that to go in the record, that we have had other property damage to police cars during this period of time.

Q I'm saying on a particular date, when there was a march as you call it, can you name me one time, other than the two incidents which you have mentioned?

A Not at present I can't.

THE COURT: That is, you mean by that property of private individuals?

MR. HOLLOWELL: Property of private individuals or even of the police.

THE COURT: Well, that's the reason I thought I'd better make it clear because he has just said that they had police property damage on other occasions.

A The Witness: On other occasions.

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MR. HOLLOWELL: Well, I had just asked him when and he said he didn't remember any.

THE COURT: All I am trying to do is to avoid confusion,

about the meaning of the question and the meaning of the answer. As I gather it, now the testimony is - and the reason I review it is because there's no reason for us to have any misunderstanding about it, that his testimony is that on the night of July 24, that the only complaint from private individuals about property damage, using the term loosely as we have, is from this individual who complained about people coming on his property, and inquired about whether he could put up fences to keep them off. But he testifies that on other occasions there has been damage to Police Department property.

Now, I think that that is the situation, as I understand it. Have I stated it fairly, counsel?

MR. HOLLOWELL: I don't think that Your Honor has quite stated it as it has been testified to.

THE COURT: All right.

MR. HOLLOWELL: To the extent, to extend and include that there has been damage on top of one of these red things on top of one vehicle and a rear-view mirror.

THE COURT: Well, I understood him to say

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The Court:

that there had been other damage to police vehicles on other occasions?

A The Witness: That's correct.

MR. HOLLOWELL: We want to know whether or not it was on a day or a night when there had been one of the so-called demonstrations and, if so, where.

A The Witness: These demonstrations were during the marches and during the congregating of all of these 2,000 to 3,000 people gathered at Mt. Zion and Shiloh for their mass meetings, these cars were damaged --

THE COURT: Now, the question, Chief, is just when and what damage on what occasion; that's the question.

A The Witness: I don't remember the exact date, Your Honor, and I wouldn't try to name the exact dates. The only thing I know is that cars, our cars were rocked on 2 or 3 occasions; not only our cars but cars belonging to other law enforcement agencies that were stationed there, were rocked. I do not know the exact date, so I could tell you the exact date and the exact hour.

Q Mr. Hollowell: What car?

A Our detectives' car was hit.

Q When?

A That I couldn't --

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THE COURT: He's just stated --

Q Mr. Hollowell: Where were they --

THE COURT: Now, Mr. Hollowell, he can't recall the exact dates or the exact occasions; but he has stated as a general proposition that it happened. So, I see no point now in going back and asking him again, when he's already testified that he can't remember.

Q Mr. Hollowell: Do you have a report of it, sir?

A I would have to check and see. To the best of my knowledge, I don't know whether we do or we don't but I will search the files and see.

Q I mean, it is customary that when there is any damage to any vehicle belonging to the Department that there would be a report on it, is that true?

A I would like to answer this with a yes, and I think later on these officers who were in these cars will be used.

THE COURT: In other words, you think there will be testimony about it later from others?

The Witness: Yes sir.

THE COURT: I suggest, since he says there's going to be testimony about it from other witnesses later, and he's already said that he cannot recall the exact dates and times, I suggest we pass on

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The Court:

to something else.

MR. HOLLOWELL: I think I have one other question, if Your Honor doesn't mind in connection with these.

____Q On these occasions to which you make reference, you don't know whether, whatever it was if in fact there was anything that hit these alleged vehicles, was thrown by a person who Negro or white, do you?

A Your Honor, I would like to answer and explain?

Q Yes or no? Do you, yes or no?

A Your Honor, I would like to answer this question in this, that I don't, that the officers who were hit will testify the date.

THE COURT: Is your answer "no" that you do not?

The Witness: That's correct, but the officers who were there will testify about it here later.

THE COURT: All right.

____Q Mr. Hollowell: Now, Chief, after these folk - strike that - As a part of your duties as the chief law enforcement officer who had some 160-odd officers under your jurisdiction, it would have been the duty for the protection of those individuals who became prisoners, is that not true?

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A That's correct.

Q I ask you whether or not in December of '61, after the December 16 so-called demonstration, you received a report from your officer at the Mitchell County Jail, in which a Robert Price indicated that the officer there in charge of the prison said "You niggers are just like any other niggers down here"?

MR. RAWLS: Now, if Your Honor please -

MR. HOLLOWELL: A Just a moment --

MR. RAWLS: Whatever the man in Camilla said is illegal, irrelevant and immaterial in this case.

THE COURT: How conceivably, Mr. Hollowell, could what an officer might have said in the jail in Camilla, Georgia, where some prisoner was incarcerated after being arrested, how could that have any bearing on the issue before us here.

MR. HOLLOWELL: I would that it would have a great deal of bearing. In the first place, I had not finished the statement.

THE COURT: Well, whatever it is, whatever it is.

MR. HOLLOWELL: The actions of the officers in connection with the persons arrested, I would submit is just as important to this trial as the action of the persons that were arrested and whose

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Mr. Hollowell:

activities have at one time been restrained.

THE COURT: No, they might be pertinent to some other litigation but it would not be pertinent to the issue before me, as to what treatment a prisoner might have had at the hands of some law enforcement officer, if he's been mistreated, after having been arrested. That could be the basis of other litigation of other nature, but I don't see how it could have any bearing on the question at issue in this case.

MR. HOLLOWELL: I submit to Your Honor that the whole matter of arrest by the Police Department may be the subject of litigation which is outside the jurisdiction of this Court; but that doesn't mean that it might not be appropriate in this Court and I submit to Your Honor that the same thing is true on the other side of the court.

THE COURT: What you're getting at though is something, apparently somebody down in Mitchell County said, not at the time and not in connection with any of these demonstrations, or at the time any of these demonstrations were going on in Albany, Georgia.

MR. HOLLOWELL: It has been - excuse me --

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THE COURT: I can see no pertinence to it at all. As I say, it would have great pertinence in other litigation of other nature. For instance, if whoever you're talking about abused some prisoner in Mitchell County and some action were brought of any nature in this Court or in any other court that might have jurisdiction of it, that would be pertinent; but not on the question of what the situation was at the time and is now in Albany, Georgia, with regard to these demonstrations.

MR. HOLLOWELL: If I might say so, Your Honor, this officer has testified broadly, loudly and longly that -- if there is such a word -- about equal protection of the citizens. I submit that this goes to the matter of equal protection. This is one of the bases for this suit, as I understand it, that the people that he has --

THE COURT: And it could be the basis of a suit - I am presuming you have something there that could be the basis for a suit, I don't know - it could be the basis of a suit by whoever this individual is that you're talking about, against whoever may have abused him, if anybody did abuse him. But it's not in this case, it is not before me here and couldn't be before me here.

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MR. HOLLOWELL: Do I understand that the Court takes the position that any action on the part of any of the officers connected with the arrests of the so-called "demonstrators" and their treatment while in their custody has no relevance to the issue in this case?

THE COURT: No, I have not said that; I have not ruled that and I would not rule that. But what you are asking now is something that happened to some prisoner, after he was arrested here in Albany, Georgia, after he was placed in jail in Mitchell County, something that happened down there, something that somebody said down there, not in connection with the arrest made in Albany, Georgia, in connection with the demonstration.

MR. HOLLOWELL: Well, we do submit, Your Honor, that what constitutes an arrest depends upon when the individual comes to the point of having been actually incarcerated into jail.

THE COURT: Certainly, and I gathered from your own statement that he was arrested in Albany, Georgia. He wasn't arrested in Mitchell County.

MR. HOLLOWELL: He was arrested in Albany, Georgia, and transferred on to the jail down there in the custody of and under the supervision of the

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Mr. Hollowell:

same officer, that is the same police department, that had made the initial arrest.

THE COURT: Then, based on your own statement it is obviously something that took place after the arrest. So, I sustain the objection. We're not going into anything like that in this suit. There are other times and other places when that can be gone into, Mr. Hollowell.

MR. HOLLOWELL: We have no further questions for this Plaintiff at this time.

THE COURT: That at this time we will take a recess until 2 o'clock.

LUNCH RECESS: 12:30 PM to 2:00 PM - 8-1-62

THE COURT: All right, you may call your next witness.

MR. HOLLOWELL: May it please the Court, I informed counsel that there was one other question that I wanted to ask the Chief. It will take about two minutes.

THE COURT: All right.

Q Mr. Hollowell: Chief, I have just a couple of questions to ask you: Do you have any wire-tapping equipment in the police department?

A I can answer that with a most energetic no.

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Q Was any of the testimony which you gave based upon any information obtained through the process of wire-tapping, so far as you know?

A I'll answer that in the same way with a very energetic no.

Q No further questions at this time.

THE COURT: You may go down.

MR. KELLEY: May it please the Court, I have several questions on redirect examination to clarify some brought out on cross-examination.

REDIRECT EXAMINATION

BY MR. KELLEY:

Q Chief Pritchett, in cross examination you were asked whether or not you were authorized to speak for the Commission in matters with the Albany Movement: Is it or not true that you were authorized to speak only with reference to police matters?

A That's correct.

Q Now, certain pictures have been exhibited to you and you have examined those pictures and you have related that you have based your estimate of the number in crowds on those pictures: Is that the only basis you have for your estimate of crowds?

A No, it isn't and I would like to explain that. Those pictures were taken showing some of the crowd and some

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of the locations, but all of the crowds which were located all over the uptown area that were milling, moving about, standing and watching in other sections of the immediate uptown area.

Q So, your estimates as to numbers are based also on personal observations?

A On my personal observations.

Q Now, you were also asked whether or not any parade permits had been refused: Do you know whether or not any parade permits have been refused?

MR. HOLLOWELL: If it please the Court, there was no such evidence and no such questions answered or asked by the Defendants' attorney as to whether or not they were refused any permits.

THE COURT: I cannot recall. I know there were questions about parade permits. I don't remember exactly what the question was.

MR. KELLEY: I don't recall either, Your Honor please, but I think it is pertinent relative to the issuance or denial of permits, and I would like to go into it to explain the position of the City as to parade permits.

MR. HOLLOWELL: If it please the Court, I think he would have to ask him what, if any, information he has concerning permits, and not direct it to him in the

Mr. Hollowell:

way that he did because then that would be leading.

THE COURT: All right, suppose we do it that way, since I do not recall it and apparently counsel don't agree about it. Suppose you just ask the question in a direct way.

Q Mr. Kelley: All right, sir. Are you familiar with the policy of the City relative to the issuance and denial of parade permits?

A I am.

Q In those cases in which permits are not granted, have the people making the applications ever paraded anyway?

A No.

Q Has the Albany Movement ever made an application for a permit to your knowledge?

A No.

Q Has any representative of the Albany Movement ever made an application for a permit to your knowledge?

A No.

Q Now, you were asked whether or not any arrests have made of those not engaged in the demonstrations but were in the vicinity of the demonstrations: would you please relate to the Court the names of those who were arrested on July 24, if you have them, what they were doing and what they had in their possession, if you know?

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MR. HOLLOWELL: May it please the Court, the witness has previously testified that there were no such persons arrested.

THE COURT: I don't recall that being his testimony about July 24. I remember his testimony about a long period when you covered from a certain date to June 20, where he testified that some 2 or 3 or 4 were arrested. I do not remember there being testimony about July 24.

MR. KELLEY: I will rephrase the question, Your Honor Please.

THE COURT: All right.

Q Mr. Kelley: Were there any people arrested during the week of July 23?

A Yes, and I would like to explain it. The week of the 23rd, that includes the 28th. These dates are all gone. That includes July 28?

Q Or any time after the 23, yes?

A Yes, on July 28, last Saturday.

Q What were the circumstances and what happened and who was arrested and why were they arrested?

MR. HOLLOWELL: Now, if it please the Court, there was no evidence on the cross-examination, which related to any arrests on the 28th of July, and nothing in the record pertaining to any arrests related to the

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Mr. Hollowell:

28th of July.

THE COURT: Well, of course, you gentlemen ask these questions about a multitude of dates, what happened on a particular date, and other questions are asked from December 12 up to the present time. For instance, I recall Mr. Hollowell, you asked him some questions of that nature, December 12 up to the present time. I remember a question that covered that period. And it's impossible for me to recall exactly what the nature of the question was as it relates to a particular date. But since what happened during all the period is pertinent, that is arrests made, since we've gone into it on all dates that anybody has testified about, I think it would be permissible for him to ask him about the 28th; and I will also allow you, if you care to do so, to examine him further after the conclusion of this redirect with regard to that, if there is any question. Go ahead.

Q Mr. Kelley: Will you answer the question, please?

A On the 28th, which was last Saturday, we had large gatherings of people in the vicinity of the City Hall observing these demonstrations or kneel-ins or prayings; and the officers there confined to that area, trying to keep

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the peace and to move the people, noticed at approximately 7:30 there one man, one white man, with a pistol in his pocket, with ammunition and the pistol out; he was immediately placed under arrest, drunk, carrying a weapon without a license; and warrants were taken for him. Another one at approximately an hour later -

Q Just a moment now, let's finish that one first, if you don't mind: Where was he when he was arrested?

A He was right in front of the City Hall, between the City Hall and the finance company to the west of the City Hall at the finance company --

THE COURT: Before we go any further with that, the reason I'm allowing this question is because, if it relates to a time generally that some demonstration was going on or was just about to go on or had just ceased, I would like for that to be clear, because I do not want to admit it unless it had some connection with the demonstration.

MR. KELLEY: Yes sir.

Q Explain to the Court, if you will, what was going on in front of the City Hall at that time?

A There was a large congregation of newspaper media, set up there with cameras; we had some demonstrators to come in there to pray and to sing; and this man was in the crowd which was milling; and one of the officers in his

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patrol and in doing his duty there, noticed the man back off to one corner and pull the pistol out, and before he could do anything with the pistol, he was dis-armed, placed under arrest and taken away from the scene.

Q Were the demonstrators in front of the City Hall at that time?

A To the best of my knowledge, they were.

Q All right, relate what other arrests you made, if any, while a demonstration was either going on or imminent?

A Later on, about an hour later, we had had more demonstrations there. The people were still on this night, great crowds of milling people were around the hotel, in front of the hotel, the City Hall, walking the street, heavy traffic riding back and forth along the street; and the officers picked up another man drunk and charged him with drunk and he had a pistol in his pocket. He had a gun-toter's permit, but he was charged and dis-armed and placed in jail.

Q Were the demonstrators in front of the City Hall at that time?

A To the best of my knowledge, they were either there or were just about to come there. I believe they were there. I'm not positive, but to the best of my knowledge they were.

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Q Now, Chief, on the question of violence or possible violence, have you or not had any cause from people not involved in the demonstrations, or as a matter of fact not members of the Albany Movement, relative to their desire to use force against some of the demonstrators?

A I have and I would like to explain that. I have had telephone calls, personal contact with people with people who have come to my office and volunteered ammunition, volunteered weapons and the people to use them. And these people have all been discouraged to leave it to the law enforcement officers of this City and this County to keep the peace and to eliminate any type of this violence. And we have tried in our own way, in talking with these people personally, to discourage it by taking no part, having them take no part in this; on a number of occasions I have had this aid or assistance offered.

Q Is it feasible or practical for you to continue to use your law enforcement officers on a 24 or 18 hour basis?

A I think that my officers are at the breaking point. I think that the strain which they have been under these last - this is the fourth, beginning the middle of the fourth week that they have been under this tension, and this strain, that they are now beginning to reach the breaking point; and I think that these men are only human,

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that they can only do so much, they can only take so much and there is a limiting point or breaking point for everybody and I think now that this is reaching this point.

Q When you led the Georgia State Patrolmen into the large mob, which you have already described, on South Jackson Street, on that one particular night, which was the 24th of July, were you able to identify those who were throwing bottles and rocks and using inflammatory language and things of that nature?

A No, we weren't.

Q Why weren't you?

A Because we were too busy trying to control the situation, to keep the people moving, to keep the line moving, to see that the people in these lines held their ground, did not break the line and to keep the people moving.

Q Have you made any arrests by reason of turning in false fire alarms?

MR. HOLLOWELL: If it please the Court, this was all gone over on direct examination.

THE COURT: I agree with you and I'll take the same position now, Mr. Kelley, with you as I did Mr. Hollowell in the course of his examination. I don't want any repetition, any going over of matter simply for emphasis.

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MR. KELLEY: I did not recall whether we covered the question of any arrests being made for turning in false fire alarms; and if in fact I didn't cover it, I wanted to cover it and show that there couldn't be any arrests because they couldn't identify them.

THE COURT: Now Mr. Hollowell, with regard to that particular point, with regard to that particular point, Mr. Hollowell, do you recall any testimony with regard to that?

MR. HOLLOWELL: I recall, Your Honor, if my memory serves me correctly, that he testified on direct that there were five calls for fire alarms and that they went out; or that he had information to the effect that they went out and that there were no fires and that the equipment was returned; and he said these were in the south part of the City. And I believe this was about the extent of that testimony.

THE COURT: Well now, do you object to the simple question being asked, whether any arrests were made as a result of that and, if not, why it happened that there were no arrests? Do you object to that?

MR. HOLLOWELL: I have no particular objection to it. I don't think it's really relevant.

THE COURT: Well, I think it's relevant

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The Court:

because it is evidence of the general situation created apparently by the general activity connected with the demonstration. That's the reason I think it's relevant.

MR. HOLLOWELL: Well, if it please the Court, I would certainly have some objection to the manner in which the Court has related it, which seems, from the statement and I understood it, that the Court was putting his interpretation as to the reason for a particular result, and I would certainly question that, sir.

THE COURT: Well, I wasn't implying any interpretation. I was simply saying that, as I see it, the fact that the testimony has shown that false fire alarms were turned in at the time the demonstration was in progress would make it relevant as evidence as to whether it was a part of the general plan of the demonstration, the fact that it took place at the same time; and then the further information as to whether any arrests were made and, if not, why not.

MR. HOLLOWELL: I would submit that the statement as still made by Your Honor is not as it will be shown to be in the record, in that I don't believe there was any testimony to the effect that the fire

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alarms were made as of the time of the demonstration. The record, as I recall it, or the evidence as I recall it was to the effect that there were some fire alarms during the course of that night, some five fire alarms; but there was no evidence to my recollection to the effect that they occurred during the demonstration.

THE COURT: My recollection is that it was either at the same time or immediately before or immediately after, one or the other; that it was so closely associated. That is my recollection and I may be in error in my recollection. But I don't think any harm can be done by simply letting the witness testify about it, in order that any confusion about it might be cleared up. So, you may go ahead.

MR. HOLLOWELL: If it please the Court, I presume that the record, insofar as Your Honor's statement is concerned, that we are depending upon the record as it was stated at the time of the cross and the direct, as distinguished from the statement made by the Court.

THE COURT: Well, the statement made by me was simply my effort to recall what the testimony was and, of course, I'm not testifying.

MR. HOLLOWELL: Thank you.

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THE COURT: And you're not bound by my interpretation of it. I was simply explaining my ruling, the reason I was reaching the conclusion I did.

Before you go any further, Mr. Kelley, it has been called to my attention that there possibly may be some people who have been subpoenaed as witnesses in the court room and I would like for the Marshal to take charge of them.

THE MARSHAL: Are there any witnesses in the courtroom under subpoena or appearing here at the request of the City or either side, either party; are there any in the courtroom?

MR. HOLLOWELL: We released a former witness which we had, Mr. Emanuel Jackson.

THE CLERK: That's who we noticed and why we called it to the Court's attention.

THE MARSHAL: Are there any other witnesses here as a witness, even though they're not under subpoena but if you are here at the request of either party, please stand.

THE COURT: All right.

Q Mr. Kelley: Were there any arrests made by reason of false fire alarms, Chief?

A No, there wasn't.

Q Why wasn't there?

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A All of my officers were tied up at this scene. None of them answered any of these calls. These calls went off during the demonstrations, after the demonstrations, and my officers were assigned - one officer was assigned to the Fire Department afterwards, to try to track down these things; but none were made because all of the police powers were used in this march.

Q Were you able to identify any of those who placed the false alarms?

A No, we weren't.

Q I have no further questions.

RE-CROSS EXAMINATION

BY MR. HOLLOWELL:

Q May I see the complaint just a moment, please sir. . . . Now, Chief, on redirect you indicated that you were only authorized to speak for the City Commission in connection with police matters: Will you define what you construe to be police matters?

A Yes, I would. I would like to elaborate on that, that my only dealings with the Albany Movement through the City Commissioner was through police powers; and the only things that were discussed at these meetings were the arrests of these people in December, the bond money which we had deposited with the City, the cash bond money, the disposition of these cases and other things and items which they had

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sent letters in requesting; that this was the only thing that I had the authority to speak concerning.

Q However, you discussed all of the aspects of the grievances, which were related from time to time by the leaders of the Albany Movement, did you not?

A We discussed many things during all of those meetings.

Q That's not my question, sir?

A We did, grievances and other things of other nature.

Q Now, there were no crowds incident to the so-called demonstration which was shown in the pictures that were any greater at any one spot than those shown in the picture, were there?

A There were.

Q Would you indicate in any one situation covered by those pictures where?

A Those pictures that were taken were in the immediate area of the City Hall. The other areas were on South, on North Jackson, around the corner from the City Hall, the 100 block of North Jackson, Broad Avenue between Washington and Jackson.

Q You weren't in all of those places, were you?

A I was at these places off and on, yes.

Q You weren't in those places during the period

of time that these pictures were being taken, were you?

A I was off and on around all of this uptown area. I occasioned myself to visit all of it to see what was going on.

Q But the pictures were taken in order to try to include every facet that you could think of, so you stated on cross examination? Is that correct?

A Not every facet. I said that these pictures were taken by officers or detectives of the Albany Police Department; they were instructed to take these pictures; and it was my duty to frequent myself around all areas of the City, where this crisis and where this tension and where these crowds and mobs were. a

Q You mean where this tension and crisis was in your opinion, isn't that correct?

A In my opinion, it was there, yes.

Q Now, you mentioned something about permits, that there had been no groups that had sought a permit and been refused but had gone on to parade: Do you have a file which would show any parade permits which have been denied?

A I think the parade permit file would show some parades that have been denied.

Q Can you recollect any?

A I would like to explain this, Your Honor?

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Q Answer it first?

A Yes, they have been refused and I would like to explain it.

THE COURT: Very well. Now, the question is, do you recall any specifically at this time?

A The Witness: Yes, I do, and I would like to explain it.

Q Mr. Holligwell: All right, would you indicate that one?

A Back a few months ago there was an Albany girl who was crowned Miss Georgia in Columbus; she returned here on Sunday and the club which represented her, some civic organization here which represented her and had her as their representative in the Miss Georgia Beauty Contest, wanted to parade around the streets, the streets of the City of Albany in the uptown area in a motorcade and parade; these people were denied this permission and refused to let them do it because they did not have a permit; and they did not parade and did not have a motorcade in the City on that date.

Q This was on Sunday, when the City Hall was closed, is that correct?

A It wouldn't have made any difference.

Q Is it correct?

A It is correct and I would like to explain myself.

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It wouldn't have made any difference whether it had been Sunday, Monday or Tuesday or Wednesday, if they did not have a permit and they had not prior been given permission, they would not have been able to parade or demonstrate inside the City limits.

Q Did they apply for one?

A No, they didn't.

Q Now, you stated that you knew what the procedure was: Would you indicate for the record what is the policy on the issuance of permits for parades or the procedure rather?

A This permit has to go through the City Manager's office, who in turn forwards it to my office and we permit this on the basis of the day it is, the hour, the route that they propose, the number of people that's in it; and then in turn we sit down and, if it's where the permission is granted or whether it is refused, then written permission is given to them or written denial is given to them, stating the reasons, stating the route, stating the time that they wish it, and then it's given back to them.

Q Who makes this determination?

A The City Manager, along with myself.

Q Is a written application required?

A It is.

Q By what regulation?

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A I believe that's regulation in the City ordinance, in the code book of the City of Albany.

Q Will you show it to me here?

A I think the City Manager can find it for you or one of them there, or we can search it.

Q Are you talking about Chapter 24, Section 35 of the Albany Code?

A This is where it says "prohibited except with written consent of the City Manager."

Q Prohibited except on written consent of the City Manager"; is there anything there which says that there has to be a written application?

A Not here.

Q There's nothing there which says how long in advance you have to apply, is there?

A That's correct.

Q So, as a matter of fact, this Code section says only that parades, demonstrations and addresses are to take place only on the written consent of the City Manager and nothing else, is that correct?

A That's correct.

MR. RAWLS: We submit, if Your Honor please, that the Code itself, the section of the Code itself would be the highest and best evidence; and whatever construction he places on it would be illegal,

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Mr. Rawls:

irrelevant and immaterial.

THE COURT: Don't you agree with that, Mr. Hollowell?

MR. HOLLOWELL: Well, I submit that this is one of the persons by his own testimony who has this responsibility and we're trying to find out what are the procedures.

THE COURT: You've already asked him about procedure. You've already been over that.

MR. HOLLOWELL: He's answered the question.

THE COURT: But strictly the question about what does the law say, I think you'll agree that that's not the way to go about it.

MR. HOLLOWELL: I think that's true. I was trying to anticipate whether or not he knew of any other provisions in the Code that relates to this subject-matter.

THE COURT: All right.

Q Mr. Hollowell: Is there any published regulation put out by the City Manager or by the Chief of Police's office dealing with the matter of application for a permit?

A Not by the office of the Chief of Police.

Q Will you repeat your answer, please?

A Not by the office of the Chief of Police.

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Q Is there any that you know of by the Office of the City Manager?

A I can only speak for my office and not of the City Manager.

Q You mean that you are a part of the force which has the responsibility under your procedure and policy, that is the procedure and policy of the City for the issuance of parade permits, and you don't know whether there are any regulations written out which have been published by the City Manager's office dealing with this subject?

A Not to my knowledge. The City Manager is sitting here. I can't testify for him.

Q What you're saying is that there are none to your knowledge?

A To my knowledge.

Q Have you ever seen any?

A No.

Q Now, calling your attention, Chief, to the date of, I believe, the 13th of July, 1962, do you recollect having a conference with Attorney King, Slater King, Rev. Gay, Dr. Anderson, Mr. Roos, on a Saturday and at which the counsel who is directing the questions to you at this time was present?

A I remember the meeting.

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Q MR. RAWLS: Now, if Your Honor please, I don't see anything about that, that's in cross of any of the redirect, brought out by Mr. Kelley. I just don't. I think his scope is limited to cross concerning matters that were brought out on redirect by Mr. Kelley here.

THE COURT: Yes, but, of course, I do not know yet what question he will ask.

MR. HOLLOWELL: Thank you, Your Honor.

THE COURT: Ask your question and then we will see if it is relevant. In other words, the question now is whether he recalls having a conference and I will allow him to ask that.

Q MR. HOLLOWELL: I believe you answered yes?

A That's correct.

Q At that time the matter of parade permits came up, did it not?

A It could have in the conversation.

Q Do you remember that Dr. Anderson asked Mr. Roos whether or not he would issue a permit for the purpose of having a group of Negroes to come from the church to the City Hall, in the manner in which they had done on previous occasions; and Mr. Roos replied that "I couldn't do that"; isn't that true?

A I don't remember that, no. It's possible because

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there was a lot of talk going on in that room about various matters, but I don't recall any conversation direct with Mr. Roos and Dr. W. G. Anderson. I was talking with other people while other people were talking with him, and it's possible that this taken place without my knowledge.

Q You were in the room at all times during this discussion?

A That's right.

MR. RAWLS: Your Honor please, we submit that Mr. Roos is here, he's a party and he's present; and he's subject to be called for cross-examination, if he doesn't take the stand as a witness for the Plaintiffs.

THE COURT: Well, I believe the question has been asked and the answer has been given. I will allow it to stay in the record, but I don't see any use in pursuing it further, because he's now said that he has no recollection of anything being said.

Q Mr. Hollowell: You do recollect that the matter of permits was discussed?

THE COURT: Now Mr. Hollowell, he's already answered that. He says he has no recollection of any discussion about it.

MR. HOLLOWELL: If it please the Court, I beg to differ respectfully with Your Honor, but this was

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not as I recollect his answer. He said that he didn't specifically recollect the statement that I was addressing to him and the reply that was being made by Mr. Roos; but I do not believe that the record will show that he said that he didn't recollect any discussion about permits; and that was the question, sir.

THE COURT: That was the way I recalled his testimony. I may be in error. Suppose you ask him again.

Q Mr. Hollowell: Now, Chief, I'll ask you is it not true - read the question and the answer as you recollect it, Mr. Reporter, please?

THE REPORTER: "Do you remember that Dr. Anderson asked Mr. Roos whether or not he would issue a permit for the purpose of having a group of Negroes to come from the church to the City Hall, in the manner in which they had done on previous occasions, and Mr. Roos replied that "I couldn't do that"; isn't that true? A. I don't remember that, no. It's possible because there was a lot of talk going on in that room about various matters but I don't recall any conversation direct with Mr. Roos and Dr. W. G. Anderson. I was talking with other people"

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MR. HOLLOWELL: Just before you started there, Mr. Joiner, just before that.

THE REPORTER: "Question: At that time the matter of parade permits came up, did it not? Answer: It could have in the conversation."

THE COURT: What I'm saying, Mr. Hollowell, he said it could have but he has no recollection of it. He testified he has no recollection of any conversation between Dr. Anderson and Mr. Roos about it. So, I don't see any reason for pursuing it with this witness further.

MR. HOLLOWELL: If it please the Court, we are seeking to elicit a positive answer, when he said this could have happened. I submit that it will be appropriate for this counsel to try to either refresh the recollection of this witness, but counsel is finding it extremely difficult because of certain interpretations that appear to be made. I would like the privilege of being able to have him answer our question as I asked it.

THE COURT: I don't mind you attempting to refresh his recollection, but when he makes a positive statement that he has no recollection of the conversation to which you refer, and then the repetition of the same question over in other language and so on, is

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The Court:

simply taking time. I don't want to cut you off unduly. Go ahead and see if you can refresh his recollection. It's against my better judgment to allow you to do so, because I think we're wasting time but I want to lean over backwards to allow you to do it.

MR. HOLLOWELL: I will move to something else. I may come back to it, sir.

____Q You have and members of your Police Department have on many occasions arrested white people and Negroes for being drunk, have you not?

A We have.

Q And you've arrested many people from time to time for carrying concealed weapons, is that not correct?

A That's correct.

Q Can you name the man that you did arrest, you say, about 7:30, who was drunk and had a pistol, on the 23rd, or the 28th rather?

A His name was Almon.

Q Beg pardon?

A His name was Almon and the other one was named Collins.

Q Where are they now?

A They have made bond and are now out on bond; where they're at, I don't know.

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Q Have they been tried?

A Not to my knowledge, no.

Q Is that Almon, A-m-o-n (spelling)?

A I think so.

Q Do you remember either of the first names?

A One was named, nicknamed "Mike" and the other one, I don't know.

Q Mike can be identified with which name, do you recollect?

A Collins. These names are on file at the Albany Police Department and can be got at your request or at your intention of getting them.

Q Do you know whether or not he has a police record?

A That I don't know. It's a record of court.

Q You made no arrest on that occasion of any Negroes having any weapons, did you?

A I would like to explain- no, I will just answer that with a no; and I would like to explain that, Your Honor.

THE COURT: All right.

A The Witness: Well, I'll leave it as it is.

Q Mr. Hollowell: Now, last night there was a meeting at the church across from Mt. Zion, was there not?

MR. HOLLOWELL: I don't know what the signals

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Mr. Hollowell:

are here between counsel and the Court, I mean and the witness, Your Honor.

THE COURT: I don't know anything about any either. What are you referring to?

MR. HOLLOWELL: I was referring to gesticulations by the Chief toward the counsel and vice versa.

MR. RAWLS: I wish he would designate the counsel that he claims was involved in such spurious scheme.

MR. HOLLOWELL: I don't recall having given it any terminology, except to indicate that as I stood here this was most evident to me; and not only was it evident by look but also by use of hands and gesticulation and the use of the head toward counsel.

MR. RAWLS: There's three counsel here at counsel table.

MR. HOLLOWELL: -- toward counsel table. And there was an observation of some head shaking by counsel as of that time, Mr. Kelley to be exact.

THE COURT: Well, let's go ahead, Mr. Hollowell. I don't know specifically what you're talking about.

MR. HOLLOWELL: Well, I think I can make it very clear. I was questioning the gesticulations

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Mr. Hollowell:

made by the witness to counsel table, both with hand and head and the gesticulations back from counsel, particularly in this instance Mr. Kelley back to the chair, the witness chair.

A The Witness: Well, I'll try to refrain from moving about so much but I am getting a little tired, Your Honor.

MR. HOLLOWELL: It wasn't a matter of moving about, sir.

MR. KELLEY: May it please the Court, I am quite sure I made no gesticulation. I did see the Chief wave his hands. I don't know what he meant as we have no pre-arranged signals. I never could read signals anyway, p laying ball; and certainly I had no intentions of carrying on anything with the witness. I did see him move his hands but that's the extent of it.

A The Witness: That's a signal for water (holding up glass tumbler) . . .

MR. KELLEY: Frankly, I was about to ask Mr. Rawls to object to the question as being irrelevant and immaterial, on the ground that he has already been over the same thing many times.

THE COURT: Well, I'm sure that no counsel in

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The Court:

this case for Plaintiffs or the Defendants would resort to any improper conduct of any kind. Let's go ahead.

Q Mr. Hollowell: Chief, on last evening, being the 31st of July, there was a meeting at Mt. Zion and Shiloh churches, was there not?

MR. RAWLS: Now, if Your Honor pleases, he is definitely going into something now that is not a cross of what Mayor Kelley asked him on redirect.

MR. HOLLOWELL: If it please the Court, on the direct the Court itself made it very explicit that the testimony would run right on up to this present time and that it would be pertinent.

THE COURT: That's right, I did say that and I'll allow you to ask the question.

Q Mr. Hollowell: There was a meeting, to your knowledge, was there not?

A To my knowledge, there was.

Q How many people would you estimate were assembled in that area at that time, say around the hour of 10 o'clock or between 9:00 and 10:00?

A I couldn't say because I was at home and I had no knowledge as to what was going on here. I was home last night with my family for one time in four weeks and I had no

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knowledge of whether there was one meeting or 10 meetings going on in the City of Albany at Mt. Zion, Shiloh or any other Negro church.

Q Well, you just said that you knew that there was one at Mt. Zion?

A You said to my knowledge.

Q To your knowledge?

A By understanding it from somebody else to me that there was, but I do not know how many people was at these churches.

Q One last question: The situation was calm in Albany back in May, so that you were even able to take a vacation, wasn't it?

A Back when?

Q In May?

A I would like to answer that and explain it, Your Honor.

THE COURT: Yes.

A The Witness: I did take one but it was interrupted by demonstrations that taken place prior to Easter and required my rushing back here to Albany, to see and try to handle the situation. I did have about 3 or 4 days before it was interrupted by demonstrations prior to Easter, and had to come back here, leave one night and drive all night to get back here; and it did interrupt my

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2 or 3 days vacation.

Q What date was that, that there was a demonstration in May, that caused you to have to do this?

A When was Easter? That's the only vacation I've had, was prior to Easter, the week of Easter Sunday.

Q Do you recollect there being any arrests of any demonstrators the week-end approaching Easter?

A Now, I was called --

Q Do you recollect, I say, there being any arrests?

A I do and I would like to explain it.

Q What date was that on?

A If I remember right, it was on a Saturday.

Q What Saturday?

A Because Sunday was - you asked me, I don't know the date, I'm just telling you the best I know by recollection, standing or sitting here on this stand. I was in Florida --

Q Have you taken any notes concerning it?

A No, I have no notes.

Q Those are not your notes on the table?

A Yes, they're notes.

Q Do you have some notes which you have in your pocket, do you have anything on them relating to any such demonstration?

A You're asking me a question and I'm going to

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try my best to give it to you, if you'll let me.

Q Well, this is the question I'm asking at the moment: Do you have any notes on any demonstration that occurred at that time, the time you mentioned, the Saturday before Easter?

A Not on me personally. Now, can I answer that question, Your Honor?

THE COURT: Yes, go ahead.

A The Witness: I was in Florida and I appreciate the fact that the Albany Movement did allow me a few days to go in the ceasing of these demonstrations. But I was called back for a demonstration which occurred in front of the City Hall on Saturday before Easter morning. And I left the place where I was on vacation and drove back here to be here on Easter Morning, to see and try to direct the forces of my department in these things.

Q Mr. Hollowell: You don't know anything of your own knowledge that happened on the Saturday before Easter, because you weren't here, isn't that right?

A Only what was related to me by members of my personnel of my Department.

Q Now, there were, by your testimony, a number of citizens who called and came by and offered and suggested violence, offered to assist and suggested the use of violence by your Department: Now, who were any of those

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folk that you can think of?

A These come to me in confidential manner, Your Honor, and I refuse to answer that question, because it would be breaking a confidence that was put in me by other people.

MR. HOLLOWELL: If it please the Court, I submit that there is no privilege which he has as the Chief of Police in this kind of a situation under any law of evidence that I know.

THE COURT: Yes, Chief, I think that that would not be a privileged matter; if persons came to you and made suggestions of that, I think that you would be required to give him that information.

A The Witness: There was one man, Your Honor, who come to me and of my own knowledge I can't remember the name. He was from Newton, Baker County; and I'll have to search my files to find his name which I have, but I don't know it now; and if I had to tell you, I couldn't if I had to. But I have this on file.

Q Mr. Hollowell: And you will produce this during this trial?

A If it's in my file, I certainly will.

Q Now, who else?

A The others were by telephone and I couldn't say who they were, because I don't know --

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Q Did they - excuse me --

A -- because I don't know whether they - who they were; they talked to me by phone, and by phone I talked to them and told them to discourage anything, not to do anything.

Q Did they give their names?

A No, they didn't.

Q Would you categorize these as prank calls then?

A You could construe them as that. I was taking them as calls which could be either way. I didn't know.

Q You get many prank calls, do you not?

A We received a number of complaints that are not found to be just.

Q Did you keep a record of these calls?

A No, I didn't.

Q Did you seek to arrest the individual who offered violence?

A I asked their location as to where they were and they did not tell me.

Q This is the man from Newton?

A No, this man did not come to me and say that he was. He come to me and offered me bullets and guns, which I refused and told him I had no need for, that we had plenty of police equipment; and we did not wish to use anything which he had or needed anything which he had.

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Q Did you retain the ammunition and the guns that he brought?

A He did not bring any.

Q You just said he did?

A No, I didn't. I said that he offered but he did not bring to me any in person. He related to me by conversation if I needed them that he had it. I did not see any in person.

Q Did he indicate how much of it he had?

A I don't recall as he did, no.

Q Well, why didn't you go to see him?

A This was in a county which was out of my jurisdiction and if he had any down in Newton or Baker County, I had no authority to deal with it.

Q Did you call it to the attention of Sheriff Johnson?

A I did not.

Q Why not?

A It was out of my county and I had no jurisdiction in the matter. The man that I talked to, I knew that he knew my situation and I felt that there was no need to.

Q Well, you've sent some of your prisoners that you have arrested pursuant to some of the so-called demonstrations down to the jail in Baker County, haven't you?

A I have and I would like to explain that. We

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have personnel of the Albany Police Department stationed with these people. They have been well taken care of, well fed and well taken care of in their stay down there, and they are now there.

MR. RAWLS: Your Honor, we insist again that counsel is going far beyond his privilege of cross examination of this witness on what was brought out by redirect.

THE COURT: Yes, it is going rather far.

Q Mr. Hollowell: So that, as a matter of fact, then you have not had a large crowd of people offering violence?

THE COURT: Well now, counsel, that's simply --

MR. HOLDONELL: I think the record will show for itself.

THE COURT: That's what I was going to say. That's argumentative.

MR. HOLLOWELL: I don't think there are any further questions at this time, Chief.

THE COURT: All right, anything further?

MR. KELLEY: Nothing further. Ask Miss Evelyn Courson to come in, please.

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2nd witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. LEVERETT:

Q State your name, please ma'am?

A Evelyn Courson.

Q Miss Courson, where do you reside?

A 1002 7th Avenue, Albany, Georgia.

Q And what if any is your official position,
please ma'am?

A Ordinary of Dougherty County.

Q I didn't get that, I'm sorry.

THE COURT: Let's have order in court.
There's too much talking over here. I don't know
where the noise is coming from. I want this business
of going and coming in and out held under some
control, as it creates too much confusion, coming
and going during the course of the proceedings. By
this time it should be generally understood, although
no announcement has been made of it, that we ordinarily
take a recess about every hour and a half; and I
suggest that any person who does not intend to
remain in here until the next recess period just stay
out until the recess period. I do not mean to impose
that as a rigid rule but I will appreciate the coopera-
tion of everybody in eliminating so much going in and

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The Court:

coming out during the course of our proceedings.

Go ahead.

Q Mr. Leverett: You stated you are the Ordinary of Dougherty County?

A Yes.

Q How long have you held that position, please ma'm?

A 9½ ydars.

Q Miss Courson, as a part of the duties of your office, do you issue pistol-toter's licenses?

A Yes, I do.

Q Pursuant to request of the City Manager, have you made a study of your records?

A Yes.

Q To determine the number of such licenses issued during the last year?

A Yes, I have.

Q Can you tell me how many such licenses, Miss Courson, were issued in the month of July, 1960?

MR. HOLLOWELL: If it please the Court, I submit that there would be no relevance whatsoever to this situation as to the number of pistol licenses which have been issued. The presumption would be that if a pistol license was issued, it was issued pursuant to the laws of the State of Georgia, and that

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Mr. Hollowell:

all such persons did in fact qualify; and I see absolutely no relevancy.

THE COURT: Well, I don't know how it's relevant yet. I will allow the answer and see how it ties in. If it doesn't tie in some way, I will exclude it.

Q Mr. Leverett: In July of 1960, Miss Courson?

A 5.

MR. HOLLOWELL: If it please the Court, 1960, July 1960: there's nothing in this trial that goes back to that period of time; and I submit further, since this has now been put insince our colloquy, that there would be no relevance to anything in 1960.

THE COURT: Well, I'm going to allow the testimony and see, depending upon what he seeks to develop. I don't know yet what it is. If we determine it's not relevant, we'll strike it, but I'll admit it for the time being.

Q Mr. Leverett: Will you state your answer to the question?

A July, 1960, there were 10.

Q What about, just take the months in order thereafter, please ma'm?

A July 1960 was 10; August was 9; September - 3;

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October - 4; November - 5; December - 5; January of '61 - do you want to go into '61?

Q Yes, please ma'am?

A There was 14; February '61 was 11; March, '61 - 4; April '61 - 6; May '61 - 16; June '61 - 8; July '61 - 7; August '61 - 12; September '61 - 12; October 61 - 13; November '61 - 20.

THE COURT: How many?

The Witness: 20 (20); December 61 - 34; January '62 - 24; February '62 - 18; March '62 - 15; April '62 - 14; May '62 - 15; June 62 - 11; July '62 - 37.

MR. LEVERETT: That's all.

MR. HOLLOWELL: Now, may it please the Court, I move that the testimony be stricken as not being in any wise relevant to this case whatsoever, nor has there been in any manner any tie-in with anything which has been gone into in this trial. Nothing has been shown as to any relationship between the issuance of permits to anything that is germane to this trial. And I submit that it has no place, it is irrelevant and it is immaterial and that it should be stricken. There hasn't been any indication, for instance, to whom they were issued. All that has come in is the fact that they may have been issued or they were issued.

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Mr. Hollowell:

And this is of no relevance whatsoever and it certainly has not been tied in.

THE COURT: Mr. Leverett?

MR. LEVERETT: May it please the Court, one of the issues in this case is the fact that the Plaintiffs contend that Defendants' conduct has excited a state of tension, a state that could erupt and explode into immediate violence; and we think that this is one of the ways by which such a matter - one circumstance by which such a matter could be demonstrated.

MR. HOLLOWELL: May it please the Court, I would say further that, there having been no implication as to whom or for what reason these particular licenses were issued, it would be absolutely of no materiality in this particular case. They may have been issued to business men. They may have been issued to policemen. They may have been issued to private detectives. And I say that it has absolutely no reference or no relevancy and it has not been tied in sufficiently with any matter which is the subject matter or basis of this suit, to be able to be admitted.

THE COURT: We don't have a jury here and I will admit it for whatever it's worth, for whatever weight I think it should have in considering the issue.

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The Court:

Anything further from this witness?

MR. HOLLOWELL: I don't think we have any questions for this witness.

THE COURT: All right, you may go down.

MR. AL MORRIS

3rd witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. LEVERETT:

Q State your name and residence, please sir?

A Al Morris, 1020 Lincoln, Albany, Georgia.

Q Speak up, please sir, so the people back here can hear you?

A Al Morris, 1020 Lincoln, Albany, Georgia.

Q Mr. Morris, what is your occupation?

A I am officially occupied as an announcer-salesman at Radio Station WALG.

MR. HOLLOWELL: Excuse me, sir, the witness' voice drifts off at the end and I find it difficult to understand him.

A The Witness: I'm occupied as a radio announcer-salesman at Radio Station W A L G.

Q Mr. Leverett: Mr. Morris, I call your attention to the month of December, 1961, and ask you whether or not

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you had occasion to be out at Shiloh Church during that month?

A Yes sir, I did.

Q What was the purpose of your being out there?

A We have - we were under-manned at the time and I was asked to help in the News Department to cover meetings for news for the Radio Station.

Q What was going on out at the Shiloh Church at that time?

A We were told they were having a mass meeting, which is what they called it, and we attended the mass meeting.

Q Well, did in fact or were in fact mass meetings being held out there?

A Yes sir, there were.

Q Under the auspices of what organizations?

A The Albany Movement.

Q Mr. Morris, do you know any of the Defendants in this case, Wyatt Tee Walker, Ralph Abernathy, Rev. Martin Luther King, Dr. W. G. Anderson?

A I know them only when I see them. Of course, I don't know them personally, but I do know them, yes sir, when I see them.

Q At any time in December did you see any of these Defendants out there at Shiloh Church?

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A Yes sir.

Q What were they doing there, if anything?

A They were speaking at the meetings.

Q Speaking to the group there?

A Yes sir.

Q Do you recall ever having seen the Defendant, Mrs. Ruby Hurley, out at Shiloh Church?

A Yes sir.

Q Do you know approximately when that was?

A That was on a Friday in December. I wouldn't know the exact date, as it's been quite a while.

Q Did she participate in the meeting?

MR. HOLLOWELL: May it please the Court, that's leading.

MR. LEVERETT: I'll rephrase the question.

Q What, if anything, did she do while you were there?

A She spoke to the group that was present that night.

Q Who introduced her?

A She was introduced by the preceding speaker.

Q Do you recall who that was?

A Dr. Abernathy, I believe; I'm not too sure.

Q Do you recall was she introduced in any particular manner?

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A Whatever her official capacity is with the NAACP.

Q All right sir, were you present when she made her remarks to the group?

A Yes sir.

Q And do you recall any of those remarks?

A Some of them, sir; not quotes. I couldn't quote them.

Q Allright sir, would you state to the Court what she stated at that time?

A In brief, she gave a speech; she had been to Albany before, she said back during the War days; and she said that she was proud to see that the Albany Negro had wised up. And she told them that she was there as a representative of the NAACP to assure them that they were behind them, "that we are behind you 100 per cent.", or something of that nature. I wouldn't -- like I say, I couldn't quote her. And she went on and spoke further --

THE COURT: Counsel, can you hear the witness?

MR. HOLLOWELL: Not too well, sir.

The Witness: I'm sorry.

THE COURT: Speak up, Mr. Morris, so everybody can hear you.

A The Witness: She went on and spoke of the

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power of the dollar and the power of the vote; and she told the Negroes who were present to register to vote and to withhold their money from certain places.

Q Mr. Leverett: Now, do you know the Defendant, Charles Jones, Charlie Jones?

A Yes sir, I have seen him. I don't know him personally.

Q Do you recall whether or not he ever made any speeches out there at the Church?

A Yes sir, he did.

Q Do you recall what he stated at that time?

A He has appeared at more than one meeting.

MR. HOLLOWELL: At what time?

Q Mr. Leverett: This was in December?

A In December. I don't recall ever hearing Charles Jones speak in December.

Q Have you heard him speak at any other time?

A Yes sir, during the month of July.

Q This year?

A Yes sir.

Q Do you recall which day it was?

A No sir, I don't. I recall one or two. Like I said, there's been quite a few meetings that I've heard him speak at. One in particular I recall that he spoke at, that I heard. I don't recall all of them, but I've heard

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2 or 3.

Q Do you recall anything that he stated in any speech that he made during the month of July?

A Yes sir, I do.

Q Would you relate that, please sir?

A I think the first time I actually listened. The news follows Dr. King and Dr. Abernathy and we were interested in their statements. So, we didn't listen to all of his speeches. But the first time I recall Charles Jones speaking to the group, I believe, was one day around noon and he was speaking about a picnic that was forthcoming at Tift Park. And the only, the other occasion I recall was the night of the lifting of the injunction.

Q All right sir, go ahead?

A He spoke briefly. Actually, Dr. King and Dr. Abernathy had spoken earlier. They were the featured speakers and, as I said, we were getting ready to wrap up the meeting after they had spoken; but he spoke briefly to the crowd and told of the experiences in Federal Court that day; and told about the injunction that had been lifted, and went on; and he said that some of the Negroes had gotten a little anxious and some of them who were planning on demonstrating were planning on going ahead, and that Dr. King and Dr. Abernathy were over in the other church trying to talk to them, and they would later be led

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through, so that they might gain in number.

Q Led through where?

A We were in Mt. Zion at this time.

Q Mt. Zion at this time and they were over - he was referring to the fact that Drs. Abernathy and King were over in Shiloh?

A Yes sir, he said that they were over in the other church talking to the huddled, he said approximately 100. He did not give any set figure. I think he said approximately - I'm sure he said - approximately 100. He said that they would be led through the church and down the aisles in order to gain in number. And he went on to say something about he didn't want to disappoint the local law enforcement authorities or something of that nature. Like I said, there again, I can't quote it exactly.

I have, in other words, we taped these meetings and I've listened to them since and that's how - I do remember him saying that they were going through the church and on the outside.

Q Now, you say that you did prepare tapes of some of the speakers on some of these occasions?

A Yes sir, we've kept - we have tapes of the entire meetings.

Q Did you make the recordings yourself or were they made under your supervision or in your presence?

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A Yes sir, I made all of the recordings, either myself or Johnny B. We did it together, I mean, a boy who works at the Station.

Q Were the mikes - excuse me, go ahead.

A We did it together, in other words, the two of us.

Q What type of equipment did you utilize in making these tapes?

A Well, a microphone, of course, and an Ampex tape recorder.

Q Ampex tape recorder?

A Yes sir.

Q Does that device make an accurate recording of what is played or said in its presence?

A Yes sir, it's supposed to be the best in the business.

Q All right sir, do you have such a tape with you today?

A Yes sir, I do. I do not - I have a copy of the tape.

Q Did you make the copy of the tape yourself?

A Yes sir, I did.

Q Is this an accurate recording?

A Yes sir.

Q Of the original as it transpired in the church?

A Yes sir.

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Q When was this recording made, to the best of your recollection, Mr. Morris?

A This particular recording that I was requested to bring was made in December, I mean rather July, the 16th of July, I believe.

Q Of this year?

A Yes sir.

Q And whose voice - with the Court's permission I would like to ask this witness to play his tape - First, let me ask you this: Whose voice does this tape portray at the outset?

A At the outset of the tape, I haven't got it cued up but at the outset of the tape will be Dr. W. G. Anderson. There is also the voice of Ralph Abernathy, and that would be the only two voices I have on it with me.

MR. LEVERETT: I would like the Court's permission to have the witness demonstrate by playing this tape at this time, if it please the Court.

Q I might suggest that after one voice finishes, you stop and identify who that was before you start on another. . . (Witness setting up transistor recorder to play tape referred to) . . .

Q All right sir, proceed.

A (Playing tape: "We had a man to come into our midst in December, having a burning desire to join with

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"freedom loving people throughout this Nation, who was compelled to come back in July . . . when we saw that justice had died in the City of Albany in the Recorder's Courtroom on Tuesday Morning, July 10. And he came up to me, and he said, "Dr. Anderson, I came to Albany to march, and I will march and nobody will be in my way.")

___ Q Mr. Leverett: All right, sir, whose voice was that?

A W. G. Anderson.

Q All right, now whose voice is coming up next, please sir?

A It will be Reverend Abernathy, I believe.

Q All right sir, will you proceed with that?

A (Witness playing tape: Rev. Abernathy leading congregation in singing song "I ain't gonna let nobody turn me 'round". . . .)

Q Whose voice was that leading the singing, Mr. Morris?

A That was Rev. Abernathy.

Q Allright sir, do you have any more there?

A Yes sir.

Q All right, whose voice will this be?

A Rev. Abernathy.

Q Allright sir, will you proceed to play that?

THE COURT: What date is this?

JOZ

A The Witness: The same date, sir.

THE COURT: Are all of these the same date?

A The Witness: Yes sir. (Witness playing tape: "When I put her on the plane this morning in Atlanta, I told her to go on up there with her shoulders back and her head high, and to tell the people of this Nation that the Negroes of the South and the Negroes of Albany are determined to be free in this generation, and that we are determined to let nobody turn us around.")

____ Q Mr. Leverett: Was that Rev. Abernathy there?

A Yes sir.

Q All right sir, do you have any more?

A One more, sir.

Q And whose voice will this be?

A Rev. Abernathy.

Q All right?

A (Witness playing tape: "We've been waiting a long time for freedom and we've ... it now. Our black brothers, our fathers, died on foreign battlefields, fighting to defend America. They died in the fox holes and in the trenches of Normandy, they died on that Sunday Morning at Pearl Harbor. And if they could die in Europe and the Pacific Theater of Operations, to defend America, why in the devil can't some of us die, if necessary, here in Albany? They make me sick and tired but I've seen

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("a few negroes drawing up simply because they might have been hurt in the shuffle.")

Q All right sir, is that all you have now?

A Yes sir, that's all I have now.

Q Mr. Morris, how many people were in the church at this time; do you have any idea?

A I can only say approximately, sir. I didn't count them.

Q Was it full or any vacant seats there?

A No sir, it was full.

Q What about on the outside, were any people on the outside of the church?

A Yes sir.

Q Do you have any idea how many were on the outside of the church?

A On the outside? No sir, I don't. There was a lot of people outside. I don't know how many. I couldn't say. We estimated the crowd, the entire crowd, at around 2,000.

Q Did you transfer these tapes from regular tape recorder to the small one, in order to be able to bring it into the courtroom?

A Yes sir, I did.

MR. LEVERETT: All right, he's with you.

MR. HOLLOWELL: May it please the Court, we move

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Mr. Hollowell:

that the whole tape and the information contained thereon, as I think has been partially and only partially understood by the reporter, and certainly by counsel sitting here, be stricken, first, on the ground that there is an original tape; and it becomes very apparent that this is only a copy and that this further is only a part of that which was on the original tape.

No. 2, that which has been brought here is most unfit. I could not understand much of it and, as I observed the reporter, I don't think he was able to get it. He's here to speak for himself. And for those reasons I would submit that the whole tape recording should be completely stricken.

MR. LEVERETT: May it please the Court, this is not a document. This is a transcription of a human voice and I don't think it is subject to the same rules governing documents.

THE COURT: I overrule the objection.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Mr. Morris, you say "we made an estimate of the number of persons who were there"? Who was "we"?

A The other reporter and myself.

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Q The other reporter and yourself, is that right?

A Yes.

Q Now, who was the other reporter?

A Johnny B. Mosses.

Q Who?

A Johnny B. Mosses, (spelling) M-o-s-s-e-s.

Q How long have you been working on this job?

A You mean at the radio station?

Q At the radio station?

A I've been with the chain of radio stations for about four years, but I've been with this particular station for approximately - well, since the 1st day or the last day of November in 1961.

Q What was your function with these other stations?

A I was sports director at WAYX with the chain for three years or little over three years.

Q WAYS?

A -X, in Waycross, Georgia.

Q In Waycross, Georgia?

A Yes.

Q What experience have you had, which you feel qualifies you to make an estimate of the number of people that are located or situated in the dark on the outside of a church?

A Dr. W. G. Anderson said that one church seated

JOB

850, I believe he said, and the other seated 650; and he said "for the benefit of WALG", which was me, "that we have both of them full and several hundred outside." So, I would assume that it was 850 plus 650, which would be around 1500; and I would assume, I was only giving my opinion and my estimate.

Q I see. Now, did you not state, however, that there were only about 100 people over in the church across the street?

MR. LEVERETT: May it please the Court, he didn't say that.

A The Witness: This was another occasion.

Q Mr. Hollowell: I asked him if he stated that?

A No sir, this was another occasion.

Q This was another occasion?

A Right.

Q This is not the occasion that you are talking about, is that correct?

A In other words, the estimate on the crowd was on the night this tape was made and the estimate of the 100 people in the other church was on the night they demonstrated, which was a later night, the lifting of the injunction night, the night that the injunction was lifted.

MR. HOLLOWELL: I don't believe there's anything else of this witness.

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MR. LEVERETT: You may come down.

THE COURT: Suppose we take about a 10 minute recess at this time.

RECESS: 3:27 PM to 3:40 PM 8-1-62

MR. LEVERETT: May it please the Court, before proceeding, I think I should call the Court's attention to the fact that some of the testimony we expect to elicit now will be rather vulgar and obscene; and, if there are any ladies in the courtroom that would like to retire, I think they should be given the opportunity at this time, if the Court sees fit.

THE COURT: . . . Apparently nobody wishes to retire.

MR. LEVERETT: Call R. A. JANELLE, please.

MR. HOLLOWELL: If it please the Court, we object to any testimony that this witness would have to give, on the ground that from time to time during the course of this trial this witness has been standing at the door listening to the testimony. The same is true of certain other officers, as well as the witness, DAVID O'SCOTT, who is presently standing just outside the door.

THE COURT: A witness standing outside that door, even if he were, which I don't know whether he was

OS

The Court:

or not, --

MR. HOLLOWELL: I see him now and this has been occurring from time to time.

THE COURT: -- was not in the courtroom and could not hear the proceedings.

MR. HOLLOWELL: He has been listening at the door, sir, and we have a witness who will be able to testify that this has been true; and we would submit that it would be improper for them under the rules of sequestration. And not only this but the witnesses for the Defendants have during the course of the trial been required to remain in the witness room, if they were present here at court. And I submit that the testimony that these witnesses would give would be over objection and that it should not be admitted for the reasons stated.

MR. LEVERETT: May it please the Court, to begin with, if this witness has been in the hall, I was not aware of it. No. 2, the witness shook his head as if to say he has not heard any testimony. And No. 3, I am not certain but I don't think that this witness will be called upon to testify as to any matter that has heretofore been testified to.

THE COURT: Suppose we clear it up this way:

JTG

MR. R. A. JANELLE

witness called and sworn in
behalf of Plaintiffs, testified

BY THE COURT:

Q Mr. Witness, have you at any time during the course of the trial of this case heard any of the -- have you been present in the courtroom at any time while this case was in the course of being tried?

A No sir.

Q Second, have you at any time during the trial of this case heard any of the testimony that has preceded the testimony which you are about to give?

A No sir.

MR. HOLLOWELL: Would the Court permit counsel to direct questions to him, sir?

THE COURT: All right.

VOIR DIRE - BY MR. HOLLOWELL:

Q Have you at any time been standing at the door listening?

A I have been looking but I didn't listen.

Q Beg pardon?

A I was looking in but I didn't listen.

Q You looked but didn't listen?

A That's right.

MR. HOLLOWELL: I believe, Your Honor, that the

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Mr. Hollowell:

witness was in a position to come to that door and to look and he would be in a position to hear the testimony.

THE COURT: Let the record show that the manner in which this courtroom is constructed and the nature of the doors to which reference has been made, which is a solid door, swinging doors, which has a glass aperture in it through which a person could see, is, in the Court's opinion, a structure of such a nature that it would not be possible for a person to stand outside and receive any intelligent impression of what was being said in the courtroom. This is especially true, in the Court's opinion, because not only would it difficult to hear out there but it is difficult to hear in the courtroom. And in the Court's opinion and the Court's judgment, having in mind the physical circumstances and taking into consideration the positive testimony of the witness himself, the witness will be allowed to testify and I overrule the objection.

MR. HOLLOWELL: Does the Court want to also make it a part of the record that there is at least a gap of not less than a half an inch between the swinging doors.

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THE COURT: There is such a gap between the swinging doors as would be necessary to allow the doors to avoid striking each other, whatever that space is.

MR. HOLLOWELL: And would that be less than a half an inch, sir?

THE COURT: I have not measured it. Let's simply let it rest this way: that in the Court's judgment, viewing the physical circumstances and having heard the positive testimony of the witness, that the witness will be allowed to testify.

MR. R. A. JANELLE

BY MR. LEVERETT:

Q Will you state your name and address, please?

A Ray Janelle, 1707 Melroe, Albany, Georgia.

Q Mr. Janelle, what is your occupation?

A Detective with the Albany Police Department.

Q How long have you served in that capacity?

A Approximately two years.

Q Mr. Janelle, I ask you on July 11 whether or not you had an occasion to be on duty out at Shiloh Church?

A I did.

Q Will you state to the Court what was going on at that time at the Shiloh Church?

A There was a big crowd. The church was full.

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There was a big crowd on the sidewalk, and at one time quite a few came out of the church and joined the others on the sidewalk. We were across the street, myself and other police officers.

Q You were across the street where?

A Across from Shiloh Baptist Church, on the northwest corner; and the Church is on the northeast corner of Whitney and Jefferson.

Q Could you tell whether the church was full or only partially full?

A It was full.

Q What about on the streets out front, do you have any idea how many people were out front or around the church?

A Approximately 200 on the sidewalk.

Q What was going on inside the church?

A They were having a mass meeting.

Q Did you see any of the Defendants or identify any of them in the church?

A One.

Q Who was that?

A Slater King.

Q Alright sir, now proceed and tell us what happened as this crowd proceeded or rather this group proceeded out of the church that you've just referred to?

JTB

A Well, Chief Pritchett came to the church and myself, Captain Friend and Chief Lairsey followed Chief Pritchett into the church. Chief Lairsey and myself came out, thinking that Chief Pritchett and Captain Friend were behind us; and we received cat-calls; and we stayed pretty close to the church waiting for Chief Pritchett. And, of course, we heard some pretty bad language.

Q All right sir, what was the crowd doing at that time? Were they standing still or were they milling about?

A Milling about and talking. There was one man especially - do you want me to go ahead and say what --

Q You may go ahead and say anything that you heard in your presence?

A As Chief Lairsey and I walked, started walking across the street, we heard "you mother-fucking son-of-a-bitches, don't you come back on this side of the street".

Q Do you know to whom those remarks were being addressed?

A I believe it was to me and Chief Lairsey because we turned around and we heard it again; and some of them in the crowd tried to get us to come into the crowd, but we wouldn't do it.

Q What did they say to you?

A "Come on over, come on over".

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Q How were they talking when they said that?
What manner of voice?

A Loud.

Q Were any gestures made of any sort?

A No sir.

Q All right sir, did you hear anything else out there that night?

A We heard, "Let's get Big Red, let's get Big Red", 2 or 3 different times.

Q And who is that, to whom were they referring when they made that statement, do you know?

A Officer Red Willis, Grady Willis.

Q All right sir, now at the time these remarks were made, what was the general attitude of the crowd as far as you could tell?

A I think they were ready for violence. One of them or two different voices kept saying that they were tired of this talking with Chief Pritchett and "let's fight". And, of course, I don't know which one it was that said that.

MR. HOLLOWELL: May it please the Court, I would object to that whole answer, unless there is some more foundation than has already been laid, on the ground that there has been no foundation laid for an opinion to the effect that "I think they were

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Mr. Hollowell:

"ready to", I've forgotten the word used, whatever the word was. There has been testimony that he heard something coming from two different persons, certain remarks; and certainly this does not justify the opinion evidence that was stated.

MR. LEVERETT: May it please the Court, the witness has stated that he was present and observed the crowd, that he heard the remarks made, and I think that under the "collective facts" rule that it would be impossible for any witness to fully describe the menacing effect of a crowd of people like that in words that would lead up to that conclusion, other than what the witness has done.

MR. HOLLOWELL: May it please the Court, there is no testimony to the effect that this information or these words were recited at the instance of any of the Defendants, or that they were known by the Defendants or that they came from more than the two people that have been described; and, therefore, this is no basis or foundation for the sweeping conclusion that was made by this particular witness.

THE COURT: Well, true, there's no evidence that any of these named Defendants said these things; but it is evidence of the general situation referred

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The Court:

to in the Plaintiffs' complaint; and I admit it for that purpose.

MR. HOLLOWELL: May I ask this one question, sir: The complaint is not evidence and I submit that this witness would have to make his statement based upon the evidence that has been put in by him; and he has not put in any to justify such a conclusion.

THE COURT: Well, he's a police officer and he was there in the middle of the throng which he described and had the feel of the situation; and I think he'd be qualified to express an opinion about it. I will allow him to do so. I admit the testimony.

Q Mr. Leverett: Who was holding the meeting inside the church at that time, Officer Janelle?

A Slater King, A observed him speaking. As far as who was the leader, I couldn't tell you.

Q Was the Albany Movement holding the meeting, or do you know?

A Yes sir.

Q Now, who is Bo Jackson?

A He's the Secretary, I believe, of the Albany Movement.

Q Do you know whether or not he was there at this time?

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A Yes sir, he was.

Q Did you have occasion to hear him make any remarks at that time to anybody?

A No sir.

Q Was that the night that Chief Pritchett went in the church?

A Yes sir, it is.

Q The party, Jackson, was he there at that time?

A Yessir.

MR. HOLLOWELL: May it please the Court, we don't want him to lead the witness. There hasn't been any testimony by this witness that the Chief had gone in the church.

THE COURT: He's probably just trying to expedite the matter, Mr. Hollowell. You can rephrase the question.

Q Mr. Leverett: Mr. Janelle, state whether or not you saw Chief Pritchett that night?

A Yes sir, I did.

Q What did he do?

A He went inside the church to speak to the people, that he did not want any violence.

Q Did you go in with him?

A Yes sir, I did.

Q Did you come out with him?



A No sir, I came out a few minutes before he did.

Q And did you have occasion to see him talking to Bo Jackson at any time that night?

A I don't remember if I did see him talk to him.

Q All right sir. Now, Mr. Janelle, I ask you whether or not on any subsequent occasion you were out at Kiokee Baptist Church?

A Yes sir, I was.

Q All right sir, what were you doing out there?

A Observing and riding around the church and looking to see that the white people stayed away.

Q Excuse me, would you repeat that, the answer to the last question, please sir?

A Just observing the church and making sure that there was no trouble, such as white people coming around the church, and so forth.

Q What was going on inside the church?

A They were having a mass meeting.

Q Who was having a mass meeting?

A I'm not sure who it is. I couldn't tell you his name but I believe he was from Tennessee, some preacher from Tennessee. They had advertised it that night.

Q Was this a meeting of the Albany Movement?

A Yes sir, it was.

Q All right sir, were you in the patrol car that night?

A Yes sir.

Q All right sir, tell what happened?

A Well, as I was riding by, I was headed east on Alice, there was some colored males on the sidewalk hanging over some cars, and one of them said, "There goes that white son- -- white trashy, mother-fucking detective".

Q All right sir, anything else said to you at that time?

A No sir, I turned around and I came back riding by slow and one of them said, "If you stop here long enough, I've got something in my pocket for you." And I was by myself and I kept going.

Q What tone of voice did he speak in?

A Loud, like he meant it.

Q Did he speak in a friendly tone of voice or not?

A I wouldn't say so.

Q Now, Officer Janelle, I asked you whether or not on any subsequent occasion subsequent to this you ever went back to Shiloh Church?

A Yes, I did.

Q For what purpose?

A The same purpose, observing it.

Q And what was going on there at that time?

A The Albany Movement was having a mass meeting.

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Q When was this - this is the third occasion that you've testified about - do you recall what month this was in?

A July.

Q Of this year?

A Yes sir.

Q All right sir, now you say another meeting was being held at Shiloh Church?

A Yes sir.

Q How many people were in the church? Was it full or not?

A It was full and people on the sidewalk.

Q On which sidewalk?

A In front of the church and on the side; be on the north side, on the north side and on the west side of the church.

Q That church is situated on the corner, is it not?

A Yes sir.

Q Do you know how many people were on the outside there?

A I would say approximately, that night approximately 100.

Q And did you recognize anybody in the church?

A No sir, I did not.

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Q Were any speeches being made or what was going on in there?

A Somebody was speaking but I couldn't tell who it was.

Q All right sir, were you on foot or were you in your patrol car?

A In a patrol car with Deputy Sheriff Murphey.

Q All right sir, what happened, if anything, that night?

A We were proceeding west on Whitney when we came up in front of the church at Jefferson; we had to stop for a stop sign and there were again some colored males on the sidewalk, and somebody in the crowd said "Let's turn the mother-fuckers over".

Q Do you know whom they were referring to?

A They were looking straight at us.

Q Now, returning to this first occasion that you were at the Shiloh Church, Mr. Janelle, when Chief Pritchett arrived on the spot and went in and came out, did the crowd disperse at that time?

A No sir, it did not.

Q Did you call the Chief there or do you know who called him?

A Chief Lairsey, I believe.

Q In your presence?

J 22

A Yes.

Q Why was Chief Pritchett called on the scene at that time?

A We were fearing violence after these cat-calls and throwing pebbles, coming from the church. We couldn't tell which one was throwing them. And there was a big crowd on the outside and vulgar talking and so forth. And I believe Chief Lairsey decided it was time for Chief Pritchett to see if he could come over there and talk to somebody.

Q You say what were being thrown?

A Pebbles, small rocks.

Q At whom?

A Well, we were standing on the northwest corner of Jefferson and Whitney and they were building a service station. That's also on the northwest corner. And the pebbles were hitting, I would say, approximately 10 feet away from us.

Q All right sir, that's all.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Now, July 11 was not a night or a day on which there was any demonstration, to your knowledge; isn't that right?

A I don't remember, not to my knowledge.

J 23

Q And you say there were approximately 200 on the sidewalk in front of Shiloh on that night: Isn't it true that, as a matter of fact, there is no sidewalk in front of or on the side of Shiloh, it's just a dirt area?

A That's right.

Q Just a dirt area, there is no sidewalk; and that's true on the side and the front?

A That's correct.

Q People walk all over that area generally, don't they?

A (No answer) . . .

Q Now, did Slater King or any of the other Defendants make any of the statements that you have referred to in your direct examination, these vulgar statements?

A No, he did not.

Q That was true on both occasions at Shiloh and at the Kiokee Baptist Church, isn't that true?

A That's correct.

Q Was an officer by the name of "Big Red" there on the night of the 11th?

A He was on the corner, he was on the southwest corner in the paddy wagon.

Q You didn't arrest anybody that night in that vicinity, did you?

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A No, I did not.

Q As a matter of fact, on the last occasion, I believe you said there were only about 100 people there at the church?

A On the walkway, as you call it.

Q On the walkway, and the church itself was full?

A It was.

Q And at no time did you hear any of the statements, these vulgar statements, referred to in your direct, by any of these Defendants?

A No, I did not.

Q Nor did you see or hear them suggest to anyone that they make any such statements?

A I did not.

Q Nor did you make any determination that those persons who made those statements were in any way connected with the Albany Movement, did you? You made no determination to that effect?

A I couldn't say but they were at the Church.

Q That's right, at the Church, but you made no determination as to whether or not they were in a fact a part of the Albany Movement?

A I can't say; I couldn't say.

MR. HOLLOWELL: I don't believe there are any other questions.

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BY THE COURT:

Q I believe you testified that the meeting was one being held by the Albany Movement?

A Yes sir, it was.

Q And so advertised?

A Yes sir.

Q All right.

BY MR. HOLLOWELL:

Q Just a moment, one further question: Have you ever had any vulgar statement made to you by any white person?

MR. LEVERETT: Now, may it please the Court, that's immaterial to this case. The question here is not the relative merits of the two races but as to whether or not the evaluation of conduct on a particular occasion the situation.

THE COURT: In the broad form in which you have asked the question, I think it would be objectionable, Mr. Hollowell. You asked him at any time. Because that encompasses too great a sphere. But I will allow you to ask him if he had any statements made like that to him at the exact or approximate time when any of these meetings or disturbances that have been referred to.

MR. HOLLOWELL: Of course, Your Honor, what we

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Mr.Hollowell:

were particularly referring to is that it is not uncommon for this kind of language to be used by people of a certain level to police officers.

THE COURT: I'll let you ask him whether it's common or uncommon.

Q Mr.Hollowell: It is not vastly uncommon for you to hear this kind of language in certain areas of the town, is it?

A I'll put it this way, I'll explain it. Now, I have been cussed at by white people before, but I have never been cussed at in such a manner as I was these previous nights by a colored person.

Q By persons that you took to be colored, is that correct?

A They were colored.

Q I mean, you don't know exactly from whom the remarks came, do you?

A No, I don't but I know there was no white people on the walkway.

Q None that you saw?

A I didn't see any, for I looked for some.

Q You looked for some?

A Yes.

Q But you didn't see any?

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A That's correct.

Q But you could not say definitively that there weren't any there?

A Well, as far as I'm concerned, there wasn't any there.

Q This was a dark area on the side of Shiloh Church, was it not, and the light was on the corner and down on the alley; there could have been some there?

A The light was coming in from the windows of the church. I could see.

Q There could have been some there that you not saw, is that correct?

MR. LEVERETT: May it please the Court, I think he ought to specify what he means by "there".

MR. HOLLOWELL: He said "Yes". No further questions.

MR. R. V. HAMMONTREE

5th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. LEVERETT:

Q State your name and residence, please sir?

A R. V. Hammtree.

Q Mr. Hammtree, where do you live?

A 715 Oglethorpe.

Q Speak up louder?

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A 715 Oglethorpe.

Q I beg your pardon?

A 715 Oglethorpe.

Q How long have you lived there, Mr. Hammontree?

A Since November.

Q November of when?

A Last year.

Q Have you lived in Albany longer than that?

A No sir.

Q What is your occupation, please sir?

A Manager of the Trailways Grill.

Q The Trailways which?

A Grill.

Q The grill, is that situated in the Trailways

Bus Station?

A Yes sir.

Q Mr. Hammontree, calling your attention to the Saturday, July 21, I ask you did anything unusual happen in the Trailways Bus Station?

THE COURT: Which year now are you talking about?

Q Mr. Leverett: 1962?

A That was last - what date did you say?

Q Saturday?

A Well, there was a pretty good crowd come in there

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Saturday night.

Q What, if anything, had preceded the crowd coming in to the bus station?

A Well, there'd been a march up the street.

Q A march up which street?

A Up Jackson.

Q Was it colored people-

A Yes sir.

Q Or white people involved?

A Colored.

THE COURT: Counsel, the record will be confused unless we get it straight about what date we're talking about. You stated that you were talking about July 21, 1962. The witness used the phrase "last Saturday". That would not be July 21, 1962. Let's get the record straight about what date this occurred.

Q Mr. Leverett: Was it last Saturday?

A It was a week ago.

Q Saturday was a week ago?

A Yes sir.

Q Now, the people that came to the bus station, were they white or colored?

A They were colored.

Q Do you have any idea how many of them there were?

JFO

A No, I don't. It was full.

Q You say the bus station was full?

A Yes.

Q What were they doing?

A Well, they were hooting and hollering.

Q Did any of them buy a bus ticket?

A Not as I know of.

Q And where is your grill situated with respect to the outside area there where the waiting room of the bus station is?

A Well, as you come in at the door, you turn to the right to come into the grill.

Q Were you observing these parties coming in?

A Yes sir.

Q Did you hear anything that was said by any of them?

A Yeah, I heard a few things.

Q All right sir, what? Will you tell us some of the things that you heard? Go right ahead, sir?

A Somebody hollered out and said, "If you want to shit, just shit in the floor and piss all over the place".

Q Did you hear anything else?

A Not in particular, no.

Q What was the general attitude of the crowd that

J.B.

came in the bus station there?

A Well, they were pretty rowdy, seemed like. They were hollering and going on.

Q What, if anything, what did you do as soon as they came in?

A I didn't do anything.

Q Was it necessary to lock the building that you were in?

MR.HOLLOWELL: If it pleasethe Court, I ask him not to lead the witness, please.

THE COURT: Don't lead him.

A The Witness: I don't reckon the building was locked.

Q Mr. Leverett: What about your grill of restaurant?

A It wasn't locked.

Q It wasn't locked?

A No.

Q Now, the following Monday night, Mr. Hammontree, I'll ask you whether or not anything happened at the bus station?

A Yes sir, there was not as many as there was Saturday night but there was a bunch come in there Monday night.

Q A bunch of whom?

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A Colored people.

Q Do you know how many?

A No sir, I don't.

Q What were they doing?

A Just about the same thing, only there wasn't as much racket because there wasn't as many of them.

Q Wasn't as many of them?

A No.

MR. LEVERETT: He's with you.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Mr. Hammontree, what are your initials, sir?

A R. V.

Q R. V. Hammontree, H-a-m-m-o-n-d-t-r-ee ?

A No "d".

Q H-a-m-m-o-n-t-r-e-e (spelling), and you have been manager of the Tailways Grill for how long?

A Since November of last year.

Q From whom do you rent?

A From whom do I rent?

Q Yes, for whom do you work?

A For the Union News.

Q The Union News Company, Inc.

A Yes.

Q And from whom do they rent?

A I don't know.

Q Do you feed Negroes in the grill?

A Yes.

MR. LEVERETT: Now, if it please the Court, we object to that question on the ground that it's irrelevant and immaterial to this case. No. 2, going into matters that were not gone into on direct examination.

MR. HOLLOWELL: I submit, Your Honor, that it has been gone into in this trial; and there has been testimony of the arrest and there is testimony to the effect that it was at the instance of this gentleman, who is the manager of the Grill.

THE COURT: Go ahead.

MR. HOLLOWELL: Would you repeat the question, read the question please, Mr. Reporter?

THE REPORTER: "Question: Do you feed Negroes in the Grill? Answer: Yes."

Q Mr. Hollowell: Is that true, sir?

A Yes.

Q When is the last time you had one to eat in there, do you remember?

A No, I don't.

Q When did you ever have one in there that you fed?

A Well, the date I don't remember.

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Q Do you remember the month?

A Oh, there's one in there every day or two.

Q Every day or two?

A Yes.

Q Have you had the occasion to call the police when Negroes have come in there to eat?

A I haven't called the police.

Q Have the police had the occasion to come and make arrests of persons who were soliciting services in there?

A They have.

Q Without your instance, without you having called them?

A Well, I hadn't called them, no.

Q Without any of your personnel calling them?

A I don't know who called them.

Q Well, as the manager, this would be normally your responsibility, right, as the manager of the grill?

A I don't know.

Q You don't know?

A No.

Q When did this happen?

A What is that?

Q These arrests, when the police came and arrested people?

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A Now, it's been a right smart bit.

Q Beg pardon?

A It's been a right smart bit, I don't know just when.

Q Was it after the 1st of November?

A Yeah.

Q Of 1961; it was subsequent to November 1, 1961?

A Yes.

Q How many times do you recollect this having happened?

A Twice, I believe.

Q At least twice?

A I believe it was. I wouldn't be sure.

Q Do you recollect how many were arrested?

A No, I don't.

Q Have you seen the police approach Negroes sitting in the waiting room and those Negroes subsequently leave?

A I haven't.

Q You have not had the occasion to see that?

A No.

Q Do you remember the names of Leroy Rogers and Joseph Pitts and Ulysses Cauley?

A No.

Q Did you have a warrant issued for any Negroes

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during the month of June?

A I did.

Q You did?

A Yes.

Q What were those Negroes doing?

A Well, they were just running around over the restaurant.

Q Did they sit down?

A They sit all over the place.

Q Were they fed?

A No.

Q Did they ask for services?

A No.

Q Naver did ask for services?

A They never did.

Q Did anybody in your establishment ask them if they wanted to be served?

A I did.

Q You did?

A I did.

Q How many times?

A Well, I don't know how many times.

Q What did they say?

A They didn't.

Q Where were they sitting at the time that you made

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this request of them as to whether or not they wanted to be served?

A At one time they were sitting on the stools.

Q And you personally asked them?

A I did.

Q Who else was present at that time working in the grill?

A The waitresses.

Q What are their names?

A Virginia Cochran.

Q Beg pardon?

A Virginia Cochran.

Q And?

A I think she was the only one that was there.

Q Do you know where she lives?

A She lives at Sylvester.

Q Sylvester, Georgia?

A Yes.

Q Does she commute each day?

A Yes.

Q One moment, Your Honor. . . As a matter of fact, you made change for one of the young men in order to get cigarettes, isn't that true?

A No.

Q You didn't make any change?



A I did not.

Q What's the young lady's name, Miss Cochran, did she make any change as far as you recollect?

A She did not.

Q Did you see Chief Summerford when he came?

A I don't know him.

Q The Assistant Chief?

A Yes.

Q You saw him when he came?

A Yes.

Q What did he come for?

A I don't know.

Q You don't know?

A No.

Q Isn't it true that he said to you or you said to him, "You see they aren't going to leave, why don't you go on and arrest them"?

A No.

Q You didn't make this statement?

A No.

Q Do you know this Defendant here, Charlie Jones?

A I've seen him.

Q Beg pardon?

A I've seen him.

Q You've seen him; have you seen him in your place

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of business?

A I have.

Q Has he requested service?

A He has.

Q Has he been served?

A He has.

Q How many times?

A I wouldn't know.

Q Do you know what he was served?

A No, I don't.

Q Is it not true that on one occasion when he was there, you asked him for an interstate ticket?

A I don't remember.

Q You don't remember you asking him for an interstate ticket, and when he refused to show you that he had a ticket, then you refused to serve him?

A I don't remember.

Q You don't remember that?

A No.

Q Now, these people that you say were in the place or in the waiting room on the night of the 21st, they went on out of the building?

A They did.

Q And this was also true on the night - on the Monday following, is that not true?

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A Right.

Q You didn't call the police on that night, did you?

A No, I didn't.

Q You say you did not?

A I did not.

Q They didn't do any damage to your place, did they?

A They didn't.

Q As a matter of fact, they didn't do any damage to any of the facilities in the building, did they?

A I wouldn't know.

Q Well, you didn't see any?

A I didn't see any.

Q Isn't it true that you had the occasion to appear in court in connection with your having had Charlie Jones arrested?

A I don't remember appearing in court when he was arrested.

Q This was in January of '61 - '62, sorry?

A I don't remember him being tried.

Q You don't remember him being tried?

A No.

Q You do remember his having been arrested but you don't remember him being tried, is that correct?

A No, I don't.

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Q Beg pardon?

A I don't.

Q You don't; you don't what? You don't remember him getting tried?

A That's right.

Q But you do remember him getting arrested?

A That's right.

Q Isn't it true that, as a matter of fact, the day you came to court he wasn't tried?

A Do what?

Q I say, the day you came to court he wasn't tried, was he?

A I wouldn't know.

Q Don't you recollect that that was the day when they changed the charge from loitering to something else; do you remember that?

A I don't know anything about that.

Q You do remember coming to court, but you don't remember his being tried, is that correct?

A I've been to court.

MR. HOLLOWELL: We have no further questions.

MR. LEVERETT: Come down. Call Mr.

W. E. Sweeting.

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6th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. LEVERETT:

Q Is your name W. E. Sweeting?

A Yes sir.

Q Mr. Sweeting, where do you live?

A I live at 1115 10th Avenue, Albany, Georgia.

Q How long have you lived in Albany?

A Since 1948.

Q What is your occupation now, please sir?

A Well, right at the present time I'm out of
an occupation. I was manager of the bus company, the
City bus company.

Q Is that the bus company that afforded municipal
services in the City of Albany?

A Yes sir.

Q How long were you manager of that bus company?

A From the beginning here in 1946.

Q What was the name of the bus company?

A Cityee Transit, Inc.

Q Why is it not still in business now?

A We were boycotted.

Q Did you go out of business or what?

A Yes sir, we closed down because of the boycott.

Q When did you go out of business?

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B I operated the last day - I can look here and tell the last day - on the 6th day of March.

Q The 6th day of March?

A Yes sir.

Q When did this boycott begin?

A Well, it started, supposed to have started about December 18. It didn't become effective to any extent until about the 24th day of January.

Q Allright sir, who put the boycott in effect?

A The Negroes of Albany.

Q What effect did it have on your business as far as the volume of business that you had been doing before that?

A It knocked about 2/3 of our business.

MR. LEVERETT: All right sir, he's with you.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Is it Sweeting?

A Yes.

Q S-w-e-e-t-i-n-g (spelling)?

A Yes.

Q Mr. Sweeting, at the time of the issuance of the franchise to your Company, one of the things that you were required to do was to obey the ordinances of the City, isn't that true?

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X MR. LEVERETT: May it please the Court, I object to that testimony. There has been no testimony as far as any municipal bus company was concerned and it's irrelevant and immaterial.

MR. HOLLOWELL: I submit to Your Honor that there has been testimony concerning a bus boycott, and this was opened up by the Plaintiffs' direct; and I would submit that inasmuch as there has been testimony concerning it, we would be at liberty to show why there was one, if in fact there was; otherwise, all of his testimony would have to be stricken.

THE COURT: I'll let you go into it.

MR. HOLLOWELL: Would you read the question, Mr. Reporter?

THE REPORTER: "Question: Mr. Sweeting, at the time of the issuance of the franchise to your Company, one of the things that you were required to do was to obey the ordinances of the City, isn't that true?"

A The Witness: That's always a requirement in the business.

Q Mr. Hollowell: You were aware of the fact that there is a segregation ordinance requiring the separation of Negro and white passengers on the City busses, are you not?

A No, I am not - to say that I am familiar with that ordinance, I am not.

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Q Did you have a policy of separation of Negro and white passengers on your busses prior to December of 1961?

A Not necessarily so.

Q What do you mean "not necessarily so"?

A I mean that we never had any -separated any passengers on our busses, unless we had reason. Our drivers were always instructed to, if they had cause, the passengers on the busses causing a disturbance on the bus or something, then they did what was necessary to bring it down. But to make it -

Q Well, what - excuse me -

A But we never assigned seats on our busses to any one at any time.

Q Now, when you say "reason" what would be among those reasons?

A If there got to be a quarrel between passengers on the busses or something of that nature.

Q If a Negro took a seat in front of a white person on the bus, this would be cause, would it?

A If it caused it, yes, if there was a disturbance.

Q Have you had the occasion to have the police to get on your bus and to cause passengers to be re-seated on any of the busses on your line?

MR. LEVERETT: May it please the Court, unless this witness was there and had first-hand knowledge

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Mr. Leverett:

of it, it would be hearsay as far as he is concerned.

MR. HOLLOWELL: He can testify as to whether or not he has, No. 1. And No. 2--

THE COURT: I overrule the objection.

MR. HOLLOWELL: Thank you; would you read the question, sir?

THE REPORTER: "Question: Have you had the occasion to have the policy to get on your bus and to cause passengers to be re-seated on any of the busses on your line?"

Q Mr. Hollowell: Insofar as you know?

A That's right.

Q Now, during the course of the boycott, did you ever receive any communication from the Mayor or from the Chief of Police or from anybody in any official City capacity, in which communication you were informed that the City police department would not enforce the segregation laws as pertained to busses in the City of Albany?

A They never had any occasion to do that because they never did.

Q Do I understand then your answer to be, no, that you never received any such communication?

A No, we never did; there was no reason for us to.

Q But you never received one?

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A No.

Q Do you recall a conference between yourself and the owner in Tallahassee, I believe it is, ^{and} a Mr. Page, in which it was stated that if the Albany Movement would encourage the use of the busses, then the management would see to it that there was no further segregation on the busses?

A Would you repeat that question, please sir, I didn't understand it?

Q MR. HOLLOWELL: Would you read it, sir?

THE REPORTER: "Question: Do you recall a conference between yourself and the owner in Tallahassee, I believe it is, and Mr. Page, in which it was stated that if the Albany Movement would encourage the use of the busses, then the management would see to it that there was no further segregation on the busses".

A The Witness: There was never any such.

Q Mr. Hollowell: You have no recollection of any such conference?

A It never happened.

Q At no time?

A No.

Q Have you ever told any members of the leadership of the Albany Movement that you would not segregate on the

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busses?

A We told the leaders of the Albany Movement that we met with -

Q Just a moment, sir --

THE COURT: Let him answer the question.

MR. HOLLOWELL: Well, I want a direct yes or no.

THE COURT: If it is not responsive, we'll require him to respond.

MR. HOLLOWELL: If it please the Court, what I want to get at is a categorical answer. I have no objection to his explaining.

THE COURT: Is the question - I have forgotten the exact wording of the question. Is it one that can be answered that way?

MR. HOLLOWELL: Yes sir.

THE COURT: Alright. Then, answer the question either yes or no, if it is such a question, and then you can explain it.

MR. HOLLOWELL: Would you like to have it re-read to you?

The Witness: I would.

MR. HOLLOWELL: Mr. Joiner, would you read it?

THE REPORTER: "Question: Have you ever told any members of the leadership of the Albany Movement that you would not segregate on the busses?"

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Q **Mr. Hollowell:** Yes or no, Mr. Sweeting?

A I think I could probably answer that yes.

Q When?

A During the meeting in Page's house.

Q Under what circumstances?

A To discuss the reason for the boycott.

Q You told them that there would be none, that you wanted them to encourage Negroes to use the busses, is that not correct?

A Well, I don't know that that can be answered yes or no.

Q Was there any indication given at that meeting for the so-called boycott?

A I don't quite get the meaning of your question there.

Q I think I can remember it. I said, was there any reason given by the persons with whom you talked at this meeting as to the reason for the so-called boycott?

A Yes, there was a reason given.

Q What was that reason?

A Well, when it finally came down, they were using us as a pry against the City. They actually had no complaint against us at all.

Q They had no complaint against you at all?

A No.

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Q Did they say that they did not like the segregation on the busses?

A They had a request written down, I think about 3 or 4 requests that they were asking us to comply with at the time. They had a typed sheet and I think there was 3 or 4 different things on there that they wanted us to do and we said we had no objection to doing the things they wanted.

Q You told them you had no objections?

A That we had no objections.

Q But did the City to your knowledge ever tell them that they would permit you and them to carry out that which you had amicably discussed and agreed upon?

A I couldn't say what the City told them. I know what the City told us.

Q You know what the City told you?

A I know what the City told us. I can't say what they told them.

Q What did the City tell you?

A They told us that they had - that they would not interfere.

Q They said they would not interfere?

AT They did.

Q Do you know whether they ever made this public to Negroes?

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A I'm not - I couldn't say.

Q You've never read it anywhere?

MR. LEVERETT: May it please the Court, he said he didn't know.

____ Q Mr. Hollowell: My question was, have you ever read it anywhere?

A What do you mean, in the newspapers?

Q In the newspaper?

A I don't recall whether I've read that exact words in the newspaper. I mean just to that effect.

Q You don't have any recollection of ever reading it, do you?

A No, I could have. If it was in there, I probably read it, but I don't recollect reading it in the paper. I think it was stated in the paper, I'm pretty sure it was stated in the paper at one time or another that the City had agreed with us that they wouldn't interfere.

Q What paper and when?

A Well, now you're asking me a question, I can't remember the exact date. Sometime during this thing, and it would be probably in the Albany paper.

Q You never heard it over the radio, did you?

A No, I don't listen to the radio very much.

Q And you never heard it or saw it on the TV, did you?

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A I could have seen it on TV as a news item.
I don't recall.

Q I mean, you don't have any recollection of ever doing so?

A No.

Q Now, if it had, you would have known about it because it would have meant that your busses would have been operating, wouldn't it?

A Not necessarily, not unless the people had gotten back on them and ridden them.

Q There would have been no reason for them not to, would there?

A Well, if you're asking my opinion, I don't think they had any reason from the beginning.

Q I see. Well, you know, as a matter of fact, that the reason that Negroes were not riding your busses was because of the fact that the City would not agree that would not agree with them not to arrest Negroes if they sat anywhere they may have wanted to sit on the bus, do you not?

MR. LEVERETT: May it please the Court, we object to that. That's irrelevant and has no bearing on this. It would also be a conclusion of the witness about what the City would do.

THE COURT: Yes, it calls for him to read

JJB

The Court:

the minds of the City and of the people who weren't riding; it calls for him to read their minds. I sustain the objection.

____ Q Mr. Hollowell: One moment, sir. . . Now, was there any time when you had a meeting with any of the leaders of the Albany Movement that their attitude was other than not riding on a segregated bus system?

A Well, they said that was their reasons.

Q Very well; no further questions.

REDIRECT EXAMINATION

BY MR. LEVERETT:

Q Mr. Sweeting, do you recall any committee meetings in this relationship at the Chamber of Commerce?

A We had numerous meetings at the Chamber of Commerce.

Q Do you know whether or not the Chamber of Commerce or anybody representing it ever communicated with members of the Albany Movement about any determination that had been made?

A Yes, I definitely know that there was some communication.

Q What was that communication?

A I couldn't swear to it, to the exact communication. I know they had some meetings. I was told by them

J. J. F.

that they had some meetings.

MR. HOLLOWELL: May it please the Court, he "was told by them", sheer hearsay.

THE COURT: Do you know it any other way, other than what somebody told you, Mr. Sweeting?

Q Mr. Leverett: Did you ever discuss it with any members of the Albany Movement about this communication?

A Did I?

Q Yes sir?

A Yes.

Q Who did you discuss it with?

A I couldn't remember the exact people; I don't recall the exact people, but I do know that I had some discussion with some of the representatives of the Albany Movement with regard to that.

Q What was the communication?

A They were trying to have a meeting or reach some grounds, whereby they could keep the Bus Company going, and see why these people weren't satisfied, since we had told them that there was nothing asked in this agreement, in this request that they had typed up, that there was nothing in that request that hadn't been put - that hadn't been in practice already; and consequently, they thought that there might be some possible way to reach an agreement on the thing and call off the boycott, since

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they hadn't asked for anything that wasn't already being done.

Q What, if any, reply was made by the leaders of the Albany Movement?

A Now, that I couldn't swear to, what their reply was.

MR. LEVERETT: He's with you.

THE COURT: Anything further from this witness?

MR. HOLLOWELL: I believe not, Your Honor.

THE COURT: You may go down.

CAPT. MELVIN R. CLEGG

7th witness called and sworn in behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. LEVERETT:

Q Is your name Captain Melvin R. Clegg?

A It is.

Q Captain, where do you live?

A My home address?

Q Yes sir?

A 1215 7th Avenue, Albany, Georgia.

Q How long have you lived in Albany?

A 17 years.

Q And what is your occupation or profession now?

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A Captain on the Albany, Georgia Police Department.

Q How long have you been engaged in police work?

A 15 years.

Q How long in Albany?

A 15 years.

Q Captain, I call your attention to Tuesday night, which I believe was on July 24, and ask you if anything unusual happened that night?

A Yes sir.

Q Would you tell in your own words what happened insofar as you participated in it?

A At approximately 10:30 P. M. I was in the 100 block of North Jackson Street along with other City police, State troopers, County police. We received a call to muster down in the 100 block of South Jackson Street at the intersection of Oglethorpe. As we arrived there, Chief Pritchett advised us to - that he wanted us to get in two lines. Looking across the street I imagine there was 2,000 Negroes on both sides of the street, blocking the street, hollering at cars, jeering and running back from the bus station to the east side of the street, and all up and down in the Harlem area.

Q Were they on the sidewalks or in the street or both?

A They were in the street, on the sidewalk,

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blocking the corners and running back and forth on both sides of the street.

Q Was there 2,000 on each side or was there a total of 2,000?

A I estimate, I would estimate 2,000 all told.

Q All right sir, how many police officers were with you that night?

A I would say 125 to 150.

Q Now, what did you do?

A The Chief said, after he got us in two columns to line both sides of the street, we proceeded down into the 100 - into the 200 block of South Jackson Street. We were dispersing the crowd that was in the street. They were sitting on automobiles, they were congregating on the sidewalks, jeering, harassing and hollering names at us.

Q Do you recall any of the names that were used that night?

A I heard them call us "pale-faced son-of-a-bitches".

Q Anything else?

A Distinctly, I didn't hear nothing else.

Q What was in front of your column?

A Pardon?

Q What was in front of your column? Did you have any motor vehicles?

A We had two motorcycles.

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Q Allright sir, and proceed to tell what happened?

A We proceeded on down to the 300 block of South Jackson Street, when Chief Pritchett give us the order to hold up. Just as we arrived there at that destination, glass was being broke all around us, bottles, focks were being thrown. Somebody said that one of the troopers was hit side of the head. I turned around and caught a glimpse of an object that I couldn't get out of the way of and I was struck in the chest. It was a pint wine bottle.

THE COURT: Is it your testimony that you were struck in the chest with it?

The Witness: Yes sir.

___ Q Mr. Leverett: Could you tell who threw that bottle?

A I could not. I could only tell the direction that it came from.

Q In the direction that it came from, were there white people there or Negroes or both?

A No, it was Negroes.

Q What section of town was this in?

A This was in the 300 block of South Jackson Street.

Q Is that the area known as Harlem?

A That's correct.

Q Now, did you make any effort to apprehend or

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arrest the person?

A I did not. We held our ground.

Q Will you state to the Court why, with regard to any instructions that you had received, why you didn't undertake to make an arrest that night?

A We were down there to disperse the crowd, we were to hold our ground there, we didn't want to create any violence; we were down there to instruct the people to move, to keep from having any trouble.

MR. LEVERETT: He's with you.

CROSS EXAMINATION

BY MR. HOWLOWELL:

Q Captain Clegg, how do you spell your last name, C-l-e or C-l-a?

A C-l-e.

Q Captain Melvin L., is that correct, sir?

A Melvin R.

Q Captain, what were you doing in the 100 block of North Jackson about 10:30?

A A We were keeping the sight-seers or pedestrians moving in that area and we were stationed there if any other demonstrations were fixing to come on.

Q You weren't having any trouble in that area?

A No, we were keeping that area cleared out, all traffic and walk walking pedestrians.

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Q You weren't having any trouble in the 100 block of South Jackson either, were you?

A No, we had that area blocked off.

MR. LEVERETT: May it please the Court, let him finish his answer.

Q Mr. Hollowell: I thought he was. Had you finished, sir?

A Yes.

Q You didn't have any trouble in the block between Broad and Oglethorpe, you didn't have any trouble there? Actually, you were called down into the 200 block of South Jackson by the Chief?

A ^{No,} We were called into the 100 block of South Jackson Street by the Chief, to the intersection. That's where we fell in columns.

Q You testified before, I believe, that you were in the 200 block and that the Chief had called you down from the 100 block of North Jackson to the 200 block of South Jackson?

A It was the 100 block of South Jackson.

Q Where do you construe the 100 block of South Jackson to be?

A Broad Street separates it.

Q Broad Street separates it; so, it would be the block between Broad and Oglethorpe, is that correct?

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A That 's right.

Q That's the 100 block?

A Yes.

Q Now, you had no difficulty in that area either?

A No, we kept that area clear.

Q You kept that area clear?

A That's right.

Q Now, were you there at the time that the folk who were arrested at the corner of Oglethorpe were directed on into the street and up Jackson to the alley there off of Jackson leading in behind the City Hall?

A I was.

Q And there had been no difficulty prior to that time? You shook your head "No"?

A That's right.

Q So, it was only after the arrest and when the Chief of Police with two motorcycles in front of him went back down into the area to the south of Oglethorpe that you said you saw some folk crossing back and forth and that this is the general area of concentration, insofar as the people were concerned?

A That was the heavily concentrated area.

Q The heavily concentrated area?

A Yes.

Q As a matter of fact, normally on a Saturday night,

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for instance, that's a heavy concentration anyhow, isn't it?

A I've never seen that much concentration in one spot, no.

Q That wasn't my question, sir. I say normally, between the hours of 9:00 and 11:00 on a Saturday night, really on 'most any night, that's a fairly congested area in that block between Highland and Oglethorpe on South Jackson?

A Do you mean Saturday night? This was Tuesday night.

Q Well, I'm saying on 'most any night but particularly on Saturday night?

A Not that many.

Q I didn't say that many?

A Well, it's congested, yes.

Q It's a congested area, generally?

A That's right.

Q Now, you say you don't know where this bottle came from?

A I know the direction that it came from.

Q Now, in 2,000 people at night, and this, you say, was after 10:30, you don't know whether there were any white interspersed with the Negroes that you say were there or not, do you?

A I didn't see any.

Q You didn't see any, but you don't know whether

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there were any there?

A I couldn't say.

Q And you don't know who threw this particular bottle?

A I do not know who threw it.

Q You don't know whether it was a person who had been paid for that purpose or not?

A All I know is, I saw it coming and it hit me.

Q And it hit you right here, you say, in the chest?

A Chest, yes.

Q Hit you in the chest and immediately after it hit you, what did you do?

A I stayed right where I was.

Q You stayed right where you were; you didn't go any place?

A No.

Q It didn't cut you?

A It broke the skin.

Q It broke the skin?

A Yes.

Q How big a place was it?

A Not much.

Q Just hit and broke the skin?

A Hit flat.

Q Just a slight break in the skin?

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A Yes.

Q And this is all that happened to you, is that correct?

A That's right.

Q Now, you don't know who it was that allegedly made the statement, this one vulgar statement that you said you heard; you don't know who it was?

A I do not. I was busy telling the people to move on and get out of the street, when I heard the statement.

Q You didn't have to go to the doctor with this little break in the skin, did you?

A No, I didn't.

Q Did you see any of the Defendants? Do you know who the Defendants in this case are?

A Do what?

Q Do you know who the Defendants in this case are?

A I know the main Defendants, yes.

Q Maybe we'd better -- Did you see Marion Page there that night?

A No.

Q Did you see Slater King there on the night in question?

A Did not.

Q Did you see Charlie Jones there on the night in question?

A No.

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Q Did you see Dr. Anderson there that night?

A Did not.

Q Did you see Rev. King there that night?

A Did not.

Q Did you see Rev. Abernathy there that night?

A I did not.

Q Did you see Mrs. Ruby Hurley there that night?

A Who is that?

Q Mrs. Ruby Hurley?

A I don't believe I know her.

Q How many bottles did you see? Only that one was the only one that you actually saw, wasn't it?

A I heard a lot of bottles being broken.

Q But you don't know where they were being broken?

A They were broken all around our feet.

Q Around your feet?

A That's right, in the street, where we were in the street.

Q There was nobody else hit but you, that you know, was there?

A Yes, there was a State Trooper hit.

Q Who was it?

A State Trooper was hit.

Q Who was it? Who was that State Trooper?

A His name is Hill, I believe.

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Q Hill, Trooper Hill?

A Yes.

Q Was there anybody else?

A Not that I know of.

Q Not that you know of. Now, you say there were some 2,000 people in the radius of the space between the 2- and 300 blocks of South Jackson Street?

A That's correct, I would estimate it at that.

Q This is what you would estimate it; now, how do you know that there was this number of persons?

A Well, that was my own interpretation, I mean estimate that there was 2,000 people.

Q What did you use as a basis of your estimate?

A Well, on the amount, on the large crowd that was gathered.

Q Beg pardon?

A The large crowd that was gathered.

Q Did you count any people?

A I did not count them.

Q You did not count them; you know that the sidewalk is not very wide?

A That's right.

Q Is that right?

A That's right.

Q And this was just the distance of a short block

500

and a half?

A That's right.

Q Isn't that true?

A That's correct.

Q So, this is just your estimate --

MR. RAWLS: Your Honor, he's testified 3 or 4 times on that.

THE COURT: I think about 5 times. He has said that it is simply an estimate and I really see no reason to continue ask him the question. I realize he's under cross-examination and you have a wide latitude, but let's try not to repeat it so much.

MR. HOLLOWELL: I was trying to establish whether he had any basis for his estimate, if Your Honor pleases.

THE COURT: Well, he simply said he looked at the crowd and that's his estimate; and I don't think he can do any better than that and I doubt if you could get any more out of it by belaboring it.

MR. HOLLOWELL: I don't believe we have any further questions. . . . Just a moment.

Q Oh yes, have you seen Wyatt Walker, do you know him when you see him, Rev. Wyatt Walker?

A I do.

Q Did you see him on that night in that vicinity on

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that occasion?

A I did not.

MR. HOLLOWELL: I don't believe there any any further questions.

REDIRECT EXAMINATION

BY MR. LEVERETT:

Q Captain Clegg, what, if anything, had just preceded this disturbance that you had to go in and help quell?

A Back on May 10 --

MR. HOLLOWELL: If it please the Court -

MR. LEVERETT: I'll withdraw the question.

___Q I want to advise the witness, I mean on this night?

A Oh, excuse me. Repeat your question.

Q What, if anything, had just preceded the disturbance which you had to go in and quell? Was there anything that had just preceded that?

A Yes, they were harassing the officers; that were down in that area. They were hollering at the people going by in their cars.

Q You mentioned, I believe, on cross that some arrests had been made prior to this difficulty that you had: Were you present when those arrests were made?

A No.

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Q You were not?

A No sir.

THE COURT: All right, you may go down.

We will take a recess at this time until 9:30 tomorrow morning.

5:00 P. M., AUGUST 1, 1962: HEARING RECESSED

9:30 A. M., AUGUST 2, 1962: HEARING RESUMED:

MR. RAWLS: May it please the Court, before we start the proceedings this morning, I should like to call the witnesses that we anticipate putting up today and see if they are all present:

Is David O'Scott here?

Is Marvin Lorig here?

Mr. Charles Stanfield;

P. L. Westbrook;

Lt. B. L. Manley of the police force;

Capt. J. E. Friend, Captain of the Detectives;

Assistant Chief, James J. Lairsey;

Fire Chief W. E. Moody;

Patrolman R. G. Willis;

Assistant Chief Leslie Summerford.

Mr. Marshal, call to the stand the witness, David O'Scott, please.

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8th witness called and sworn
in behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q You are Mr. David O'Scott?

A That's correct, sir.

Q Have you been sworn, Mr. O'Scott?

A Yes sir, I have.

Q Where do you live, Mr. O'Scott?

A In Albany, Georgia, sir.

Q What occupation or profession do you follow?

A I'm a freelance newswriter and also a
collection consultant.

Q Do you have any knowledge concerning the
incident which happened in connection with the Albany
Movement's activities here on July 21?

A Yes sir, I do.

Q What is that knowledge, Mr. O'Scott?

A To the best of my recollection, the 21st of
January was a Saturday, at which time I was present at the
Shiloh Baptist Church covering the mass meetings of the
Albany Movement.

Q Do you know whether it was morning or afternoon?

A I was there in the afternoon through the latter
part of the afternoon and into the evening, sir.

Q Did I say January - you understood me to say

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July, is that right?

A Yes, July, I'm sorry.

Q Are you talking about July?

A July, yes sir. This was a couple of weeks ago.

Q Did you see any of the Defendants who are in court here at the mass meeting in the afternoon of July 21?

A Yes sir, I did.

Q Will you name the ones you saw, please?

A The only two that I saw were Mr. Slater King and Mr. Charlie Jones.

Q Jones and King, is that right?

A Right.

Q What, if anything, did you see them do or hear the say in connection with the mass meeting of the Albany Movement at that time?

A Well, they had informed the people in the congregation that they had been served with an injunction and, to the best of my knowledge, said that they could not participate actively.

Q Actively?

A Actively in any demonstrations, demonstrations as such. I cannot remember the exact words that went on without my notes or without listening to tapes to be played back. One of the remarks made was that "I cannot lead any march but it is not up to me", because I have this paper,

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and they waved this court injunction up in front, on the pulpit, so to speak.

Q Who was that statement made by?

A By Charlie Jones.

Q He's one of the Defendants, isn't he?

A Yes sir.

Q Now, to what size group or audience was that statement made?

A Better than 200 or 250 individuals.

Q I'll ask you whether or not it was made at the same locale or the same church that the previous meetings of the Albany Movement had been held?

A One of the previous churches, sir.

Q In what church was it made?

A It was made at the Shiloh Church.

Q At the Shiloh Church. Now, have you observed the pattern of these marches or protests in the past?

A Yes sir, I have, since the very beginning.

Q What is your recollection of the pattern that they took or followed?

A Well, to the best of my knowledge, it started towards the middle of December of last year; they started in large groups, in large numbers back in the latter part of last year. I believe there were upwards of 200 in the marches that did take place. Then, I believe it was in

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April and March, March or April I should say, the Albany Movement or one of the organizations started picketing in the City in the 100 block of North Washington leading up to these demonstrations and marches that have taken place the past month. Saturday night, the 21st of July, Slater King and Charlie Jones were speaking to the group - this to the best of my knowledge was after 8:30 to 9 o'clock in the evening --

Q On what date was that?

A July 21, Saturday. And I noticed in the back door the Rev. King, his wife and several other people come into the back door and go into the pastor's study; and at this time somebody came up from the back room.

Q Do you refer to the Defendant, the Reverend Martin Luther King?

A Reverend Martin Luther King, yes sir.

Q Now, your testimony is that he came to the door of the church while Slater King and Jones were in the process of addressing the gathering?

A Yes.

MR. HOLLOWELL: If it please the Court, that was not the testimony.

THE COURT: Well, the record will show.

Q Mr. Rawls: Well, what is your testimony relative to that?

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A Slater King and Charlie Jones had just concluded, ended their conversations to the people in the congregation of the Shiloh Baptist Church, and a colored minister got up—at the present time I cannot think of his name - and he was addressing the congregation. And a colored gentleman came from the back room where the Rev. Martin Luther King and his wife and several other people that I couldn't see because of the crowd ,and whispered something to the Reverend on the pulpit. And I cannot assume what he whispered. But the crowd was in such a frenzy then that they were going to march on the City of Albany, no matter what happened, no matter who led them. And at this time they did march.

Q Was there anything said prior to the march by Jones or King either one relative to any injunction having been issued by the Federal Court?

A Yes sir, there was.

Q What was said about that?

A To the best of my knowledge, they said that "We have received this Federal injunction and we cannot actively lead you in these demonstrations", and I believe Mr. Jones said "I cannot lead you myself but you can go", or words to this effect.

MR.HOLLOWELL: If it please the Court, we move that that be stricken. It's repetitive. He's already

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Mr. Hollowell:

testified to this, it's the same direct examination, what the remarks were.

THE COURT: Well, he's just testifying more in detail. That's the impression I get. It's simply more in detail. I overrule the objection.

Q - Mr. Rawls: Mr. O'Scott, were you ever in any of the crowds or groups who gathered during the progress of one of these march protests yourself?

A The minute most of the marchers would leave or would start for town, I would go immediately to a phone to call a wire service in Atlanta, and then I would go to the downtown area approximately at Oglethorpe and Jackson to begin to meet the group when they arrived.

Q When the marching group, which constituted only a small part or portion of the crowd that was in the churches and around the churches, when they would march out, what would become of the rest of the people who were in the church and who were in the surrounding area there adjacent to the church, what would be their actions?

A Well, this last big march that I witnessed on this Saturday night, to start from the beginning all the way to the end, it seemed that the church completely emptied itself; and I thought there would be approximately 3- to 500 in this march. It seemed that everybody would go

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the direction of the marchers.

Q You're speaking about the march of July 24?

A No sir, July 21.

Q July 21?

A Yes sir. And it seemed that everybody went with the marchers and then when they got to Oglethorpe and Jackson, the number had dwindled considerably.

Now, on July 24, which was a Tuesday, if my memory serves me correct, of last month, I remember the marchers coming down South Jackson and past Oglethorpe at Broad, where they were stopped by the Chief of Police and other officers. The Chief asked them if they had a parade permit, I believe, which the leader said they did not. At that time they were asked to disperse, which they did not do. And one thing led to another and they were taken into custody. At this same time a large crowd of Negroes had fronted Oglethorpe Avenue, both east and west of Jackson, and all the way to the 2- and 300 blocks of Jackson. I would estimate a crowd of well in excess of 2,000. There were a -- Traffic was congested terribly on Oglethorpe, going both north and south. There were a lot of spectators and bystanders and there were a lot of filthy insults being hurled at the police.

Q Now, your judgment about what is filthy or not filthy might not conform but will you state to the Court

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Just exactly what was stated and to whom it was addressed and so on, if you know?

A Your Honor, these remarks that were made by these people were extremely low grade and, if the Court so desires me to answer the question exactly, I will.

THE COURT: Yes, state exactly what you heard.

A The Witness: Thank you. I was standing right on the northwest corner of Oglethorpe and Jackson and the colored people were on the south side of the street, and I heard such things as "you God-damn cock-sucking police, go home", "you white-faced mother-fuckers", "eat shit, you bastards", words like this. This went on for well over a half an hour, at which time the Chief ordered his men and the other men that were assisting him that they were going down into the south side of Oglethorpe to break up this crowd before - I assume before any riot broke out.

MR. HOLLOWELL: We object to any assumption that he may have.

THE COURT: Yes, we will rule out any assumption. It's not clear to me - but go ahead.

Q Mr. Rawls: Without stating your assumption, have you had experience in reporting similar instances over the Country?

A Yes sir, I have, nothing quite like this. I was

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at the Kohler strike at Kohler, Wisconsin, on one or two instances.

Q On the basis of what you saw there, will you state your opinion relative to the tenseness of the situation and the probability of an explosion?

MR. HOLLOWELL: May it please the Court, we will object to that. This would be purely conjecture and conclusion and opinion and speculative. There is no evidence that this man is any expert on the evaluation of the tempers of people. He says he has witnessed one strike, and certainly this is not sufficient to qualify him as an expert, so as to be able to give his opinion.

MR. RAWLS: I think, Your Honor please, whatever he says about his qualifications would go to the evaluation which should be given to his opinion. That doesn't mean he can't express an opinion but if the Court doesn't think he has had a great deal of experience that would enable him to form such an opinion, that would go to the evaluation of his testimony, but not to the admissibility or non-admissibility of his opinion; and we insist that his opinion is admissible.

MR. HOLLOWELL: May it please the Court, unless he is an expert, he has no right to give his evidentiary

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Mr. Hollowell:

opinion, as there would be no place for it in a court of law, under the laws of evidence that I know.

THE COURT: Well, I doubt that in a situation like this you would ever have a Ph. D. in Psychology standing around available to testify. I think police officers and people who have had experience in observing the public, people who are generally qualified by their experience to have opinions, I think they're qualified to testify. And when you present the Defendants' side of the case, if you have people of this type, police officers or people engaged in law enforcement, or people who are accustomed to watching the public crowds and dealing w with them, I expect to allow you to offer testimony to the contrary if you have it.

MR. HOLLOWELL: Now, if it please the Court, we don't expect, we wouldn't expect to put on someone to give an opinion who has not in the trial laid a sufficient foundation to justify his giving an opinion. I think this would be elementary in the law of evidence, that this would not be proper; and there has been no elicitation of information from this witness, indicating that he's ever seen any such, except on one occasion; and this certainly does not put

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Mr. Hollowell:

him in the category of being one qualified to make this kind of evaluation. He is not a police officer and by the testimony he's only had one experience and certainly this is not sufficient.

Q Mr. Rawls: Mr. O'Scott, you related just one --

MR. HOLLOWELL: If it please the Court, we are asking for a ruling before he proceeds.

THE COURT: I imagine what counsel is about to do is to ask him about the extent of his experience.

MR. RAWLS: That's exactly what I intended to do.

THE COURT: And I will rule on it as soon as he completes qualifying him.

Q Mr. Rawls: Mr. O'Scott, you related one incident where you covered a mass demonstration, is that the only one that you've ever witnessed in your career as a newspaper man?

A No sir, I've seen a lot of these mass demonstrations here in Albany, Georgia. I think I've seen just about every one they've had with few exceptions of the minor picketing. I have covered plane crashes, auto accidents, fights, not a great proportion but 10 or 15 people,

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and then this strike event in Kohler, Wisconsin, which involved several thousand.

Q So, you have had experience in evaluating the situations with reference to crowds, is that correct?

A Yes sir.

Q Now, on the basis of your experience and what you saw on these occasions, state whether or not, in your opinion, there was serious strife present and an explosion was imminent?

A Well, sir, I feel that something --

MR. HOLLOWELL: Just a moment, sir!- I offer my same objection and for the same reasons.

THE COURT: Alright, I will rule on it at this time. I overrule the objection.

A The Witness: May I proceed?

THE COURT: Yes.

A The Witness: Let me say this, Counsel, if the Chief or somebody immediately under him, Chief of Police Pritchett, had not moved into that area immediately as he did, the Lord only knows what would have happened in the City that night. The crowd was becoming unruly, extremely unruly. I imagine there were a few white citizens that were becoming upset because of the language that was being used. I think it could be best described --

MR. HOLLOWELL: We object to his imagination.



THE COURT: Yes, we don't want any imagination. If you observed anybody getting upset, you can so testify, but we don't want any imagination.

Q Mr. Rawls: Go ahead, but leaving out the imagination part?

A I think the best way to describe the entire conditions that evening, if I may go on to the point where Chief Pritchett did lead the law enforcement officers into the South, 200 block south on Jackson, I think that would best describe it.

Q Suppose you go ahead and describe what you saw?

A At that time Chief Pritchett ordered three of his motorcycle officers to form, I believe the right word is, cordon around him.

Q Form a what, I didn't understand you?

A Form more or less a spearhead to go ahead of him. He had one motorcycle immediately in front of him and two off to the side; and then he was on foot, walking and leading his men in groups of two down the center of the street, asking the people to go home. He said they had no business here, that somebody was going to get hurt and, if they didn't go home -- no excuse me -- He said somebody was going to get hurt and it would be best if they did go home. At this time bottles and rocks started flying from the west and east sides of the street. I did not see who

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threw any of these bottles. All I can say is that the minute everybody crossed the center line of Oglethorpe going south on Jackson, there were nothing but Negro people in that area. I myself personally was in approximately the center of the group of law enforcement officers going down, and I got mid-way down the block at approximately Highland Alley, which would be half-way between Oglethorpe and Highland, when one of the law enforcement officers yelled at me, "Dave, look out." At that time I looked up and I saw this bottle come whizzing at me and I ducked and it glanced me on the side of the head, and it broke harmlessly or broke on the ground without getting any further.

Q Will you describe as minutely as you can from your recollection the approximate number of missiles that were hurled in your direction? Was it just a casual few or was it a great number?

A It sounded like the 4th of July, with fire-crackers popping all over; and in this case it was bottles breaking all over. I would estimate in excess of 75.

Q Now, did you observe anything with reference to anybody undertaking to expectorate on anybody that was participating in the effort to stop the commotion there?

A There was one colored man - there was one colored man on the sidewalk that yelled - I imagine he yelled to the

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troopers - excuse me -

MR. HOLLOWELL: Here's his imagination again.

A The Witness: Okay, let me rephrase that.

THE COURT: Yes, let's don't put any
imagination in.

Q Mr. Rawls: Just state what he said, Mr.
O'Scott?

THE COURT: Whatever the facts are, no
imagination.

A The Witness: He said "Outside agitators, go
home", and then he spit. I do not know whether he hit any
of the law enforcement officers or not. I did see the
spit leave his mouth.

Q Mr. Rawls: Did he spit in the direction of
the law enforcement officers?

A Yes, he did.

MR. HOLLOWELL: Now, may it please the Court,
he's still leading the witness. Ask him, where did he.

THE COURT: Well, did he spit in the direc-
tion of the law enforcement officers?

MR. HOLLOWELL: That is leading.

THE COURT: It may be slightly leading but
it's not objectionable to that extent. I overrule
the objection.

MR. RAWLS: The witness is with the Court.

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BY THE COURT:

Q Just before the cross-examination proceeds:
When the witness was testifying about the obscene language
and insults that were being hurled at the police officers,
on the occasion concerning which the witness testified,
it is not clear to me as to who was hurling the insults
at the officers? Who?

A They were colored, coming from the colored people
across the street.

THE COURT: All right, go ahead. You may
cross-examine.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q You indicated you were a free-lance writer
and collection consultant: What do you mean by "collection
consultant"?

A A bill collector.

Q Who do you collect for?

A I collect for myself and for various other
businesses and individuals within the City of Albany.

Q Do you have a file that you keep of all of your
records pertaining to collections?

A Yes, I do.

Q Where are those files?

MR. RAWLS: Now, if Your Honor pleases, that

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Mr. Rawls:

would be entirely illegal and inadmissible in this case. That throws no bearing whatever on the issues in this case.

THE COURT: I'm going to allow him to go further to see whether it does or not. At this point I don't see how it could but I will allow him to go further and see if it has any bearing.

Q Mr. Hollowell: Where are those files kept?

A Presently, they're kept in my office at home and the files by each quarterly period are locked in my safety deposit vault at the bank.

Q Where do you live?

A 1804 Melrose.

Q That's M-e-l-r-o-s-e-(spelling)?

A I did not hear you, Counsel.

Q That's M-e-l-r-o-s-e (spelling)?

A M-e-l-r-o-s-e (spelling).

Q Now, on the night of the 21st of July, 1962, you stated that you saw Slater King and Charles Jones at Shiloh Church?

A That's right.

Q And you said you heard Charlie Jones say "I have been served", or words to this effect, "with a restraining order and I can't lead any march or participate actively,

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what you do is up to you", the words substantially as they were stated, is that correct?

A That's right.

Q You're shaking your head, yes?

A Yes.

Q Now, you did not hear Slater King make any statement to the contrary to that, did you?

A No.

Q You did not ever see Charlie Jones or Slater King leading any so-called march or demonstration?

A No, but they sure fired them up for it.

Q What do you mean "fired them up"? They never did say that they should march, did they?

A They didn't say they should; they didn't say they shouldn't.

Q They didn't have any obligation to say that they shouldn't?

MR. RAWLS: That would be a conclusion of this witness, Your Honor.

THE COURT: Yes, I don't think that's a proper question, Mr. Hollowell.

Q Mr. Hollowell: You further stated that you saw Martin Luther King and his wife come into the church after there had been some speaking?

A Which is -

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Q Beg pardon? That's right, isn't it?

A That's right, which is the usual procedure for the leaders of the Albany Movement to come to the church after the meeting has gotten underway. They usually arrive about an hour or so after they've started.

Q As a matter of fact, at the time that Rev. King and Mrs. King were coming in the back door, the group was beginning to leave the church out the front, isn't that true?

A No.

Q Or very shortly thereafter?

A Shortly thereafter, but they were not leaving until they came in.

Q You heard Rev. King make no statement?

A No verbal statement, no.

Q You saw him write no statement?

A No.

Q You saw him pass no statement?

A No, I saw what I assume to be one of these -

MR. HOLLOWELL: Well, we object to anything that he assumes, Your Honor.

The Witness: Okay. I saw a colored man come from the back room, where the Rev. King was, and whisper something to the person that was on the pulpit speaking to the crowd^{at} that time.

J J J

Q But you don't know what he said, do you?

A No, I don't.

Q You don't know with whom he had talked, do you?

A No, I don't.

Q You don't know who else was in the same room
in which Rev. King was, do you?

A There were quite a few people in there.

Q All right, and you didn't see the man that you
say went from that room up to the rostrum, talk with anybody
in the room, did you?

A No.

Q Now, you mentioned the fact that you had observ-
ed some picketing: What is the largest number of persons
of color that you have seen picketing on the streets of
Albany at any one time?

A Persons of what, Counsel?

Q Color, Negroes?

A Negroes. Four, in the 100 block north of
Washington.

Q That's the largest number you've ever seen,
and you've seen perhaps how many different picketing
occasions?

A Well, I saw another one last Saturday, in which
there were 10 in the 200 block of Broad.

Q On any other occasion?



A I have noticed pickets and news-reels = in newsreels and personally throughout the Country.

Q I mean here in Albany, Georgia, between December of '61 and July - well, this date - August of '62?

A I have never seen any picketing other than colored people in Albany.

Q All right now, on those occasions you say the largest number at any one time you have ever seen them was about 10?

A Was 10, correct.

Q And that was within a whole block area?

A It was right immediately in front of the City Hall of Albany, Georgia.

Q In front of the City Hall?

A Yes.

Q Where were they marching to and from?

A When I observed them, they were standing right there, holding their picket signs.

Q Oh, they were just standing holding their picket signs?

A Yes.

Q Where were they standing?

A On the sidewalk.

Q Whereabouts on the sidewalk?

A Right in the middle of it.

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Q Right in the middle of the sidewalk?

A Yes.

Q Would you know how wide that sidewalk is?

A I am guessing, and I'd say 10 or 12 feet wide, maybe 8 to 10.

Q 10 or 12 feet, at least?

A Let's say, 8 to 10 feet wide, at least.

Q Don't you know, Mr. O'Scott, that the sidewalk there is as wide as from me to you approximately; isn't it?

A Approximately.

Q Now, how far would you say that is?

A I would say 10 to 12 feet.

Q About 10 or 12 feet?

A Yes.

Q Now, did you know any of those persons that were in that line?

A Not personally, no.

Q Did you know them by name or by sight?

A No. By sight, I had seen a couple of them before in town.

Q Were they in the process of being arrested at that time?

A No, they were not.

Q How long did you observe them?

A Oh, about 10 minutes.

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Q About 10 minutes and then what did they do or you do?

A They were - I did not hear Chief Pritchett's specific command. I was at the head of the line trying to copy down the signs, so I could phone this in.

Q At the head of what line?

A The picket line.

Q Were you picketing?

A No, I was not picketing. I was there merely to try and copy down the signs, the contents of the signs.

Q Do you remember what the signs said?

A Without my notes, I wouldn't want to venture a guess on it.

Q How is it - do you have your notes on what was said at the church?

A There are some things you remember, Counselor, and some things that you look at that don't mean anything to you and you forget promptly.

THE COURT: The question now, Mr. Witness, was: Do you have any notes of what was said at the church?

A The Witness: I have some notes. I believe they're in my car and some at home.

Q Mr. Hollowell: But you don't have any with you?

A No, I have not. One of the --

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Q Now, when was this that you saw this group picketing in front of City Hall?

A Saturday, last Saturday. I remember the contents of one of the signs. It was "Pritchett, open them cells".

Q I'm sorry?

A The contents of one of the signs stated, quote "Pritchett, open them cells", unquote.

Q Who had that sign?

A One of the colored people down there.

Q You don't know who?

A No, I don't.

Q Do you remember what any of the others said?

A One was similar to that; the wording was changed just slightly, but it inferred the same thing, to open the cells.

Q Where are these notes that you have?

A I may have some of them in my car; if not, they'll be at home.

Q Do you want to bring them up to us, so we might review them?

A I wouldn't mind.

Q When was it that you saw this?

A Saturday.

Q What Saturday?

A Last Saturday.

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Q Where were you, again?

A At the City Hall.

Q What was the other occasions that you said you had seen picketing?

A Back in April of this year.

Q What did you see on that occasion?

A Colored people walking up and down the street with signs.

Q How many?

A Four (4).

Q Where?

A In the 100 block north of Washington.

Q Did you see them say anything to anybody?

A I can't remember that, Counsel; I believe they did not say anything to anybody.

Q Well, all you saw them do was walking with the signs, is that correct?

A Walking. That's right.

Q As a matter of fact, there was 2 on one side of the street and 2 on the other, isn't that correct?

A That's correct.

Q Alright now, tell me about the other occasion?

A Well, there were many occasions in the 100 block north of Washington.

MR. RAWLS: Now, if Your Honor pleases, he's

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Mr. Ravis:

going into things that were not even touched on, on direct, which constitutes a prolongation of this hearing; and the matters he's going into are entirely illegal, irrelevant and immaterial. This suit for injunction is based on alleged violence and what he's talking about and what he's going into is minute details and throws no light on that proposition whatever.

THE COURT: Well, the petition also relates to boycotts and picketing, as I recall. Doesn't your petition relate to picketing?

MR. HOLLOWELL: It does, sir.

THE COURT: All right, I overrule the objection.

Q Mr. Hollowell: Thank you. Now, you say you've seen them on many occasions, but the largest number you have ever seen at any one time was about 10?

A Yes.

Q And the only thing you have ever seen them doing was carrying a sign, walking up and down the sidewalk, is that correct?

A That's right.

Q Now, you've never belonged to any Negro church, have you?

A No, I haven't.

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Q You've never had any acquaintance with Negroes other than on an individual basis, have you?

A Would you clarify that question? I have known many Negroes in my lifetime, yes.

Q I say, you have never had any acquaintance with them other than on an individual basis?

A Well, I think with the white citizens of Albany, Georgia, I know some individually and some I don't know at all.

MR. HOLLOWELL: If it please the Court -

A The Witness: I know a lot of folks.

MR. HOLLOWELL: Just a moment, sir! We respectfully suggest that the answer is not responsive.

THE COURT: I don't think he understands it.

Q Mr. Hollowell: I will restate my question: Do you know any Negroes other than on a purely business basis, except maybe those who may have worked with you or been in your employment?

A Is this in Albany, Georgia, or --

Q In Albany, Georgia or any place else?

A Yes, I do.

Q Where in Albany and who in Albany?

A Well, Dr. Anderson.

Q In what way do you know him?

A I know him through business contacts in the past.

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Q I say, other than through business or in an employer-employee relationship, or association by virtue of having been employed by the same individuals?

A I still don't understand his question, Your Honor.

THE COURT: Well -

Q Mr. Hollowell: Do you have any Negroes with whom you socialize?

A No, I do not.

Q As a matter of fact, you are generally hostile to Negroes, aren't you?

A No, I'm not.

MR. RAWLS: Now, if Your Honor please, whether he's hostile or not --

THE COURT: He's answered the question.

He said he is not.

Q Mr. Hollowell: Do you know I. D. Willis?

A What was that name, again, Counselor?

Q I. D. Willis?

A Offhand, the name does not ring a bell.

Q Doesn't strike you. May I refresh your recollection by telling you and indicating that he's the man that you struck for not getting out of your way fast enough last fall?

MR. RAWLS: Now, if Your Honor please, I object to that question; it's irrelevant and immaterial.

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O'Scott - cross

THE COURT: Yes, any personal matter between this witness and any other individual, I don't see that that has anything to do with this issue here, Mr. Hollowell.

MR. HOLLOWELL: May it please the Court, we are testing his credibility. He has just said that he was not hostile and that's a part of the way --

THE COURT: You asked him whether he was hostile to Negroes as a group.

MR. HOLLOWELL: That's correct.

THE COURT: But what you're asking him about is some difference he may have had with some individual, which would not be pertinent to the question about whether he was hostile to them as a group. For instance, Mr. Hollowell, if you analyze it, you will see and I think you will agree that that would not be pertinent because the mere fact that counsel may himself at some time had some difference with some member of his own race wouldn't indicate that he was hostile to them, or that he might have had some difference with some member of another race wouldn't mean that he was hostile to the race. I don't think individuals --

MR. HOLLOWELL: Well, I think perhaps the only way that you could prove it is that you would be able



Mr. Hollowell:

to establish a sufficient number of instances where there was no basis for the hostile acts which have been exhibited by ^{this} individual toward a person of color.

THE COURT: If you have any evidence that this witness has done something or made some statement or taken some action that indicates that, as a race, that he is hostile to the Negro race, I would allow that; but not some individual altercation with some person. I don't think that's pertinent.

MR. HOLLOWELL: We're going to show a series, may it please the Court.

THE COURT: I'm going to sustain the objection to any individual altercation.

MR. HOLLOWELL: May it please the Court, Counsel is somewhat at a loss and I am wondering how you would be able to establish the hostility of an individual, if you were unable to show on a series of transactions that this was his reaction under those circumstances. To me this would be the normal manner of proving such a case, where maybe you had not had a statement made to a group as such.

THE COURT: I'm not going to allow you to go into individual situations. I would allow you to offer proof, if you have any, of any statements that

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The Court:

the witness has made, expressing an attitude of hostility toward the Negro race. But when you get into the individual situations, I think you're going beyond the scope of this hearing and I sustain the objection.

MR. HOLLOWELL: We would like to invoke the provisions of Rule 43(c) and proffer our testimony pursuant to that section.

THE COURT: Well, you can supplement the record, as you see fit.

Q Mr. Hollowell: Calling your attention to this same month of December, 1961, in the vicinity of this building, is it not true that you struck a Negro boy by the name of Willis, because he didn't get out of your way?

MR. RAWLS: Now, if Your Honor please, I object to that, as illegal, irrelevant and immaterial, and has no bearing on the issues in this case.

THE COURT: Yes.

MR. HOLLOWELL: May it please the Court, we are proffering under 43(c).

THE COURT: All right, go ahead and put it in the record. I don't consider that it has any pertinence.

A The Witness: I did not strike him because he didn't get out of my way. I struck him because he almost

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ran me down.

Q Because he almost ran you down?

A He backed into me, that's correct, Counselor.

Q He was backing his car out?

A That's correct.

Q Is that correct?

A Yes, his truck.

Q And you got out of your car and made it the occasion for you, assuming police authority, to come over and to strike him?

A No, that's wrong.

MR. RAWLS: Now Your Honor please, I object to the discourse being made by Counsel to this witness. The witness was in the process of answering the question,

THE COURT: Yes.

MR. RAWLS: And he cut in on his answer --

MR. HOLLOWELL: I had never finished the question.

MR. RAWLS: If Your Honor please, I would like for witnesses hereafter to be permitted, as the rules provide, to finish their answer before they are interrupted either by me or other counsel.

THE COURT: Yes, that's what we sought to caution counsel about heretofore during the course of these proceedings, and I repeat it at this time.

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MR. HOLLOWELL: I'll be glad to.

THE COURT: Let's ask the question and then give the witness time to answer it and any insufficiency or impertinence or objection to the answer, you can make it at that time and I'll rule on it at that time. Let's treat the witness fairly and let's have the witness treat counsel fairly, and let's proceed in an orderly fashion.

Q Mr. Hollowell: So, you say he almost backed over you and then you hit him; now, what was he doing at the time? . . . Sir? What was he doing? What was he doing at the time you hit him?

A I had come into the Post Office building - you wanted to hear the answer, so I'm going to give you the whole story --

MR. HOLLOWELL: If it please the Court, I asked him what was he doing at the time that you, the witness, hit him. The testimony is to the effect that he hit him because -- and I think there was an objection.

MR. RAWLS: Now, Your Honor please --

MR. HOLLOWELL: I want to find out what he was doing at the time that he hit him.

THE COURT: Suppose you just let the witness tell about the entire incident and then you'll get the

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The Court:

answer to any detailed question without it being pin-pointed. Just go ahead, Mr. Witness, since they want the information in the record, just go ahead and tell about the whole thing.

A The Witness: I was leaving the Post Office Building after picking up my morning mail and started to cross the street behind this panel truck, at which ^{time} the truck started to back up, and had I not jumped out of the way, the truck would have definitely knocked me down. At this time I went around to the side of the cab of the truck and, without reference to race, creed or color, I asked him, I said, "What are you, a hot-rod driver?" With this he asked me to "Mind my own G-d business." So, I opened the cab of the truck and slapped him with the open hand, and I would have done it, no matter who he was, how big he was or what he was.

Q Mr. Hollowell: Even though you were jay-walking and going behind the truck in the first place?

A I didn't know there were jay-walking laws within the City.

Q Now, do you usually hit people who rub you the wrong way and who are acting legally, sir? . . . Sir?

MR. RAWLS: Now, if Your Honor pleases, I object to that question. He's assuming that the man

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Mr. Rawis:

that was backing out was bading legally, whereas the Court knows as a matter of law, when you're propelling a vehicle in any direction, backwards, forwards or any other direction, you're supposed to look where you're going. That's the law. And from what he says, the man that he reprimanded or reproached and slapped was violating the law, backing the vehicle and not looking where he was going.

THE COURT: Well, this is just an example of the reason I don't think this individual or these individual incidents ought to be gone into. What you do is, if you go into them, you get into the details of the individual altercations, which have no bearing whatever on what counsel is trying to get at, as to whether the witness has any prejudice against a race as a whole. He has now stated the circumstances, Mr. Hollowell. So, let's try to bring it to a conclusion. You've gotten it in the record now that there was an altercation and let's minimize it.

MR. HOLLOWELL: We would like the answer to that question and I think we can move on to the next one.

THE COURT: All right.

A The Witness: Haven't I answered the question, Counsel?

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Q Mr. Hollowell: I think not.

A Well, what was your question?

MR. HOLLOWELL: Mr. Joiner, would you read the last question, please?

MR. RAWLS: Didn't Your Honor rule the question out?

MR. HOLLOWELL: He did not.

THE COURT: Not yet.

MR. RAWLS: If Your Honor please, I respectfully ask that counsel in this case address all of his remarks to the Court and not to counsel.

MR. HOLLOWELL: I haven't addressed anything to Mr. Rawls.

THE COURT: Alright, let's proceed in an orderly fashion, gentlemen.

THE REPORTER: "Question: Now, do you usually hit people who rub you the wrong way and who are acting legally, sir?"

THE COURT: I sustain the objection to that question because it pre-supposes a question which the witness could not possibly answer yes or no and do justice to himself because counsel says "who are acting legally".

MR. HOLLOWELL: We will remove that, sir.

THE COURT: Alright.

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Q Mr. Hollowell: The question then is, do you normally strike people who rub you the wrong way?

A No, I do not, normally; but being run down practically is not a normal movement by anybody.

Q Who ran you down?

A I said almost.

Q Who almost ran you down?

A This colored man that was driving this truck.

Q When you ran behind his truck?

A No.

Q While he was backing?

A No, when he I was walking in an orderly fashion looking at traffic.

MR. RAWLS: Now, Your Honor please, I object to counsel interspersing additional questions while the witness is undertaking to answer the question.

THE COURT: Mr. Hollowell, I know from my experience as a trial lawyer, I sometimes had the same difficulty. We develop an anxiety for the witness to say what we want him to say and we tend sometimes to interrupt him to try to help him say it. And I detect that tendency on your part. If you would just ask your question and then let the witness answer without interrupting, and then, if there's any deficiency in it or any impropriety about it, make your objection

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The Court:

or ask your additional question, and I think it would be helpful.

MR. HOLLOWELL: I assure Your Honor that it was not intentional.

THE COURT: I know. I had the same experience as a trial lawyer myself. But it is disrupting because it's not fair to the witness to pick at him while he's in the process of trying to answer your previous question.

MR. HOLLOWELL: Very well, Your Honor.

___ Q Now, Mr. O'Scott, we will call your attention to the same month, just a few days later, and on these same grounds again, you had the occasion, did you not, to see a Negro woman who was looking at you as you came in or went out of the Post Office, and you had the occasion to say to her, "What are you looking at, nigger woman?"

A That's correct.

Q And that woman was the mother of Attorney C. B. King, isn't that true; you learned that to be the case?

A I learned that afterwards, that's correct.

MR. RAWLS: Now, if Your Honor pleases, I move to exclude that testimony. It's highly illegal, irrelevant and immaterial to any of the issues in this case.

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THE COURT: Yes, I don't see that that is any proof of any antagonism to the Negro race as a whole. The same statement might have been made to anybody else. The only reason I'm allowing any of this at all is to let counsel complete his record as he has asked to do. I don't think it has any probative value as to any antagonism to the race.

MR. HOLLOWELL: Well, we submit, Your Honor, that this is the way that we have chosen to establish the record.

THE COURT: Well, you have it in the record now.

Q Mr. Hollowell: Now, Mr. Scott, as a matter of fact, you have not had the occasion to deal with any groups who were protesting pertaining to their or what they construe to be their civil rights, other than possibly the one occasion that you mentioned in connection with Kohler picketing case, isn't that right?

A That's right.

Q Now, on the night of the 21st, did you at any time see any - excuse me - do you know who the Defendants are in this case?

A I have a pretty good idea, yes.

Q Well, just to be clear about it, did you see - and we're speaking about July 21, 1962 - Slater King?

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A Yes, I did.

Q Just a moment, I hadn't finished -

MR. RAWLS: Now if Your Honor pleases, I think he ought to be allowed to take them one at the time.

MR. HOLLOWELL: I had not finished the question, sir, in order to indicate where.

THE COURT: I don't see why we have to spend so much time trying to keep it straight about allowing the witness to answer questions before proceeding with the other one. Now, counsel said this - and all I want to do is just to establish some orderly procedure - counsel points his finger at Mr. King and said, "Did you see Slater King there" --

MR. HOLLOWELL: I did not say --

THE COURT: -- and the witness answered it one way or the other. I don't know how he answered. But, why not let him answer and then ask him the other and then ask him the other one, and give him an opportunity to answer the question before asking another question.

MR. HOLLOWELL: If it please the Court, I don't think the Court understands. I had not finished the question. I said "Did you see Slater King" and I was going to designate at a particular place; and he

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Mr. Hollowell:

answered before I got through with it.

THE COURT: The witness had the impression that you were finished and I had the impression that you had finished.

MR. HOLLOWELL: I had not.

THE COURT: Well, with an inclination as if you had finished the sentence, a pause after it, I think anyone would get the impression that you had finished your question. But let's go ahead and try to do it in a fashion that is fair to the witness, and not interrupt him but let him answer the question when you've completed it.

Q Mr. Hollowell: Did you on the night of July 21, 1962 see Slater King in a line of walking or marching or demonstrating anywhere in Albany, Georgia?

THE COURT: Now, just a minute now. Is that the end of the question?

MR. HOLLOWELL: That's the end of the question.

THE COURT: Alright, go ahead.

A The Witness: Did I see him in a line or demonstrating in any way? No, I did not.

Q Mr. Hollowell: How about Charles Jones?

A No, I did not.

Q How about Dr. Anderson?

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A No.

Q Mr. Page?

A I can't see Mr. Page from here.

Q Do you know him?

A Yes, I know him. No.

Q Rev. King?

A No.

Q Rev. Abernathy?

A No.

Q Mrs. Ruby Hurley - she's not here: Did you see her that night?

A Well, right off-hand I don't know what Mrs. Hurley looks like; so, I cannot answer yes or no until I saw her.

Q Wyatt Tee Walker?

A No.

Q And the same is true as of the night of the 24th of July, 1962, is it not?

A Correct.

Q Now, these remarks that you say you heard, you didn't hear any of them coming from any of the named Defendants, did you?

A I didnot see any of the Defendants in the area; so, Al assume it did not come from them.

Q Do you know the names of any of the persons to

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whom these remarks are attributed?

A You mean who personally made the remarks?

Q Yes?

A No, I do not.

Q Now, these bottles that you made mention of, where was it you said one glanced and hit you?

A Off the side of my head right here (indicating).

Q Can you show me any abrasion?

A No, but it was there, Counsel.

MR. RAWLS: Now, if Your Honor please, the witness didn't say that it scarred up his head. He said it hit him a glancing lick.

THE COURT: All right, he's on cross examination. I'll allow the question.

Q Mr. Hollowell: Thank you -

A No, there was no cut or scar or bruise.

Q And you don't know where they came from?

A They came from the sidewalks.

Q Now, there are many dark spots along the sidewalks in the 2- and 300 blocks of South Jackson, aren't there?

A That's correct.

Q And you cannot say that there were no white people in that crowd, can you?

A Yes, I can.

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Q Out of some 2,000 people at 10:30 or 11 o'clock in the night, where there are dark spots, you say you can say that there were no white people in the group of people in those two blocks?

A I did not see any white people.

Q Allright, that's different?

A But if I was a white person, I wouldn't have wanted to be down there without protection at night.

Q That would be true generally, wouldn't it? You shake your head, yes?

A Yes.

Q As a matter of fact, you don't even know whether or not there may have been persons paid to throw some bottles that night, do you?

MR. RAWLS: Now, if Your Honor please, there's been no intimation in the evidence like that.

THE COURT: I sustain the objection. Are you stating, Mr. Hollowell, that you're going to offer evidence to the effect that people were paid to do that.

MR. HOLLOWELL: We haven't come to a conclusion in that regard as yet, sir.

THE COURT: Allright, I sustain the objection.

___Q Mr. Hollowell: Now, as to the matter of some person who spat, all you know is that he spat; you don't

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know that he spat on anybody; you don't know whether he spat in the direction of anybody; all you know is that you saw some saliva leave his mouth, indicating that he spat?

A He held his head up and spit straight out at the general direction of the law enforcement officers.

Q In the general direction?

A Of course, they were the only people or individuals in front of this individual that spit.

Q Well, normally, if you were going to spit, you don't want to spit on yourself, you have to spit it out, isn't that right?

A Normally, if I have to spit, I hold my head down and spit in the gutter.

Q I see. You're no expert on spitting, are you, sir? Sir?

A I didn't hear your question.

Q You're no expert on spitting?

A No, I wouldn't consider myself an expert on spitting.

Q What did you mean when you said the crowd was in such a frenzy that they would have marched anyway?

A When was this?

Q On the night of the 21st of July, 1962?

A Well, the crowd - in reference to the crowd of people in the Shiloh Church?

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Q That's correct?

A The crowd was worked up into such a frenzy or state of excitement that there was nothing that could have kept them from marching that night.

Q I see. This is your opinion?

A It is my opinion as to the other mass meetings that I had attended and saw how these people were aroused.

Q However, I believe it was your testimony that there was a minister, who had spoken after both the statements of the Defendants, Jones and Slater King had spoken, that was your testimony?

A That's right.

Q Is that right?

A I am assuming he was a minister.

Q Beg pardon? You are assuming he was a minister?

A Yes.

Q It was a person?

A Right.

Q Of Negro extraction?

A Correct.

Q On the rostrum of Shiloh Church, that had spoken subsequent to the statements made by Slater King and Charles Jones?

A I believe it was the same individual that spoke both before and after.

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Q That spoke both before and after?

A That is correct.

Q And it was after that person had spoken that the group left, is that correct?

A It was while he spoke. I am trying to recall his exact words. I believe it was, "Leave us leave now", and with that, he left and they went with him en masse.

Q This is the same person that you say spoke both before these two Defendants and after?

A I believe he spoke before too; that's correct.

Q Let me ask you this last question, Mr. O'Scott: On the night of the 21st again - take that back - On the night of the 24th of July, where were you in relation to the front of the line of people who were walking from Shiloh Church on North Jackson or South Jackson in a northerly direction?

A When they left the church I got in my car and drove around.

Q Which way did you drive?

A Jackson and Jefferson; I came north on Jefferson until the alleyway between the Post Office, this building here, between Broad and Pine, and turned right down the alleyway and parked my car on Jackson heading south and then walked over to the corner or ran over.

Q Let me see if I understand: Jefferson runs along

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the west side of Shiloh Church, right?

A That's right.

Q And you came north on Jefferson straight on up past this building and turned in the alley to the right?

A That's correct.

Q And proceeded over towards North Jackson?

A I ran- as soon as I parked my car, I ran south on Jackson to meet the head of the group.

Q I see. How long would you suggest that it took you to do that?

A 3 to 4 minutes, maybe 5 minutes.

Q Say about 5 minutes?

A That's right.

Q Now, where was the head of the line when you got to it?

A They were coming up South Jackson and I can't say exactly where they were, except that I had them in sight. They were in the 200 block South on Jackson at this time, coming up.

Q And they were stopped where by the Chief?

A Which night is this now? Tuesday?

Q The 24th?

A Tuesday, the 24th; they were stopped at Broad.

Q They were stopped at Broad - all right?

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A And Jackson.

Q And they were then directed into the street and on over to the jail, is that correct?

A No, at that time the Reverend that was leading them, they got on their knees and prayed, and they were allowed to finish their prayer.

Q And then they were escorted on at that time?

A No, at that time they were asked again by the Chief to disperse.

Q He asked them if they had a permit, is that what he said?

A That's correct, yes.

Q And then, he asked them to disperse?

A He asked them to disperse several times.

Q I see; and told them if they didn't he was going to arrest them, is that correct?

A I believe the last time he asked them to disperse he said "I'm asking you please to all go home." These are as close to his words as I can remember, "to go home or I will " ==

Q I'm sorry - did you complete your statement?

A No, I have not. He asked them "please to go home and disperse" or he said there would have to be arrests made. And I was standing within 3 or 4 feet of the Chief at the time.

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Q And this group started on across the street or were they arrested right on the spot?

A They were told that they were under arrest.

Q I see, right there; they never had actually crossed Ogletoppe at all?

A They were arrested down here at Broad.

Q I mean down here at Broad?

A That's correct. No, they had not.

Q Then, they were directed into the street after being put under arrest and led on up to the alleyway that runs by behind the City Hall, is that correct?

A I did not stay with the group. One of the other reporters that I'm associated with stayed with the group and I went back down towards the South Jackson area.

Q I see, you went back down South Jackson?

A In other words, I did not escort the group to the City Hall.

Q Where was the Chief at that time?

A I believe the Chief started to leave -- started to lead the people under arrest down and then it was turned over to some other officers and I believe he came back. To answer, to honestly answer that question, I didn't see the Chief for about 10 or 15 minutes after that. I believe he may have started --

MR. HOLLOWELL: May it please the Court, we don't want to know what he believes.

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MR. RAWLS: Now, if Your Honor please, I think it's illegal and irrelevant and immaterial and has no bearing on this case, this line of testimony about where -- what's that got to do with the issues of this case?

MR. HOLLOWELL: If it please the Court, this is the crux of the case that I am now on.

THE COURT: All right, go ahead.

Q Mr. Hollowell: Thank you. So, you didn't see the Chief for 10 or 15 minutes?

A No, I had to make a phone call and it was approximately 10 or 15 minutes before I saw Chief Pritchett again.

Q Now, prior to this time you had not heard any of these remarks to which you have ascribed to certain people?

A No.

Q These vulgar remarks that you testified about?

A Prior to the arrest.

Q Prior to the arrest?

A Not that evening; no, I had not.

Q Not that evening, and you say it was not until after these folk had been arrested and led on off and the Chief then went back down into that area, that is correct, is it not?

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A Back down into what area now?

Q The area to the south of Oglethorpe?

A No, the Chief --

Q You went - excuse me --

THE COURT: Go ahead and answer the question.

A The Witness: May I go ahead?

THE COURT: Yes, answer the question.

A The Witness: At that time when I next saw Chief Pritchett, he was standing in conference with some of his men and some of the - a couple of the Troopers, I believe, at the -- I'm trying to get my directions straight - at the north side of Oglethorpe about the intersection there, the east-west crossing on the north side of Oglethorpe; in other words, they were standing in the middle of the street, the paddy wagon was there, and I do not know what conversation was taking place, but I did observe him at that time.

Q Now, let me see if I understand: This was after the arrests and the folk had been taken on to jail?

A That's right.

Q And you had gone and made your call, and some 10 or 15 minutes - say 10 or 15 minutes, you say, you came back then to the corner of Oglethorpe -

A And Jackson.

Q And Jackson?

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A - South Jackson, correct.

Q And it was subsequent to this that the Chief, with this sort of advance party so to speak, motorcycle policemen, some 2 or 3 in front and the Chief sort of in the middle of what might be a spearhead, and you walking along behind the Chief: Is this correct?

A I was walking behind the Chief?

Q Didn't you say that you accompanied the Chief down there?

A I accompanied the law enforcement officers, along with a couple of other reporters down to there.

Q I see, and it was during this period of time that these alleged vulgar remarks were made and there were these bottles, the source of which you do not know?

A That's correct.

MR. HOLLOWELL: One moment, Your Honor -- I don't believe we have any further questions, Your Honor.

MR. RAWLS: You're excused, Mr. O'Scott. Call Mr. Lorig.

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9th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Mr. Lorig, you're a local business man here in Albany?

A Yes sir.

Q What business are you in?

A I'm Secretary and Treasurer of the F. & S. Services, Inc. It's a laundry.

Q How long have you been in that business?

A Since 1946.

Q Are you a native Albanian, born here?

A Yes sir. No sir, not born here.

Q But you've been here all of your life?

A All but three months of it.

Q Mr. Lorig, do you have any recollection of any incident that happened on the night of July 21, this year, when you and your wife and children were traveling the streets of Albany?

A Yes sir, that Saturday night, my wife and my two children and myself went out to eat. We came back - We finished eating at approximately 9 o'clock and we came back to my office, which is on the corner of Davis and Whitney. We had just installed a new piece of office machinery and I told my wife, I said "Come on down and let's

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"go by the place, I want you to see this piece of machinery." So, we got down there some time after 9:00, stayed in there about 5 minutes; and I said, "Well, let's go by the post office." And so, we got in the car and just as a matter of course went by the post office like I usually go 2 or 3 times a day, that is I usually go down Whitney to Jackson and from Jackson I turned to my left and I'm right in front of the post office. Well, this time we went the same way, and when we got to the corner of Jefferson and Jackson, I mean Jefferson and Whitney, I made the remark to my wife, "They must be having a meeting at the church tonight, let's go on by", because there were a number of cars there. And we went on by and got to the intersection of Jackson and Whitney and there was not too many people there at the corner at that time. But when we made the turn into Jackson going north, between Whitney and Highland Avenue, I realized something was wrong and that I had made a mistake by turning down that street. But by then cars had gotten behind me and I couldn't get out.

So, we kept going and the number of people got bigger as we progressed north on Jackson Street. And we crossed -- and then I became - began to get a little disturbed over it. I didn't know what was happening or anything, there was an abnormal number of people down there, that I had never seen that many gathered on the streets there, as

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many times as I've been by there before in my life. So, we crossed, as we progressed on north on Jackson across the intersection of Highland and Jackson and was going into the block between Highland and Oglethorpe, when approximately in front of Joe Malone's taxicab, I believe it was, right in there somewhere, the traffic was stopped; and my automobile was stopped, and the automobiles in the back of me and in front of me, and as we got there it just seemed like thousands of people around us. And they ran up to my car, and my wife, as I said, was sitting up front and I was sitting in the driver's seat, my two children in the back; they ran up and they screamed and hollered, "Yah, yah" and patted on the side of my car; and made gyrations and things of that type. But we just sat still in the car, but it was still unnerving. I tell you for a moment there, it was pretty - I was thinking pretty bad thoughts, I didn't know what to do except to sit there, and that's what we did.

And then after about, well, I'd say about 30 seconds, the traffic started to moving a little bit and we finally progressed and as the traffic moved on, they moved them back away from the car; and when we got to the corner, the policeman made us turn to the right; and we turned to the right and went on around. And by that time I had forgotten all about going by the post office and I

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went on home.

Q Mr. Rawls: Mr. Lorig, you said that the people approached the side of your car and jeered and so on: what race did those people belong to?

A Well, they were of the colored race. I didn't see a white person. My wife told me that she saw two white policemen but I didn't see the policemen even?

MR. RAWLS: He's with you.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Mr. Lorig, is it L-o-w-r-i-e?

A L-o-r-i-g. (spelling)

Q Now, what are your initials, Mr. Lorig?

A M. C.

Q And this that you described you say was on the 21st or the 24th? I have 21st here?

A This was Saturday. This was a Saturday evening.

Q Saturday, the 21st?

A That's right.

Q I don't believe we have any questions.

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10th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

**Q State your name to the Court and to the
Reporter, Trooper Hill?**

A Claude Hill.

**Q Are you assigned to active duty with the Georgia
State Highway Patrol?**

A Yes sir.

Q How long have you been a trooper?

A 11 years.

Q Continuous?

A Yes sir.

**Q Were you in Albany on the night or afternoon or
evening of July 24 of this year?**

A Yes.

**Q Did you participate with Chief Pritchett and
with other law enforcement officers in relation to a crowd
which had gathered in the Harlem area just south of Ogle-
thorpe Avenue?**

A Yes sir.

**Q Describe what you did and what you saw, Trooper,
please?**

A Well, we were in a unit.

Q What's that, in a unit?

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A Yes sir, a group, all the Troopers; and so we had lined up on Jackson Street and Chief Pritchett was ahead of us; and I was working under the command of Sgt. Phillips. And so he gave the command to go down into Harlem to help clear the street that was being blocked.

Q Do you know the occasion or the reason that there was such a large group of people assembled in that particular place? Had anything transpired immediately prior to it?

A Well, they were having church down there, I understood.

Q Do you know anything about anybody marching on the sidewalks just previous to that?

A Yes sir, there was a group prior to that, had marched up Jackson Street, and were arrested by Chief Pritchett.

Q What time of evening or night was it that you went down with the Chief and other officers to that particular area?

A I would say between 10:30 and 11 o'clock.

Q Do you have in your mind any estimate of the number of people, the probable or your estimate of the number of people that was in that crowd that had assembled there?

A Well, I'm not much at estimating crowds, but I would say between 1500 and 2,000.

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Q Your estimate is between 1500 and 2000?

A Yes sir.

Q What was the conduct or attitude of that crowd, Trooper? What did they do or what did they say, that you heard, that attracted your attention?

A Well, after we got on down into Harlem, of course, and got off of the streets, I mean the sidewalk, got up on the sidewalk; they were cussing and raising sand.

Q Do you recall the specific language they were using or that you heard used which you regarded as being profane or curse words?

A Yes sir, I remember one occasion there, they said, somebody said "Here comes Pritchett's army", said "The white mother-fuckers think they're as good as we are."

Q And that's what you heard stated?

A Yes.

Q From some source in the crowd?

A Yes sir.

Q That you were trying to disperse, is that right?

A Yes sir.

Q Did you see or observe anything else in relation to the activities of the crowd?

A Well, I saw some bottles being thrown and also rocks.

Q Did you see anybody spit at anybody?

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A Yes sir.

MR. HOLLOWELL: Let's don't lead him.

THE COURT: Bottles and rocks - right there -
by whom and at whom? Bottles and rocks being thrown
by whom and at whom?

A The Witness: There was bottles and rocks being
thrown at us.

BY THE COURT:

Q Being thrown by whom at whom? Who were they
being thrown by?

A Out of the crowd on the sidewalk.

Q On the sidewalk?

A Yes sir.

Q Who constituted the crowd, what kind of crowd
was it?

A It was some colored people.

Q And being thrown at whom?

A At the officers.

Q Were you among the officers?

A Yes sir.

Q All right, go ahead.

BY MR. RAWLS:

Q Did you get struck?

A Yes sir.

Q What did you get struck with?

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A With a rock.

Q Have you got it with you?

A Yes sir.

Q Where is it?

A (Witness producing rock from his pocket and handing to counsel) . . .

Q Where did you get struck, what part of your body or your head was struck by the rock?

A Right here (pointing). . .

Q Do you have a scar indicating where the rock hit you?

A Yes sir.

THE COURT: Let him state for the record now what part of his head was struck?

A The Witness: My left jaw.

Q Mr. Rawls: What was the extent of the injuries that you received from being struck by the rock?

A Bruised and broke two teeth.

Q Two jaw teeth?

A No sir, this one here and chipped this one here on the front (pointing to teeth); broke one jaw tooth and chipped one of the front ones.

Q Did you see any other activities on the part of anybody that was in the group assembled there?

A I didn't understand your question.

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Q I just say, did you see anything else on the part of the group that you were down there undertaking to disperse that indicated their attitude toward the officers that were present?

A Yes sir, they kept hollering at us obscene language, and on a couple of occasions there I saw them spit at us.

Q A couple of what?

A They spit at us on a couple of occasions.

Q They did?

A Yes sir.

Q Were you instructed by the Chief to stay in the line of progress that you went out there on?

A Yes sir, we were instructed to stay in the unit and not to -

MR. HOLLOWELL: May it please the Court, that's leading.

MR. RAWLS: He's with you.

MR. HOLLOWELL: That was leading but just forget it.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Mr. Hill, you did not go back or you were not ordered down into the area south of Oglethorpe and South Jackson until after the group that you indicated were

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marching had already been arrested and taken on to jail,
is that correct?

A No, I was not ordered down there until - what
I mean, down to the theater south of the bus station - until
after the crowd had been taken to the jail.

Q You don't know who made any of these obscene
remarks, to which you referred in your testimony, do you?

A No.

Q You didn't see any of the Defendants in that
area, did you? Did you ever see any of these people here
inside the rail, excluding these at the table here, the
Defendants here Jones, Page, King, Anderson, King, Abernathy?

A No, I didn't recognize any of them.

Q Do you know a man by the name of Rev. Wyatt Tee
Walker?

A No.

Q Do you know a lady by the name of Mrs. Ruby
Hurley?

A No.

Q How far were the people, how far were the people
who were in the sidewalk area from where the officers were?

A Well, we were in single file, in the middle of
the street and they were on the sidewalk.

Q How much distance was between the two lines of
officers?

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A About 15 or 20 feet, I imagine.

Q Would you say maybe one line was about say along where you are and then here's the center of the street between you and myself, and then the other line was over here (indicating)?

A That's about right.

Q Is that correct, about 15 or 20 feet?

A (No answer) . . .

Q Which means that there was maybe 4 or 5 feet between the line of officers and the curb, is that correct?

A That's correct.

Q And then, the people were up on the sidewalk?

A That's right.

Q Did the people disperse?

A After we went down, yes, they departed and got on the sidewalk.

Q In other words, when you came down that street and these lines were made to the right and left of the center of the street, leaving a gap in there of 15 or 20 feet, that gap was generally clear?

A It was, yes.

Q Now, do you have a medical report on your injury there to which you testified?

A No, not with me.

Q You don't have one?

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A No.

Q Whowas your doctor?

A I went to the hospital out here. There's an interne that checked me and x-rayed me, found out there was no fractured bones and salt my tooth was broken. And so, I went to Dr. Joe Lister, Dentist in Tifton.

Q An interne checked you out at Phoebe-Putnam Memorial Hospital out here?

A That's right.

Q And no bones were broken?

A No.

Q And so you went to the dentist, Doctor whom?

A Dr. Joe Lister.

Q Lister?

A Lister at Tifton.

Q Canyou spell it for me?

A L-i-s-t-e-r, Lister (spelling).

Q Now, how many bottles did you actually see or how many rocks did you see?

A Well, I don't know off hand but they were just popping all around me.

Q They were popping all around. Now, people were close enough to you that if they had really been drawing a bead on you and there were enough officers out there, that they could have hit many of them; isn't that true, as close

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as they were?

A Yes.

Q Actually, most of the bottles and these other items as you say were falling, they were falling in the street and bouncing around the feet of the officers, isn't that true?

A By their heads too.

Q Sir?

A They were flying by your head too.

Q You mean over the head?

A Yes.

Q Over the head?

A Between the Troopers and the officers.

Q Do you know of anybody else that was hit besides yourself?

A I believe a Captain of the Police Department was hit.

Q Do you know who he was?

A I can't call his name off-hand right now, but he's a Captain of the Police Department.

Q Clegg, Captain Clegg, was it?

A I believe that's right, yes.

Q Was anybody else - you and he are the only ones to your knowledge that were hit, isn't that right?

A Well, the only ones that I knew. I mean I didn't

CBC

see anybody else hit.

Q And you don't have any knowledge of anybody else being hit?

A Somebody said there was a news reporter that was hit.

Q Now, this line of officers ran for a block and a half, about, didn't it?

A I would say about a block, yes.

Q And actually, you don't know where exactly the rock came from which hit you; you know it came from one side or another -- which side were you on?

A I was facing south.

Q You were facing south?

A Yes.

Q About where on Jackson Street?

A About there in front of the theater, I believe it was.

Q Somewhere in the vicinity of the theater?

A Yes.

Q But you don't know exactly where the rock came from, except it had to come from your right front?

A It came from the left.

Q Your left?

A You see, I was facing south.

Q Yes, it came from the left side?

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A Yes.

Q Now, over on that side there is a filling station and a taxicab station and a wash rack and a gap where you can go all the way back into the alley, isn't that true?

A I don't remember a service station being there. I believe there's an alley, a little alley.

Q An alleyway that goes on back over in there?

A Yes.

Q So, you don't know whether the rock was even thrown by a colored person or a white person, do you, as a matter of fact?

A As far as knowledge, I don't know but I didn't see any white people down there.

Q You didn't see any; you don't say there were not any there?

A Well, I didn't see any.

Q But I say, you don't say any were not there?

A I mean I didn't see any.

Q That's the only rock that you say that hit you and that point of the impact being your left cheek or jaw; this was the only rock that hit you, wasn't it?

A This is the only one.

Q And you reached down and picked it up and put it in your pocket?

A That's right.

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Q At that time?

A I mean I staggered around a little bit and it was at my feet.

Q You staggered around a bit?

A Just a second.

Q I see, and you don't know whether the rock that you picked up then as a matter of fact was the rock that hit you or not, do you?

A Yes.

Q How do you know that?

A Because it fell down my side and I felt it.

Q It fell down on the side?

A Yes.

Q Weren't there other rocks in the street?

A I didn't see any right in the location I was in.

Q You didn't see any others in that location?

A Right where I was at.

Q Right where you were?

A No.

Q Was this line a stationary line, the line of officers?

A Yes.

Q The one you were in, or was it a moving line?

A Well, we would move and then we'd stop, slow

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down, and the time I was hit I was stopped.

Q You mean the line would move in which direction?

A South.

Q From north to south?

A Yes.

Q In a column or file so to speak?

A In a column of 2's.

Q In a column of 2's. Well, explain what you mean? Were there four officers to a group, that is 2 in the line on one side and 2 in the line on the other?

A Columns of 2's, we were lined up.

Q An open column, I see, you mean an open column of 2's?

A Yes.

Q The second one, each one being on opposite sides of the street rather than --

A About 15 or 20 foot apart.

Q Now, this spitting, as you say, this was actually spitting in the direction, that is toward the street? Nobody spit on you, did they?

A No, just in our direction.

Q You didn't see anybody spit on anybody --

THE COURT: Just a minute: You said what, you said in your direction?

The Witness: Yes sir.

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THE COURT: Let him answer.

MR. HOLLOWELL: He did answer.

THE COURT: But you were talking at the same time he was. I don't know how in the world the reporter can get you both.

MR. HOLLOWELL: May we ask the reporter to read it?

THE REPORTER: That's when they want me to read it, when they're both talking at the same time, and I can't get two at one time.

THE COURT: That's what I know. He can't get it when you're talking at the same time.

MR. HOLLOWELL: I ask him to read what he has.

THE COURT: All right.

THE REPORTER: (Reading notes); "Question: Now, this spitting, as you say, this was actually spitting in the direction, that is toward the street? Nobody spit on you, did they? Answer: No, just in our direction. Question: You didn't see anybody spit on anybody?"

But I cannot take two at the same time, Judge.

THE COURT: I realize the difficulty you're having when counsel and the witness are talking at the same time, and that's what I'm trying to avoid. All right, go ahead.

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MR. HOLLOWELL: I don't believe we have any more questions.

REDIRECT EXAMINATION

BY MR. RAWLS:

Q Trooper, would you let me have that rock that you have in your hand, please, sir?

A (Witness handing rock to counsel)

MR. RAWLS: Mr. Clerk, will you figure out how you can identify that?

THE CLERK: That's P-9.

RECESS: 11:10 AM to 11:25 AM 8-2-62

MR. RAWLS: Your Honor, Mr. Jesse Walters of the local bar, who is associated with me in two other pending civil cases, civil rights cases, I ask permission that he be allowed to sit at counsel table.

THE COURT: Very well.

MR. E. H. HEIDT, JR.

11th witness called and sworn in behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q What is your business calling, Mr. Heidt?

A I'm employed by the U. S. Post Office.

Q What?

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A The U. S. post office.

Q In what capacity do you work with the post office?

A i'm the vehicle maintenance clerk.

Q How long have you been employed by the U. S.

Post Office Department?

A Since October of 1945.

Q Continuously here at the Albany office?

A Yes.

Q Mr.Heidt, do you recall an occasion in December of '61, when Dr. Martin Luther King was arrested by the Police Department in connection with a march that was conducted on the streets of Albany on that day?

A I do, sir.

Q Did the progress of that march interfere with your travel or traffic on any of the streets or highways; if so, state the details, please?

A I was going to the B. F. Goodrich Store in the 100pblock of Oglethorpe Avenue. I was traveling east in the 300 block of Oglethorpe. Just before I reached the intersectionof Jackson Street, a line of marchers on the west side of Jackson Street going north entered the intersection, stopped the cars ahead of me and forced me to stop at that intersection.

Q And how long were you detained there while the marchers were crossing that intersection?

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A I would say a minimum of 10 minutes.

Q Now, did you observe anything about the - is that intersection guarded by any electrical signalling device?

A It is, the regular automatic signal light.

Q Did the marchers observe the signs and signs as indicated by the device or not?

A They were into the street and apparently were paying no attention to the signal device.

MR. RAWLS: He's with you.

CROSS EXAMINATION

BY MR. HOLLOWELL:

Q Now Mr. Heldt, did you see the line of march when it first arrived at the intersection of South Jackson and Oglethorpe?

A Would you repeat that please?

MR. HOLLOWELL: Would you read it, sir?

THE REPORTER: (Reading): "Question: Mr. Heldt, did you see the line of march when it first arrived at the intersection of South Jackson and Oglethorpe?"

A The Witness: I was traveling east on Oglethorpe, there were several cars in front of me, just behind, just west of what at one time was the garage of the Trailways Bus Station, I began to see people coming from behind the

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bus station.

Q Did you see the Chief of Police?

A After the line of march had already entered into and was practically across the street.

Q That's where you saw him?

A That's where I saw the Chief, yes.

Q That's where you saw the Chief?

A Yes.

Q You don't know whether the Chief had stopped them prior to that time or not, do you?

A Yes, I know.

Q You know?

A Yes.

Q How do you know?

A Because he had not reached them before they reached the north side of Oglethorpe.

Q He had not?

A No.

Q You don't know what the light was when they entered the intersection, do you?

A Not at the time of the entrance, no.

Q All you know is that they were stopped, under your testimony, before the head of the line reached the north side, just before they reached the north side, the head of the line; and that was when you saw Chief Pritchett

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stopped them; is that correct?

A As I recall, they were not stopped until they had - until the head of the line had definitely reached the north side of Oglethorpe; and during that time the light would have had a chance to have stopped them, any behind them.

MR. HOLLOWELL: May it please the Court, we would ask that that be stricken, during the time the light would have had a chance to have stopped them. We say that is not responsive and it is a conclusion.

THE COURT: It is stricken.

MR. HOLLOWELL: I don't believe I have any further questions, Mr. Heldt.

REDIRECT EXAMINATION

BY MR. RAWLS:

Q Were you operating a vehicle belonging to the United States Post Office Department at the time?

A I was.

Q You may come down.

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VOLUME III

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT.

NO. **20501**

U.S. COURT OF APPEALS
RECEIVED
APR 19 1963
NEW ORLEANS, LA.

W. G. ANDERSON, ET AL,

Appellants,

versus

CITY OF ALBANY, ET AL,

Appellees.

Appeals from the United States District Court for the
Middle District of Georgia.

RECORD ON APPEAL

U. S. COURT OF APPEALS

FILED

APR 24 1963

EDWARD W. WADSWORTH
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

Asa D. Kelley, Jr., Mayor of the
CITY OF ALBANY, GEORGIA, et. al.
Plaintiffs

v.

M. S. Page, Dr. W. G. Anderson,
THE ALBANY MOVEMENT, et. al.
Defendants

Civil Action

No. 727

AT: ALBANY, GEORGIA,
AUGUST 2-3, 1962

VOLUME 3

PAGES: 619 to 892

FILED AT

10:00 A.M.

APR 12 1963

DEPUTY CLERK, U.S. DISTRICT COURT

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12th witness called and sworn
in behalf of Plaintiffs, testified

Direct Examination

BY MR. RAWLS:

Q Identify yourself to the court reporter there,
Mr. Friend, please?

A I'm Captain J. E. Friend of the Detective Bureau,
Albany Police Department.

Q How long have you been with the Albany Police
Department, Mr. Friend?

A 12 years.

Q Continuously?

A Nosir.

Q How much intermittent period were you off duty?

A I spent two years with the Georgia State Patrol,
between 1952 and 1954.

Q What experience as a police officer have you
had, just in sort of a nutshell, Mr. Friend?

A I have worked with the Traffic Division, in
charge of the Traffic Division; worked as a patrolman; I
have worked as captain in charge of a shift, and I am now
in charge of the Detective Bureau.

Q In addition to that, you've had two years with
the State Highway Patrol?

A Yes sir.

Q Mr. Friend, have you been connected with the

B

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1 Chief of Police during all of these so-called demonstrations
2 and marches conducted under the auspices of the Albany
3 Movement here in Albany?

4 A I have.

5 Q Now, do you recall any incident on Saturday,
6 July -- on December 17, 1961, does that date bring anything
7 to your mind in connection with the Defendant, Martin Luther
8 King?

9 A It does.

10 Q What is that?

11 A Lt. Manley and myself had been assigned to
12 observe and protect, look out for the interest of all of
13 the people, colored and white, that might be around the
14 churches at Shiloh and Mt. Zion churches, or anywhere
15 else that Dr. King might go to. We had been stationed out
16 at the side of the church probably two hours. Some news
17 men came out of the church and we were advised that it
18 looked like there would be a march.

19 In a few minutes Dr. King and Dr. Anderson came
20 out of the front door of the Shiloh Church and stood there
21 momentarily while they were being photographed. They made
22 a left turn on to the sidewalk on Whitey and proceeded east.

23 We had been advised previously to stay with
24 Dr. King. We got out of our car, got at the head of the line
25 of marchers or walkers, they were in columns of two's coming

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1 out of the church. When we turned the corner on to
2 Jackson Street, there were still followers coming behind
3 the line of march, turned north on Jackson and proceeded
4 north on Jackson; and we were met by Chief Pritchett and
5 other officers, and they talked with Dr. King.

6 After they were placed under arrest --

7 Q After who was placed under arrest, Mr. Friend?

8 A The demonstrators or marchers. They had been
9 advised to either disperse or -- after they had been placed
10 under arrest, we marched to the rear of the Police Department
11 through the alley dividing the Royal Building and the City
12 Hall. In the front of the group Lt. Manley and myself
13 on either side of Dr. King and Dr. Abernathy - correction -
14 and Dr. Anderson.

15 As we approached the steps Dr. King made the
16 statement, he said "Strike me first". I advised Dr. King
17 that there was nobody going to bother him in any way.

18 Q When you reached the steps of what, Mr. Friend?

19 A The side steps that goes into the Desk Sergeant's
20 office. If you turn left after you enter the hallway, it's
21 the caged area for the Clerk. If you go on down the corridor,
22 if you turn to the right, you go into the jail; and if you
23 make a left turn, you go to the Desk Sergeant's office.

24 Q Had he made that same statement down the street
25 before he was arrested?

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1 A I did not hear that statement.

2 Q You didn't hear that?

3 A No.

4 Q Now, had anybody made any gesture or anything
5 toward Dr. King prior to him making the statement "Strike
6 me first"? a

7 A The only outburst or gesture made, to my
8 knowledge, was as we were travelling north on Jackson
9 Street, as we were walking by the Harlem Cab Company, a
10 colored man standing in the door cursed at them and wanted
11 them to go home.

12 Q Said what?

13 A He said, "You damn people go home". And his
14 remarks, he was speaking to the crowd, the colored marchers.
15 We were just past the Harlem Cab Company approximately -
16 well, a few steps beyond the Harlem Cab Company, when this
17 colored man came to the door in front of the Harlem Cab
18 Company and in loud tones wanted them to go home.

19 Q Now, that was a remark by a colored person in
20 front of the Harlem Cab to the marchers, was it?

21 A He was standing in the door of the Harlem Cab
22 Company.

23 Q Now, Friend, on the night of July 24, did you
24 have any occasion to observe any of the activities of Martin
25 Luther King and these other Defendants, or anybody connected

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CLAUDE JOINER REPORTING SERVICE

1 with the Albany Movement?

2 A On the 24th?

3 Q Yes sir?

4 A We took notes -- We had been placed on surveil-
5 lance.

6 Q Surveillance where, Mr. Friend?

7 A To observe the comings and goings of any one
8 connected with Dr. King. We were there for his protection;
9 wanted to make sure that nothing happened to Dr. Martin
10 Luther King. We were stationed outside of Dr. Anderson's
11 house, where Dr. King had been staying. Excuse me just
12 a minute. . . (Witness referring to notes) . . .

13 On the 24th Lt. Manley and myself were stationed
14 at the north City limits on U. S. #19, when Dr. King with
15 his party came into the City limits. We stopped the car
16 and advised him that Chief Pritchett would like to have a
17 word with him. After he left Chief Pritchett's office, we
18 went immediately to South Jefferson Street and Dr. King and
19 his party went into Elliott's Funeral Home, the home of Elliott,
20 of the Elliott Funeral Home; and from there they walked to the
21 church. As they got to the rear of the church, we pulled
22 out, after I had talked with Vinson Harding, who was driving
23 the car. I advised Vinson Harding to give us a call and
24 notify us when they would be leaving the church.

25 Q Beginning to do what?

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1 A They always notified us as to when Dr. King
2 would be leaving the church or going to the church, and
3 we would give him an escort.

4 Q Do you know anything of any incident that
5 happened during the course of a march held on the evening
6 or the night of July 24?

7 A July 24 would be a Tuesday, I believe?

8 Q Yes sir?

9 A After the marchers had been placed under arrest --
10 let me back up for just one minute - We had left Dr. King at
11 the church.

12 Q Which church, Mr. Friend?

13 A That was at the Mt. Zion Church, I believe;
14 I couldn't be sure which church.

15 Q Mt. Zion and the other church are on opposite
16 sides of the street down there?

17 A Yes sir, they're across from each other.

18 Q That's the location you're talking about?

19 A Yes sir, at the intersection of Whitney and
20 South Jefferson Street. We left that area, travelled
21 north to Highland Avenue, made a right turn on to Highland
22 coming to Jackson, turned left on Jackson, and the Harlem
23 area was very normal or sub-normal in people in that area.
24 There were very few people in the Harlem District at that
25 time.

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1 Q Now, when was that in reference to your visit
2 to the churches there? Was that prior to your visit to the
3 churches or after?

4 A No sir.

5 Q Or after your visit?

6 A That was after we had been to the church. As
7 we left the church, we drove directly to Highland, through
8 Harlem and to the City Hall.

9 Q Did you leave the church after the marchers left
10 the church?

11 A Before.

12 Q Before the marchers left?

13 A Before the marchers left the church.

14 Q Alright, go ahead?

15 A At approximately, on the 24th, it was approxi-
16 mately 10:55, we received a call that there was being a
17 demonstration. Lt. Manley and myself drove down Jackson
18 Street. As we came to Highland Avenue, we could see a
19 large group of colored persons coming up the street.

20 Q From where?

21 A From the south side, from Whitney, from the area
22 of Whitney Avenue.

23 Q Do you mean the area where the churches are
24 located, Mr. Friend, or not?

25 A Well, it was a block away from the churches.

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1 Q Mr. Friend, in observing these meetings at these
2 churches when the marchers would leave out, what would
3 happen to the crowd of people who would be in the church
4 that didn't join the march and the people who were on the
5 outside of the churches that didn't join the march, what
6 would happen to them?

7 A They would follow along and were giving them
8 encouragement.

9 Q You mean following the marchers along?

10 A Some would be on both sides of the street and
11 march along, except not in the column; but they would come
12 along with the marchers.

13 Q Well now, on the night of July 21, were you
14 with the Chief here and the other group of officers that
15 went down to undertake to disperse this crowd that had
16 assembled on the south side of Oglethope? Were you in
17 that party?

18 A Yes sir.

19 Q On the 24th?

20 A On the 24th.

21 Q That's what I'm talking about. Were you or not?

22 A I was.

23 Q What is your estimate of the crowd of people
24 that had assembled there and will you give us a description
25 of the conduct of members of the crowd, if you have any

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1 recollection of it?

2 A Lt. Manley and myself got in the patrol car,
3 which is equipped with loud speakers. At all of these
4 demonstrations usually there are large numbers of whites
5 and colored in the area, the whites being north of Oglethorpe
6 and the colored being south of Oglethorpe. We would use the
7 loud speaker and disperse the crowds, have them moving on,
8 with the help of the Revenue Agents, also the police officers.

9 When we got to Oglethorpe Avenue, traffic was
10 heavy. I would estimate the crowd between 2500 and 3000.
11 They were boisterous, they were cursing, using very vulgar
12 language.

13 Q Will you tell us some of the language you heard
14 them use?

15 A I heard from more than one voice in a loud
16 voice, saying "Send us Big Red" and "Come on down here,
17 you white mother-fuckers".

18 Q "White " what?

19 A "Mother-fuckers". And "Trashy white police".

20 Q Did you observe anything else about the conduct
21 of the group that you estimate between 2500 and 3000 people?

22 A They were milling around, shouting, throwing
23 objects; and as we crossed Oglethorpe with Chief Pritchett
24 at the head, I was in the right column, and a little groups
25 would run up through the cars, the parked cars on the west

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1 side of the street, and run out and spit at the officers;
2 we were cussed for "sons-of-bitches", "white bastards" and
3 especially a "white son-of-a-bitching detective". And as
4 we got approximately in the area of the Ritz Theater, one
5 colored male, I could not identify, said "We've got the
6 sons-of-bitches where we want them now, let's get them".
7 And we were moving the crowd down as we went. But there
8 were still stragglers on both sides of the sidewalk.

9 Q Did you get hit by anything, Mr. Friend?

10 A I ducked several. I got hit on the leg after it
11 had hit the pavement and ricocheted.

12 MR. RAWLS: He's with you.

13 CROSS EXAMINATION

14 BY MR. HOLLOWELL:

15 Q Mr. Friend, that's a nice name. May I ask
16 you about your statement concerning Dr. King, saying "hit
17 me first": Are you sure it was Dr. King?

18 A I am positive it was Dr. King.

19 Q Do you read the papers?

20 A I haven't had time lately.

21 Q Were you reading them in December?

22 A Some.

23 MR. RAWLS: Now, if Your Honor please, I
24 notice counsel has what appears to be a clipping from
25 a newspaper. We take the position that the clipping.

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1 Mr. Rawls:

2 has not been identified; I don't know what it contains;
3 but I say that he wouldn't have a right to read any
4 statement from that clipping, unless it has been iden-
5 tified as a part and parcel of newspaper that was
6 published; and also identified by the reporter who
7 put the news item in the newspaper.

8 THE COURT: Suppose you do this, Mr. Hollowell,
9 before you read anything --

10 MR. HOLLOWELL: I didn't plan to read it,
11 anything from it at all, sir.

12 Q I show you D-8 and ask you if you would just
13 read it silently, this paragraph to which I am pointing,
14 and see if your recollection is refreshed in any way?

15 MR. RAWLS: Now, if Your Honor pleases,
16 regardless of what might be in that clipping from
17 the paper, I say that it has not been properly identi-
18 fied, nobody has testified as to the newspaper it
19 was published in; and there has been no reporter on
20 the stand to say that he gathered that news and reported
21 it to his newspaper for publication; and to show this
22 witness just a printed statement is not fair to the
23 witness.

24 THE COURT: Well, I anticipate probably that
25 Mr. Hollowell is getting at, he's going to ask him to

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1 The Court:
2 read something and then ask him if that is a correct
3 statement; and if he does that, if that's what he's
4 getting at, I will allow it as part of his cross
5 examination; but, of course, I will not allow the
6 paper to be introduced in any way unless it is properly
7 identified.

8 MR. HOLLOWELL: Thank you, Your Honor.

9 MR. RAWLS: Besides that, Your Honor, he
10 hasn't followed the rule which requires that documents
11 be submitted to other counsel before submitting to the
12 witness.

13 THE COURT: Of course, I was not going to
14 require him to do that unless you requested it; and
15 now that you've requested it, I will.

16 MR. HOLLOWELL: Be glad to, be glad to, Your
17 Honor. (Tendering newspaper clipping to counsel for
18 Plaintiffs) . . .

19 Q Mr. Hollowell: Mr. Friend, would you defer
20 for a moment so your counsel or rather so the counsel for
21 the Plaintiffs might look at D-8?

22 THE COURT: Is it identified?

23 MR. HOLLOWELL: Yes sir, D-8.

24 (Counsel for Plaintiffs reading clipping)

25 Q Mr. Hollowell: Having read the article, is your

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1 memory in any way refreshed?

2 A Of this incident?

3 Q In this incident?

4 A As far as the newspaper clipping, I'm not
5 familiar with what was said by Dr. Anderson at that time.

6 Q You are not familiar with it?

7 A No.

8 Q It's your best recollection that the statement,
9 to which you attributed in your direct to Dr. King was made
10 by him as far as your recollection goes?

11 A That is correct.

12 Q And would you submit that this statement here
13 that you read is incorrect?

14 A I didn't hear that statement.

15 Q You did not hear it?

16 A I didn't hear it.

17 Q Now, who else was present at that time - and
18 excuse me -

19 A There were numerous --

20 Q Excuse me, sir -- I'm speaking of the time that
21 this alleged statement was made?

22 A There were between 8 and 10 officers. They
23 were waiting at the door and some outside of the door, right
24 before we took them in to be booked.

25 Q Can you name some of them?

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1 A I wouldn't be sure.

2 Q As to any?

3 A Pardon?

4 Q As to any of them?

5 A I couldn't say. I know Lt. Manley was close by
6 but whether he was right there, I do not know.

7 Q Where was the line of march stopped on the 16th
8 of December, when you were with the head of the line that was with
9 Dr. King and Dr. Anderson?

10 A To the best of my memory, it was on Oglethorpe and
11 Jackson Streets.

12 Q Who stopped them?

13 A I believe it was Chief Pritchett.

14 Q They were stopped actually right in the middle
15 of the street, weren't they?

16 A It's possible. I can't be sure.

17 Q You know that they did not reach the north side
18 of Oglethorpe before they had been stopped, don't you?

19 A I know they were stopped before they reached
20 the north, that is correct.

21 Q You were with them when they entered the street,
22 when they entered the crossing going across Oglethorpe on
23 Jackson, from south to north; you were right at the head of
24 the line?

25 A That's correct.

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1 Q And they started across on the green light and
2 were stopped, you say, before they reached the north side?

3 A That's correct.

4 Q And they were stopped by Chief Pritchett?

5 A Well, one of his officers. I know Chief Pritchett
6 was right in the immediate area.

7 Q Now Mr. Friend, on the night of the 24th of
8 July, were you also walking at the head of that group?

9 A I was not.

10 Q Did you see Dr. King that night?

11 A Could you clarify that? You mean in the march?

12 Q Yes?

13 A I did not.

14 Q Did you see him at home?

15 A I got in - correction, let me check my notes,
16 please (witness referring to notes) . . . I saw him that night.

17 Q Where did you see him?

18 A On the 24th?

19 Q Right?

20 A We met him at the city limits of U. S. 19 north.

21 Q At what time?

22 A It was right around dark. I'm not - I don't
23 have the exact time on that.

24 Q Did you see him in the vicinity of 10 o'clock
25 on that night?

66/

1 A At 9:07 P. M. I saw him leaving Elliott's home
2 on South Jefferson, that's at 520 South Jefferson; and he
3 walked north to the Mt. Zion Church; and at 9:10 is the
4 last I saw him that night.

5 Q This was prior to the time of the so-called
6 march, is that correct?

7 A That's correct.

8 Q You saw him at no other time during that night?

9 A I did not.

10 Q Did you see any of the Defendants from that time
11 until, well say from 9 o'clock until 12 o'clock on that night?

12 A From 9:00 to 12:00?

13 Q Yes?

14 A I don't recall seeing any of them.

15 Q Now, you ~~just~~ met Mr. King, the Reverend King,
16 on that evening as he came into the city limits?

17 A A Yes.

18 Q He hadn't asked for any protection, had he?

19 A AN He had not.

20 Q This was voluntary on the part of the Police
21 Department?

22 A We were assigned for Dr. King's protection.

23 Q Do you know why it was necessary to make such
24 an assignment?

25 A That was the Chief's decision and I didn't

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1 question his command.

2 Q On this night that you say you were down in the
3 area of the 2- and 300 block on South Jackson, this is the
4 24th, how long were you in the area?

5 A Well, I had been in and out of that area from
6 about 10:30, between 10:30 and 11:00, until after midnight,
7 sometime after midnight.

8 Q Now, from where were you coming when you first
9 entered that area and about what time was that?

10 A The first time we entered that area, we had
11 been patrolling and riding that area from the time we had
12 escorted Dr. King to the church.

13 Q That was 9:07, I believe?

14 A Right. We had a surveillance; I mean, seeing
15 how the crowd was and so forth. We were in and out, some-
16 times on Pine Street and sometimes on the south part.

17 Q The blocks between Oglethorpe and Whitney
18 on South Jackson is generally pretty congested area,
19 isn't it?

20 A Generally it is.

21 Q Incidentally, while you were in the process
22 of keeping surveillance on Rev. King, there was no one at
23 any time made any attempt upon his life in any respect, did
24 they?

25 A Not at all.

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1 Q Did you have the occasion to be patrolling on
2 the night of the 1st of August, 1962 in the vicinity of
3 Mt. Zion Church?

4 A I had better get my dates. What is today?

5 Q The 2nd?

6 A I did not.

7 Q You did not?

8 A No.

9 Q Do you know of any officers who did?

10 A I do not.

11 Q What about the night of the 31st of July?

12 A I don't know who was on that --

13 Q Beg pardon?

14 A I don't know if any one was patrolling or not.
15 I presume they were.

16 Q As the Captain of the Detectives, would it not
17 be normally your responsibility for keeping some record
18 as to who and who was not patrolling, or is that handled
19 by another department?

20 A It is handled under another department.

21 Q Who handles that specifically?

22 A Chief Pritchett designates the officers to
23 handle that. That would be with your Uniform Division.

24 Q And you don't know who they were on that occasion?

25 A I do not. It's a matter of record.

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1 Q It is a matter of record?

2 A It's a matter of record at the Police Department.

3 Q Now, on the night of the 24th of July, '62,
4 were you present in the vicinity of Broad and South Jackson
5 at the time the line of walkers were arrested?

6 A I was.

7 Q Were you a part of the arresting group?

8 A I did not make any arrests.

9 Q How long did it take them to clear this group
10 from the corner of Broad and to move them on to the jail?

11 A I don't know. I left. There was a lot of noise
12 and shouting further south, in front of the Bus Station,
13 and I moved on further south.

14 Q Well, the group that was being arrested was
15 moved out promptly, right on up the center of Oglethorpe
16 and right on up to the jail, isn't that correct?

17 A The next time I got to Broad, they were all gone.

18 Q They were all gone?

19 A I don't know just how long it took.

20 Q You don't know where these remarks - strike that,
21 please: You don't know who made these vulgar remarks to
22 which you have attributed -

23 A I do not.

24 Q - to some one during the course of your direct
25 conversation?

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1 A I do not.

2 Q You do not?

3 A I do not.

4 Q Do you know how many officers were struck by
5 anything?

6 A I have no record on that.

7 Q You never did see any person seek to lay a hand
8 on any officer, did you?

9 A I did not.

10 Q Nor have you even had any report that any person
11 sought to lay a hand on any of the officers who were up and
12 down the street that night, have you?

13 A No one tried to put their hands on them, no.

14 Q Nothing hit you, did it?

15 A I ducked or it would have.

16 Q You don't know what it was?

17 A It was a bottle and I hollered for the man
18 behind me to duck.

19 Q Which way was it coming from?

20 A It was coming from the southeast direction.

21 I was walking south on Jackson Street and it came out of
22 a crowd of colored people that was on the west - correction -
23 on the east sidewalk of Jackson Street, when it came over
24 and the light hit the bottle and I ducked and hollered for
25 the people behind me to duck.

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1 Q Now, at that particular time, you say it came
2 from a crowd of people?

3 A That's correct.

4 Q Of whom, at least the front of the line as far
5 as you could, see were Negroes, but you are not in a position
6 to testify that everybody in that crowd was Negro, are you?

7 A Everything I seen was Negroes.

8 Q Everything you saw?

9 A That's right.

10 Q But you couldn't say that that was all that was
11 there?

12 A No, I couldn't say that.

13 Q You didn't have any occasion to have anybody
14 to go and count the number of bottles or fragments of
15 bottles or rocks in the street at any time, did you?

16 A Did not.

17 Q And as far as you know, nobody in the
18 Department did this, did they?

19 A Not to my knowledge.

20 Q Is it not true, Captain Friend, that this bottle
21 to which you made reference came from the general direction
22 that this rock that hit Officer Hill came from, didn't it?
23 You were moving to the south on South Jackson along generally
24 the right-hand side and the bottle, you say, came from your
25 left?

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1 A Came from my left.

2 Q From your left?

3 A Yes.

4 Q And somewhere across the street in the general
5 vicinity opposite the theater, generally?

6 A Generally.

7 Q And so, you cannot identify any person who
8 threw anything, nor can you identify any person who made
9 any remarks to any officer who was on duty on that particu-
10 lar occasion?

11 A That's correct.

12 Q Was there - strike that please, Mr. Joiner --
13 When the officers moved on down the street on that occasion,
14 the crowd gradually thinned on out and they were dispersed
15 by the officers, is that true?

16 A That's true. They were moving ahead of the
17 officers.

18 Q About how long were you in the - excuse me, let
19 me ask this question instead right there: Where did you
20 first join the line?

21 A At Oglethorpe and Jackson Street.

22 Q Did you continue to walk in a southerly direction?

23 A I did.

24 Q Did you stop at any time?

25 A I did.

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1 Q How many times would you suggest that you stopped?
2 In the progress of walking - excuse me - in the progress of
3 walking south?

4 A I was not in the actual line-up. The Chief had
5 lined all the men up. I went - I was changing positions,
6 and the only time I stopped was when I seen a young colored
7 girl pick up a bottle, and I started toward her and she
8 dropped the bottle and ran in the crowd and I got back into
9 the line.

10 Q And you continued on to the south?

11 A And I continued on to the south.

12 Q Now, how long was it from the time that you
13 started at Oglethorpe before you arrived at South Jackson,
14 a matter of 2 or 3 minutes?

15 A It wasn't very long, just slow walk; just
16 how ever long it took to walk down there.

17 Q And the group generally was moving on as you
18 were moving on?

19 A Well, the main body of the group was moving
20 south. There was still on both sides, on both sidewalks,
21 there were still small groups scattered; but the main body
22 of the demonstrators were moving ahead of the officers.

23 Q Now, isn't it true that the demonstrators,
24 so called, had already been arrested?

25 A On the march?

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1 Q Yes; so you mean when you refer to demonstrators
2 on this occasion, you mean the people who were along the
3 side of the streets after the folk who had been marching
4 had been arrested?

5 A That's true.

6 Q What time or how long did it take you then
7 to generally disperse this group?

8 A To the best of my recollection it was probably
9 12:30 before things got back quiet.

10 Q You're not answering my question, sir?

11 A Repeat your question.

12 Q Let me ask it again: When you got to Highland,
13 did you continue on south?

14 A No.

15 Q You stopped at that point?

16 A That's correct.

17 Q So then, under your testimony, the crowd, it
18 took you about 3 to 5 minutes to get from Oglethorpe to
19 Highland, and the crowd was moving generally south, and
20 there were some small groups that were still along the sides,
21 but the major portion of the crowds on the right and left
22 sides of the street had moved on to the south; that is your
23 statement?

24 A That's correct.

25 Q And that is correct, is it not?

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1 A That's correct.

2 Q Now, why did you not go south of Highland?

3 A Well, I was taking orders from Chief Pritchett;
4 and when we stopped, he advised us to go back up, and that's
5 when I turned around and came back.

6 Q So that, the crowd had moved on further to the
7 south from that point and there was no necessity to continue
8 to follow that crowd, was there?

9 A Well, I didn't question whether there was
10 necessity or not. The Chief advised us to turn around and
11 I turned around.

12 Q Did the Chief turn around at that time too?

13 A He did.

14 Q But you generally patrolled in the area up
15 until about 12 o'clock, but this major crowd, to which you
16 made reference, had already moved on to the south and dis-
17 persed; that is correct, is it not?

18 A It was after 12:00; it was probably 12:30.

19 Q Excuse me, say that again; I didn't hear you?

20 A It was probably 12:30 by the time that the
21 bigger groups who had congregated had dispersed to where
22 it looked normal.

23 Q You never did move south of Highland, however,
24 in the process of your walking from Oglethorpe to Highland;
25 that's your testimony?

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1 A That's correct.

2 Q And that was the point at which you and the
3 Chief turned around, by your testimony - correct?

4 A I believe that's correct.

5 Q Mr. Friend, let me call your attention to just
6 one more matter: You have had the occasion to make arrests
7 of persons of Negro extraction in the Trailways Station,
8 haven't you?

9 A I've never made --

10 MR. RAWLS: Now, Your Honor please, unless he
11 would define the operations, this man has been on the
12 police force for 12 years and just to ask him if
13 he's ever had occasion to arrest Negroes is not
14 proper.

15 THE COURT: Yes.

16 MR. HOLLOWELL: I will specify it, Your Honor.
17 I will specify it right briefly.

18 Q Calling your attention to November 22, '61,
19 did you not have the occasion to arrest Blanton Hall in
20 the Station, that is the Trailways Station?

21 A That's correct.

22 Q Is that correct? Do you know what you arrested
23 him for?

24 A I don't remember the charges.

25 Q Well, let me refer you to the record of the case

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1 of the City of Albany v. Blanton Hall, before His Honor,
2 Abner Israel, November 7, 1961; and ask you to just read
3 that statement there for a moment and see if that refreshes
4 your recollection (handing witness copy of transcript) . . ?

5 MR. RAWLS: Your Honor please, I take the
6 position that what he's bring up here would be
7 irrelevant and immaterial.

8 THE COURT: I don't know yet; let's let him
9 go a little further and we'll see.

10 Q - Mr. Hollowell: Now, would you want to state
11 why you arrested them or arrested him?

12 A His presence there, there was a large gathering
13 of colored as well as white. As he came up this large
14 group of colored people rushed to the windows and to the
15 doors and it was causing a disturbance.

16 Q What was he doing - excuse me?

17 A He had been mingling in the crowd outside back
18 and forth; and as he came in, in my opinion, his presence
19 there, had he been allowed to stay there, there would have
20 been disorder.

21 Q Did you not say that "he advised me he was not
22 doing anything disorderly" and then you said "I advised him
23 that his presence there was tending to create a disturbance
24 and disrupt the peace and if he didn't leave, I would arrest
25 him". . . This is as you testified?

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1 A That's right.

2 Q And that's all he was doing; he was just there,
3 isn't that right?

4 A That's correct.

5 MR. RAWLS: Now, if Your Honor please, I
6 move the exclusion of this testimony, the question
7 and the answer, on the ground that is irrelevant and
8 immaterial.

9 THE COURT: I'm going to admit it.

10 Q Mr. Hollowell: Your answer was, that's correct,
11 was it not? I say your answer was, that's correct?

12 A That's right.

13 Q Do you recall what the charge was?

14 A I do not recall the charge.

15 MR. RAWLS: Your Honor, that would be a
16 matter of record in the Police Court dockets.

17 THE COURT: Well, he says he doesn't recall.

18 Q Mr. Hollowell: At the time this man was arrested,
19 all that he had done is walk into the waiting room about 15
20 feet, isn't that correct?

21 A That's correct.

22 Q I believe that's all.

23 MR. RAWLS: You may go down.
24
25

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13th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Identify yourself there to the court reporter,
please Mr. Manley?

A Lt. B. L. Manley, detective with the Albany
Police Department.

Q Do you have a position with the Albany Police
Department?

A Yes sir.

Q What is it?

A Detective, Lieutenant-Detective.

Q How long have you been on the Albany Police
Department?

A 12 years this coming September.

Q Mr. Manley, did you have occasion on December
17, 1961 to be in the vicinity of Shiloh Church here in
Albany?

A Yes sir.

Q What, if anything, did you observe with reference
to any of the Defendants in this case: Reverend Martin
Luther King or Dr. Anderson or Abernathy?

A On this particular occasion Captain Friend and
myself had been assigned as an escort to Reverend Martin
Luther King and Reverend Abernathy. On this particular day

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1 we went to the Shiloh Church with Rev. Abernathy and Rev.
2 King. We had been at the Church several hours that particular
3 day, when we were notified --

4 Q What had been going on inside of the Church on
5 that date?

6 A There had been a meeting going on, on the inside
7 of the Church with the different speakers. I can't identify
8 the speakers that were speaking. And they were singing.

9 Q What was the type of attendance? Was it a large
10 crowd, or medium crowd or small crowd?

11 A The church was completely packed. There were
12 people all around on the outside of the Church.

13 Q Talking about both churches or just one?

14 A No, it was just the Shiloh Church. They were
15 out into the outside in front of the Shiloh Church and
16 also standing across the streets on all four corners, in
17 other words.

18 Q Who all did you hear speaking to the crowd there?

19 A I can't identify any one that I could say
20 positively was speaking at the church.

21 Q You can't recognize, you didn't recognize
22 anybody's voice who was speaking or didn't see anybody?

23 A I couldn't see. The windows were partially
24 down and I couldn't see who was speaking.

25 Q Now, what happened shortly before 6 o'clock

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1 that afternoon with reference to Dr. King and Dr. Abernathy?

2 A Shortly before 6 o'clock, we were advised by
3 some reporters that had come out of the side of the church
4 that they were getting ready to leave the church, that they
5 were getting ready, they said, to march from the church.
6 We went from the side of the church, that was on the west
7 side of the church, around to the front and just about the
8 time we got to the front, Rev. King and Dr. Anderson come
9 out the front of the church, followed by Rev. Abernathy
10 and Dr. Anderson's wife.

11 They stood there on the steps of the church, I
12 would say, approximately 5 or 10 minutes, and then they
13 walked off coming - going east on Whitney Avenue until
14 they got to Jackson Street, turning north on Jackson Street
15 coming towards town. I was walking to the right side of
16 Rev. King and Captain Friend was walking to the left side
17 of Dr. Anderson, coming up from the church there on Whitney
18 and Jackson Street.

19 As we were coming from the church this particular
20 group were met by others on the sidewalk and they were
21 asked by the leaders, Dr. Anderson, Rev. King and Rev.
22 Abernathy, were asked to join in this group. There were
23 other people along the street asking them where they were
24 and they told them they were going to the City Hall to pray.
25 And they were asked to join in this group.

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1 As we proceeded up, along about the time that
2 we got to Giles Super Market, that's in the 300 block of
3 South Jackson, we started running into a few white
4 people that were there in front of Giles Super Market,
5 standing in the doorways and out in front. They had some
6 selling stuff on the outside and some white people there.
7 Rev. King was saying "Hit me first", "Strike me first".

8 Q To whom was he talking?

9 A He would be walking but he was saying that in
10 a loud enough voice that I could hear him but he would be -
11 I took it to be directed to the white people that were
12 standing along the side of the street, because after we
13 crossed Highland Avenue, he didn't start saying those
14 words again until we got to more white people that were
15 standing along in front of the Bus Station.

16 Q To your knowledge, had you or anybody else
17 made any gesture or any attempt towards striking Rev. Martin
18 Luther King?

19 A No sir.

20 Q So, just go ahead now, after that?

21 A At the time, by the time we passed in front of
22 the bus station, we were met by Chief Pritchett there at
23 the corner of Oglethorpe and Jackson Street, where he
24 stopped this group and asked them if they had a permit
25 to parade or where they were going.

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1 Q Before you get to that, Mr. Manley, had the
2 group that was being led by Dr. King and Dr. Abernathy
3 crossed any street intersections that were guarded by
4 automatic light signals?

5 A Yes sir, we crossed Highland Avenue at Highland
6 and Jackson Street. When we got to that particular inter-
7 section, the light was green for us to go across, the
8 front part of it was green for us to go across. As we
9 went across the street, the light changed several times.
10 I was looking back, looking all around in fact, looking
11 back, and the procession kept coming through those red
12 lights and green lights also there in the street.

13 There was traffic at Highland Avenue, through
14 traffic, east-west traffic on Highland Avenue at the time
15 that we went across and at the time that the others in the
16 group followed along, there was traffic on those streets.

17 Q Now, let's move to July 21 of this year,
18 Mr. Manley, tell us what, if anything, you observed after
19 escorting Dr. King to Shiloh Church, arriving there around
20 9 o'clock in the evening?

21 A When we arrived at Shiloh Church, it was 9
22 o'clock in the afternoon, and Rev. King got out of the
23 automobile. He was brought to the church in a car driven
24 by Rev. Hardin, I believe is his name. When he got out of
25 the car there at the Shiloh Church, he was met by a loud

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1 ovation there from the people in the street; the people
2 outside of the church hollering "Freedom" and singing;
3 they started singing on the outside. As he got out of the
4 car he proceeded --

5 Q Would you estimate the size of that crowd, Mr.
6 Manley?

7 A I would say that it was at least, from what I
8 could see there on the side of the church, there was 3- or
9 400 people right there directly on the north side of that
10 church.

11 Q Are you talking about in the church or outside
12 of the church?

13 A That was outside of the church.

14 Q Was the church full?

15 A Yes sir, the church was full and they were
16 standing up even in front and around the windows. You
17 could see through the windows people standing up all the
18 way around inside of the church.

19 He got out of the car and proceeded into the
20 side door of the Shiloh Church. As he was going through the
21 crowd up on the steps to go in, we pulled off and came from
22 the Shiloh Church up to the Police Department.

23 Q Did you come through the Harlem area?

24 A We came through the 200 block of South Jackson
25 Street; that is, we came up from the church up to Highland

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1 Avenue, turned to the right on Highland in the 300 block
2 of Highland and hit the 200 block of South Jackson Street
3 there at Highland and Jackson, and came up to the Police
4 Station.

5 Q What was the condition of traffic generally,
6 of traffic congestion, either pedestrian or vehicular, in
7 that area there on South Jackson just below Oglethorpe Avenue
8 at the time the meeting was going on in the church that Dr.
9 King went to?

10 A From what I observed there were very few people
11 in this 200 block of South Jackson Street, for it to have
12 been Saturday night; there were very few people on the
13 streets or even any traffic in the 200 block of South
14 Jackson Street that night.

15 Q Mr. Manley, now when they would have these
16 mass meetings at these various churches, the church, you
17 say, you'd be full and a large group on the outside, and
18 only a small group would actually engage in the organized
19 march?

20 MR. HOLLOWELL: May it please the Court, I don't
21 know whether counsel is asking a question or testifying.
22 I would submit that he's leading the witness in this
23 statement.

24 MR. RAWLS: I was stating the preface for a
25 question I was fixing to ask the witness, Your Honor.

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1 MR. HOLLOWELL: I submit that this is his
2 witness and he would not be entitled to testify with
3 any preface.

4 THE COURT: All right, let's go ahead.
5 Suppose you rephrase your question, Mr. Rawls;
6 and allow him to complete asking the question, Mr.
7 Hollowell, and then I will rule on your objection.

8 Q Mr. Rawls: In the furtherance of your
9 assignment to afford coverage to Dr. King, did you notice
10 what happened when a march would start out from the church,
11 relative to what people who were not engaged in the actual
12 march would do after the march started; that is to say,
13 whether they would stay at the church --

14 THE COURT: I think the question is clear
15 and I think anything further would be leading.
16 Answer the question.

17 A The Witness: Well, from my observation,
18 when they would come out of the church, they would be met,
19 of course, on the street by other people that would
20 be on the street and people coming from the church, they
21 would not only get in the procession and directly behind
22 the procession, but they would also be walking on the
23 opposite side of the street along about even with this
24 same procession on the other side of the street.

25 Q Mr. Rawls: Now, when you next observed the

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1 Harlem area, after the marchers had moved out of the church
2 on this particular occasion, was there any congestion in
3 that area?

4 A On this particular night on Saturday, we had
5 been instructed if Dr. King and Dr. Abernathy left the
6 church, that Captain Friend and I would be with them again.
7 We got to the station this particular night, Saturday
8 night, and just as we got in the station we got a report
9 that they were leaving the church. Captain Friend and I
10 went back and got in the automobile and went to the 200
11 block of South Jackson Street, and there at Highland Avenue
12 and South Jackson we met the group that was coming towards
13 town. They were crossing the street there at Highland and
14 Jackson.

15 I noticed that the march was not being led by
16 Rev. King but Rev. Wills, Wills or Wells, was leading this
17 particular group. As we turned around in the intersection,
18 there was a group walking on the east side of the street,
19 the east side of Jackson Street, in as great a number I
20 would say as there was behind following Doctor, I mean
21 Rev. Wells. This group, as we proceeded in the automobile
22 along the side of the group that was coming up from the
23 church, the sidewalks on both sides of us and behind us
24 filled up completely. I mean, there were people all over the
25 sidewalks. The area between the sidewalk and the street, the

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1 parkway, there were people completely walking on both sides
2 of the street up through the 200 block and also the 100
3 block of North Jackson Street.

4 When the group that was following Rev. Wills
5 got to Oglethorpe Avenue, they proceeded on, on the east
6 side - on the west side of the sidewalk. Part of this
7 group, all that followed him, went up the east side and
8 the others that were not following in this march walked
9 to the east side of the street and come up the sidewalk on
10 the west side of Jackson Street in the 100 block. This
11 group were lined up thick all the way from Broad Avenue to
12 Oglethorpe Avenue as the Rev. Wills' group was on the other
13 side of the sidewalk.

14 Q Would you make an estimate of the crowd that
15 assembled in that Harlem area there south of Oglethorpe
16 immediately after the organized march had passed by that
17 was led by Wills?

18 A I would say that there was at least 1500 to
19 2,000 or better there in that area.

20 Q What was the demeanor or conduct of the people
21 in that crowd?

22 A Well, on this particular night, after we had
23 got to Oglethorpe, I mean to Broad and Jackson Street, I
24 got back in the patrol car - we have a loud speaker on this
25 patrol car - along with the loud speaker and the help of the

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1 other officers walking on the street, we moved the people
 2 back that were on the sidewalk, on the Jackson Street side-
 3 walk, on the east side of the street; we moved them back
 4 down across Oglethorpe Avenue. The officers were walking
 5 and I was talking over this loud speaker.

6 Several times from Broad Avenue until we got to
 7 Oglethorpe Avenue, when I would say something over the loud
 8 speaker, there would be something coming from the crowds
 9 they'd be saying "kiss my ass" or "go to hell, you white
 10 son-of-a-bitch", "there's that God-damn detective hollering
 11 again". And this went on all the way until we crossed
 12 Oglethorpe Avenue. And after we got this particular group
 13 back across Oglethorpe Avenue, there was cursing coming from
 14 the other side of Oglethorpe Avenue. They were directing
 15 remarks, "pale-faced mother-fuckers", "pale-faced son-of-a
 16 bitches", "God-damn detectives", and things like that.

17 Q Now, to what race did the people constituting
 18 this group belong?

19 A They were of the colored race.

20 THE COURT: Right there, let's take a
 21 recess at this time until 2 o'clock.

22 LUNCH RECESS: 12:37 PM to 2:00 PM - 8-2-62

23 MR. RAWLS: May I proceed, Your Honor.

24 THE COURT: Yes.

25 Q Mr. Rawls: Mr. Manley, I believe we covered

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1 the date of July 21 this year in your testimony before
2 lunch. Now, are there any incidents between the activities
3 in December and July that stand out in your mind with refer-
4 ence to activities of this Albany Movement?

5 A Since last Dedember, starting from possibly
6 the first of January up until around the first of June or
7 July, each week, practically each week since that time
8 there has been a meeting, usually on Monday night, the
9 majority of the times they were on Monday night, at the
10 different churches in town. On 2 or 3 occasions I have
11 been rocked at the Shiloh Church.

12 Q Now, you say you've been rocked, what do you
13 mean?

14 A After this December I have been assigned to be
15 in the area of these meetings -

16 Q By the Albany Movement?

17 A At the times the Albany Movement had a meeting,
18 I have been assigned by Chief Pritchett to be in that area
19 at these meetings. On several occasions there were rocks
20 and bottles thrown that hit the automobile at the Shiloh
21 Church; and on one occasion at the church at the corner of
22 South Jefferson and Cotton. That's a new church they've
23 just remodeled there at that place.

24 THE COURT: Hit what automobile?

25 MR. RAWLS: How's that?

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1 THE COURT: He said hit the automobile; hit
2 what automobile?

3 A The Witness: Hit the police car.

4 Q Mr. Rawls: Which you were traveling in?

5 A Which I was traveling in, yes sir. At the
6 time of some of these meetings, there would be two patrol
7 cars there, the detectives' car and the captain's and
8 assistant chief's car; and both of these automobiles have
9 been hit by rocks and bottles.

10 Q Were there any Agents of the FBI also assigned
11 to these meetings that you know of?

12 A I have seen them come by. I don't know whether
13 they were assigned or whether they had been --

14 Q You don't know what happened in connection
15 with other police officers who were in company with members
16 of the Federal Bureau of Investigation?

17 A No sir, I was out of town on that particular day.

18 Q Now Mr. Manley, I'll ask you, do you know anything
19 about what we term the July 24 incident that's been testified
20 about. Of course, you haven't been in here but tell us
21 what you know concerning the July 24 incident?

22 A Well, on this particular night, on July 24,
23 we met Rev. King, Rev. Abernathy and Dr. Anderson as they
24 came into the city limits this particular night. We had
25 been instructed to ask them if they would come by the City

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1 Hall prior to - when they got into town. We came on to the
2 City Hall and we left, after Rev. King and Anderson and
3 Abernathy had a meeting with the Chief, we left the City
4 Hall and we went down from there, from the City Hall, we
5 went to Elliott's Funeral Home. From there we --

6 Q Was Dr. King in company with you all?

7 A Dr. King, Rev. Abernathy, Anderson, Charlie
8 Jones and I believe Rev. King's wife was along that night,
9 was with them. They went to Elliott's Funeral Home and
10 they stayed there a short time and they left Elliott's
11 Funeral Home and walked from the funeral home north on
12 Jefferson Street up to the Mt. Olive - Mt. Zion Church,
13 at the corner of South Jefferson and Whitney.

14 Q Now, is there a church immediately across the
15 street?

16 A Immediately across the street from Shiloh Church
17 is the Mt. Zion Church.

18 Q What kind of congregation or aggregation of
19 people were present at the church that night?

20 A Both churches were full. From the view that we
21 could get from the outside, there was a congregation around
22 the outside and both churches, all the way from the side
23 of the church out to the street, on the sides, on both
24 sides of the churches and in front of the churches.

25 Q Was there a march originating from that place on

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1 that particular evening?

2 A Yes sir.

3 Q Who led it?

4 A I do not know who the leader was. I did not
5 know him.

6 Q How long after Rev. King went in to one or the
7 other of the churches before the march, the organized march,
8 came out?

9 A Rev. King went into the Mt. Zion Church at
10 approximately 9:15 that night. The first notification I had
11 that a march was coming was about 10:00 or 10:30 that night.

12 Q Now, do you know the approximate size or
13 number of participants in the organized march that actually
14 marched as a group from those two churches that night?

15 A Well, the group that I observed coming up
16 through the two and 100 block of South Jackson Streets,
17 the group behind, immediately behind, the one that was
18 leading, they were very orderly except they were singing =

19 Q You mean what we call the "organized marching
20 group"?

21 A Yes sir, the organized marching group, I would
22 say, were very orderly.

23 Q Now, was there another group?

24 A Well, I would say that the group immediately behind,
25 it seemed like there was a point there where a certain number

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1 of them might have been in that particular group and the
2 group following them and across the street, they were in
3 great numbers.

4 Q Now, I'll ask you, from your observation of
5 these various mass meetings and marches away from them,
6 what was the general pattern with reference to what the
7 over-flow crowd did who were not involved in the organized
8 march?

9 A Well, I would say the group that were coming
10 out of the churches were in fairly good order; I mean they
11 were singing, usually the Freedom Song, Freedom, and the
12 songs that they sung there in the church; but the ones
13 that would follow along immediately behind these groups --

14 Q Now, what --

15 MR. HOLLOWELL: Now, may it please the Court,
16 this is his witness.

17 MR. RAWLS: I know he's my witness.

18 MR. HOLLOWELL: Just a moment, if you don't mind,
19 I'm making my objection. This is his witness and I
20 don't think he has any more right to cut off his
21 response than counsel for the other side has the
22 right to cut him off.

23 THE COURT: Go ahead and complete your
24 answer to the question. Had you finished answering?

25 The Witness: Yes sir.

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1 Q Mr. Rawls: I'm asking you what happened
2 to the contingent of people who were on the outside and
3 inside who didn't participate in the march, in the
4 organized march, what course of conduct did they pursue,
5 as far as you know and as far as you observed, immediately
6 after the marchers, the organized marchers, the led group,
7 left the church area, what did the other people do and
8 where did they go?

9 A Well, from what I observed from the marches
10 that I saw coming out of the church, the groups on the outside
11 were more or less pushing them on, shouting encouragement
12 to them very loud, shouting encouragement to them. Some
13 in these groups would be calling on others that had been
14 on the outside to join them. The people that were milling
15 around on the outside, to me they didn't know anything
16 more that was going on, on the inside than I did. They
17 were walking from one side of the street to the other.
18 And then, when the group would come out, they would join
19 in or get on the side of them shouting encouragement to
20 them.

21 Q Would they congregate at any other place that
22 you know of?

23 MR. HOLLOWELL: Don't lead the witness, if it
24 please the Court.

25 A The Witness: In reference to the marches,

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1 the only place I saw any congregation would be right there
2 in the immediate area around the churches.

3 Q Mr. Rawls: Well now, immediately after
4 these marches, did you ever observe any crowd, large crowd
5 of colored people in the Harlem District?

6 MR. HOLLOWELL: Now, if it please the Court,
7 I have two objections: No. 1, "these marches" is
8 much, much, much too general, No. 1; and No. 2, I
9 submit he's still seeking to lead the witness. Ask
10 him what he did observe.

11 THE COURT: As I understand it now, his
12 question is related to a particular area, whether he
13 ever observed any crowds in a particular area.

14 MR. HOLLOWELL: I didn't so understand it.
15 He just said "these marches" and there's no certainty
16 without specification.

17 THE COURT: As I take it then, the question
18 relates to any march; is that the intent of the question?

19 MR. RAWLS: That is, Your Honor. I had
20 designated the group that I was specifically referring
21 to as the organized marching group that came out of the
22 church and walked down the sidewalk area; and then I
23 was trying to find out what, if anything, happened
24 to the crowd that had been on the outside of the
25 church and the remaining people that stayed inside

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1 Mr. Rawls:

2 the church. That's what I'm trying to find out.

3 However, I evidently don't know how to ask the witness
4 the question. It's my fault. I'm not blaming anybody
5 except myself.

6 THE COURT: I understand. Alright, let's
7 see if you can put it in such a way that it's not
8 leading and in such a way that the witness will under-
9 stand what it's about. Maybe you've just done it
10 by the statement that you've made.

11 Q Mr. Rawls: Mr. Manley, do you understand
12 what I mean?

13 A Well, I'm not positive; I think I do. The people
14 that were coming out of the church were more or less in
15 order as they were being directed by someone. The groups
16 on the outside of the church, that would fill out into the
17 streets and across the street, as this group was coming
18 out, would never particularly participate in the march,
19 but they would be on the side, to the side of them.

20 Q Well, where would they go on the side?

21 A They would follow this group that had been led,
22 they would follow them the same route when they left the
23 church all the way up until usually the point where they were
24 stopped and arrested.

25 Q And then what, if anything, did they do or where

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1 did they go? I'm talking about this other crowd?

2 A Well, they were, on this particular occasion --

3 Q I'm talking about this particular occasion?

4 A On the 24th, prior to the time that they came
5 from the Shiloh Church that night, up and through Harlem,
6 the Harlem area, the 2- and 300 blocks of South Jackson
7 Street, had been covered by myself and other detectives
8 to observe the crowds in those two blocks. There were very
9 few people in the business establishments or on the streets
10 in the 2- and 300 blocks prior to the time that this group
11 came from the church.

12 As this group left the church, when they hit
13 Jackson Street they filled out from Whitney Street on to
14 both sides of the street, in the sidewalk and out in the
15 street, all the way up into the 2- and 300 blocks of South
16 Jackson Street. This group had come from the general
17 direction of the church. I observed them myself in the
18 2- and 300 blocks. There was nobody, no groups of people
19 in those two blocks just a few minutes prior to the time
20 that they come from the 200 block or 300 block of Whitney.

21 Q Mr. Manley, immediately after the organized
22 marchers, as I refer to them, the ones that were being
23 actually led, were walking on the sidewalk, immediately
24 after they passed that area, what was the conduct of the
25 crowd that assembled that you've described as assembling

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1 immediately afterwards?

2 A Well, the groups that were following along
3 beside were very loud, they were shouting and hollering.
4 Some of them were singing. They were very boisterous all
5 the way up the street.

6 Q Were you in the contingent of police officers
7 that accompanied Chief Pritchett down there in order to
8 disperse that crowd? Were you in that group of officers?

9 A Yes sir. Prior to the time we went down,
10 the loud speaker that we have in the police car, they had
11 been instructed to break up from that particular intersec-
12 tion around that corner and go on about their business.
13 This was carried on approximately 30 to 45 minutes before
14 the Chief ordered the men down into the Harlem area. I went
15 along with the other officers that went down through the
16 Harlem area that night.

17 Q You were a member of the contingent of officers
18 that went down to disperse them?

19 A Yes sir.

20 Q Now, did you observe anything about the conduct
21 of those people with reference to what was said to the
22 police officers or their conduct towards them in any way?

23 MR. HOLLOWELL: If it please the Court, I dont
24 like to interrupt counsel, but he continues to seek to
25 lead this witness.

THE COURT: Yes, I think that's leading.

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1 The Court:

2 I don't know that it really does any great harm
3 because it simply expedites it but I do sustain
4 your objection. I think it is leading and I suggest
5 you reframe the question.

6 Q Mr. Rawls: Did you observe anything con-
7 cerning the conduct of this group that you have described
8 which had assembled there on both sides of the sidewalk
9 and emptying out into the street?

10 A Yes sir.

11 Q What did you observe?

12 A The groups were there on both sides of the
13 intersection and out in the street; and Chief Pritchett
14 ordered the Troopers and police officers that had been
15 assembled there in the 1- and 200 blocks of North and
16 South Jackson Street into the intersection of Oglethorpe
17 and South Jackson Street. He put three motorcycles, three
18 motor men leading this group down through the street.

19 As we approached there in front of the Bus
20 Station, I was not in the line of men, I was working from
21 the outside of them to the inside of the other side of
22 the men that were walking. The uniform troopers, I was
23 working from one side of the street to the other, in the
24 street beside the troopers.

25 About half-way the men, I would ^{say} approximately half

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1 of them had got down in front of the bus station and there
2 was a solid wall of them from the Highland Avenue alley as
3 far as I could see at that time down to Highland Avenue.
4 There was a half a block, the sidewalks were completely
5 full, the streets were completely full.

6 As we got to the Highland Avenue Alley, there
7 was bottles and rocks thrown from the mouth of the alley,
8 coming from the alley out into the street. They were hitting
9 the pavement beside us, they were falling between these
10 two lines of people, the two lines of Troopers, as we walked
11 down through there. The people from the sides, they were
12 continuously cursing, calling us "pale-face son-of-a-bitches",
13 "there's them mother-fuckers", "there's a bunch of Chief
14 Pritchett's mother-fucking army", all the way. There were
15 occasions when they would run from the sidewalk, as they
16 would disperse from the street, they would fill back over
17 into the sidewalk, slowly moving south, even on the sidewalk.

18 There were taxicabs and automobiles parked along
19 the street. They were continually running out and cursing,
20 throwing stuff from between these cars; and on 2 or 3 occas-
21 ions I did see them spit from behind the cars and they would
22 run back into the crowd, and throw their rocks and bottles
23 and run back into the groups on the sidewalk.

24 Q Do you know race of people were doing the things
25 that you're talking about, what race they belonged to?

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1 A They belonged to the colored race.

2 MR. RAWLS: He's with you.

3 CROSS EXAMINATION

4 BY MR. HOLLOWELL:

5 Q Lt. Manley, do you know how long Rev. King was
6 in jail from the time he was first arrested in December
7 until the time he was released?

8 A It was approximately 6 o'clock on December 17
9 that he was arrested. He was taken to Americus; he was
10 returned from Americus on the following Monday.

11 Q Was there any time from this time and this
12 date that you have just mentioned until the following
13 Monday, did you say?

14 A The following Monday, from that December 17
15 until the following Monday.

16 Q How many days was that? Was it more than one?

17 A He was put in the Sumter County jail, I
18 would imagine, around 8 o'clock Saturday night and he was
19 taken back out again Monday Morning around 7 o'clock. That
20 was all night Saturday night, Sunday and Sunday night.

21 Q He wasn't out of custody of the police during
22 any of that time, was he?

23 A No, there was uniform officer of the Police
24 Department there in the County Jail at Americus.

25 Q Now, on this march that you say you observed

1 which was led by Rev. King on that date, did you walk right
2 along by the side and at the head of it from the time it
3 left Whitney and Jefferson until the time that it reached
4 the alley going into the jail?

5 A That's correct.

6 Q You were right with the head of it all the way up?

7 A All the way up from the church. We picked it
8 up; in other words, right in the immediate area of the church
9 there was, I would say, 50 to 75 cameramen and newspapermen,
10 and as they filled out on the sidewalk we fell right in
11 beside them when they got on the sidewalk.

12 Q And this is where you were all the time?

13 A Yes.

14 Q You were there at the time that Dr. King was
15 stopped by the Chief?

16 A That's correct.

17 Q And you were there all of the other time as it
18 moved right straight along?

19 A All the way into the police station.

20 Q Who was with you?

21 A Captain Friend was with me.

22 Q Anybody else?

23 A Now, after we were stopped by Chief Pritchett,
24 there were others joined in, yes; but prior to that --

25 Q You were still with Captain Friend?

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1 A That's correct.

2 Q How far in front of the line were you?

3 A I was staying right side by side with them
4 practically all the time. I mean I may have been a few feet
5 behind it or in front of it at different times.

6 Q Did you march on the right or the left side
7 of the line?

8 A I was on the right side.

9 Q On the right side of the line?

10 A I was on the right side of Rev. King.

11 Q On the right side of Rev. King?

12 A Yes.

13 Q All the way up?

14 A All the way.

15 Q And this is where you were all of the time,
16 is that correct?

17 A That's correct. I was on the right side of
18 him, either possibly right in back or right in front of
19 him and to his right all the time.

20 Q Well, let me show you D-1 and ask you to look
21 at it and see if this is what you recollect of the head of
22 the particular line that you are talking about; is that
23 correct?

24 A That is correct.

25 Q Now, would you point yourself out on that

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1 photograph?

2 A Being as I can't see myself, I'm of the opinion
3 that this is me right back here (pointing on D-1), right
4 behind this officer right here.

5 Q Which one are you talking about?

6 A This one right directly behind this one right
7 here (pointing on D-1)

8 Q Right here?

9 A Yes.

10 Q About the first, second, third - about the
11 third couple behind the head of the line?

12 A No, I wouldn't say that.

13 Q I mean, you're not in front of Rev. King, are
14 you?

15 A I am directly to his right.

16 Q I mean, do you see yourself to his right?

17 A I take this person to be right behind him to
18 be me. I can't see it but that is to his right and maybe
19 to the back of him a little bit. I know not at which
20 angle this picture was made.

21 Q Well, let me ask you this: This isn't you -
22 let the record show I am pointing at the second couple,
23 the first couple behind Rev. King - now, that isn't you,
24 that's Rev. Abernathy, isn't it?

25 A That's correct.

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1 Q And that's Mrs. Anderson?

2 A That's correct.

3 Q To his left, isn't that correct?

4 A That's correct.

5 Q Now, you don't show on this photograph in front
6 of Rev. King or Rev. Abernathy, do you?

7 A I'm not even sure that I show there. I take
8 it to be right behind this officer (pointing on photograph
9 D-1). . .

10 Q You wouldn't say that that is you, would you?

11 A Well, I can't see it, I can't say it is but I
12 have no idea which angle that was made from.

13 Q As far as you can see from this photograph,
14 which is a Police Department photograph for your informa-
15 tion, you see the head of the line but you don't see
16 yourself; is that correct?

17 A I can't see myself if that is me back there
18 but I know where I was at. I was there.

19 Q Now, on none of these so-called demonstrations
20 that you were accompanying at any time were any of the
21 marchers, even though they may have gotten up to 3- or 400,
22 were any of them disorderly or were any of them arrested,
23 other than being a part of the march, isn't that true?

24 A I'm not sure exactly what you're referring to
25 there, "others arrested".

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1 Q I say, at no time during any of the so-called
2 demonstrations that you accompanied or saw, was there anybody
3 in the line of march arrested other than for being a part
4 of the march?

5 A Not arrested by me, no.

6 Q You haven't even seen anybody arrested who was
7 a part of the march, other than by following along in front
8 of the persons who were in front of them, other than the
9 leader, of course?

10 A I have heard of other people being arrested
11 that were in the area.

12 Q No, that's isn't what I'm talking about in the
13 area; I said in the group of marchers who were arrested
14 at any time, there was no time that you or anyone else
15 that you know of arrested any of the folk who were in the
16 line of march, except pursuant to their being a part of
17 the march itself?

18 A Well now, if you're referring when we went
19 down through the 200 block of South Jackson Street on the
20 24th, we were ordered to stay in that line and not break it;
21 otherwise, there would have been some arrests.

22 Q I'm not talking about any speculation of any
23 category, other than the people who have been arrested for
24 march; I am trying to ask you, have you ever arrested any
25 of those who were marching for anything other than just

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1 being a part of the marching group?

2 A At that time, no.

3 Q I mean, at any time?

4 A I don't quite get it, I don't think. I mean
5 I don't quite get your question there.

6 Q Well, it's simple, Mr. Manley -

7 THE COURT: I think the difficulty is,
8 Mr. Hollowell, I think you're sincere in your question
9 and he's sincere in the answer, but I think the diffi-
10 culty is because of the breadth of your question.
11 Some people who were in the march might have at some
12 other time been arrested for something else. I think
13 that's what's bothering him.

14 MR. HOLLOWELL: I don't think that there's
15 anything that would suggest it, but I will rephrase
16 it, Your Honor. I will rephrase it. I think I can
17 handle it this way.

18 THE COURT: Suppose you do.

19 Q Mr. Hollowell: You never have arrested or seen
20 any of the marchers arrested, while in the process of
21 marching, except for being a part of the marching group?

22 A No, I never have.

23 Q Not have you seen anybody arrest any of them,
24 other than for being a part of the marching group, have you?

25 A At that particular time, no.

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1 Q As a matter of fact, you never have had the
2 occasion to have any of those who were arrested in any
3 of the so-called marches for being disorderly in making
4 any vulgar statements or in throwing anything at any of
5 the officers, have you, of the group marching as you say,
6 demonstrating as such and who were arrested as a group by
7 virtue of their marching?

8 A I will say that I have never seen anybody of
9 the groups that were arrested, I have never heard them
10 using any cursing or throwing anything from the group that was
11 arrested.

12 Q All right now - and that would include all of
13 these Defendants, would it not?

14 A In different times, yes.

15 Q Now, it's your testimony that ordinarily when
16 the folk came out of the churches, you indicated that the
17 leaders were very orderly and that those who would come on
18 out of the church and get in the line behind them were
19 always fairly orderly; this was your testimony, was it not?

20 A That's correct.

21 Q Now, on the night of the 24th of July, 1962 -
22 excuse me, strike that and let's go back to the 21st -
23 On the night of the 21st of July, 1962, you didn't see
24 Rev. King or Rev. Abernathy or any of these Defendants,
25 including Wyatt Walker, after about 9 o'clock, when you

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1 saw Rev. King at - where was it - Elliott's? No, this
2 wasn't the 21st when you saw him - that was the 24th when
3 you saw him at Elliott's, wasn't it?

4 A Yes.

5 Q You didn't see him on the 21st at all, did you?

6 A I carried him from Dr. Anderson's or was
7 following him from Dr. Anderson's house to the Shiloh
8 Church.

9 Q On what night?

10 A That was on Saturday night, the 21st.

11 Q The 21st, what time was that?

12 A It was shortly before 9 o'clock that night;
13 the exact minute, I don't recall but it was shortly before
14 9 o'clock, Rev. Harding came out of the house and told us
15 they were going to the church, going to the Shiloh Church.
16 Just a few minutes after he came out, in fact he never
17 did go back in the house, Rev. King came out of the house,
18 got in the car with Rev. Harding and they drove directly
19 from Dr. Anderson's house to the Shiloh Church.

20 Q Did you see where Dr. King went?

21 A He went into the side door of the church.

22 Q Did you see where he went from there?

23 A I didn't see where he went after he got up on
24 the steps going in the door.

25 Q So, you don't know what he did or where he went,

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1 from the time that he first put his foot on the steps?

2 A No, I have no idea.

3 Q Did you see Dr. Anderson that night?

4 A No; no, I didn't see Dr. Anderson.

5 Q Did you see Rev. Wyatt Walker?

6 A No, not at the church.

7 Q Did you see any of the Defendants on that night,

8 other than you say you saw Rev. King?

9 A That was Saturday night?

10 Q That's correct?

11 A Saturday night, he's the only one that I recall
12 seeing.

13 Q And so, of course, if you didn't see them, you
14 didn't have any occasion to observe any of their conduct,
15 because you didn't see them, right?

16 A I didn't see them.

17 Q Now, you said there were some few cat-calls and
18 so forth that were made by certain people on the night of
19 the 21st, but there wasn't anybody making any such statements
20 that you could identify as having been a part of the group
21 at the church, was there?

22 A I took it - in my opinion, they come from the
23 church.

24 Q I mean, you're not answering my question;
25 I said, there wasn't anybody from which one of these

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1 menacing vulgar statements that you have mentioned, that
2 you can identify as having been at the church? Not one,
3 is there, yes or no, sir?

4 Q Individually, no.

5 Q Now, the same is true of the night of the 24th,
6 there is not one person that you can identify as being a
7 part of the non-arrested group that you know, as a matter
8 of fact, was at the church, is there; not one that you can
9 name?

10 A Not one that I can identify, no.

11 Q Now, on the night of the 24th, I believe you
12 said there were some arrests made of maybe 140 or 160 folk,
13 is that right?

14 A I didn't give the number that were there.

15 Q You didn't give any number; actually it was
16 about 40 people arrested that night, wasn't there?

17 A I can't give you the exact number.

18 Q You don't know, but you know there was a group
19 arrested?

20 A There was a group arrested.

21 Q And there was nothing disorderly about that
22 group that were arrested? Was there?

23 A From the immediate group, no. There were
24 people running from this group across the street, trying
25 to get others to join them; some were falling out and falling

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1 in but no great disorder from the group that was actually
2 following the leader.

3 Q Now, during the subsequent time when the group
4 had been arrested on the 24th, where were you? Let me
5 say, at the time of arrest, where were you?

6 A At the time of arrest on the 24th, I was in the
7 100 block of South Jackson Street.

8 Q The 100 block of South Jackson is where?

9 A That's between Broad and Oglethorpe Avenue.

10 Q Were you near the head of the line up there
11 when they were arrested or near the rear?

12 A I was near the rear.

13 Q You were near the rear; did you accompany them
14 to jail?

15 A No, I followed them along in the automobile,
16 I was in the detectives' car, I followed along behind them
17 until they stopped and then they were led on. I did not
18 follow them on to the police station.

19 Q Where did you go then?

20 A I stayed in that block, 100 block of South Jackson
21 between Broad and Oglethorpe and down to Oglethorpe and
22 Jackson.

23 Q You went back and forth up the street in your
24 automobile?

25 A That's correct.

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1 Q How many times would you suggest that you went
2 back and forth up that street in your automobile from the
3 time of the arrests until the time that you actually left
4 the area?

5 A Well, that would be hard to say. I made, I
6 would say, at least two trips up, using the loud speaker on
7 the car trying to move the people back down across Oglethorpe.
8 I not only was in that block during that time, from the time
9 they were arrested until the time we left that Harlem area
10 that night, but I was around on Pine Street, Broad Street
11 and up and down.

12 Q You were circling?

13 A Circling up in the downtown area.

14 Q All right now, when you went, after the
15 arrests and you went back down South Jackson, were you
16 in front of or behind the line of officers who were lined
17 along each side of South Jackson Street?

18 A As we went down through South Jackson?

19 Q Yes?

20 A I was on either the right or left side of both
21 columns of officers going down through there.

22 Q Were you driving at that time?

23 A No, I was walking.

24 Q Oh, you were walking?

25 A I was on foot at that time.

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1 Q I see, and the people were moving on generally
2 toward the south?

3 A That's correct.

4 Q And were dispersing generally south, southwest,
5 southeast?

6 A That is correct.

7 Q Away from South Jackson Street?

8 A That is correct.

9 Q And how many walking trips did you make - when
10 did you get on foot?

11 A Well, I was on foot standing at the intersection
12 for quite some time.

13 Q Which intersection?

14 A At Oglethorpe and Jackson. That was prior to
15 the time we started walking.

16 Q When you say "started walking", you mean prior
17 to the time that you started walking south?

18 A That is correct.

19 Q On Jackson Street?

20 A I had been at that intersection, I would say,
21 probably 15 or 20 or 30 minutes.

22 Q And then, when the Chief came along- was the
23 Chief already down in that area or he came along?

24 A The Chief was in and out of that area.

25 Q In and out of that area, up and down that line?

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A Yes.

Q Now, when you started down that way, how long had the arrests been made?

A That's when we started walking down?

Q Yes, when you started walking south from Oglethorpe?

A I would say those arrests had been made at least an hour.

Q At least an hour when you started down?

A That's right.

Q And this was when the Chief had gone into the area with the three motorcycles in front of him?

A That is correct.

Q Now one last thing: Now, Mr. Manley, you attributed a statement to Dr. King as he was walking along, do you remember that there were some reporters that were right there --

MR. RAWLS: If Your Honor please, I object to him showing this witness any clipping from any alleged newspaper, unless it's first shown the newspaper that the alleged clipping was published in, and also the production of the reporter who gathered the news that went into that. I object to him using that in connection with the cross examination of this witness, because it's not fair to the witness to take

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Mr. Rawls:

a little piece of printed paper and ask him questions relative to statements made in that paper, unless the authenticity of the document is proved.

THE COURT: Of course, I will not allow the document itself to be introduced in evidence without such identification. I take it that what he intends to do is to ask him to read something there and ask him is that a correct statement of what happened; and I will allow that. I overrule the objection.

MR. RAWLS: I object to him reading that in the record, Your Honor.

THE COURT: I'm not going to allow him to read it in the record.

MR. HOLLOWELL: We have no intention of doing that and haven't in the past, Your Honor.

THE COURT: I overrule the objection.

Q Mr. Hollowell: I would ask you to read D-8 here, that section right in there (pointing) under that sub-title "Strike me first", and see if your recollection isn't refreshed as to whom the particular statements you made were made by (handing newspaper clipping D-8 to witness)?

A (Witness reading newspaper clipping) . . .
I have read that; now, ask the question again and let's see if I get it tight.

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CLAUDE JOINER REPORTING SERVICE

1 Q Now, my question is, the statement which you
2 attributed to Dr. King, as you were coming along the line
3 of march, was not actually made by him at all; it was
4 actually made by Dr. Anderson, as this shows; isn't that
5 correct?

6 A No, the statements were made by Rev. King also.

7 Q You say that both made those statements?

8 A I am positive both made those statements.

9 Q Now, would you say where they were and to whom
10 and when?

11 A They were - the first time that I recall them
12 saying about "strike me first", was in front of Giles
13 Super Market. That's at the corner of Highland and Jackson.
14 The next time that I recall them making those statements
15 again was in front of the Bus Station, and both times
16 there were white people standing on the side of the street
17 at that time, on the side of the sidewalk at that time.

18 Q Now, you were marching in the same relative
19 position that you had been all of the time, weren't you?

20 A That's correct.

21 Q So, that meant that you were at least three
22 persons behind where Dr. King was; is that correct?

23 A No, I would say that there was very little
24 time between the time we left the church and the time we
25 got to the jail that I couldn't have put my hand on him.

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1 Q But you couldn't have put your hand on him in
2 D-1, could you?

3 A Well, like I told you, I'm not sure that
4 that's me standing back there; but with reference to that
5 picture, I don't know how close or how far away that picture
6 was taken. I said not at all times but the majority of the
7 time I could have put my hand on him, because I had a patrol
8 car riding right next to us for that purpose, if I had to
9 put my hand on him to put him in the patrol.

10 Q But you were never in front of him?

11 A I may have had a step or two in front of him
12 or a step or two behind him.

13 Q But you weren't in front - you said you were
14 in the same relative position all of the time; and so,
15 you were never in front of him?

16 A In other words, the times that I might have
17 fell back is when newspapermen and cameramen were getting
18 in the way, I may have had to step to one side or push
19 them to one side, and there might have been a step or two
20 separating us further at that time.

21 Q You know Mr. Vic Smith, don't you?

22 A That's correct.

23 Q Where was he? Did you see him?

24 A Coming up - I couldn't say.

25 Q You don't remember, but there were many reporters

1 around the head of that line, weren't there?

2 A That's correct.

3 Q You are familiar with the 200 block and the 300
4 block of South Jackson, aren't you?

5 A That's correct.

6 Q And this is generally a rather congested area,
7 is it, generally?

8 A At times.

9 Q It is generally construed to be a somewhat
10 congested area, isn't that true?

11 A No, not at all times, no.

12 Q But most of the time it's very congested?

13 A No, I wouldn't say the majority of the time
14 it is congested.

15 Q What time - would you say it is not congested
16 on a Saturday night? It is, as a matter of fact, a very
17 congested area on a Saturday night, isn't that true?

18 A Normally, on Saturday night, it is quite congested.

19 Q Did you have the occasion to go into any of the
20 businesses along the 200 and 300 blocks on South Jackson on
21 Saturday Night, the 21st?

22 A Go into any of them, no.

23 Q How about on the 24th?

24 A Directly into any of them, no.

25 Q You never did go into any of them?

716

1 A No, but I could see into some of them, but
2 never went in them.

3 Q You could see into some of them?

4 A Yes.

5 Q You couldn't see into all of them?

6 A No.

7 Q You couldn't see upstairs in the doctors'
8 offices?

9 A No, I couldn't see up there.

10 Q You couldn't see upstairs in the insurance
11 offices?

12 A Inside, I don't recall looking up there.

13 Q And you couldn't see upstairs in Attorney
14 King's office?

15 A I was looking up but I don't recall -

16 Q But you couldn't see up in his office, could you?

17 A No, I couldn't see in his office.

18 Q You couldn't see how many people were in the
19 theater, could you?

20 A I couldn't see whether there was anybody in the
21 theater.

22 Q The show was open that night, wasn't it, on the
23 night of the 21st?

24 A I imagine it was. I couldn't say that it was
25 but I imagine it was.

CLAUDE JOINER REPORTING SERVICE

1 Q It was also open on the night of the 24th,
2 wasn't it?

3 A I would imagine it would be, yes.

4 Q You weren't hit by anything out in the street
5 that night?

6 A No, no, I wasn't hit.

7 Q On the 21st or the 24th?

8 A No, I haven't been hit.

9 Q And on the occasions when you say that your
10 automobile, the automobile in which you were driving and
11 had something to hit up against it, did you make any report
12 of it?

13 A I made reports to the Chief that it had been
14 hit, yes.

15 Q Did you make any written report?

16 A To the Chief?

17 Q Any written report to any one?

18 A No, no.

19 Q You didn't make any written report to anyone?

20 A No.

21 Q Did it damage the vehicle?

22 A There were damaged places on it, yes.

23 Q Well, don't you have some instructions that
24 whenever there's any damage to one of the City vehicles,
25 you're supposed to make a written report of it? Isn't that

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true?

A To any damage of any extent, yes.

Q But you made no written report?

A No written report, no.

MR. HOLLOWELL: We have no further questions.

THE COURT : All right, anything further
for this witness?

MR. RAWLS: Come down Lt. Manley.

FIRE CHIEF E. E. MOODY

14th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Mr. Moody, you're the Chief of the Albany Fire
Department?

A That's correct, yes sir.

Q Mr. Moody, have you been sworn as a witness?

A No sir (Witness sworn) . . .

Q How long have you served in that capacity?

A Since 1957.

Q Prior to that time you were for a long time the
Assistant Chief?

A Yes sir.

Q Chief, do you recall any incidents that happend
on the evening or night of July 24, with reference to calls

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1 to the Fire Department?

2 A Yes sir.

3 Q Have you checked your records to see the number
4 of calls that were received from what is known as the
5 Harlem area south of Oglethorpe Avenue in the City?

6 A I have a record here.

7 Q What does your record show about the number of
8 calls from, say 8 o'clock that night until midnight?

9 A On the 7-24 of 1962, from 10:28 PM to 12:11 AM,
10 the 25th, we received 8 false alarms south of Oglethorpe
11 Avenue.

12 Q Did all of them originate in what is known
13 as the Harlem area of the City, Chief?

14 A I would like to give you the location.

15 Q All right.

16 THE COURT: Answer that question and then
17 you can give the specific locations.

18 Q Mr. Rawls: Did all of those alarms origi-
19 nate in what is known as the Harlem area, Chief?

20 A Not all of them.

21 Q How many of them did?

22 A Four of them.

23 Q How close to the Harlem area did the remaining
24 four originate?

25 A Just a few blocks.

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1 Q What is the predominant race of people who
2 live in the area where these fire alarms came from?

3 A Colored.

4 Q Now, do you say that eight originated between
5 what hours, Chief? I didn't exactly get it.

6 A 10:28 PM, the 24th, to 12:11 AM, the 25th.

7 Q Were any of those genuine? Did you answer all
8 of the calls and were all of them false or were some of
9 them genuine?

10 A We answered each call and each call was a false
11 alarm.

12 Q In you and your men getting to the locale of
13 the supposed fires, did you encounter any traffic difficulty?

14 A No, we did not.

15 Q Was there any congestion on the streets?

16 A Not to these locations.

17 Q Not to those locations?

18 A No.

19 MR. RAWLS: He's with you.

20 MR. HOLLOWELL: Now, if it please the Court, Mr.
21 King, who was indisposed earlier caused by the loss of
22 blood and weakened.

23 THE REPORTER: I can't hear you.

24 MR. HOLLOWELL: I'm sorry. I say, Mr. King
25 because of the loss of blood from the incident, related

721

1 Mr. Hollowell:

2 earlier he couldn't participate; but he's better
3 now and he will take the cross-examination of this
4 witness.

5 THE COURT: I want to ask the witness one
6 or two questions before you start, Mr. King.

7 BY THE COURT:

8 Q Give for the purpose of the record - I gather
9 you have it there Chief - the specific locations from which
10 the false alarms came, in each instance to which you
11 referred?

12 A 7-24-62 at 10:28 PM, Box 213, at the corner
13 of Monroe and Lincoln Avenue.

14 Q Now, right there at that point, is that a
15 predominantly colored area of the City?

16 A Yes sir.

17 Q All right, go ahead with the next one?

18 A 7-24-62 at 11:34 PM, Box 23, Jefferson and
19 Highland.

20 Q Is that a predominantly colored area?

21 A There's a white area just west of this location.

22 Q Just west of what location?

23 A Jefferson and Highland. 7-24-62, 11:45 PM,
24 Box 24, Washington and Highland.

25 Q Go ahead and give the same information?

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1 A That is a colored section.

2 7-24- 11:52 PM, Box 28, Monroe and Whitney,
3 colored section;

4 7-25-62, 12:00 midnight, Box 226, Jackson and
5 Lincoln. That's a colored section.

6 7-25-62, 12:01 A.M., Box 214, Monroe and Newton
7 Road, colored section;

8 7-25-62, 12:03 A. M., Box 215, Madison and Gordon,
9 colored section;

10 7-25-62, 12:11 A. M., Box 26, Jackson and
11 Whitney, colored section.

12 Q Is that all of them?

13 A That's eight.

14 Q All right.

15 BY MR. RAWLS:

16 Q Mr. Moody, in going to and from the fire
17 station to afford protection to those various areas,
18 would your fire equipment traverse the area on Jackson
19 Street immediately south of Oglethorpe Avenue?

20 A In answering this box 24, when we responded to
21 it, I directed my equipment to turn and go back Washington
22 Street. Normally, they would have come around the block
23 and come through.

24 Q Why did you direct your equipment around this
25 particular area, the business district of Harlem?

723

1 A Well, I come back through that area myself in
2 my car and it was congested area, and that's why I figured
3 the reason that I sent them back the other way.

4 MR. RAWLS: He's with you.

5 CROSS EXAMINATION

6 BY MR. C. B. KING:

7 Q Mr. Moody, a moment ago you testified that
8 there were eight calls, I believe, on July 24; is that
9 correct?

10 A I said the night thereof and the early morning
11 of the 25th.

12 Q Then, this would include the 24th and 25th,
13 is that correct, sir; that is, during the night season?

14 A Up until 12:11 A. M.

15 QR Right. Mr. Moody, do you know, as a matter of
16 fact, who made these calls?

17 A No, I do not.

18 Q Can you establish, Mr. Moody, by racial identity
19 the persons who made this call, or these calls?

20 A At 12:11 A.M. I can establish this box 26 -

21 MR. KING: If Your Honor please -

22 MR. RAWLS: If Your Honor please, he was
23 answering the question.

24 MR. KING: I think this is the kind of ques-
25 tion put, Your Honor, which can be answered categorically

724

1 Mr. King:

2 yes or no, and he has the privilege of explaining.

3 THE COURT: I gathered he was about to
4 indicate the specific information about one and
5 then he'll give it to you about -- I suggest that
6 he give it to you about each one.

7 MR. KING: If Your Honor would indulge
8 counsel, I would prefer that he give a categorical
9 yes or no, if it pleases the Court, and then he has
10 the privilege of explaining.

11 THE COURT: What you want is the information,
12 whether he can give you the racial identity of who
13 may have put in these false alms; that's what you
14 want, isn't it?

15 MR. KING: Well, I wanted a categorical
16 response to the question put.

17 THE COURT: Let him respond to it - you
18 see, I have already asked him to put it in the
19 record the detail about each call; so, if he wants
20 to give it that way, you'll get the information the
21 same way, won't you? Isn't that true, Mr. King,
22 don't you get the information that way? He has
23 his card there.

24 MR. KING: This is a conclusion which may or
25 may not be valid.

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THE COURT: Maybe I don't understand the significance of the way you want it.

MR. KING: Perhaps I could rephrase it, Your Honor.

THE COURT: All right, go ahead.

MR. KING: And avoid the necessity of confusion.

THE COURT: You're entitled to the information. I was just trying to simplify it for both of you and have him give it with regard to each one.

Q Mr. King: I ask you, Mr. Mood, you as a matter of fact cannot tell me whether the person was white, or the persons presumably who made these calls, were white or black, can you?

A I can on one particular call.

Q Then, your response is that on one of these you can establish the race of the person who made the call?

A The race of the person because they were at the location.

Q Then, I take it that simply by virtue of the person being there, this is the way that you determined that this call was made by a certain person?

A I didn't accuse them of making the call.

Q Well, would you answer the question then? Can you tell me whether any of these calls were made by

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1 black people?

2 A I had no case to make against any one on these
3 calls.

4 Q Then, your response is that you don't know who
5 made the calls, is that right, Mr. Moody?

6 A I had no case to make against any one on these
7 calls.

8 Q Mr. Moody, you didn't answer the question;
9 then, you don't know who made the calls, do you, sir?

10 A I do not.

11 Q As a matter of fact, Mr. Moody, you get a
12 number of these calls depending upon the season of the
13 year, is that right, say around Halloween time?

14 A We get a few false alarms during seasonable
15 times.

16 Q But you don't know who made them, is that
17 right, sir?

18 A No.

19 Q As a matter of fact, Mr. Moody, there have been
20 occasions on which you've had more than eight calls during
21 the night season, is that correct?

22 Q No.

23 Q You have never had -

24 A Not in groups like that.

25 Q What do you mean by that, sir?

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A This period of time from 10:28 to 12:11 A.M.

Q The question put, Mr. Moody, was whether during the course of the night season you've had more than eight calls?

A No.

QX You've never had?

A Never have.

Q How long did you indicate that you had been working with the Fire Department, sir?

A Been working with the Fire Department since 1927.

Q How long have you served in the capacity of Chief of the Albany Fire Department?

A Since 1957.

Q Since 1957; then, your testimony goes to the period from '57 to the present, is that correct?

A That's correct.

Q No further questions.

REDIRECT EXAMINATION

BY MR. RAWLS:

Q Chief, of course, it's a matter of calculation but how much actual time elapsed between the commencing hour and minute that you designated there and the closing hour and minute? The opening is on July 24, the opening time; that's 10-- what?

A 10:28 P. M.

CLAUDE JOINER REPORTING SERVICE

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Q And your closing time of that period is when?

A 12:11 A. M.

Q That's an hour and 43 minutes?

A Yes sir.

Q Now, how close is the 24th and 25th of July to Halloween, do you know?

MR. HOLLOWELL: May it please the Court, I submit that that would be purely irrelevant, immaterial and incompetent.

THE COURT: Yes, I sustain that.

MR. RAWLS: I'll withdraw the question, Your Honor. I think that's a matter of calculation.

Q And, of course, July 4 had already passed?

A Yes sir.

THE COURT: Allright, anything further from this witness? You may go down.

MR. RAWLS: Your Honor, the Fire Chief asks that he be excused and I assume that's all right.

MR. HOLLOWELL: Yes.

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CLAUDE JOINER REPORTING SERVICE

MR. GEORGE F. JOHNSON

15th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Identify yourself to the court reporter, please,
Mr. Johnson?

A Patrolman George F. Johnson, Albany Police
Department.

Q How long have you been on the Albany Police
Department?

A 19 months.

Q Do you remember an occasion in July, 1962, when
you were on Highland Avenue Alley in Albany?

A I do.

Q Tell us what happened to you in connection
with your activities at that particular time and place?

A Well, Officer Wynn and myself were at what
we call the north call box, which is located on Highland
Avenue. I would say there was between 4- and 500 colored
people around us, had us more or less backed into the build-
ing, the side of the building. We did make an attempt to
get up to the bus station, when all of the commotion was
going on but they wouldn't move. So, we backed up against
the building, and there was a couple of bottles thrown at us.

Q A couple of what?

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1 A Bottles, pop bottles and also a couple of cans.

2 Q Did anybody say anything to you?

3 A Yes sir.

4 Q What was said to you by an individual?

5 A One young colored boy, I would say about 20
6 years old, came up to me and said, asked me could he go
7 to the bus station. I said "Yes, if you can get there."
8 He said, "Well, we're going to cut any son-of-a-bitch that
9 gets in our way." I told him to go on home and behave
10 himself. He stayed around a few minutes and finally he
11 left.

12 Q You don't remember the exact date in July that
13 that happened?

14 A July 21.

15 Q July 21?

16 A Yes.

17 Q Did you go with the Chief and the other officers
18 down into the Harlem area on the night of July 24, in an
19 effort to disperse the group that had assembled there on
20 that occasion?

21 A I did.

22 Q Did you observe anything about the conduct of
23 the group who had gathered there? Do you have any estimate
24 as to the number that was in the group?

25 A I don't have any estimate as to what the number

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was. I would say at least a couple of thousand, if not more.

Q At least a couple of thousand?

A Yes.

Q Do you know the race of the people who constituted that group?

A Colored.

Q Did you observe any conduct or any conversation or any statement by anybody in that group aimed at the officers or said to the officers?

A Yes sir, as we was marching down the street someone in the crowd says, "Here comes the pale-faced sons-of-bitches now." And they called us "mother-fuckers" and all kinds of names, vile names. Also, they would dodge in between cars and spit at us as we were walking along.

MR. RAWLS: He's with you.

MR. HOLLOWELL: No questions.

THE COURT: You may go down.

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16th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Identify yourself to the court reporter there,
please Mr. Westbrook?

A Price L. Westbrook, one of the city detectives,
Albany Police Department.

Q How long have you been connected with the Albany
Police Department?

A Since September of 1956, with the exception of
three months.

THE CLERK: Were you sworn?

The Witness: No sir, I was not.

Q Mr. Rawls: Have you been sworn?

A No sir, I have not. (Witness sworn) . . .

Q What you have already stated is the truth,
I presume?

A Yes sir.

Q Mr. Westbrook, on July 10 at approximately
9:30 in the evening, relate what happened when you were in
company with Sergeant Jeter and Agents of the Bureau --

MR. KING: Your Honor please, counsel
objects to this kind of leading question as he's
propounding there. He's virtually indicating what
he wants him to say. I think that it certainly can

1 Mr. King:

2 be phrased in a different way without it being leading
3 as this was.

4 THE COURT: All right, suppose you attempt
5 to rephrase it to meet the objection.

6 Q Mr. Rawls: Mr. Westbrook, do you remember
7 the evening of July 10, 1962?

8 A Yes sir, I do.

9 Q Who was with you and where were you on that
10 occasion?

11 A On July 10, Detective Sergeant Harold Jeter,
12 FBI Agent Bolyard and -

13 Q What kind of Agent?

14 A FBI Agent.

15 Q Federal Bureau of Investigation Agent?

16 A Federal Bureau of Investigation Agents Bolyard
17 and Marion Cheek and myself were at the corner of Whitney
18 and Jefferson; and our reason for being there was observation.
19 We have always attended these meetings and stayed away from
20 the church, but as close as we possibly could. Our reasoning
21 for this, we wanted to observe the white people that happened
22 to be going by the church; we wanted to know what they were
23 doing and their reasons for being there.

24 On that particular night we were there, all
25 four of us were in the car. Myself and --

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1 Q You and Mr. Jeter and the two FBI Agents?

2 A Yes sir.

3 Q Were all in the same car?

4 A Yes sir. I was sitting under the steering wheel;
5 Detective Jeter was sitting on the right, and Agents Bolyard
6 and Cheek were in the back seat, when all of a sudden to
7 our right we heard a loud noise; and then, possibly a
8 second or two seconds after that, the vehicle we were in
9 was bombarded with rocks and bottles; and also a bottle
10 went over the car and landed out in the street.

11 Q Did anything happen to the dome light of another
12 police car that was in that area?

13 A Yes sir, we found out that the first noise we
14 heard was the dome or red light on the marked patrol car
15 was busted out; and then approximately two seconds after
16 that, our car was hit.

17 Q Was your car hit by a stone or a bottle?

18 A It was hit by rocks and bottles. There were
19 five marks. We counted five marks on the vehicle. All
20 of them was in the rear.

21 Q Now Mr. Westbrook, up to now we've been talking
22 about July 10. Now, let's skip over to July 24: did anything
23 happen in connection with your police operations on that
24 particular night, that you recall?

25 A On July 24, sir?

1 Q Yes sir?

2 THE COURT: Before you leave the 10th,
3 let's find out where the bottles and stones came from,
4 if he knows.

5 Q Mr. Rawls: Do you know?

6 A To the best of my knowledge, the rocks and
7 bottles and stones came from behind us. They are building
8 a service station on the northwest corner of Whitney and
9 Jefferson and we were parked up underneath the tree. We
10 saw across the street, when we heard the noise, the first
11 thing we did was shut the door and roll up the windows in
12 the event they threw some more; and then we all looked
13 behind us and we could see no one. Across the street I
14 could see a colored person pointing in the direction of
15 the service station and immediately behind the service
16 station and a little to its left is an alley. So, I assume
17 that it come from that direction.

18 Q Now, how close were you parked to any church,
19 where any meeting was going on?

20 A Just a little further from here to the back
21 of the courtroom, from where I am to the back of the courtroom.

22 Q Was there a meeting in progress in the church
23 at that time?

24 A Yes sir, there was.

25 Q Do you know anything about the size of the crowd

1 that was at the church?

2 A The inside of the church was full. I understand
3 they have a seating capacity of 650. It was full, people
4 were standing around inside by the windows. There was
5 approximately 2- to 300 persons outside the church,
6 standing around, on the sidewalk, in the church grounds
7 and sitting on parked cars.

8 Q Now, how far did you say you were parked away
9 from the side of that church?

10 A Approximately from here to the end of the court-
11 room.

12 Q Would you estimate that in yards or feet?

13 A Just a rough estimate, I believe that particular
14 street is 36 feet wide, and it would be another approximate-
15 ly 20 feet from the curbing to the church, approximately 20
16 feet from -20 or 30 feet from where we were at to the
17 curbing. I would estimate it 80 to 100 feet.

18 Q Mr. Westbrook, we'll move now to the night of
19 July 24: will you tell us of any incident that happened
20 to you in connection with your police duties on that par-
21 ticular occasion?

22 A On July 24 we had a march. I am not sure
23 just exactly what time the march was. We had a march and
24 our work was dispersing the people that were standing
25 around on the corners, standing around in the street; and

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1 to protect the marchers as best we could. After the
2 marchers had been placed under arrest, I went down to the
3 intersection of Oglethorpe and Jackson, where we had
4 traffic blocked out; and there was quite a few other
5 officers there; and the crowd in Harlem began gathering
6 up to where they were on the sidewalks and out in the
7 middle of the 200 block of South Jackson. Cars couldn't
8 go in for the people standing around. And the crowd kept
9 on mounting up and mounting up and mounting up, until I
10 would estimate it was somewhere between 2- to 3,000 people,
11 were in Harlem at that time. We stood around --

12 Q Was that in the block of Jackson Street
13 immediately south of Oglethorpe Avenue?

14 A Yes sir.

15 Q All right go ahead?

16 A We just more or less stood around and tried
17 to observe. The motorcycle men kept the people moving on
18 the sidewalk, kept the traffic moving. We let no one in
19 that particular block. And during that time we could keep
20 on hearing noises from across the street. I'm not sure
21 just exactly what they said. It sounded like one time,
22 "Why don't you son-of-a-bitches come on over here on our
23 side?" But I'm not positively sure about that.

24 We stood around and then finally, Chief Pritchett,
25 he went into the crowd with 5 or 6 police officers; and he

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1 come back --

2 Q What race of people constituted the crowd that
3 you referred to?

4 A Colofed people. That's all I could see.

5 Q Go ahead?

6 A Chief Pritchett went into the crowd with 5 or
7 6 or 7 officers, I'm not sure how many; and he come back
8 and he told them to bring the Troopers on; and we went into
9 the crowd then. We lined up on each side of the street in
10 two lines and we started going down through Harlem to
11 disperse the crowd.

12 We had just gotten into Harlem good, I would
13 say I would be in front of the drug-store in the 200 Block
14 of Oglethorpe - correction, 200 block of South Jackson -
15 when I heard someone say, "There's none of those God-damn
16 mother-fucking detectives." I tried to pick him out of
17 the crowd but I was unable to.

18 We kept walking --

19 Q Do you know the color of the person who made
20 that statement?

21 A No sir, I do not for sure but when I looked,
22 the only thing I could see was colored people. I saw no
23 white person whatsoever.

24 Q Are you a member of the Detective Department?

25 A Yes sir, I am.

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1 Q Go ahead?

2 A We kept walking and two bottles came over
3 from the east side of the street. Now, I saw both
4 bottles and I hollered, "Watch it". And both bottles
5 landed in the middle of the street. To my knowledge, no
6 one was hit then.

7 We kept on walking and I would notice people,
8 someone go up close to cars or beside cars and then all of
9 a sudden they would run back; and at this particular time
10 I was in the middle of the street, which would put me in
11 the middle of the two lines. I did not stay in one particu-
12 lar line. I was going from one side to the other side and
13 observing. And I heard one of the Troopers say, "Watch
14 it, men, they're spitting on us." I kept trying to watch
15 for that and I was unable to see any, but I did notice people
16 running up to the line that we were in and then go back.

17 We got down in the 300 block of South Jackson
18 and we stopped just before we got to the church or to
19 Whitney ^{Alley} ~~avenue~~, right directly in front of Whitney Alley.
20 I was in front of Giles Super Market when Trooper Hill got
21 hit. And all the time we were getting rocks and bottles
22 and we were cursed at for everything a person could possibly
23 think of. Chief Pritchett turned around and he said, "All
24 right, men, let's go back." We turned around and we started
25 walking back, and we were bombarded from the rear, because

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1 I was walking backwards watching the rear of the line.

2 Q Bombarded from the rear with what, Mr. Westbrook?

3 A With bottles, and I could hear rocks. I could
4 not see the rocks. I could hear them after they hit and
5 see them bouncing around on the pavement. But we were
6 bombarded from the rear with bottles, and I told a group
7 of officers to turn around and watch behind them and walk
8 backwards, so they could see the bottles that were coming up.
9 I would estimate at one time there was 15 to 20 bottles
10 in the area, all coming from the 300 block of Whitney -
11 correction, 300 block of South Jackson, in the vicinity
12 of the church.

13 Q Did you see any members of any race in that area
14 except the colored race?

15 A No sir, I did not. The only ones that were
16 white were the police officers.

17 Q Were the business houses in Harlem closed on
18 account of that commotion or not?

19 A Yes sir, they were closed. We stopped on the
20 way back in the 200 block of South Jackson, and Chief
21 Pritchett broke the line and went to one whiskey store
22 and told them he wanted the place closed up. He come down
23 to another one and told them he wanted it closed up.

24 Q Mr. Westbrook, do you know whether the FBI,
25 the Federal Bureau of Investigation Agents Bill Bolyafd and

1 Marion Cheek are in Albany at the present time?

2 A To my knowledge, they are, sir.

3 Q Do you know whether they're stationed at this
4 particular post?

5 A Yes sir, they are. Agent Bolyard is in charge
6 of the Albany Division.

7 Q How do you pronounce that, Bolyard?

8 A Bolyard (pronouncing Bull-yard).

9 Q He's the agent in charge?

10 A He's the Agent in Charge of this division.

11 Q I ask you whether or not they have an office
12 in this same building that this court is being held in?

13 A Yes sir, they do, on the second floor.

14 CROSS EXAMINATION

15 BY MR. C. B. KING:

16 Q Mr. Westbrook, calling your attention to the
17 testimony with reference to July 10, 1962, I believe that
18 you testified that at or about 9:30 you were in the area
19 of the intersection of Jefferson and Whitney?

20 A That is correct.

21 Q Is that correct?

22 A Yes.

23 Q Would you indicate exactly where your car was
24 parked?

25 A There's a service station being built on the

1 northwest corner of Whitney and Jefferson. We had pulled
2 up underneath a tree in front of the service station. I
3 would say it would be approximately 20 to 30 feet actually
4 from the intersection of Whitney and Jefferson.

5 Q Is this to indicate that your car was parked
6 parallel to Whitney Avenue?

7 A No, we were parked right in front of Jefferson
8 Street.

9 Q You were parked right in front?

10 A Right in front of Jefferson Street. We were
11 directly across the street from the back door of Shiloh
12 Church.

13 Q Then, your car was headed north and south?

14 A No, we were up on the service station ground,
15 where they were building the service station. We were not
16 in the street.

17 Q What I'm trying to establish, in what direction
18 was the head of your car or the front of your car headed?

19 A The car was heading east.

20 Q The car was heading east?

21 A Heading east.

22 Q Then, your car was running parallel to Whitney
23 Avenue, is that correct, sir?

24 A That's correct, approximately 20 to 30 feet
25 from Whitney. We were not directly beside it.

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1 Q I see. Then, you were up on what would
2 normally be the sidewalk, I take it?

3 A We were up on the service station lot, where
4 they were grading and getting the service station ready.

5 Q Then, you are saying also that you were toward
6 the rear, if a straight line was drawn in the direction
7 in which the front of your car was headed, you would be
8 toward the rear of the Shiloh Baptist Church, only on the
9 other side of the street?

10 A That is correct.

11 Q Is that correct?

12 A That is correct.

13 Q Now, I believe you testified that in this
14 car you had Mr. Bolyard, Mr. Cheek, yourself and Mr. Jeter,
15 is that correct?

16 A That is correct.

17 Q Now, when did you first observe any missiles
18 or, as you put it, the commencement of this bombardment
19 taking place?

20 A We were in the car talking. We had the doors
21 up or open and all the windows down. We heard a noise to
22 our right. A patrol car, a marked patrol car, was sitting
23 at the intersection of Whitney and Jefferson in the street.
24 The patrol car was heading east, parked on Whitney. We heard
25 an unusual loud noise from that direct. Approximately one

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1 to two seconds after that noise we heard our car getting
2 bombarded. The first thing I did was shut the door and let
3 up the window, so I wouldn't get hit.

4 Q Now, do you know from what direction those
5 missiles came?

6 A They did not come from the front of the vehicle.

7 Q Then, this is to say that they did not come
8 from the side on which the church was situated, is that
9 correct, sir?

10 A They did not come from where the church was at.

11 Q Then, they came from obviously, as you have
12 deduced, from down the street on Whitney Avenue, is that
13 right?

14 A They came from the rear. Now, whether they
15 came from directly behind us or from the side of us, I
16 do not know.

17 Q Then, I take it that the only affirmative
18 statement that you can make is that they did not come
19 from the direction of the church, is that correct?

20 A They did not come from the church.

21 Q You would also make the statement, would you
22 not, sir, that you do not know who threw those missiles,
23 is that correct?

24 A I do not.

25 Q Now, I ask you this, as a matter of fact, nobody

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1 was injured as a result of this bombardment, is that correct?

2 A I would like to answer that question with an
3 explanation.

4 Q All right -

5 THE COURT: Answer it, give a definite
6 answer and then explain it.

7 A The Witness: No one was injured. In the
8 rear of the car there's an indention which is in there now
9 of approximate a half an inch, which was made by a stone
10 approximately this size (indicating). I got out and picked
11 the stone up myself. If that stone had been thrown -

12 Q Mr. King: I am not interested in the
13 witness' speculation; I am interested only in what you
14 can attest to -

15 MR. RAWLSA: Your Honor please, I think the
16 witness ought to be permitted to finish his answer
17 to the question.

18 THE COURT: Well, I will caution the witness
19 that he is not to speculate on what have happened,
20 if so and so and if so and so; but just recite the facts,
21 whatever the facts are.

22 A The Witness: No one was injured on that night,
23 to my knowledge.

24 MR. RAWLS: May the witness finish his answer.

25 THE COURT: Oh yes, you go ahead and finish

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1 The Court:

2 your answer. The only purpose in stopping the witness
3 was to caution him that he was not to speculate or
4 presume but just recite the facts. Go ahead and
5 complete your answer.

6 A The Witness: If the stone had been thrown --

7 MR. KING: If Your Honor pleases, I
8 believe the Court cautioned the witness that specula-
9 tion was not proper, that we were interested only in
10 the facts.

11 THE COURT: That's right. You will not
12 speculate about what would have happened if the
13 stone had been thrown in some other direction or
14 such as that; but recite what did happen; not what
15 might have happened. Now, have you completed your
16 answer?

17 A The Witness: Yes sir.

18 THE COURT: All right.

19 Q Mr. King: I believe you further gave
20 testimony, Mr. Westbrook, with reference to the night of
21 July 24, and you indicated, I believe, that you were up
22 in the 100 block of South Jackson Street earlier that
23 evening, that is during the time that the marchers were
24 being arrested?

25 A I would have to refresh my memory with other

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1 notes, due to the fact that I was in so many places on that
2 particular night, that at that particular time I don't know
3 just exactly where I was at.

4 Q Am I to understand, sir, that you cannot
5 distinguish the conduct of those persons who were arrested
6 from the milling mob that you speak of in the 200 block of
7 South Jackson Street?

8 A The persons that were arrested came across the
9 street. They went down on, I believe this group come down
10 the middle of the street. I am not sure. But I was either
11 in the 200 - in the 100 block of North Jackson or the 100
12 block of South Jackson. I was in that vicinity.

13 Q Did you observe those who were arrested?

14 A Only passing by.

15 Q Then, I take it that your testimony generally
16 does not go to the 40-something that were arrested?

17 A No sir, that was not my job. My job was to
18 keep people moving and not let no one stop.

19 Q In other words, I am simply attempting to
20 establish, Mr. Westbrook, whether you in any way came in
21 contact with those persons who were arrested in the 100
22 block?

23 A I did not.

24 Q Now, I believe that you said, however, that
25 you were down in the 200 block of South Jackson Street, is

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1 that correct?

2 A I did go down in the 200 block of South Jackson,
3 also the 300 block of South Jackson.

4 Q Now, I believe you testified as to the number
5 of persons who were there, is that correct?

6 A I would estimate the crowd at approximately
7 2- to 3,000 people.

8 Q How do you arrive at this estimate, sir?

9 A When I looked across the street, the only thing
10 I could see was people. I was unable to see the end of
11 Highland - correction - I was unable to see Highland Avenue
12 from Oglethorpe and Jackson. It was completely black.

13 Q It was completely black?

14 A Yes.

15 Q What does this testimony go to, sir, the
16 condition of the atmosphere?

17 A It does not. It goes that I could only see
18 colored people.

19 Q You aren't by any means attempting to suggest
20 that people who are definitely identifiable as colored look
21 all the same, are you, sir?

22 A Some of them look a little bit different from
23 others.

24 Q I see. Pursuing this just a bit further, are
25 you suggesting that you are able to recognize and otherwise

1 identify a Negro wherever you see him?

2 A I could not answer that yes or no.

3 Q Well, getting on with this testimony that you've
4 given here, sir, you stated that you were called names;
5 were you able to identify the persons who called you these
6 names?

7 A I was not.

8 Q Are you even able to identify them as to their
9 race?

10 A The only people I saw when I heard what I was
11 called was Negro people, colored people.

12 MR. KING: If it please the Court --

13 The Witness: I was not going to stop and
14 try to find out one person calling me one name, when
15 everybody else was hollering, shouting, screaming
16 and throwing bottles and everything else.

17 MR. KING: If Your Honor pleases, the
18 question put was whether or not he could establish
19 on the basis of race who made these vituperations
20 that he's attesting to.

21 MR. RAWLS: Your Honor, he has a right to
22 explain his answer.

23 The Witness: I would like to answer with an
24 explanation, Your Honor.

25 THE COURT: Yes, suppose you give an answer -

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1 MR. RAWLS: Your Honor, if you'll permit me
2 to make this statement, I contend that he answered
3 the question by the process of elimination.

4 THE COURT: Well, I think so too; but
5 that's a question that can be answered yes or no;
6 and so, suppose, Mr. Witness, you answer the question
7 yes or no; and let what you have already said be by
8 way of explanation of your answer.

9 A The Witness: I would answer the question,
10 yes, it came from someone of the colored race.

11 THE COURT: All right.

12 Q Mr. King: How do you know that, sir?

13 A I saw no white people down there whatsoever,
14 other than police officers.

15 Q Didn't you just a moment ago testify that
16 you would not set yourself up as an authority to establish
17 the definite identification of the races of mankind?

18 A I have been wrong before, but when I am in a
19 group of the colored people, where they are mixed up, I can
20 tell them. I can tell a colored person from a white person.
21 Now, I have been mistaken by, if the Court will excuse the
22 expression, by a "high yellow".

23 Q Whatever do you mean by that statement?

24 A Red down in Harlem, colored person they call "Red".
25 I have been mistaken about him.

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1 Q I see. Then, I take it that as you have been
2 mistaken in that instance, you do admit that you might well
3 be mistaken in others, is that correct, sir?

4 A I am not perfect.

5 Q Now, I believe that you testified a moment ago
6 that as you went down in this area you weaved back and forth
7 across the street, is that correct?

8 A I went from one side of the street to the other.

9 Q In your going to and fro across the street,
10 did you intermingle with the groups of people allegedly
11 there?

12 A I did not. We had orders to stay in the line.
13 I was staying in between the lines. I was going from one
14 side, from the east side to the west side, inside the two
15 lines that we had.

16 Q Then, I take it that there were no persons
17 other than the officers who were inside the street?

18 A People kept running up in between cars. We
19 marched along outside the line of cars, and people could
20 get in the street, the width of an automobile.

21 Q I believe you also testified that you were
22 not hit, is that correct, sir?

23 A I did not testify that I was hit. I did not
24 testify that I was not hit.

25 Q Were you hit, sir?

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1 A A bottle hit at the bottom of my feet and
2 splattered on my pants.

3 Q Spattered on your pants?

4 A That is correct.

5 Q That was the extent of any contact that you had
6 with the missiles, is that correct?

7 A That is correct.

8 Q Do you know of anybody else who was hit, of your
9 own knowledge?

10 A Trooper Claude Hill was standing approximately
11 3 or 4 feet from me when he got hit. I heard the lick.

12 Q Who else?

13 A I saw a bottle and also a rock bounce off of
14 a motorcycle.

15 Q I want you to be responsive to the question,
16 sir. The question was, did you see anybody else get hit?

17 A Motor men on the motorcycle.

18 Q Did you say a motorcycle or somebody on a
19 motorcycle?

20 A Motormen on their motorcycles.

21 Q What's his name?

22 A At this time I wouldn't be able to tell you.

23 Q How long have you been with the Department, sir?

24 A Since '56, with the exception of three months.

25 Q How many men are in the Department?

1 A I would have to guess at that. 60, 61 or 62,
2 I don't know.

3 Q As a matter of fact, you've worked on a desk,
4 is that correct, sir?

5 A That's correct.

6 Q Which job occasioned you coming in contact with
7 virtually all of the police department personnel, is that
8 correct, sir?

9 A That is correct.

10 Q And you can't identify who this particular
11 mounted officer was?

12 A I could not because I wasn't looking at him.
13 I was looking at bottles, rocks and anything else that was
14 coming in our direction.

15 Q Then, as a matter of fact, you don't know whether
16 this man was hit or not, is that, sir? You didn't see
17 it then, did you?

18 A I saw the motorcycle get hit.

19 Q Oh, I believe you also testified that you heard
20 somebody say, "Watch out, men, they are spitting at us"?

21 A I heard some Trooper say that.

22 Q As a matter of fact, Officer, you didn't see
23 anybody spit on anybody, did you?

24 A I have not testified to that.

25 Q No further questions.

RECESS: 3:42 PM to 3:52 PM - 8-2-62

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17th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Identify yourself to the court reporter there,
Mr. Wills? Tell the court reporter your name and occupation,
Mr. Wills, please sir?

A My name is Robert Grady Wills, better known to
the public as "Red" Wills; and known to the colored people
as "Big Red".

Q Are you a police officer of the City of Albany?

A I am, yes sir.

Q How long have you been?

A 15 years.

Q 15 years, continuously?

A Yes sir.

Q Do you drive what's known as the "paddy wagon"?

A I do, sir.

Q Tell us about an incident that happened on May
10 in the 1100 block of South Jefferson, where you had
the paddy wagon parked?

A Well, sir, I was shot at on the paddy wagon.
My mirror here was shot off of the wagon.

Q Do you have your mirror?

A I do, sir.

Q Does this mirror stick out from the side of the

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1 windshield on the paddy wagon?

2 A Right on my left side.

3 Q Right on your left side?

4 A Yes sir.

5 Q That's the mirror that you look into to see how
6 to back without backing into anybody?

7 A That's right, sir.

8 Q And this is the actual mirror that was on the
9 side of your paddy wagon?

10 A Yes sir.

11 Q Who shot you, Mr. Wills?

12 A Well, I don't know. I met a car with a colored
13 man in it. He was traveling south.

14 MR. KING: If Your Honor please, I believe
15 the question put presumes or otherwise assumes that
16 somebody, some individual has been shot. There has
17 been no testimony to indicate that any human being
18 has been shot, and I object to it on that ground.

19 MR. RAWLS: Your Honor, I didn't ask Mr.
20 Wills who shot him.

21 THE COURT: I think the question was, "who
22 shot you", and I sustain the objection.

23 Q Mr. Rawls: Well, what I meant to say was,
24 who shot your mirror, Mr. Wills?

25 A Well, as I said, I met a car in the 1100 block

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1 of South Jefferson Street. I was traveling north on
2 Jefferson, and this car was traveling south. And just
3 as it passed me, the shot was fired from the automobile
4 and it hit this mirror.

5 Q Is your testimony to the effect that the shot that
6 busted the mirror, your rear-view mirror, was fired from
7 a vehicle, an automobile?

8 A That's right, yes sir.

9 Q How many occupants were in that car?

10 A Well, sir, I only seen one. Of course, the car
11 was traveling at high rate of speed, I would say 45 to 50
12 miles an hour and had his bright lights on, as I was meeting;
13 and before I could - I never did overtake him or get up
14 with him. In other words, I went about a half a block,
15 turned around and, of course, that wagon is pretty slow,
16 and he topped the hill and went over the hill from me,
17 over a grade, and I lost him; never did catch him.

18 Q Could you see him as you were meeting him and
19 identify him sufficiently to distinguish what race he belong-
20 ed to?

21 A He was colored, yes sir.

22 Q Were you later at another time called to what's
23 known as Third Kiokee Church? In your paddy wagon?

24 A I had come by there, yes sir.

25 Q Was it on the same night? Was it on the same night?

1 A Yes sir, yes sir.

2 Q What happened at Third Kiokee?

3 A Well, they were having a mass meeting out
4 there that night.

5 Q How far were you from Third Kiokee when your
6 rear-view mirror got shot?

7 A I'd say 5 blocks, 4 or 5.

8 Q 5 blocks?

9 A About 5, I would say.

10 THE COURT: About what, I didn't get that
11 answer? You were about how far from the church?

12 The Witness: About 5 blocks, Your Honor.

13 Q Mr. Rawls: Did anything else happen to
14 your paddy wagon in the vicinity of Kiokee Church?

15 A Yes sir. Later we had a call over on Cherry,
16 at the Teen-age Center over there, there were some boys
17 that was throwing bricks and bottles and we had a - gave
18 to us a signal 7. That represented disorderly conduct.
19 We went out in that area there and also one of the cars
20 was out there with me.

21 Q One of the police cars?

22 A Yes sir; and it got a cement alley throwed out
23 in the alley. It was traveling, it was chasing some of
24 them and they jumped behind a building and throwed a
25 cement block out under the car; and it knocked the oil pan

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1 up ag¹ in the rods.

2 Q Were those colored people?

3 A And I had left this wagon parked on Cherry
4 Street there, trying to help them round them up; and when
5 I come back, of course, I didn't expect it but later found
6 out that there had been some gas rags put up under the dash
7 and it burned the wires off of it a little later when I
8 cranked it up and left there.

9 Q Were those colored boys that you were dealing
10 with?

11 A Yeah, that's right.

12 MR. RAWLS: Mr. Clerk, I will ask you to
13 put some kind of identification on this rear-view
14 mirror appliance here, please sir.

15 THE CLERK: P-10.

16 MR. RAWLS: The witness is with you.

17 CROSS EXAMINATION

18 BY MR. C. B. KING:

19 Q Mr. Wills, what is your first name?

20 A My first name is Robert.

21 Q Are you assigned generally to driving this
22 paddy wagon that you've spoken of?

23 A I am.

24 Q How big is the paddy wagon?

25 A Well, you can seat 12 men in it.

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1 Q 12 men. Are you the same person who was dis-
2 patched to take prisoners to Camilla, that is 20-some odd,
3 in this paddy wagon?

4 MR. RAWLS: Now, if Your Honor pleases, I
5 object to this question and the contemplated answer,
6 on the ground it's illegal, irrelevant and immaterial.

7 MR. KING: If Your Honor pleases, this is
8 only for purposes of identification and to that extent
9 I think it would be relevant.

10 THE COURT: All right, I overrule the objection.

11 Q Mr. King: You may answer the question?

12 A All right, what's the question?

13 THE COURT: The question was, are you the
14 same person who was taking parties to Camilla in
15 the paddy wagon?

16 A The Witness: Well, I'm the man that did start
17 with them but they wasn't carried down there in the paddy
18 wagon.

19 Q Mr. King: 22?

20 A I wouldn't recall how many, for I don't believe
21 I counted them.

22 Q More than 12, is that correct?

23 A Well, I wouldn't say if it was and I wouldn't
24 say it wasn't.

25 Q On this particular occasion, you said that you

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1 started to?

2 A That's right.

3 Q And would you indicate what happened, why you
4 didn't take them?

5 A Well, I hadn't got out of town and they radioed
6 me to come back to the Station.

7 Q Did you take them ultimately?

8 A I returned back to the Station.

9 Q How many were in the car, in the paddy wagon?

10 A As I say, I didn't count them and I wouldn't
11 know.

12 Q Well, why were you called back?

13 A Huh?

14 Q Why were you called back?

15 A Well, they decided to transport some in cars,
16 and so forth.

17 Q The same number that had been in the paddy
18 wagon previously?

19 A I would say there was.

20 Q Do you remember how many cars were dispatched
21 for that purpose?

22 A No.

23 Q Was there more than one?

24 A Yeah, there was more than one.

25 Q Was there more than two?

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1 A I wouldn't say there was; I wouldn't say neither
2 way.

3 Q As a matter of fact, there were five, weren't
4 there?

5 A No. As I said, I wouldn't say. I don't know.

6 Q Now, I believe that your testimony was with
7 reference to the night of May 10, is that correct? You
8 testified that while proceeding on Jefferson Street in a
9 northerly direction?

10 A Traveling north, yeah.

11 Q You were met by a car proceeding in the
12 opposite direction? Is that correct?

13 A That's right.

14 Q I believe you testified further that your mirror
15 was struck?

16 A Yes.

17 Q Do you know what it was struck with?

18 A By a bullet.

19 Q How are you able to ascertain that it was struck
20 by a bullet, sir?

21 A Well, there it is (pointing to rear-view mirror)

22 Q Did you find the bullet, sir?

23 A No, couldn't find it.

24 Q At what juncture along South Jefferson Street
25 did this occurrence take place?

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1 A In the 1100 block of South Jefferson.

2 Q And to what intersection is that closest on
3 South Jefferson?

4 A You mean - I don't quite get you?

5 Q At what cross street on Jefferson is this
6 closest?

7 A I believe it's Dorsett there, just above there.

8 Q Dorsett?

9 A In other words, Food Bank Grocery out there
10 is in that 1100 block and I had just passed that.

11 Q Now, I believe that you said that it was close
12 to the intersection of Dorsett?

13 A It was right in that neighborhood. I'd say
14 Food Bank Grocery, I had just passed that; and that's in
15 the 1100 block.

16 Q On what street is Third Kiokee Baptist Church?

17 A Well, it's in between Alice and Carver Drive
18 or Carver -- I believe that's right.

19 Q Looking south from Dorsett, how many blocks over
20 would be Alice?

21 A Well, I would say that was kind-of southwest
22 from wherethat happened; and it would be, as I said, five
23 blocks across there.

24 Q I would like to establish, first of all, how
25 many blocks over would Dorsett or how many blocks over would

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1 Alice be from Dorsett?

2 A Well, let me see . . . be about three, the best
3 I can say off-hand.

4 Q About three blocks, that is looking south, is
5 that right?

6 A Looking south, yes.

7 Q Now, how many blocks over is Madison Street
8 from Jefferson Street?

9 A Well, let's see, I believe it's one.

10 Q As a matter of fact, it would be three, is
11 that right, sir?

12 A You're speaking from Jefferson to Madison?

13 Q That's correct, sir?

14 A Well, no, I don't think so, no.

15 Q Well, let's see, by way of refreshing your
16 r3collection: From Jefferson to Monroe is one, is it not,
17 sir?

18 A It is, yes; possibly.

19 Q Are you indicating you don't know, sir?

20 A Well, as I said, it was about five blocks from
21 where it happened at, that's roughly.

22 Q Five blocks?

23 A Just roughly saying that, across. I didn't
24 mean -- I was speaking about straight across.

25 Q Now, how did you ascertain that this was a

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1 Negro that was driving this car?

2 A Well, sir, my lights shined in his face as I
3 was meeting him.

4 Q I see, and you were able to establish what he
5 looked like, is that right?

6 A Why certainly.

7 Q What did he look like?

8 A Well, he was a colored man, slim fellow, had
9 on glasses.

10 Q What kind of car was he driving?

11 A I'd say between a '59 and a '60 Ford.

12 Q What color was it?

13 A Well, I'd say in the dark probably a dark green,
14 the best that I - the glimpse that I got of him.

15 Q Do you have to wear glasses, sir?

16 A I do to read.

17 Q Did you have them on, on that occasion?

18 A Huh?

19 Q Did you have them on, on that occasion?

20 A I did.

21 Q Was this at night?

22 A It was.

23 Q About 9:30, I believe you have indicated?

24 A No, around 10:45.

25 Q Around 10:45?

1 A That's right.

2 Q Did you indicate whether or not you found the
3 bullet?

4 A Did not; did not find the bullet.

5 Q How do you know it was a bullet?

6 A I've seen too many of them, heard the noise
7 and pistols.

8 Q Then, as a matter of fact, you don't know
9 positively that it was a bullet, do you?

10 A Yes, I know it was a bullet.

11 Q Did you see him shoot the pistol, sir?

12 A Just as he passed, we were just passing one
13 another when it was fired right from the automobile.

14 Q Oh, and this was the first occasion that you
15 had to see him, is that right?

16 A No.

17 Q Just as you were passing?

18 A No, I seen him just before I passed him.

19 Q Just before you passed?

20 A Yes.

21 Q Was he going fast or slow?

22 A As I said, he was going about 45 or 50, just
23 roughly guessing.

24 Q Now, as a matter of fact, there is a hill there
25 by this store that you talked about, isn't there, sir?

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1 A There's an upgrade there; yes, just past the
2 store that goes over like that (demonstrating). . .

3 Q Now, I believe that you testified that you were
4 at Third Kiokee Baptist Church but you didn't testify that
5 anything happened there, is that right, sir?

6 A Did not.

7 Q But you did say something about something
8 happening at the Teen Center?

9 A That's right.

10 Q Where is that Teen Center located?

11 A It's out there south of McKinley, Ballard-Park
12 School, just below there.

13 Q And that is a municipally owned recreational
14 center which is limited to the use of Negroes, is that
15 correct?

16 A That's right. I have the complaint here and
17 the man that put in the complaint on the particular call.

18 Q Getting back for a moment, Mr. Wills, to this
19 incident in which you allege that your mirror was broken:
20 Did you see anybody else in that car?

21 A I don't recall seeing anybody else but the
22 driver.

23 Q Nobody but the driver, is that right?

24 A It is possible there could have been somebody
25 else. I wouldn't say there was and wouldn't say there wasn't.

1 Q Did you indicate whether or not you tried to
2 catch the man?

3 A I did, yes.

4 Q You did?

5 A Yes.

6 Q Exactly what did you do in an effort to try to
7 catch him?

8 A Well, I turned around as quick as possible;
9 but, as I said, the truck was so slow and everything and
10 at the speed that he was traveling going south, that he had
11 done topped that grade there and I lost sight of him.

12 Q Did you have any other traffic on the street
13 at that time?

14 A Well, I wouldn't recall if I did.

15 Q As a matter of fact, was there any activity
16 there in the area?

17 A No, no, not right in that vicinity there at
18 that particular time.

19 Q Did you stop in an effort to ascertain whether
20 there were any witnesses to this?

21 A No.

22 Q Why didn't you?

23 A Well, I didn't see anybody that I thought
24 probably could give me any, that's why.

25 Q What do you mean by that, you didn't see anybody

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1 that you thought would be able to give you any?

2 A Well, who had probably seen that particular
3 car.

4 Q Did you see anybody?

5 A Well, I was looking for anybody, only for the
6 man that I thought was the one that I had met out there
7 and had took a shot at me. That was the only one I was
8 interested in.

9 Q Now, getting on to this Teen Center incident,
10 when did this take place?

11 A When did it?

12 Q Yes?

13 A That particular night about, I'd say, 9:30 or
14 9:45, probably, just about an hour, I'd say prior to
15 that, prior to this particular case.

16 Q Now, I believe that you testified that on
17 this particular occasion that there was some cement block
18 thrown, is that right?

19 A That's right.

20 Q Do you know who threw it?

21 A All I knew was some boys, some colored boys.

22 Q How do you know that they were colored boys?

23 A Well, do you reckon we didn't see them?

24 Q Well, did you arrest them?

25 A Couldn't run them down, couldn't catch them at
night.

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1 Q What did you do in an attempt to find out who
2 they were?

3 A Well, we was out there trying to catch them
4 but they were like birds.

5 Q However, you never answered the question:
6 Did you see them?

7 A I did, yes.

8 Q Now, you testified a moment ago about these
9 rocks being, not rocks but this cement block being thrown:
10 Exactly where were you at the time that it was thrown?

11 A Right off of South - right off of McKinley
12 down on Cherry, right in that vicinity there.

13 Q Right in that vicinity, what vicinity, sir?

14 A Well, right off of Cherry Street.

15 Q Right off of Cherry Street?

16 A In the alley north of Cherry.

17 Q Where does Cherry Street go to?

18 A Well, she goes on out right on through, on
19 out by the park there, but it's got kind-of an offset in
20 there.

21 Q Runs east and west?

22 A That's right.

23 Q Now, how far is this off-set on Cherry from the
24 Teen Center?

25 A Well, it starts right in there. The offset is

1 right in there where that Teen Center comes in at. It runs
2 out into South McKinley there.

3 Q What block of Cherry was this?

4 A Well, I'd say that was - I wouldn't be positive -
5 I believe it was in the 700 block there.

6 Q In the 700 block?

7 A Yes.

8 Q As a matter of fact, that entire area is extremely
9 dark under night conditions, is that correct, sir?

10 A That's right.

11 Q Then, ultimately you don't know who threw this
12 cement block?

13 A No, I don't. I just knew it was some colored
14 boys, that's all.

15 Q It wasn't thrown at anybody, was it?

16 A I wouldn't think so. They threw it out in the
17 road, where they jump behind the corner of a house;
18 threw it out in the alley right in front of the police
19 car and then broke and run.

20 Q Now, you mentioned also in your testimony, sir,
21 this matter of discovering subsequently some rags?

22 A That's right.

23 Q Where was the car parked at the time?

24 A On Cherry, left it on Cherry Street.

25 Q On Cherry St., when did you discover the rags?

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A Well, when it caught afire.

Q Well, when was that?

A That was about, maybe 45 minutes later.

Q Were you enroutte to the police station?

A No, I wasn't. I was out there --

Q Out where?

A In that vicinity, went to pick up --

Q Exactly where in the vicinity?

A I was out there on Cotton.

Q Out on Cotton Street?

A Yes.

Q How far was that from the Teen Center?

A Oh, I'd say 2½ or 3 blocks.

Q 2½ or 3 blocks?

A Yes.

Q Then, as a matter of fact, you don't know who put those rags in there, do you?

A No, I sho don't.

Q Nor do you know exactly when they were put there?

A Well, I couldn't say positively.

Q No further quesgions.

MR. RAWLS: Come down.

1 MR. RAWLS: Your Honor, we desire to call
2 the Defendant, Dr. W. G. Anderson, for the purpose
3 of cross-examination under the rules.

4 MR. HOLLOWELL: He isn't here at the moment.
5 We can call him. We can call his office if you want
6 to have him come. Here he is now.

7 DR. W. G. ANDERSON

8 one of the Defendants, called as
9 adverse party by Plaintiffs, being
10 first duly sworn, testified on

11 **CROSS EXAMINATION**

12 **BY MR. RAWLS:**

13 Q Doctor Anderson, have you been sworn?

14 A Yes sir, I have.

15 Q Doctor, are you an osteopathic physician?

16 A That's right and surgeon.

17 Q Where did you have your education?

18 A College of Osteopathic Medicine and Surgery
19 in Des Moines, Iowa.

20 Q What section of the Country are you a native of?

21 A Georgia, Southwest Georgia.

22 Q What particular spot?

23 A Americus.

24 Q Your people live in Americus?

25 A Most of the time. My dad has an office here.

Q Doctor, you're the President of what is known
as the Albany Movement?

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1 A That's correct, sir.

2 Q What is the set-up of the Albany Movement?
3 Is it a partnership or association or corporation?

4 A It is an unincorporate body that is made up
5 of local people with representatives of the various
6 civil rights organizations.

7 Q Such as CORE?

8 A Such as CORE.

9 Q Southern Christian Leadership Conference?

10 A That's correct.

11 Q Student Non-Violent Coordinating Committee?

12 A That is correct.

13 Q And the NAACP?

14 A That is correct.

15 Q They are all affiliated with you in the Albany
16 Movement?

17 A Not as organizations but individuals who are
18 members of those organizations are also members of the Albany
19 Movement.

20 Q The Albany Movement has from time to time in
21 the past dozen months conducted mass meetings at Shiloh
22 and Mt. Zion churches, is that correct?

23 A In the past seven months, that's correct.

24 Q Well, does it go back further than seven months?

25 A The Albany Movement came into existence in

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1 November, November 15 of 1961, to be exact.

2 Q Doctor, has Dr. Martin Luther King spoken to
3 any of these meetings?

4 A Yes sir, on several occasions.

5 Q He is one of your main adherents, isn't he?

6 A Well, we are one of his main adherents to the
7 principle of non-violent resistance.

8 Q Dr. Martin Luther is the big-wig in the Christian
9 leadership of the colored churches, isn't that right? Isn't
10 he regarded as the biggest one there is?

11 A He is the world's most renown disciple of
12 non-violent resistance at the present time.

13 Q And, of course, his presence in any community
14 attracts attention of everybody that knows he's in that
15 community, isn't that right, Doctor?

16 A I agree with you whole-heartedly, yes sir.

17 Q He has a tremendous following, doesn't he?

18 A Yes sir.

19 Q According to your information and knowledge,
20 is his a religious crusade or is it a political crusade?

21 A WELL, I don't think you could classify it as
22 being a political crusade or purely a religious crusade.
23 It certainly is a crusade for human rights, which of
24 necessity encouches not onlly the religious aspect but the
25 socio-economic aspects, and fringes on political aspects,

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1 inasmuch as he encourages Negroes to assume the status of
2 first-class citizenship and assume all of the responsibili-
3 ties inherent thereto.

4 Q Now, his tactics, I believe, are No. 1, by
5 petition; is that correct?

6 A Well, I'm not certain that I understand the
7 question.

8 Q To the authorities; in other words, if he seeks
9 a certain social or political or economic standing in a
10 community, his first approach is by petition, isn't it?

11 A No.

12 MR. HOLLOWELL: May it please the Court, there
13 hasn't been any establishment that he, that this man
14 knows. It would seem that Dr. King himself might be
15 the best one to give this, unless there is some
16 foundation to the effect that this particular person
17 has and knows.

18 MR. RAWLS: He said he knew.

19 MR. HOLLOWELL: There hasn't been any saying by
20 this witness that he knew what the procedures were
21 relative to the question that you asked, unless
22 you're going to direct another question.

23 THE COURT: All right, suppose you ask him,
24 Mr. Rawls, if he knows.

25 Q Mr. Rawls: Dr. Anderson, I'll ask you, do

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1 you know what his approach is?

2 A I know what the approach was in the City of
3 Albany.

4 Q All right, what was the approach in the City of
5 Albany?

6 A Well, in response to the original question,
7 he did not use such an approach here in the City of Albany.

8 Q What has been his approach here in the City of
9 Albany?

10 A He has come to Albany and has joined with the
11 leaders of the Albany Movement locally and has worked at
12 their direction, and in cooperation with them; and whatever
13 policies were established by the Albany Movement, he has
14 conformed with them.

15 Q He has encouraged marches in violation of the
16 ordinances and laws of the City of Albany, hasn't he?

17 MR. HOLLOWELL: May it please the Court, I
18 would submit that this would be a conclusion on the
19 part of this witness, and it would be asking this
20 witness to declare a legal responsibility or give
21 a legal interpretation of acts for certain purpose.

22 THE COURT: I sustain the objection.

23 Q Mr. Rawls: I'll ask you this question,
24 Doctor: Do you know of the existence of an ordinance in the
25 Code of the City of Albany regulating parades, which provides

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1 that parades may be had only after approval of an applica-
2 tion by the City Manager; do you know about that?

3 MR. HOLLOWELL: May it please the Court the
4 witness is not a lawyer and the best evidence would
5 be the Code itself; and No. 2, the Code does not read
6 in the manner that counsel stated it.

7 THE COURT: Well, he's asking him --

8 MR. RAWLS: Let me see the Code.

9 THE COURT: He's asking the question simply
10 whether he knows that there is such an ordinance.
11 He hasn't asked him to interpret it. He has just
12 asked him if he knows and that would not call for
13 a legal conclusion. That's a question of fact.

14 Q Mr. Rawls: Do you know that there is
15 such an ordinance, Doctor?

16 A The ordinance that I am familiar with is
17 not consistent with the ordinance as you have stated it.

18 Q Well, what is the one you're familiar with?

19 A The one that I am familiar with states that
20 the City Manager can give authorization in writing to
21 persons desirous of obtaining permission to have a parade.

22 Q Have you heard Dr. King say that people should
23 parade, regardless of the provisions of that ordinance?

24 A Absolutely not. I have not heard him say that.

25 Q You didn't hear him when he was speaking to

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1 the Press Club in Washington, D. C.?

2 A Yes sir, I did.

3 Q What is your recollection of what he said to
4 the Press Club in Washington, D. C.?

5 MR. HOLLOWELL: May it please the Court, I would
6 submit that this would be much, much too broad a
7 question, unless he pins it down to something
8 specific.

9 Q Mr. Rawls: I'll pin it down. What did he
10 say with reference to his attitude toward violating what
11 he regarded as unjust laws?

12 A Well, he certainly said that if the law was
13 unjust as dictated by the moral laws of the universe
14 and by conscience, then these laws should be broken.

15 Q I'll ask you if you recall hearing this
16 particular remark by Dr. Martin Luther: I quote, "Unjust
17 laws " --

18 MR. HOLLOWELL: May it please the Court --

19 Q Mr. Rawls: " -- we will not tolerate" --

20 MR. HOLLOWELL: Just a moment, sir. This is
21 no document to my knowledge that has been identified.

22 MR. RAWLS: Look at it.

23 MR. HOLLOWELL: Well, even if I looked at it,
24 I wouldn't want it quoted in the record unless it
25 had been introduced into evidence.

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CLAUDE JOINER REPORTING SERVICE

1 THE COURT: Mr. Hollowell, this is just
2 the same situation that we were dealing with about
3 newspaper clippings. He hasn't asked him to read
4 a document. He's simply asking him a question in
5 connection with it and he is apparently reading some-
6 thing from a memorandum which he has. I don't see
7 any objection to that.

8 MR. HOLLOWELL: Excuse me, sir. He is reading
9 a document which on the top says "News film", which
10 in my opinion falls in the same category as a
11 newspaper article; and I submit to you that he
12 can't read into the record from it, any more than
13 I could read from that article into the record here,
14 since it has not been introduced into evidence.

15 Now, if he wants to let him look at it and
16 point out some portion of it, to see whether or not
17 this is true, I would submit that this he could do,
18 but not in the manner that he's seeking to do it.

19 MR. RAWLS: Your Honor, I believe I won't
20 pursue that particular angle any further at the
21 present time.

22 THE COURT: All right.

23 Q Mr. Rawls: Now, Dr. Anderson, Rev. Martin
24 Luther King was one of your most sought after and most
25 desired speakers for your groups that you have to meet in

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1 connection with this Albany Movement, is that correct?

2 A Yes sir, I agree with you.

3 Q How about Charles Jones, is he a speaker,
4 did he speak to some of your mass meetings?

5 A He has spoken on occasion also.

6 Q How about Dr. Ralph T. Abernathy?

7 A He has spoken on occasions.

8 Q How about Wyatt Tee Walker?

9 A Likewise.

10 Q Now, have you heard these above named four
11 speakers or either one or two or three of them urge people
12 in attendance at these mass meetings to join in marching,
13 picketing, to hold sit-ins and to boycott Albany merchants
14 and bus company?

15 A Would you mind taking them one at a time and
16 I could probably answer you more intelligently?

17 Q Well, I'll ask you, have you heard either one
18 of these speakers that I've mentioned, either one of these
19 four speakers, advocate at a mass meeting of your Albany
20 Movement ~~xxxx~~ to join in marches?

21 A No sir, no sir.

22 Q Neither one of them?

23 A No sir, not in marches.

24 Q To picket?

25 A I do not recall any of these persons asking anyone

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1 at a mass meeting to engage in picketing.

2 Q To engage in sit-ins?

3 A Likewise, I don't recall any of the persons
4 you named asking any one at a mass meeting of the Albany
5 Movement to call for picketing.

6 Q To boycott Albany merchants?

7 A I don't remember them using the word "boycott"
8 in any of the mass meetings of the Albany Movement.

9 Q What did they use instead of "boycott", if
10 anything, "selective buying"?

11 A I have heard the words "selective buying" used,
12 yes sir.

13 Q Advocated by all four of these men?

14 A Advocated by all four of those men.

15 Q Now, have you heard either one or all four of
16 them or any number of them advocate the boycotting of the
17 bus company?

18 A I again have not heard the word "boycott" used
19 by any of these men.

20 Q Well, how about, have you heard anything said
21 by either one of them relative to patronage of the bus
22 company?

23 A Not specifically. As a matter of fact, the men
24 that you named were not here at the time the Negro citizenry
25 elected not to ride the busses.

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1 Q Dr. Anderson, now last Sunday afternoon
2 did you appear on the MEET THE PRESS program?

3 A Yes sir.

4 Q In Washington, D. C.?

5 A In New York City.

6 Q In New York City?

7 A Yes sir.

8 Q Now, were you substituting for Rev. King?

9 A That is correct.

10 Q Why didn't he go instead of you? He was invited
11 first and they wanted the big man, didn't they?

12 A He was a guest of your jail.

13 Q You were too, weren't you?

14 A Yes sir, I was released on bond.

15 Q Well, he could have used the same identical
16 \$200 that released you and got released himself, if he
17 had wanted to, couldn't he?

18 A I presume so, yes sir.

19 Q Didn't he and you prefer that he be locked up
20 in jail while you were on MEET THE PRESS before the whole
21 Nation, so as to entice people to contribute funds to your
22 movement? Wasn't that a scheme that you and Dr. King had?

23 A Absolutely not.

24 Q Well now, Dr. Anderson, don't you know that he
25 could have gone with you, if he had wanted to? He had the

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1 \$200, didn't he?

2 A I didn't ask him. You'll have to ask him.

3 MR. HOLLOWELL: May it please the Court, just
4 a moment. Mr. Rawls is arguing with the witness.

5 THE COURT: Yes, yes; let's don't argue
6 with the witness.

7 MR. RAWLS: I'll ask you this question --

8 THE COURT: Just a minute, Mr. Rawls.

9 MR. RAWLS: Excuse me.

10 THE COURT: Just as I have heretofore
11 cautioned others and asked their cooperation, I
12 also ask yours to ask your question, pause, give
13 him an opportunity to answer and let him complete
14 his answer before you ask him another.

15 Q Mr. Rawls: Dr. Anderson, since Dr. King
16 was the No. 1 priority on the invitation to go to MEET
17 THE PRESS, what conversation and arrangement took place
18 between you and Dr. King, which resulted in you being
19 selected to go and he remaining in Albany jail? Tell us
20 about that?

21 MR. HOLLOWELL: May it please the Court,
22 I can't even see that that would have any relevance
23 to this case whatsoever, what took place in the
24 matter of a conversation relative to an appearance
25 on TV in New York City.

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1 THE COURT: Well, it would be relevant if
2 something was said in connection with his appearance
3 that might have some bearing on the demonstrations
4 or the activity or the unrest that has been the
5 subject here. It would have bearing, if there was
6 an arrangement between these two, because they are
7 both named Defendants, it would have a bearing if
8 that appears. Now, if it doesn't appear that there
9 was anything said that would have any bearing on it,
10 I would agree with counsel.

11 MR. HOLLOWELL: I would submit, sir, that
12 inasmuch as both were in jail at the time and there
13 is no evidence in all of these four days indicating
14 that either of them have had anything to do with any
15 demonstrations while they were in jail or the Doctor
16 was in jail or since he has been out, then I can see
17 where there would be absolutely no relevance. There
18 is no testimony offered --

19 THE COURT: I overrule the objection and
20 allow the question.

21 A The Witness: Would you repeat the question?

22 Q Mr. Rawls: Do you remember the question?

23 A I lost the question.

24 MR. RAWLS: Mr. Joiner, will you read that
25 question back to Dr. Anderson, please?

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1 THE REPORTER (reading); "Question: Dr. Anderson,
2 since Dr. King was the No. 1 priority on the invitation
3 to go to MEET THE PRESS, what conversation and arrange-
4 ment took place between you and Dr. King, which result-
5 ed in your being selected to go and he remaining in
6 Albany jail? Tell us about that?"

7 A The Witness: None directly.

8 Q Mr. Rawls: Well, how is that you happened
9 to go and he stayed in jail?

10 A Well, this was an arrangement that had been
11 made by representatives of the organizations which we
12 both represent.

13 Q Well, wouldn't the organizations that you both
14 represented supply the same amount of money to Dr. King
15 as they did to you?

16 A I presume they would have.

17 Q As a matter of fact, it was Dr. King's individual
18 choice that he remained in Albany, even though he could
19 have been released upon the payment or posting of \$200
20 cash bond, but he chose to remain in the Albany jail and
21 let you go appear as his proxy on the very important MEET
22 THE PRESS program in New York City?

23 A Of course, I cannot respond to your query
24 relative to the motivations behind this thing. I would
25 certainly rather you direct such questions to him, based on

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1 his motives. Your statement of fact as relates as to how
2 he could have been released on bond is quite correct.

3 Q In other words, it is true that he could have
4 posted \$200 cash bond, just like you did, and have gone to
5 New York to appear on that program?

6 A I believe that this is a matter of policy as
7 established by the City, that any person who is held in
8 jail, on posting such bond can be released.

9 Q In the amount of \$200 cash?

10 A Well, whatever the bond was set for him. As
11 a matter of fact, I don't know what his bond was set at.

12 Q Now, how much did you get, how much is the
13 fee, including the expenses from where you live to New
14 York, to appear on MEET THE PRESS?

15 MR. HOLLOWELL: Here again, Your Honor, this
16 is completely irrelevant.

17 THE COURT: I agree with counsel. I sustain
18 the objection.

19 Q Mr. Rawls: Now, let me ask you something
20 about what you said on MEET THE PRESS, Doctor?

21 A It'll be a pleasure.

22 Q And see if we can agree on that: Did you or
23 not state that you would not obey laws which you considered
24 unjust?

25 A I did not state that.

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1 Q What did you swate which would be in substance
2 something akin to that?

3 A I stated that we do not feel compelled to obey
4 unjust laws or laws that are unjustly applied.

5 Q You, of course, admitted in that address that
6 you made, or in the responses that you made to questions
7 asked you by the panel, that the Albany Movement, of which
8 you were President, had conducted in Albany mass demonstra-
9 tions?

10 A We have ~~to~~ the members of the Albany Movement
11 have participated in mass demonstrations in the City of
12 Albany, yes sir.

13 Q Did you or not say that it would be difficult
14 to determine whether you would abide by the injunction,
15 if granted by Judge Elliott, and further that you would
16 have to take it up with your executive committee?

17 A That is correct. I made that statement, and
18 I might extend it further to state that the record shows
19 that we have abided by such injunctions previously.

20 Q Didn't you say that you and your group
21 expected violence?

22 A We said, I said we anticipated violence
23 in non-violent resistance movements, and we expect to
24 absorb such violence; but at no time would we be the
25 perpetrators.

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1 Q Did you or not say that if relief were not
2 forthcoming soon, you expected a Little Rock situation
3 to develop in Albany?

4 A I said that it is highly likely that such a
5 situation may develop if some relief does not come.

6 Q Well, what do you mean by saying or by
7 referring to the "Little Rock situation"?

8 A I mean simply that there is a great potential,
9 a great potential of an explosive situation in the City
10 of Albany occurring.

11 Q You mean by that that there will be racial
12 fights, is that right?

13 A As a possibility, yes.

14 Q You think that is imminent?

15 A I do not think it is imminent.

16 Q Well, what do you think will avoid the
17 precipitation of a Little Rock situation in Albany?

18 A Recognition of the constitutional guaranteed
19 rights of all of the citizens of Albany by the City
20 authorities.

21 Q In other words, you hold that as a threat
22 over the constituted authorities' heads in the City of
23 Albany, is that correct, Dr. Anderson?

24 A Absolutely not. That is incorrect. At no time
25 has the City been threatened by violence from the members of

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1 the Albany Movement or their associates.

2 Q When you proclaimed to the whole world by
3 use of the television camera and equipment that if relief
4 is not forthcoming soon you expected a Little Rock situation
5 to develop, did you or not mean that you were threatening
6 violence?

7 A I did not mean and I will be happy to explain
8 to you what I meant.

9 Q Q I wish you would?

10 A I have seen the types of brutalities on the
11 part of the City officials, that is especially the police-
12 men of the City and the Sheriffs. I have seen the
13 brutality that has been waged against our people in jails
14 that are adjacent to the City of Albany in other communi-
15 ties where our people are held in custody; and I certainly
16 feel as though, if such violence continues as instigated
17 and as perpetrated by the city policemen and the Sheriff
18 of this county continues, our people sooner or later may
19 retaliate.

20 Q You mean to say that you and the leadership
21 that you represent will recommend to your people that they
22 take physical redress rather than legal and orderly redress
23 through the courts?

24 A Absolutely not. At no time would we advocate
25 meeting violence with violence. Our Movement will continue

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1 to be a non- violent resistance movement, and, in spite of
2 the fact that we have been mishandled,we have been abused,
3 we have been beaten, we have been overcrowded in jails
4 and treated inhumanly, we still would never retaliate
5 by violence; while, at the same time, we recognize the
6 human element that is involved in the City of Albany and
7 we certainly hope that others will recognize it also. You
8 cannot consistently and repeatedly abuse a people in this
9 manner without someone of these responding on the basis
10 of instinct, rather than on the basis of thought and reason
11 and understanding.

12 Q Right after you made the Little Rock suggestion,
13 didn't you say that you expected as many as 10,000 people
14 to move into Albany to participate in the Movement here
15 to help you?

16 A No.

17 Q You did not?

18 A No sir, I think you misunderstood the question
19 and the answer. I was asked how many of the local people
20 were participating in the Albany Movement, and at that
21 time I said, if you can judge by the number of people we
22 have regularly attending the mass meetings, and this, of
23 course, represents anywhere from 1500 to 2000 people, that
24 if each of these represents a family, it would be safe to
25 assume that as many as 10- to 12,000 local people are

1 participating to some extent in the Albany Movement activities.

2 Q Doctor, let me ask you this question: Do you
3 or not regard it as being conducive to contempt for law
4 and anarchy for you and your group, all of whom are highly
5 educated people to advocate to the rank and file of the
6 members of your race the open and defiant refusal to obey
7 the mandates of the law?

8 A I do agree with you.

9 Q Well, why do you do it?

10 A Well now, I haven't said we do it.

11 Q Well, you tell them to violate the City
12 ordinances about parading, don't you?

13 A This is incorrect. At no time have I told the
14 people in our community to parade.

15 Q What did you mean, what did you have in mind,
16 what specific provision did you have in mind when you told
17 the television audience that you would decide yourself
18 whether a law was just or unjust before you violated it
19 or didn't violate it?

20 A I do believe that such decisions are left up
21 to the individual based on his own conscience as to whether
22 he does abide by or does not abide by a law that he considers
23 just or unjust. And I think that this is a demonstration
24 of the highest regards for law, when an individual is willing
25 to violate what he considers an unjust law and is willing

to pay the penalty for so doing.

1 Q Doctor, I hand you a document that is entitled
2 "News film", a product of CBS News, dated July 19, 1962,
3 No. 26,727, titled, "Washington, Rev. King at NPC, running
4 time one minute 17 seconds", one minute - no, wait a
5 minute - I believe that is one hour and 17 minutes:

6 A Maybe I could help you read it.

7 Q Yes, I wish you would; you are familiar with
8 those things; I'm not --

9 MR. HOLLOWELL: May I see it, Counselor?

10 MR. RAWLS: Yes, you may see it. You've
11 already seen it once. You can see it again. (Docu-
12 ment handed to counsel for Defendants) . . .

13 _____ Q Dr. Anderson, of course, you don't have any
14 Communist affiliations?

15 A No sir, no more than --

16 Q You've never been a member of any organization
17 that was cited or classified by the Justice Department as
18 Communist leaning?

19 A No sir.

20 Q Doctor, I hand you a document here, which is
21 dated March, 1962, on paper heading "The Albany Movement,
22 505 South Monroe Street", that's already been marked as
23 P-1, which designates it as PLAINTIFFS' EXHIBIT #1: will
24 you look at that and tell us about whether it's authentic
25

1 or not? It appears to have your signature.

2 A Yes, I do recognize it and I do recall having
3 signed the stencil from which this was run.

4 Q Doctor, I hand you -- You do identify that
5 as being authentic?

6 A I do; that's authentic.

7 Q That's your signature?

8 A Yes.

9 Q Do you know the approximate number of these,
10 of this P-1, that were sent out and to whom they were
11 mailed?

12 A They were mailed to the merchants of the City
13 and a sufficient number was sent out, so that all merchants
14 would get one.

15 Q Doctor, I hand you now a document that's
16 headed, "The Student Voice, Albany, Georgia", do you
17 know about that publication?

18 A I have read some copies of it.

19 Q I'll hand you what has been designated as
20 PLAINTIFFS' No. 2 and see if you can give us any help
21 on the authenticity of that?

22 A No, I'm sorry I couldn't because this, of
23 course, is done by a group of individuals and there are
24 various contributors and there are no policies established
25 that must prevail in the publication; and they may vary

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1 from day to day or week to week.

2 Q Is that one of the groups that collaborates
3 with you in the Albany Movement in connection with --

4 A "Cooperates" is a better word, is a better
5 choice of words but that is right, yes sir.

6 Q Do you have that same remark with reference
7 to P-3?

8 A Yes sir.

9 Q Now, I hand you a document here, which says
10 that it's a statement by Dr. Martin Luther King, Jr. and
11 Dr. W. G. Anderson, 11:00 A. M., July 25, 1962,
12 designated as P-4: will you look at that and see if
13 you can help us with the authenticity of that statement,
14 or whether you authorized the publication of that statement?

15 A That is correct, I so authorized.

16 Q I hand you PLAINTIFFS' EXHIBIT 5, which is
17 entitled "a joint statement of Dr. Martin Luther King, Jr.,
18 President, SLC, SCLC (Southern Christian Leadership Con-
19 ference), and Dr. W. G. Anderson, President of the Albany
20 Movement, Sunday, July 22, 1962, for immediate release"?

21 A I do recognize this as being a legitimate
22 release.

23 Q And you authorize the publication of that?

24 A And I authorized the publication of it.

25 Q I hand you a statement, on the letterhead of

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1 the Albany Movement, dated April 16, 1962, and marked
2 PLAINTIFFS' #6, and attached to the back of it is what
3 appears to be a communication, responding to the letter
4 on The Albany Movement stationery; and I'll ask you if
5 you will state whether or not the letter on The Albany
6 Movement stationery was written under your direction - it
7 appears to have been signed by you - and whether the carbon
8 copy, the original of the carbon copy which appears to be
9 a response by Chief Pritchett, was received by you?

10 A I do recognize it as having been sent and
11 authorized by me, and I do acknowledge receipt of the
12 original of the carbon copy which is attached.

13 Q Doctor, now here's a document that seems to
14 be mimeographed in two pages; it's headed, typewritten
15 heading "The Albany Movement", dated November 17, 1961:
16 will you examine both pages and see if you as the executive
17 officer of the Albany Movement authorized the publication
18 of the statements contained therein?

19 A Well, this, of course, was not for publication.
20 This was for information only. What we have here is the
21 minutes of a meeting, which I believe was the initial
22 meeting of The Albany Movement, when it was organized;
23 and this was -

24 MR. HOLLOWELL: Excuse me just a moment, Your
25 Honor: For the record, what we have here, I am wonder-
ing if we might identify it as to number, so as to

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Mr. Hollowell:

keep the record straight.

MR. RAWLS: It's identified as P-7.

The Witness: P-7.

MR. HOLLOWELL: What I meant was, Mr. Rawls had two pages in his hand and was saying what we have here.

A The Witness: Both of them are marked P-7; and I say these are merely minutes of a meeting which was held by the Albany Movement, and was not for publication.

Q Mr. Rawls: But it is authentic?

A It is authentic, right. These are - this is an authentic duplication of the minutes.

Q I believe you disclaim any connection, official connection, with the Student Non-Violent Coordinating Committee?

A Officially, but we do work together.

Q Dr. Anderson, is your group putting out any handbills of any kind at the present time, advertising a prayer meeting service to be held at the City Hall?

A Not as I know of.

Q Have you seen one of the circulars?

A I haven't seen none.

Q Have you heard anybody say that they were being put out?

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1 A No sir.

2 Q I'll ask you to look at a document, which has
3 been identified by the Clerk as PLAINTIFFS' EXHIBIT No. 11
4 and see if you know anything about that document? Are you
5 familiar at all with the facts stated in the document?

6 A Very good. I'm not familiar with it. I'm not
7 familiar with any of the contents. I had no knowledge of
8 it being printed and I see nothing that relates to the
9 Albany Movement or myself as an individual.

10 Q Do you approve it?

11 A Well, that's not for me --

12 MR. HOLLOWELL: Whether or not he approves
13 it would be of no significance.

14 THE COURT: Yes, I sustain that objection.
15 Let me see what it is.

16 Q Mr. Rawls: Doctor, while the Judge is
17 looking over that document, I have submitted to your
18 counsel this news film that we started to look at a while
19 ago: Will you look at that and tell me whether you vouch
20 for the authenticity of that?

21 A I am not qualified to vouch for the authenticity
22 of this. None of these statements were made by me, and,
23 of course, I'm not familiar with the publication.

24 Q Well, you recall hearing Dr. King make the
25 statement that's alleged to have been made by him?

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1 A I don't recall this statement in its entirety.
2 I don't recall it, no. Some portions of it are familiar
3 but I don't recall it in its entirety.

4 Q Doctor, you say you have no connection whatever
5 with this P-11?

6 A Well, I said I had no knowledge of it being
7 distributed.

8 BY THE COURT:

9 Q Well, did you have any connection with its
10 being printed?

11 A I had no connection with it being printed.
12 I had no knowledge of it.

13 Q Did you have any connection with it in any
14 way? Let's start from the first?

15 A Not to my knowledge.

16 Q Well, you would know whether you had any
17 connection with it or not, wouldn't you?

18 A I presume so. Mind you, I do have a number of
19 associates that are authorized to act on my behalf when I
20 am inconvenient.

21 Q Do you have any knowledge of any of your asso-
22 ciates being responsible for the document identified as P-11?

23 A I have no knowledge of any of my associates
24 being directly involved in the publication or distribution
25 of it.

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BY MR. RAWLS:

Q Do you have any knowledge concerning this document or this pamphlet or this hand-bill at all, Doctor?

A Not at all. This is the first I've seen of this one.

Q Well, I'm talking about, do you know or have you known -

MR. HOLLOWELL: If it please the Court, I can't see how it could be any more clear than that and even on cross to have the opportunity to just -

MR. RAWLS: I'm cross-examining him --

MR. HOLLOWELL: Just a moment, sir, I'm making my objection. He should not have the opportunity to keep pounding, pounding, pounding. The witness has said he has no knowledge of his own or of anybody else with whom he is associated who has had anything to do with this particular document. Now, I don't see how he could be any more clear.

THE COURT: I agree with you. We'll simply go one step further and I'll do it myself.

Q - Or any other copies of this document similar to it?

The Witness: I have not seen any or know of any being in existence.

THE COURT: All right.

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1 Q Mr. Rawls: Doctor, this EXHIBIT "A" to the petition,
2 which has been marked P-17, you authenticate that document,
3 of course?

4 A This is an accurate duplication of the original.
5 I did so authorize.

6 MR. HOLLOWELL: We can't hear the witness, Your
7 Honor.

8 A The Witness: I did so authorize the release
9 of this document.

10 THE COURT: Mr. Rawls, suppose you do
11 this, suppose you step back a little and continue
12 your questioning from a little greater distance
13 and I think it would be fairer to the witness and
14 I think it would enable counsel, opposing counsel,
15 to hear better.

16 Q Mr. Rawls: Did you extend an invitation
17 to Dr. King to come to Albany to participate in this
18 movement, Doctor?

19 A Yes sir, I did.

20 Q Does Dr. King receive any form of compensation
21 for his services down here in connection with this movement?

22 A None whatsoever from the Albany Movement, or
23 any other organization so far as I know or individual
24 so far as I know.

25 Q The Albany Movement takes up collections, don't

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1 they?

2 A Yes sir.

3 Q What do you do with the money you receive from
4 the collections?

5 A Defray the expenses of the organization.

6 Q Were you present with Dr. King when he made
7 the statement that he intended to turn Albany upside down?

8 A I don't remember the exact words. I remember
9 something to the effect that it needed to be turned upside
10 down or right side up, or something to that effect. I don't
11 remember the exact words, but something to the effect that
12 it needed to be turned right sidd up.

13 Q How about "upside down"?

14 A Well, I guess then it must be upside down
15 already, if it needs to be turned right side up. I don't
16 remember the exact words but I remember his statement --

17 Q Do you think that would be a desirable position
18 for the City to be in?

19 A I certainly think the right side needs to be
20 up, yes sir.

21 Q And then if somebody turns it upside down,
22 it would put that particular city in a rather precarious
23 situation, wouldn't it?

24 A But if the wrong side is up, I think it would
25 put it in a mighty good situation.

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1 Q Is it your opinion now that the wrong side of
2 Albany is up?

3 A Yes sir, absolutely.

4 Q And you're in complete concurrence with Dr. King
5 that it ought to be turned upside down, is that right?

6 A I think it needs to be turned right.

7 Q Is that right?

8 A To the way of right, truth, justice and honesty.

9 Q And you think by force and violence is the proper
10 way to achieve that end, don't you, Doctor?

11 A No sir, I do not.

12 Q Well, don't you know that when you and other
13 intelligent men of your race go before a group of
14 illiterates and talk them into a high pitch, concerning
15 how badly they're treated, and don't you know that when
16 parties march out in what you call a non-violent march,
17 that the remainder of the crowd is liable to erupt in
18 violence, and don't you know they actually do that in the
19 City of Albany?

20 MR. HOLLOWELL: May it please the Court, I
21 must object to the statement on many grounds:
22 No. 1, it is so prolix that it is difficult to tell
23 what part of it that he would expect this witness to
24 answer; No. 2, it is about three-pronged; No. 3,
25 it calls for a conclusion; and No. 4, it's argumentative

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Mr. Hollowell:

and I submit that it is improper and should be stricken.

THE COURT: I sustain the objection to the question as phrased. It may be broken down and rephrased, if counsel wishes to do that.

Q Mr. Rawls: Dr. Anderson, in --

THE COURT: Suppose - it might take you quite a while to break that one down, Mr. Rawls; so, with that situation, suppose we take a recess now until tomorrow morning at 9:30.

5:05 P. M., AUGUST 2, 1962 - HEARING RECESSED

9:30 A. M., AUGUST 3, 1962: HEARING RESUMED:

MR. RAWLS: Your Honor, we had not concluded our cross-examination of Dr. Anderson.

THE COURT: Before you proceed with further examination of the witness, the court reporter has called it to my attention that he does not have an adequate record - and, of course, we do wish to have an adequate record - of exactly who is represented by which counsel in this case. At the beginning of the trial on the first day we had all counsel identify themselves and I believe at that time I suggested that the record show who each counsel represented; but the reporter tells me that the

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CLAUDE JOINER REPORTING SERVICE

1 The Court:

2 record is not adequate in that respect.

3 So, before we go further I would like to
4 complete the record. Now, Mr. Rawls, first, will
5 counsel for Plaintiffs state exactly who they repre-
6 sent? In other words, if some counsel represent one
7 Plaintiff and some another, I would like for it to be
8 cleared up and do the same thing with respect to all
9 parties.

10 MR. RAWLS: All counsel of record, Your
11 Honor please, represent all of the Plaintiffs.

12 THE COURT: All right, all Plaintiffs'
13 counsel represent all Plaintiffs, is that correct?

14 MR. RAWLS: That's correct.

15 THE COURT: Now, for the Defendants I
16 would like the same information.

17 MR. C. B. KING: May it please the Court,
18 Attorney Carl Rachlin represents CORE;

19 Mr. Frank Reeves represents the National Associa-
20 tion for the Advancement of Colored People;

21 Mrs. Motley, Mr. Hollowell and C. B. King
22 represent all other Defendants.

23 THE CLERK: How about Howard Moore?

24 MR. HOLLOWELL: Mr. Moore is out of my office
25 and is a part of our representation.

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1 THE COURT: All right, is that adequate,
2 Mr. Reporter?

3 THE REPORTER: Yes sir. I don't see counsel
4 for two of the Defendants here.

5 THE COURT: Yes, of course, Mr. Reeves,
6 I believe, has not been here since the first day.
7 I excused him at that time when he came in and spoke
8 to me about it and I told him it was all right if he
9 wanted to be absent. Mr. Rachlin has never communi-
10 cated with me and he hasn't been here but one day and
11 was not excused. I presume he doesn't intend to
12 participate any further in the case.

13 All right, you may proceed.

14 MR. RAWLS: Let Dr. Anderson return to the
15 station, Your Honor please.

16 DR. W. G. ANDERSON

17 BY MR. RAWLS:

18 MR. RAWLS: Mr. Reporter, will you read me
19 my last question yesterday when we adjourned? I believe
20 it was rather long.

21 THE REPORTER: "Question: Well, don't you know
22 that when you and other intelligent men of your race
23 go before a group of illiterates and talk them into
24 a high pitch, concerning how badly they're treated" -
25 and quite a long question following.

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1 Q Mr. Rawls: A rather long question; well,
2 I think I will abandon that question.

3 Dr. Anderson, have you heard any speaker at
4 Shiloh Church urge those present to, No. 1, march or
5 demonstrate?

6 A Doyou mean using the words "march" or "demonstrate"?

7 Q To cover the activities that were actually per-
8 formed under the auspices of the Albany Movement?

9 A I will say that I have heard speakers at the
10 Church urge people to protest segregation in the City of
11 Albany.

12 Q Well, would you say that they urged them to
13 march in groups to the City Hall?

14 A I could not say that they were urged to march
15 in groups to the City Hall.

16 Q Have you heard any speaker urge picketing of
17 any Albany merchants?

18 A I have heard it announced that individuals had
19 elected to picket stores in downtown Albany.

20 Q That was with the approval of the Albany Movement,
21 of course, and its officers?

22 A Well, the Albany Movement itself is not an
23 autonomous body, but individual officers in the movement
24 have stated that they would do this as individuals.

25 Q You approved it as President?

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1 A Well, obviously, I participated. I saw fit to
2 go and picket myself on occasions.

3 Q Well, how about picketing the City Hall, has
4 that been advocated at any of these meetings?

5 A There have been certain individuals who have
6 expressed a desire to picket the City Hall in protest to
7 the segregation in the City of Albany.

8 Q Didn't Dr. Martin Luther King say on some
9 one occasion, quote "Come tomorrow and bring your walking
10 shoes"?

11 A I believe that statement could be attributed
12 to me, sir.

13 Q Not to Dr. King?

14 A I don't recall him stating it.

15 Q Was Dr. King present when you made that statement?

16 A I believe so.

17 Q Don't you know that the State and National
18 press gave credit to Dr. King for that statement?

19 A Well, I'm not aware of that.

20 Q But you claim it yourself?

21 A I have made the statement, yes sir.

22 Q Well, did you make it after Dr. Martin Luther
23 King first made it, or did you originate the idea?

24 A As I recall, I was the first to make the
25 statement in the meeting.

sof

1 Q Did you make a statement in response to a question
2 on the MEET THE PRESS program that we talked a little
3 about yesterday afternoon, that we did have an order of
4 the District Court requiring integrated voting and voting
5 lists, but that no election had been held?

6 A Yes, and that was in error. I later learned
7 that I was out of town at the time when an election had
8 been held. This was in error.

9 Q You actually voted in that election yourself,
10 didn't you?

11 A No, I did not.

12 Q You did not?

13 A No sir.

14 Q Do you know whether or not the church people
15 have been signed up to march or demonstrate?

16 A Well, I would have to ask what church people
17 you have reference to.

18 Q Any of the groups in the churches, where these
19 mass meetings are held?

20 A Signed up to march or demonstrate, I cannot
21 say that I know of any that have signed up to march or
22 demonstrate.

23 Q Well, what are they signed up to do?

24 A Well, varied and sorted things. We have some
25 individuals who have signed up to perform certain secretarial

1 responsibilities or duties; some that have signed up to write
2 news releases and to receive phone calls, various sort of
3 things.

4 Q As a matter of fact, don't you have what is
5 known as a "sit-in squad"?

6 A Not to my knowledge.

7 Q Not to your knowledge?

8 A No.

9 Q Who plans and decides upon the course of action
10 to be pursued by the Albany Movement?

11 A This is usually done by individuals or groups
12 of individuals and The Albany Movement itself has been
13 characterized by its spontaneity from its very inception;
14 and even until the present time I'm certain that even all
15 of the officials of the Movement do not know what activities
16 are going on that eventually are represented as being acti-
17 vities of the Albany Movement. This is something, a form of
18 protest that is participated in by members of the Negro
19 community that actually feel they must protest this evil
20 system of segregation.

21 Q I'll ask you whether or not C. B. King is
22 head of the policy and strategy department of the Albany
23 Movement?

24 A He is not.

25 Q Has he ever been?

1 A No sir.

2 Q He's a member of the policy and strategy group
3 though?

4 A He is an adviser.

5 Q Now, Dr. Martin Luther King, has he discussed
6 with any other members of the group plans and decided
7 what course of action to be pursued?

8 A Yes sir, he has discussed it with us.

9 Q And Slater King?

10 A He has discussed it with us.

11 Q And Wyatt Tee Walker?

12 A Likewise, he has discussed it.

13 Q Rev. Abernathy?

14 A Yes sir.

15 Q Charlie Jones, Charles Jones?

16 A Yes sir.

17 Q Doyou know anything about any so-called clinics
18 that are held at these meetings?

19 A Yes sir, I do. I have had the opportunity to
20 sit in on some of the clinics and non-violent resistance
21 movements.

22 Q Do you have a clinic that goes ijto the
23 techniques of the sit-in program?

24 A The clinics have been directed toward preparing
25 members of the Albany Movement to receive whatever type of

1 punishment they may have to receive in exercising certain
2 rights and privileges as citizens in the community.

3 Q Well, how about marching, the marching clinics?

4 A I have not attended any marching clinics.

5 Q How about picketing clinics?

6 A Likewise, I have observed clinics in progress,
7 whereby individuals were being prepared to meet any
8 eventualities so far as any bodily harm coming to them
9 while engaged in protest activities.

10 Q You know a man named James Foreman, don't you?

11 A Quite well.

12 Q As a matter of fact, he's the director, he's
13 the principal director of these various clinics, isn't he?

14 A Well, he has been one of the instructors in
15 the clinics.

16 Q Who is he, what official designation does he
17 carry and what particular group does he head, if you know?

18 A He is the Executive Secretary, I believe - I'm
19 not certain of that - of the Student Non-Violent Coordinating
20 Committee.

21 Q What's known as SNCC?

22 A That's correct.

23 Q Did you ever receive any instructions from
24 him of any kind?

25 A Not directly but I have been present in the meet-

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1 ings when the demonstrations, that is the exhibition was
2 going on, and I have had the opportunity of observing.

3 Q As a matter of fact, the operation of these
4 clinics is the specialty of the Student -- of the SNCC,
5 is that right?

6 A Well, I can't say that; I don't know it, as
7 a matter of fact.

8 Q What about donations to the Albany Movement,
9 financial donations; do they have any?

10 A Very, very little. The Albany Movement has
11 taken care of its own expenses for the most part.

12 Q Well, the Albany Movement doesn't operate any
13 remunerative activities or businesses, does it?

14 A No.

15 Q I'll ask you whether the Southern Christian
16 Leadership Conference has ever contributed anything?

17 A Not any money.

18 Q Well, what have they contributed?

19 A The services of its staff members.

20 Q I believe you've already stated that the
21 Student Non-Violent Coordinating Committee has contributed
22 the services of James Foreman?

23 A That's correct.

24 Q Any money?

25 A No money or contribution.

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1 Q How about the NAACP, have they contributed any
2 money to the Albany Movement?

3 A Likewise only services.

4 Q No money?

5 A No money.

6 Q How about the Ford Foundation?

7 A No money, no services either for that matter,
8 so far as the Ford Foundation is concerned.

9 Q How about the Southern Regional Council?

10 A Likewise, no money; some services.

11 Q How about the Southern Conference for Human
12 Welfare?

13 A I'm not familiar with the organization.

14 Q How about Ralph McGill?

15 A No, not at all.

16 Q You know Mr. McGill, of course?

17 A Quite well, I'm proud to say.

18 Q Well, how do you pay for car pools that you
19 operate?

20 A Donations on the part of individual members
21 of the Albany Movement; they finance their own transportation.

22 MR. HOLLOWELL: May it please the Court, I
23 have tried to sit and listen for quite some time.
24 It appears to me that there can't be much relevance
25 to this line of questioning. There's nothing in the

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1 Mr. Hollowell:

2 complaint that I've seen that goes to the matter of
3 any financial aspects of any of the Defendants; and
4 I would submit that this is irrelevant and ought to
5 be stricken.

6 MR. RAWLS: We submit it is relevant ,
7 Your Honor. We allege a conspiracy.

8 THE COURT: As I recall the allegations of
9 the petition, the petition alleges a conspiracy
10 between these groups; and it also asks for relief
11 about financial contributions, contributing finan-
12 cially to the activities which are described. And
13 I think it is relevant to the extent that it has gone
14 thus far. I don't know how much further it may be
15 relevant but I think it's relevant so far.

16 MR. RAWLS: I'm about to the end of that
17 line of questioning. I have one or two more questions.

18 THE COURT: All right.

19 Q Mr. Rawls: Doctor, on yesterday I exhibited
20 to you two copies of a publication of The Student Voice:
21 do you recall looking them over?

22 A Yes sir.

23 Q Now, The Student Voice is the official organ
24 of the Student Non-Violent Coordinating Committee, isn't it?

25 A This I do not know as a matter of fact.

8/5

1 Q Of course, you know Mayor Asa Kelley?

2 A Yes sir, quite well.

3 Q You've known him for quite some time?

4 A Yes sir.

5 Q And you know Mr. Stephen Roos? Where is he?

6 You know the City Manager?

7 A To a lesser extent, I know him, yes sir.

8 Q Now, since you left the stand yesterday after-
9 noon, have you obtained any information concerning the
10 identity of the parties who were responsible for the
11 publication of the circular with reference to prayer
12 meetings scheduled to be held at the City Hall?

13 A I did inquire of the Executive Secretary of
14 the Albany Movement, as to whether he was familiar with
15 it; whereupon, he replied he was not familiar with it either.
16 At that point, I did not pursue further.

17 Q Now, Doctor, did any of the organizations
18 that I questioned you concerning a while ago have Albany
19 branches or do they?

20 A The NAACP does have a branch. Of course, the
21 Student Non-Violent Coordinating Committee is not a corporate
22 body. The representatives of that Organization have been in
23 here sporadically for the past 9 or 10 months.

24 Q Is that the only organizations that have
25 local branch offices?

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1 A The NAACP is the only one that has a local
2 branch.

3 Q Has that local office of the NAACP contributed
4 any funds to the Albany Movement?

5 A No sir, none at all.

6 Q Now, what information have you obtained concern-
7 ing the circular - what became of that circular? Will you
8 state what information you have received concerning this
9 P-11 that we talked about yesterday?

10 MR. HOLLOWELL: May it please the Court,
11 counsel has just finished asking about that same
12 circular and the witness has just finished answering
13 that he had addressed the matter to the Executive
14 Secretary; and he has indicated that he has no
15 knowledge of it; and, therefore, the witness has
16 not consider the matter further. And it appears to
17 be completely repetitious and irrelevant to go
18 into it and incompetent to go into it.

19 MR. RAWLS: My question is anybody else
20 besides the secretary.

21 THE COURT: In other words, your question
22 now is and relates to anybody except the Executive
23 Secretary.

24 MR. RAWLS: Anybody, from any source.

25 THE COURT: All right, go ahead.

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1 Q Mr. Rawls: Did you get information from
2 any source as to how this notice or hand-bill concerning
3 city-wide prayer meetings or vigils to be held on August
4 2, 3 and 4, 1962 at 6:00 PM at the City Hall --

5 A No, none.

6 Q None at all?

7 A No.

8 Q Now, Dr. Anderson, you're a churchman, I presume?

9 A Yes sir.

10 Q Wouldn't you think it would be more logical
11 to have religious prayer services within the confines of
12 a church or some other edifice of that kind that's devoted
13 to religious services, than to have it on the pavement in
14 front of the City Hall or the entrance to the City Hall?

15 MR. HOLLOWELL: Now, may it please the Court,
16 there hasn't been any evidence that has been elicited
17 pertaining to this particular matter to which he is
18 now addressing himself. Therefore, this question
19 becomes argumentative.

20 THE COURT: I think the question is argumen-
21 tative, Mr. Rawls. You asked him if as a churchman
22 he doesn't think that it would be more appropriate
23 and so on. I think it is argumentative fundamentally.

24 MR. RAWLS: Now Your Honor, you will recall
25 that on yesterday he testified, this witness testified,

8/8

1 Mr. Rawls:

2 that he didn't have any knowledge of the matters
3 stated in this bulletin but that he heartily approved
4 it. So, he's now in the attitude of approving so-
5 called religious, series of religious services in
6 front of the City Hall or at the City Hall; and I
7 think I certainly ought to be able to go into that.

8 THE COURT: I think you could argue that
9 to me but let's don't argue it with him.

10 MR. RAWLSA: I was trying not to argue, Your
11 Honor please.

12 Q Now, Dr. Anderson, I hand you a document
13 here, entitled "Remember this week", I'll ask you to
14 glance over that and see if you know anything the issuance
15 of it?

16 MR. HOLLOWELL: May I see it, Counselor.

17 Q Mr. Rawls: Or the publication of that?

18 MR. RAWLS: Oh, excuse me. (Handing document
19 to counsel for Defendants) .

20 Mr. Clerk, did you bring the file in that
21 voting Enjunction case?

22 THE CLERK: Right there.

23 MR. RAWLS: I will go ahead with another
24 angle that I want to develop, Your Honor, while they're
25 looking over that document.

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1 0 Dr. Anderson, you and Thomas C. Chapman, Jr.
2 and Ed Hamilton and Slater King, Mrs. Dorothy M. Scriven,
3 on behalf of yourselves and other Negroes of Dougherty
4 County, Georgia, similarly situated, brought a suit as
5 plaintiffs against the Ordinary, the County Democratic
6 Executive Committee and the City of Albany authorities,
7 City Executive Committee, and also Kemp, who is the
8 Chief Registrar of Dougherty County, being civil action
9 No. 686: How did that action originate?

10 A How?

11 MR. HOLLOWELL: If it please the Court, I would
12 submit that there would be absolutely no relevancy
13 to this Court and to the issues in this court as to
14 how did some prior action, which action has been
15 adjudicated by a Judge in this district, originated.
16 The action speaks for itself how it originated and
17 that is the best and highest evidence.

18 MR. RAWLS: Now, if Your Honor pleases, I
19 withdraw that question. I simply wanted to develop
20 from this witness, if it's the truth, that he is
21 perfectly aware that any petition that was filed with
22 the City Commission for any claimed relief from what
23 he says is illegal practices --

24 MR. HOLLOWELL: We can't hear counsel very well,
25 sir.

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1 MR. RAWLS: I say that we contend that
2 this witness, on account of this action, is perfectly
3 familiar with the matter of petitions to the City
4 Council, and then the subsequent proceedings in the
5 event the relief sought is not obtained; and I wanted
6 to show by this legal proceeding, which he is the No. 1
7 petitioner in, that he is aware of legal processes;
8 and I wanted to ask him why, in connection with the
9 complaint which we are trying before Your Honor now,
10 instead of resorting to coercion by mass meetings
11 and parades and so forth, he did not resort to legal
12 processes, like he did in the voting case.

13 THE COURT: I will let you go into that.

14 MR. HOLLOWELL: May it please the Court, I
15 didn't hear the Court's response.

16 THE COURT: He wasn't asking the witness a
17 question. He was directing his remarks to me,
18 explaining the theory, not the theory but the
19 evidence which he wanted to develop by asking the
20 witness questions about this particular suit; and I
21 simply stated to him that I would allow him to go
22 into it. I haven't ruled on any specific question.

23 MR. HOLLOWELL: I see. Well, we will wait
24 until he propounds his question. I would submit
25 that this still would be argumentative as to why he

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1 Mr. Hollowell:

2 did not take a particular forum, that this is argument.

3 THE COURT: No, I don't think you understand,
4 at least your understanding is not the same as mine.
5 What he intends to do, as I understand it, is to show
6 that this witness is aware that he could proceed
7 other ways, other than the way he did proceed. He
8 doesn't intend to argue with him about it but he
9 simply wants to show that he is aware of this
10 procedure.

11 MR. HOLLOWELL: I submit that this is purely
12 irrelevant and would still be irrelevant to this
13 particular issue and it would be argumentative to
14 the N'th degree. For instance, if he had filed a
15 suit instead of taking whatever other processes he
16 has taken, then the question could be asked, "Well,
17 why didn't you take another process instead of filing
18 a suit?" I mean, it's argumentative either way
19 you take it and would have no relevancy here.

20 THE COURT: No, I take a different view of
21 that than that. I think it's pertinent to show
22 what may have been the purposes and the intentions
23 and the anticipations of the Albany Movement in
24 sponsoring the various activities which are now
25 under consideration.

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1 MR. HOLLOWELL: I think he could ask that,
2 which is not the same as what I understand he was
3 about to proffer.

4 THE COURT: I am going to allow him
5 to go into it.

6 Q Mr. Rawls: Dr. Anderson, prior to bringing
7 this suit, you and your associates did file a petition with
8 the Defendants named in the suit protesting against the
9 practice of requiring separate voting books for Negroes
10 and requiring separate voting lists for Negroes, and
11 requiring separate voting precincts for members of your
12 race, didn't you, Doctor?

13 A That's correct.

14 Q And the people that you petitioned in their
15 official positions declined your request for that con-
16 cession, didn't they?

17 A That's correct.

18 Q And then you, through counsel - let's see who
19 they were -

20 A Attomeys King and Hollowell.

21 Q - you filed a petition to the United States
22 District Court for this District, which was subsequently
23 heard by Honorable William A. Bootle, the United States
24 Judge, and in an orderly hearing in Macon, Georgia, after
25 arguments and briefs were submitted to His Honor, Judge

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1 Bootle, he concluded that you were right, didn't he?

2 A That's correct.

3 Q And he entered an appropriate judgment of the
4 Court so proclaiming, didn't he?

5 A That's correct.

6 Q And there wasn't even an appeal to a higher
7 court by the Defendants in this case, was there?

8 A I presume not; I don't know it as a matter of
9 fact.

10 Q Well, don't you know that's true, Doctor?

11 A I don't know it as a matter of fact.

12 Q Well, don't you know that since the order
13 of the District Court thatⁿ every election which has been
14 held there has been compliance with the order of that
15 Court?

16 A So far as I know, there has been compliance.

17 Q And don't you know that subsequently to that
18 date that Negroes and whites register in the same identical
19 book, without any reference to race or anything else; don't
20 you know that?

21 A I don't know that to be a fact.

22 Q Have you been down to see?

23 A I have been down to see and I have yet noticed
24 different colors of cards that previously have been used to
25 designate race.

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1 Q Do you testify that those cards are in use at
2 the present time since the order of the Court in this case?

3 A I do not know as of the present time whether
4 this is in effect.

5 Q And you know that there has been an election
6 held subsequently to the rendition of that judgment,
7 where all of the races, all of the races colored and white,
8 went in the same line to the same precinct and voted with-
9 out any regard to color, don't you, Doctor?

10 A So I understand; yes sir, that is correct.

11 Q Now being perfectly aware of available legal
12 processes for the redress of any complained wrong that has
13 been done to your people, why did you as leader of The
14 Albany Movement propose to have mass meetings, which you
15 testified yesterday you knew were calculated to provoke
16 violence?

17 A That's incorrect.

18 MR. HOLLOWELL: Now, if it please the Court, I
19 will object to the question, on the ground that the
20 question pre-supposes that the process^{es} that the
21 witness has stated that he engaged in, which were
22 not those just enumerated by counsel, are illegal.
23 The very nature of the question. And for this reason
24 I submit that this would be, not only an unfair ques-
25 tion, but here again it is an argumentative question.

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1 THE COURT: Well, Mr. Hollowell, the
2 witness himself testified yesterday that the reason --
3 he gave his philosophy yesterday -- that the reason
4 he participates in these things and the reason that
5 the Albany Movement suggests that others participate
6 in them, is because they feel and it is his philosophy
7 that if a law is unjust, that they have a right to
8 violate it, and he says that's the reason they do
9 these things.

10 Now, counsel is asking whether, since he knows
11 that there are legal processes available to correct
12 the injustices of any law, if there be any injustice
13 of it, he is asking him now why he doesn't resort
14 to that rather than resorting to demonstrations.

15 MR. HOLLOWELL: If it please the Court, if
16 my memory serves me correct, there was just a little
17 addition to that which Your Honor has related. My
18 understanding was that he said the reason that he
19 broke what was said to be unjust laws was because
20 these were laws that were used to enforce segregation;
21 and, of course, Your Honor and this counsel and
22 counsel for the Defendants know that such laws,
23 which are sponsored by the state or any subdivision
24 thereof, have already been declared unconstitutional
25 in other areas; and, therefore, when he says that he

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1 Mr. Hollowell:

2 is willing to breach an unjust law, an unjust
3 ordinance, as it relates to segregation because
4 these are contrary to the moral and actually the
5 laws of the United States, as has been handed down
6 by the Supreme Court of the United States; and I
7 think that here again this action pre-supposes that
8 the processes have been used is an illegal process,
9 whereas Your Honor as well as counsel know that the
10 Supreme Court has held that this is possible and
11 it is not illegal for one to even breach a law in
12 order to test a particular case, as is best known
13 or best set out in Evers v. Wyatt; and for that
14 reason I submit that counsel's question still pre-
15 suppose an illegal process on the part of that which
16 they are doing and, therefore, it is argumentative.

17 THE COURT: It doesn't presuppose it any
18 further than this witness has testified about it,
19 as I see it, Mr. Hollowell. He himself says that
20 he regards these statutes as being illegal. He
21 testified that yesterday.

22 A The Witness: Pardon me, sir?

23 THE COURT: He said that yesterday; so,
24 it doesn't presuppose any more than the witness
25 presupposes. I will allow the line of questioning.
Go ahead.

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1 MR. RAWLS: Would you read, Mr. Reporter,
2 the question which I propounded to the witness?

3 THE REPORTER: (Reading) "Question: Now, being
4 perfectly aware of available legal processes for the
5 redress of any complained wrong that has been done
6 to your people, why did you as leader of The Albany
7 Movement propose to have mass meetings, which you
8 testified yesterday you knew were calculated to
9 provoke violence? Answer: That's incorrect."

10 THE COURT: Now, with regard to that
11 phrase that "that you testified yesterday was
12 calculated to provoke violence", I do not recall
13 the witness having said that; and I think that
14 portion of the question should go out.

15 MR. RAWLS: I strike that portion of the
16 question, Your Honor.

17 THE COURT: Go ahead with the remainder
18 of your question with that phrase omitted.

19 MR. HOLLOWELL: Excuse me, if I might Your
20 Honor, for the record, I'm sorry, I beg your pardon,
21 Mr. Rawls, I wanted to do this; I wanted to just
22 add as a part of my objection the additional reason
23 that it pre-supposes the illegality of people picketing
24 and peacefully protesting.

25 THE COURT: All right, go ahead.

8 2 8

1 Q Mr. Rawls: Will you answer that question,
2 Doctor?

3 A I'm afraid you'll have to restate the question.

4 Q Well, to summarize, why did you and your group
5 elect to go through the processes which you have gone
6 through, rather than resort to legal processes?

7 MR. HOLLOWELL: I object to the "rather than
8 resort to legal processes", Your Honor.

9 THE COURT: Mr. Rawls, suppose you make it
10 specific. Suppose you simply ask why did they do
11 or go through these processes, demonstrations,
12 marches and so on rather than resorting to legal
13 action in the United States Court.

14 Q Mr. Rawls: Doctor, why did you and your
15 associates in the Albany Movement elect to go through the
16 processes which have been proven here or testified concerning,
17 and which you have admitted that you participated in, rather
18 than following the procedure which you followed with
19 reference to the voting rights you claim; that is to say,
20 file a civil action in the District Court for redress
21 of your claims?

22 A Well, No. 1, we certainly feel as though these
23 protests have all been directed toward the segregated system
24 in the City of Albany. Secondly, we feel as though we were
25 exercising a constitutionally guaranteed right; that is a

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1 right that should not be circumvented by any local laws
2 or ordinances. The highest court in the land has supported
3 in the affirmation that segregation is contrary to the
4 constitution of the United States. So that, in engaging
5 in these protests we were merely exercising a constitutionally
6 guaranteed right; and any laws designed to interfere with
7 us exercising this right then would be contrary to the
8 Constitution of the United States, which is the highest
9 law of the land.

10 Q I'll ask you now, since you've made your
11 explanation, could you not have asserted the claimed rights
12 which you're undertaking to establish in mass meetings and
13 marches, by bringing a civil suit in the District Court
14 of the United States, before the same Judge - at that
15 time, at the time your group stated Judge Bootle was
16 still the only Judge in this District - could you not
17 have asserted the same rights which you contend you are
18 asserting by your mass meetings and your marches, your
19 parades, marches; is it not true that you could have brought
20 a civil action in the District Court for the protection and
21 for the assertion of the same rights you are trying to
22 establish by your Movement?

23 MR. HOLLOWELL: Are you through, Mr. Rawls?

24 MR. RAWLS: Yes.

25 MR. HOLLOWELL: Now, may it please the Court,
here again it's argumentative; and beyond that, this

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CLAUDE JOINER REPORTING SERVICE

1 Mr. Hollowell;

2 is a purely legal question; and this witness is not
3 a lawyer. Therefore, it would be a conclusion if
4 he gave a response, plus the fact that I don't
5 recall him ever saying that he had engaged in any
6 march.

7 THE COURT: I think the question as phrased
8 would call for a conclusion. I will allow the
9 question if it is rephrased to ask the witness
10 whether he knows that he could have done so and so;
11 not to ask him whether he could have done it but
12 whether he knows that he could have done it.

13 Q Mr. Rawls: Doctor, are you aware that the
14 same rights and the same privileges that you are under-
15 taking to assert in these mass demonstrations and marches
16 could have been asserted in a suit in the District Court
17 of the United States for this District?

18 MR. HOLLOWELL: Well, here again I submit that
19 he's not a lawyer and he's not a judge, and unless
20 he were in that category, it would be calling upon
21 him to make a legal conclusion, to know what rights
22 he would be able to assert in the District Court of
23 the United States.

24 THE COURT: I overrule that objection
25 because I think the question as asked simply asks
him whether him whether he knew or not. It doesn't

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The Court:

ask him to interpret the law. He is simply asked whether he knew he could or not.

A The Witness: Well, the things that have been set forth --

THE COURT: Just a minute. Now, that's a question that can be answered with a yes or no. He has asked you whether you knew that you could have done these things that the question refers to. Now, you answer it with a yes or no and then you can explain your answer in any way you want to.

A The Witness: No.

Q Mr. Rawls: You don't have to explain "no" then. You say you did not know that?

A I did not know that this could be accomplished in this manner.

MR. RAWLS: That's all.

CLAUDE JOINER REPORTING SERVICE

18th witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q State your name and occupation to the court
reporter, please?

A J. J. Lairsey, Assistant Chief, Albany Police
Department.

Q Have you been sworn?

A Yes sir.

Q How long have you been with the Albany Police
Department?

A 10 years.

Q Chief, do you recall an incident where certain
equipment of the Police Department was damaged or destroyed
being hit by missiles that were hurled at it?

A Yes sir.

Q Do you have personal knowledge of that?

A Yes sir.

Q All right, tell the circumstances under which
that was done, the place, its location?

A On the 7-10-62 at approximately 9:30 P.M.
I was parked at the Corner of Whitney and Jefferson on
the southeast - southwest corner in a patrol car. I was
sitting in the back seat. Some party threw a rock, or
exactly about half of a brick, and broke out the red dome
light on top of the police car.

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CLAUDE JOINER REPORTING SERVICE

1 At this time there was a large meeting in one
2 of the churches on the corner and there was a lot of people
3 outside, when the light was broke. I don't know, I did
4 not see where the brick came from but it shattered the
5 dome light.

6 Q Now, Chief Lairsey, do you remember an occasion
7 when the police department, headed by Chief Pritchett, was
8 undertaking to restore order at a place on Jackson Street
9 just south of Oglethorpe Avenue on the 24th of July? Did
10 you participate in that?

11 A Yes sir.

12 Q How were you traveling?

13 A I was on a motorcycle that night.

14 Q Did anything happen to your motorcycle?

15 A I had a rock, one of the rocks that was thrown
16 did hit the motorcycle; it didn't hit me but it hit the
17 motorcycle.

18 Q Will you describe your recollection of what the
19 situation was with reference to whether bottles or rocks
20 were thrown as you observed there?

21 A Well, I was ^{or less} more/the head of one column of men
22 that went down through Harlem and there was a lot of
23 bottles and rocks and stones thrown.

24 Q Do you have an estimate of the number of people
25 who were participating in that situation there?

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1 A I would estimate in that vicinity down there
2 between 2500 and 3,000.

3 Q What race did the people belong to that was
4 in this group that was undertaken to be dispersed?

5 A Colored race.

6 Q Did anything of any moment or of any importance
7 transpire along the sidewalks a short while prior to that
8 demonstration?

9 A I didn't understand you.

10 Q I say, what, if anything had happened with
11 reference to movement from the churches just prior to that?

12 A Just prior to that, we had had a march down
13 towards the City Hall from one of the churches.

14 Q Now, in your police efforts have you had
15 occasion to observe the pattern which is generally followed
16 from these churches or mass meetings by the other people
17 present at those meetings inside and outside of the church?

18 A Yes sir.

19 Q Well, I'll ask you now, what happens to the
20 ones who do not join in the actual organized procession
21 or parade? What do they do?

22 A Well, it seems like the ones that are not in the
23 actual march follow the march up through Harlem as far as
24 Oglethorpe and in that area and the others in Harlem more
25 or less join in with them too.

MR. RAWLS: He's with you.

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CROSS EXAMINATION

1
2 BY MR. C. B. KING:

3 Q Mr. Lairsey, you indicated a moment ago that
4 on July 10, 1962 during the night season down on the corner
5 of Jefferson and Whitney there was a missile of some sort
6 thrown at a car in which you were seated, is that correct?

7 A That's correct.

8 Q In relation to where this church meeting was
9 going on, where was the car in which you were seated?

10 A It was parked in the southwest corner.

11 Q On the southwest corner?

12 A On Whitney on the southwest corner.

13 Q In what direction was the front of the car
14 headed?

15 A The front of it was headed east.

16 Q The front was heading east?

17 A Yes.

18 Q This means then it was diagonally across the
19 street from Shiloh Baptist Church, is that correct?

20 A That's correct.

21 Q The rear of which was going toward Monroe?

22 A That's true.

23 Q Or west, is that right?

24 A That's right.

25 Q Now, all along the area which would be to your
rear is extremely dark during the night season, is that

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correct?

A Yes, it's dark there.

Q Your response was "yes"?

A Yes.

Q As a matter of fact, you don't know who threw this missile, is that right?

A I could not say who threw it.

Q And it came from that direction, is that correct?

A I don't know which direction it came from.

Q It is your testimony that it hit the back of the car, is that right?

A No, I said it hit the dome light on top of the car.

Q Where was the dome when you examined it?

A The dome light?

Q Yes, when you got out of the car, where was the dome light?

A It was spattered all over the top of the car.

Q Now, I believe that you indicate that you have been with the Police Department for a substantial period of time, is that right?

A That's true.

Q Weren't you able to determine the point at which or the direction from which that missile came, by examining --

CLAUDE JOINER REPORTING SERVICE

1 A No, was not.

2 Q -- by examining the pattern --

3 A No. There's so much vacuum in those lights,
4 when something hits them, it just shatters.

5 Q Then, let me ask you this: There was a light
6 in front of your car, was there not? There was a street
7 light in front of your car, is that correct?

8 A Yes, I believe there's a light, right on the
9 corner.

10 Q It is undeniable that if you were looking ahead,
11 you would be able to see anybody throwing from your front,
12 is that correct?

13 A That's correct. At the moment I can't say if
14 I was looking ahead or talking to the fellow side of me;
15 but if I had been looking ahead, I would have probably
16 seen it.

17 Q Did you see anybody, did you look ahead after
18 it was hit?

19 A Now, across the street ahead of us were some
20 people but I don't know who threw it, as I said.

21 Q Then, it's your testimony you don't know where
22 that brick came from?

23 A I don't know whether it came from the side of us
24 or back of us or in front of us.

25 Q Now, I believe on the 24th you testified that



1 you were on a motorcycle and came into the 200 block of
2 South Jackson Street, is that correct?

3 A That's correct.

4 Q I believe you indicated that there was some 2500
5 to 3,000 people in that area, is that right?

6 A That's correct.

7 Q How did you arrive at that determination, sir?

8 A Well, it's hard to judge a crowd, I suppose,
9 but I've been in so many big crowds, such as ball games
10 and so forth, that you can pretty well get an estimate of
11 how many is in a crowd.

12 Q And this is the basis on which you made your
13 estimate?

14 A In my opinion, that was it.

15 Q Simply by your being in baseball crowds, is
16 that correct?

17 A In places where you knew how many people were
18 there and then judging by that and this crowd.

19 Q Now, you indicated that on July 24 that you
20 drove a motorcycle down in this area?

21 A That's correct.

22 Q I take it that your motorcycle along with
23 somebody else's represented the head of a column, is that
24 correct?

25 A That's correct.

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1 Q Your testimony is that something hit your
2 motorcycle, is that correct?

3 A It was a rock that hit the motorcycle.

4 Q Well, how do you know it was a rock?

5 A It fell right down there side of my foot.

6 Q What is that?

7 A It fell right beside my foot.

8 Q And you looked down and you saw it, is that
9 correct?

10 A That's right.

11 Q Then, I take it that there were other rocks,
12 on the basis of your testimony?

13 A Yes, there were some more rocks and bottles
14 spattered around.

15 Q Now, how was this column moving?

16 A The column of men, one column on each side,
17 and there were three motorcycles, one on each side of me.
18 I was in the center. And we were moving slowly down the
19 street.

20 Q Then, you were the head of it, is that correct?

21 A Well, I was, I think the motorcycles were
22 about even with each other but I was in the center.

23 Q You were in the center?

24 A Yes.

25 Q And you were moving how fast?

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1 A Very slow. We were trying to go about a walking
2 pace.

3 Q There were people in front of you?

4 A The colored people were in front of us.

5 Q Q Well, are they different from any other people?

6 A No, I didn't know just what, who you meant. We
7 were trying to clear the street.

8 Q Then, you were moving at the time that this rock,
9 you say, hit you?

10 A Yes sir, we were walking about a walking pace,
11 as slow as we could go and keep the motors going.

12 Q And yet, you saw the rock?

13 A Yes, as it hit, it hit right on the gas tank;
14 and as it hit, it bounced up down there on the street, and
15 I seen it.

16 Q Now, going back a bit, Mr. Lairsey, you are
17 the same Mr. Lairsey who had an occasion on or about
18 December 19 to arrest --

19 MR. RAWLS: Now, if Your Honor please --

20 Q Mr. King: -- Mrs. Norma Anderson in the
21 bus terminal?

22 MR. RAWLS: Now, if Your Honor pleases,
23 he's going into matters which were not even thought
24 of or touched on direct; and we object to him
25 crossing this witness about any matter that was

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1 Mr. Rawls:

2 not covered or touched on, on direct examination.

3 MR. KING: If Your Honor please --

4 THE COURT: Just a minute -- he hasn't
5 completed his question yet. After he's completed
6 his question, I'll hear from you.

7 Q Mr. King: No. I was interested to know
8 whether you are the same Officer Lairsey who had an occasion
9 on or about December 13, 1962 to arrest a number of persons,
10 one of whom was Mrs. Norma Anderson?

11 MR. RAWLS: Now if Your Honor pleases,
12 before the witness has had an opportunity to answer,
13 I object upon the ground that he's going into matters
14 that were not touched on or suggested in connection
15 with our direct examination.

16 THE COURT: Yes, I'll hear from you --

17 MR. RAWLS: He has no right to cross this
18 witness on any matter except what was brought out
19 on direct examination.

20 THE COURT: What about that, Mr. King?

21 MR. KING: If Your Honor pleases, I would
22 submit that counsel seeks this information as a means
23 of establishing identity here. I would also submit,
24 Your Honor, that there has been on the direct
25 examination the elicitation of information with

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1 Mr. King:

2 reference to certain conduct on the part of officials
3 of the Police Department of the City of Albany, in
4 consequence of which I would submit to Your Honor
5 that, based on these two considerations, it would
6 become an appropriate subject matter for counsel to
7 go into.

8 THE COURT: I will rule this way on the
9 situation. I will allow the witness to answer the
10 question, which you have just propounded; that is,
11 is he the same officer Lairsey who made an arrest
12 at a given time. I will allow him to answer that
13 for the purpose of establishing identity, which you
14 say is the reason you're asking the question.

15 But I will not allow you to go into the
16 circumstances of the incident because this witness
17 has not testified concerning anything relative to
18 that on direct examination, and any cross with regard
19 to it would be irrelevant; so, I will allow the
20 witness to answer the question that has been propounded
21 yes or no.

22 Q ~~Mr. King~~ The Court: Are you or are you not the
23 same officer who made an arrest, if you did make an arrest,
24 as he says?

25 A Yes sir.

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1 THE COURT: All right, his answer was yes.

2 Q Mr. King: You just testified a moment ago,
3 Mr. Officer, that you had an occasion to observe the persons
4 who were walking in an organized fashion, the 40?

5 A What was the last part of your question?

6 Q This was on July 24 or 25th, the 24th I believe?

7 A That's correct.

8 Q On the night of July 24; and, of course, you said
9 that it "seemed" that another group followed and joined in,
10 is that correct?

11 A Joined in at the rear of the march, is that
12 what you mean?

13 Q Yes?

14 A Yes, as the march come along the other crowd,
15 not in formation, begin to gather and walk along behind
16 them and on both sides of the sidewalk going in the direc-
17 tion they were going.

18 Q Well, there is some question here, were they
19 behind them or on both sides of them, which one?

20 A They were behind them and also there were some
21 on the other side of them.

22 Q How many were behind them?

23 A Now, what location are you talking about, when
24 you say "how many were behind them?"

25 Q I want to know how many were behind; you were

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1 the one who said that there was a contingent of persons
2 behind?

3 A Well, I say that as the march came up out
4 of Harlem, there was 25- or 3,000 coming up towards the
5 bus station. That would be behind the march. That's what
6 I was getting at.

7 Q Well, how would you know, I believe by prior
8 testimony that you were supposed to have been away up in
9 front of this cordon of police, leading this line, weren't
10 you?

11 A I started at Oglethorpe, that's right.

12 Q Well, how would you be able to know whether
13 they were behind or where?

14 A I was there when the group come by us, and
15 then I seen the ones -

16 Q Now, which group are you talking about, excuse
17 me?

18 A I believe you're referring to some of the
19 people that were marching towards the City Hall?

20 Q Well, I didn't use the term "march", but that's
21 your own creation; I'm speaking in terms of the 40, I
22 believe that you did testify that there were 40 persons
23 who gave evidence of being organized, is that correct?

24 A That's right.

25 Q Now, we're talking about this other group that

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1 you spoke of, the 2,000 or 3,000 or how many you said
2 there were, where were they?

3 A They were in the 200 block of South Jackson.

4 Q Where?

5 A Well, they were coming up from the 300 block and
6 the 200 block kept filling up in that area. That was after
7 these 40 had passed.

8 Q Now, where were they, on the sidewalk or the
9 street?

10 A The sidewalk and the street.

11 Q The sidewalk and the street?

12 A That's correct.

13 Q Now, were they behind the 40?

14 A They were behind them, all except the few
15 that was on the east sidewalk were more or less even with
16 them, some of them.

17 Q How could you see them, being at the front of
18 the line, if they were behind them?

19 A I didn't stay at the front of the line.

20 Q How long did you stay at the front of the line?

21 A You're talking about the front of the line that
22 had the 40 in it?

23 Q Yes?

24 A Or the front of the line of police?

25 Q The one with the 40 in it?

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A I didn't stay at the front of that line. I was there when the front of the line passed me. I didn't go, didn't stay with the front of that line.

Q Where did you go after that?

A I was stationed there at the corner of Oglethorpe and Jackson.

Q Now, in front of what line are you now?

A The front of the 40 that was arrested, they came along by me at Oglethorpe and Jackson; and then, as they passed me, these other people in Harlem, which I was talking about, the 25- or 3,000.

Q Now, are you justified based on your own testimony in saying that these people were behind them in the sense of following them? You actually can't testify to that, can you?

MR. RAWLS: Your Honor please, I object to him arguing with the witness.

THE COURT: Yes, let's don't argue with him.

A The Witness: I can only give my opinion on it.

Q Mr. King: Then, I take it, sir, you don't know, is that right?

A My opinion is they were following.

Q But that was not responsive to the question: you did not actually see them follow, did you?

A They were going in the same direction, so that's

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CLAUDE JOINER REPORTING SERVICE

1 the same as following.

2 MR. KING: No further questions.

3 MR. RAWLS: You can go down.

4 -----

5 MR. RAYMOND F. SLAUGHTER

6 19th witness called and sworn in
7 behalf of Plaintiffs, testified

8 DIRECT EXAMINATION

9 BY MR. RAWLS:

10 Q Mr. Slaughter, will you identify yourself there
11 to the Court Reporter, please?

12 A Raymond F. Slaughter, motorcycle patrolman,
13 City of Albany.

14 Q How long have you been on the City police force?

15 A Approximately four years.

16 Q Mr. Slaughter, do you recall an incident on
17 or about - I believe to be exact, on Saturday, July 21,
18 1962, at a point near the front of the City Hall, you had
19 occasion to arrest a man named Mike Collins and C. R. Ammons?

20 A Yes sir, I arrested Mr. Ammons in front of the
21 City Hall.

22 Q Well, give us a thumb-nail sketch of the
23 incident of that arrest, please sir?

24 A Well, sir, at that time we were having a
25 demonstration in front of the City Hall and several officers
in front observing the crowd. I noticed Mr. Ammons walking

CLAUDE JOINER REPORTING SERVICE

1 down the street with his hands in his pocket going toward
2 the people that were demonstrating. I turned and started
3 toward him and about the time I got to him Officer Gordon
4 arrived too. Officer Gordon caught Mr. Ammons, who had
5 his hand in his pocket like this (demonstrating), he caught
6 Mr. Ammons by the arm.

7 Q How close was Mr. Ammons at that time to any
8 member of the group in the demonstration?

9 A I would say about the distance I am to you,
10 approximately 15 to 18 feet.

11 Q Is that about 12 or 15 feet?

12 A Yes sir.

13 Q Did he have a pistol in his pocket?

14 A Yes sir, he had a Smith & Wesson 38 in his
15 pocket.

16 Q What was his condition with reference to
17 sobriety or drunkenness?

18 A He was in a drunken condition.

19 MR. RAWLS: He's with you.

20 BY THE COURT:

21 Q One question I want to clear up before we get
22 any further: The original statement of the witness was
23 "we were having a demonstration in front of the City Hall",
24 who was having the demonstration?

25 A There were several Negroes on the sidewalk,

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praying and chanting.

Q Is that the demonstration you referred to?

A Yes sir.

Q Allright, go ahead.

CROSS EXAMINATION

BY MR. C. B. KING:

Q Mr. Slaughter, is it not true that that is not the first man that you've had the occasion to disarm?

A That's true.

Q No further questions.

MR. RAWLS: Come down.

MR. ALLEN CHURCHWELL

20th witness called and sworn in behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q You are Mr. Allen Churchwell?

A That's right.

Q What business, if any, do you operate here in the City of Albany?

A Department store.

Q What is the specialty with reference to what you sell?

A Just general line of regular dry goods?

THE COURT: Can you hear him? Will you speak a little louder?

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CLAUDE JOINER REPORTING SERVICE

1 A The Witness: General line of dry goods.

2 Q Mr. Rawls: Do you recall any occasions
3 in late January or early February, when the Albany Movement
4 made any announcement relative to the patronizing of down-
5 town merchants?

6 A Now, I don't know - you've got a date; I don't
7 know what you're referring to.

8 Q I exhibit to you, Mr. Churchwell, a document,
9 which has been identified as PLAINTIFFS' Exhibit No. 1,
10 and I will ask you to look at it - it's dated March, 1962 -
11 I'll ask you to look at it and see if you recall having
12 received any similar communication from the Albany Movement?

13 Q Yes.

14 Q You have?

15 A Yes.

16 Q Mr. Churchwell, have you checked your business
17 operations, so as to be able to answer what effect, if
18 any, the activities of the Albany Movement have had on
19 your business?

20 A Well, I can't answer your question because we
21 don't keep any records as pertaining to such, to compile
22 such information.

23 Q Have you ever had any occasion to talk to Dr.
24 Anderson or any other member of the Albany Movement relative
25 to what demands they were making?

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1 A I talked to the Rev. C. Grant. He came to my
2 place of business. And that's the only one that I have
3 talked to in the period of time up to recently.

4 Q Well, I'll ask you this question: Have the
5 activities of the Albany Movement, with its boycott and
6 picketing, had any adverse effect on your business?

7 A I would say so.

8 MR. HOLLOWELL: If it please the Court, that's
9 a leading question, No. 1; and No. 2, it's a conclusion
10 of the pleader, not based upon any foundation that
11 has been laid with this witness. He asked him had
12 these activities as he described them had any adverse
13 effect, instead of simply asking him had there been
14 any effect and, of course, here again he's leading him.

15 THE COURT: Are you objecting, Mr. Hollowell,
16 that there has been no showing that there has been
17 any picketing, is that the point?

18 MR. HOLLOWELL: There hasn't been any by this
19 witness.

20 THE COURT: Well, other witnesses have
21 testified about it; and I'm not clear exactly what
22 your objection is.

23 MR. HOLLOWELL: My objection in this instance
24 is whether or not - he said, as I recollection the
25 question, whether or not there has been any adverse

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1 Mr. Hollowell:

2 effect to his business by, and he listed these things.

3 And I would submit that this is leading.

4 THE COURT: Well, I see your point. I think
5 maybe, Mr. Rawls, the objection is good as stated.
6 In other words, suppose you first ask him if there
7 has been any picketing of his place.

8 MR. RAWLS: Yes sir.

9 _____ Q Mr. Churchwell, where is your store in Albany
10 located?

11 A In the 100 block of North Washington Street,
12 110.

13 Q Has there been any occasion or been any picket-
14 ing by the colored people in front of your place of business?

15 A There has been on several occasions.

16 Q Now, I will ask you whether or not that
17 picketing as you've described, has or not adversely affected
18 your business?

19 A Well, that goes only in a matter of opinion.
20 I have an opinion in regards to it.

21 Q But what facts that you know is your opinion
22 based upon?

23 A Well, my opinion is based on the fact that
24 it seems that fewer people are there; and also the effect
25 that it has on all people when it is going on, when picketing

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is going on.

MR. HOLLOWELL: Well, of course, Your Honor, the effect that it has on all people is purely speculative and a conclusion. There is no information or evidence that he has contacted or that he has had any psychological training which would enable him to form such a conclusion.

THE COURT: I sustain the objection to the question, I mean to the portion of the answer which relates to all people.

MR. RAWLS: He's with you.

THE COURT: Just a moment before you begin your cross examination. I will allow the witness to testify, if you wish him to do so, about the effect that it apparently had on people in patronizing his store and about his observation of them; but not with regard to all people. Do you have any opinion about that?

A The Witness: Well, I received this in this morning's mail (producing document). . .

MR. HOLLOWELL: May it please the Court, I would submit that whatever it is that he has received is not responsive.

THE COURT: You may answer the question that I propounded without reference to any document which you have there, if you have any, without any reference

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The Court: ...
to the exhibit?

The Witness: ... How do you put the question now?

THE COURT: ... Well, I don't care to pursue
it myself. I was just trying to solve the situation
about the objection that counsel made.

MR. RAWLS: ... I don't care to ask him any
more questions.

THE COURT: ... All right, is there any cross
examination?

MR. RAWLS: ... You may come down.

THE COURT: ... Just a moment.

CROSS EXAMINATION

BY MR. C. B. KING:

Q Mr. Churchwell, you indicated that there
have been persons at one time or another who have picketed
in front of your store?

A That's right.

Q Is that correct?

A Yes.

Q How many have you seen at any one given time?

A Well, the picketing that I have seen has been
in the 100 block of North Washington Street, four at a time;
and it's been, in other words, a quarter of a block on each
side, a half a block on each side of the street.

CLAUDE JOINER REPORTING SERVICE

1 Q This is to say two pickets on either side?

2 A On either side, four in all, in the 100 block
3 of Washington Street.

4 Q Now, where is your business located, on what
5 side of Washington Street is your business?

6 A It's on the east side of the street.

7 Q On the east side of the street?

8 A That's right.

9 Q How many pickets were on your side of the street?

10 A One.

11 Q One?

12 A In that half-a-block, and across the street
13 there was another one.

14 Q Was he carrying a sign? Was he carrying a sign?

15 A That's right.

16 Q Doyou remember what it said?

17 A No.

18 Q What is the policy of your department store as
19 relates to Negroes?

20 A Well, I would like a little more specific
21 question than that.

22 Q Doyou in any manner differentiate between
23 Negro patrons and white patrons?

24 A You mean in what respect?

25 Q In the facilities that your store affords?

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1 A Well, we have -- --

2 Q Do you have toilets for all of the patrons of
3 your store?

4 A We don't have toilets, no.

5 MR. RAWLS: Now, if Your Honor please, we
6 object to that upon the ground that we hadn't even
7 anticipated asking Mr. Churchwell to testify to that.
8 He's not cross-examining him on anything that we
9 brought out or undertook to bring out with Mr.
10 Churchwell; so, he cannot cross examine on that
11 basis.

12 THE COURT: Yes, Mr. King, that question
13 of facilities in his store for patrons, whatever
14 it is, I can't see that that has any bearing --

15 MR. KING: If Your Honor please --

16 THE COURT: Just a moment, just a moment!
17 ~~X~~You see, he was examined on direct only on the
18 question of had his store been picketed and, if so,
19 what effect it had on his business, and that's all.

20 Now, you can go into any of the features of the
21 picketing that you wish to go into, or into any
22 evidence that it has not adversely affected his
23 business or that it has helped his business, anything
24 like that. But any of the facilities inside of his
25 store would have no pertinency with regard to the
direct examination.

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1 MR. KING: If Your Honor pleases, I believe
2 that by establishing that there has been picketing,
3 it certainly puts the Defendants in the posture of
4 not being able to explain what needs to be explained
5 and that is the motivation behind the picketing itself.

6 THE COURT: I will take judicial notice,
7 if it is necessary, that whoever was doing the picket-
8 ing was claiming some grievance with regard to the
9 establishment being picketed.

10 MR. KING: If Your Honor pleases, I would
11 submit that it needs to be extended, not some
12 grievance. The grievance has been addressed by prior
13 testimony, elicited from Dr. Anderson. Segregation
14 is the causation.

15 THE COURT: I will take judicial notice
16 that that is the basis of it; so, it's not necessary
17 to go into any detail on it.

18 All right, anything further from this witness?

19 (No response by defense counsel)

20 Anything further from the witness, Mr. Rawls?

21 Q Mr. King: There is one other question
22 I would like to ask: Mr. Churchwell, in your observation
23 of such picketing that has been done at one time or another
24 in your block on your side of the street, did you have an
25 occasion to see the pickets arrested?

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1 A Well, I think on one occasion I did. I don't
2 know whether they were arrested. I didn't see them put in
3 jail.

4 Q You did see the police officer take them in
5 custody, is that correct, sir?

6 A Well, I saw the police officer talking to them
7 and I take for granted --

8 Q Did you see them go away with the police officer,
9 sir?

10 A On one occasion, yes, that I happened to be on
11 the street.

12 Q What was the picket doing at the time the
13 policeman came up?

14 A Well now, I couldn't tell you that, other than
15 picketing.

16 Q Other than picketing, thank you.

17 THE COURT: Anything further?

18 REDIRECT EXAMINATION

19 BY MR. RAWLS:

20 Q Your Honor, I desire to ask Mr. Churchwell
21 another question or two: I'll ask you, is it your opinion
22 that the activities that have existed in Albany since
23 December, 1961, in connection with the operation of the
24 Albany Movement, had any effect on your business?

25 A I would say so.

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MR. HOLLOWELL: May it please the Court, there is no testimony that this man has even been observing or his aware of the activities of the Albany Movement.

MR. RAWLS: I'll ask him that question first.

THE COURT: Very well.

Q Mr. Rawls: Are you familiar or have you been advised, or do you know anything about the activities of the Albany Movement?

A Other than a letter and other than talking to who I took was from that organization, and was in conference for about an hour and a half with him. That's all.

Q Mr. Churchwell, I hand you an envelope and a document, which I believe you left at my office, to refresh your recollection?

MR. HOLLOWELL: Is that one I've seen?

MR. RAWLS: No, I'll show it to you though.

A The Witness: Yes sir. (Document tendered to defense counsel)

MR. HOLLOWELL: I believe, Your Honor - I would have to check this out - but I believe this is the same thing that he's shown him, which is already marked as an exhibit.

MR. RAWLS: Well, we'll let the witness testify to it.

MR. HOLLOWELL: What I'm saying is, it would be completely repetitious.

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1 THE COURT: Well, he might want to introduce
2 it because this is the one this particular witness
3 received.

4 Q Mr. Rawls: Mr. Churchwell, I'll ask you if
5 you did receive this document, which is marked PLAINTIFFS'
6 EXHIBIT #18, on or about March 10, 1962?

7 A I did.

8 Q You did?

9 A Yes.

10 Q Now, I'll ask you whether or not the activities
11 of - I'll ask you to look at the top of the letter and see
12 whether or not it says "The Albany Movement, Dr. W. G.
13 Anderson"?

14 A At the top it says "The Albany Movement,
15 headquarters," and Anderson signed it.

16 Q Now, I'll ask you whether or not the activities
17 that have been carried on since you received this letter
18 have or have not affected the operation of your business?

19 MR. HOLLOWELL: Again, Your Honor, I object
20 to it. In the first place, he's made no specification
21 in that question; "whether or not the activities".
22 The question is too broad, too general, plus he's
23 already asked the same question before.

24 THE COURT: Specify what activities you're
25 referring to, Mr. Rawls.

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MR. RAWLS: Of the Albany Movement?

THE COURT: Ask him specifically about the particular activities; either you ask him or the witness testify.

Q Mr. Rawls: Marching, boycotting, picketing, those activities?

A I think it's had an effect on business.

Q Has the effect been good or bad?

A Well, I think the effect has been bad on business.

Q Doyou have any knowledge concerning the attitude of any out-of-town customers you may have relative to coming to Albany to patronize your store?

A That would be too general. I don't know of any particular individuals that I could cite from out of town with regards to your question.

MR. RAWLS: He's with you.

THE COURT: Anything further?

MR. KING: Yes, Your Honor.

RE CROSS EXAMINATION

BY MR. KING:

Q I believe, Mr. Churchwell, in response to counsel's question as to whether business was bad, how bad?

A Now, he didn't ask that question but if you want me to answer it, I can give you a broad general idea.

Q Don't you have books, sir, by which you would

1 be able to specify how bad it's been?

2 A Well now, business hasn't been so bad as
3 compared - our sales through the month of July was \$5,000
4 less than it was the year before, from January up through
5 July.

6 Q Then, are you in a position to determine what
7 has occasioned it?

8 A Well, I have my opinion.

9 Q What is your opinion, sir?

10 A My opinion, we have had the effect on the people,
11 you take during the picketing or during the excitement
12 it's had an effect on everybody, even to the extent of
13 personnel that work in places of business.

14 Q Will you be more specific, sir? What persons,
15 what places of business?

16 A What?

17 Q I say, would you be more specific?

18 A I'm talking about, I'm primarily interested
19 in Churchwell's Store.

20 THE COURT: Are you talking about your
21 store? Is that what you're talking about?

22 A The Witness: That's right. I'm talking about
23 my store.

24 Q Mr. King: There is one other question I
25 would like to ask you, sir: Has your business dropped off

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1 because Negroes stayed out of it?

2 A I would have to say yes.

3 Q Then, I take it that this is what you mean
4 when you say "adverse effect"?

5 A That's one phase of it.

6 Q What is the other, sir?

7 A Well, I received this in this morning's mail.
8 May I make a statement about it? This is the effect on a
9 customer.

10 MR. KING: If Your Honor please --

11 THE COURT: You can testify about specific
12 customers, if you know.

13 A The Witness: Well, I have a name and address.

14 THE COURT: All right, you can testify
15 about that.

16 A The Witness: This person has a lay-away
17 at the store and he enclosed a money order this morning.
18 "Please take one dollar on each lay-away; tried to come
19 to town soon; been staying away because of niggers. Thanks."

20 Q Mr. King: May I see that, sir?

21 A That came in the morning's mail (handing document
22 to defense counsel) . . .

23 Q Then, I take it, sir, that the person who wrote
24 this --

25 A I don't even know the person that wrote that.

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Q But I simply wanted to call to the Court's attention and to the reporter's attention that the person so writing it indicates that the cause was "because of Negroes", is that correct?

A I would take it she meant the activities; Now, that's what I would take it to men.

Q But, as a matter of fact, the only thing that communication says is "because of Negroes", is that right?

A Well, you saw the paper.

THE COURT: Anything further from this witness?

MR. RAWLS: We have nothing further, Your Honor.

Q Mr. King: There is one other question I would like to ask: Have you got any other such letters, sir?

A No, that's the only communication in writing I have had.

Q No further questions.

REDIRECT EXAMINATION

BY MR. RAWLS:

Q You said communication in writing; have you had any verbal communication from customers relative to the matter, by telephone or personal conversation?

A Mr. Rawls, it's hard to say because you get to

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1 you get down to the point in asking me what and when and why
2 and I can't answer that.

3 Q I didn't ask you when but I júst asked you
4 have you had any?

5 A I know but it would come; and general knowledge
6 is something --

7 Q The period we're now talking about is from
8 December, 1961 up to the present time, Allen, and I didn't
9 ask you why?

10 A Well, I would just -- in other words, it's
11 something that I can pin-point. In other words, I want
12 to say what I can pin-point on it and I can't pin-point that.

13 Q Do you know whether you've had any verbal
14 personal, by looking at you in the face, or telephone
15 statements from customers similar to the one you showed
16 counsel for the other side that's in writing?

17 A Mr. Rawls, I've had, I have had knowledge of
18 things but as far as specific testimony I can't give
19 that. I don't want to give anything unless it's what I
20 know.

21 Q All right, thank you.

22 THE COURT: You may go down.

23 MR. RAWLS: Your Honor, we would like
24 for the Clerk to identify this note that Mr.
25 Churchwell testified about as one of our exhibits.

THE CLERK: P-19.

RECESS: 11:00 AM to 11:15 AM 8-3-62

21st witness called and sworn in
behalf of Plaintiffs, testified

DIRECT EXAMINATION

BY MR. RAWLS:

Q Have you been sworn?

A No sir. (Witness sworn)

Q You are Proctor Johnston, Jr.?

A That's right, sir.

Q Mr. Johnston, do you together with your father
operate a business in Albany?

A Yes sir.

Q Where is that business located?

A 230 Pine Avenue, sir.

Q I'll ask you whether or not that is in the area
between the City Hall and Lane's Drug Store?

A Yes, it is.

Q And I'll ask you whether or not that's on the
south side of the street?

A Yes, it is.

Q Mr. Johnston, do you know anything about the
activities of the Albany Movement, so called Albany Movement?

A Only that they have initiated boycott on the
downtown merchants.

Q Well now, what effect -- Has the boycott activi-
ties of the Albany Movement had any effect on your business?

A It's had an indirect effect, in that our white

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1 customers have been afraid to come to town to shop, due
2 to the demonstrations that have been going on outside of
3 our store and in that general area.

4 Q Do you testify that the demonstrations and
5 marches by your store have impaired your patronage in
6 your store?

7 A Very definitely, yes sir.

8 Q Do you have any - have you looked at your
9 records to see whether there has been any depreciation
10 in your gross profit?

11 A Only during the months of November and December
12 1961. As you know, in the clothing business, that is
13 our busy time of the year. We either make it or we
14 don't. And during the months of November and December,
15 1961, we estimate that we lost approximately \$10,000
16 gross, and we arrived at those figures by comparison
17 with 1960 figures for the same two months.

18 Q Do you attribute that to the boycott activities?

19 A Yes sir, I do. Only about one-half of one
20 per cent. of our total customers are Negro; but, as I
21 said before, our white customers from surrounding areas
22 and local white customers are afraid to come to town.
23 We've had them call up and ask us to deliver merchandise
24 because they were afraid to come to town.

25 MR. RAWLS: He's with you.

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CROSS EXAMINATION

BY MR. C. B. KING:

Q Mr. Johnston, you said that there were white customers who were afraid to come to town because of patronage which was withheld by Negroes in this community?

A I did not say that, no.

Q What did you say?

A I said that our white customers were afraid to come to town because of the marching and demonstrations of the Negro citizens in front of our store.

Q I see. What patrons were afraid to come to town?

A I don't remember any specific names but I did have numbers of phone calls.

Q As a matter of fact, sir, what this deficit as compared with the preceding year's receipts was occasioned by, do you, sir?

A I gave you an estimate. I do not know the exact figure, no.

Q And you do not know the exact cause either, do you, sir?

A I told you what I thought the exact cause was.

Q What is the address of your business, sir?

A 230 Pine Avenue.

Q As the location of your business relates to the

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1 City Hall, where is it?

2 A I would say it's on the main street.

3 Q Well, in what direction from the City Hall is it?

4 A It's between the City Hall and Court Avenue.

5 Q As a matter of fact, your business then is
6 east of the City Hall, is that correct, sir?

7 A That's correct.

8 Q This is to say it is in the direction of
9 Washington Street?

10 A That's correct.

11 Q And not towards Jackson Street?

12 A That's correct.

13 Q Then, I take it sir, that what you are saying
14 is that a number of people walking up North Jackson
15 Street from Broad Avenue, or more specifically, from
16 South Jackson Street north on Jackson Street, they would
17 get to the City Hall much before they would get to your
18 business, is that correct?

19 A That's correct.

20 Q Then, any persons coming to the City Hall from
21 the direction that I have indicated would not have an
22 occasion to pass your business, is that correct?

23 A No, as long as they stopped at the City Hall,
24 they wouldn't get to my business.

25 Q No further questions.

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REDIRECT EXAMINATION

BY MR. RAWLS:

Q Do all of them stop at the City Hall?

A No sir, they do not stop at the City Hall for any length of time.

Q I'll ask you whether or not on any occasion when these parades and demonstrations were going on that the entrance to your store was blocked in any way?

MR. KING: If Your Honor pleases, I would object to the question as put. It's very obviously leading. It pre-supposes something which has not been testified to.

THE COURT: Well, it would be so easy to get at it another way. Suppose you rephrase your question.

Q Mr. Rawls: I ask you whether or not during these demonstrations large crowds of people gathered in front of your store who were not customers of your store?

A Yes sir, they did.

RE-CROSS EXAMINATION

BY MR. KING:

Q When was this, Mr. Johnston?

A I don't recall any dates. It's happened on numerous occasions; one occasion when there were pickets in front of the store, not specifically my store but

1 pickets walking up and down the street. Also on numerous
2 occasions when a number of marchers, marching up and down
3 the street, singing and chanting, the entrance was then
4 blocked.

5 Q You were still in this same location then as
6 you are now, is that correct?

7 A That's correct, no move.

8 Q Now, were these pickets you mentioned arrested?

9 A I don't remember.

10 Q Well, what happened to them, you were observing
11 them, weren't you?

12 MR. RAWLS: Now if Your Honor pleases,
13 I don't see how that could be relevant to this
14 testimony, what happened to the pickets.

15 THE COURT: I think it would because he's
16 testified that pickets interfered; and I think it's
17 pertinent cross examination. Go ahead.

18 A The Witness: I had a customer slip in the
19 back door and I went to wait on him; so, I didn't see
20 what happened to the pickets.

21 Q Mr. King: Then, I take it, it was only
22 on one occasion when this happened, is that true?

23 A With the pickets, yes. With the marchers, it
24 happened on more than one occasion.

25 Q How many times was itA?

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1 A I can't tell you exactly. I would say 2 or 3.

2 Q And when was this?

3 A When the demonstrations first started in
4 November and December.

5 Q Then, sir, you are saying that this hasn't
6 happened since over a period of 7 or 8 months?

7 A Yes, it has.

8 Q When was it?

9 A You want the date? I don't have it.

10 Q Well, can you approximate it?

11 A My memory fails me.

12 Q Your memory fails you; no further questions.

13 REDIRECT EXAMINATION

14 BY MR. RAWLS:

15 Q I'll ask you if your business is close enough
16 to the City Hall, that when there's any undue congregation
17 of people in front of the City Hall, whether it extends
18 back to your store or not?

19 A Well, my business is located on the corner
20 of Court Avenue and Pine Street. It's somewhat of a
21 corner, and naturally anything going on at the City Hall,
22 that is one of the places that people congregatē to watch
23 what is going on.

24 Q Does the aggregation of people who accumulate
25 in front of your store on such occasions interfere with

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1 the operation of your business?

2 A Certainly it does, because if you've got an
3 accumulation of people there blocking your entrance, be
4 they white or Negro, ladies are not going to proceed on
5 down the street to shop.

6 MR. KING: I would object to this latter
7 statement he made as a very obvious conclusion; that
8 is, what ladies will not do and the cause as to why
9 they won't. It is highly speculative, in consequence
10 of which I would request that it be stricken.

11 THE COURT: Yes, I strike that last part
12 of his answer as being pure speculation. I will
13 allow him to testify about whether he observed
14 whether they did or not, but not to speculate about
15 what they would do or would not do.

16 Q Mr. Rawls: Do you know of your own knowledge
17 that the presence of the group actually impeded people or
18 interfered with people who were undertaking to come into
19 your place of business?

20 A As I said before, I've had phone calls. On one
21 occasion a lady stated that she had started to town and
22 saw the crowd gathering in front of the City Hall on Pine
23 Street and in front of our store and turned around and went
24 home. She later called me to deliver a Christmas present.

25 Q How about the presence of police officers going

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along undertaking to keep the crowd moving; does that have any effect on your situation?

A I can't speak for my customers; it makes me feel uneasy.

Q It has an adverse effect on you personally, does it?

A It does.

MR. HOLLOWELL: I ask that that last be stricken.

THE COURT: Yes, I sustain that.

MR. RAWLS: No further questions.

THE COURT: You may go down.

RECROSS EXAMINATION

BY MR. KING:

Q I think perhaps there is one other question I would like to ask: I believe that your store is virtually in front of the county courthouse, is that correct?

A That's correct.

Q I ask you further that on innumerable occasions when a dress parade from the local military bases are held, the reviewing stand is in that general location; is that correct?

A On the other side of the street from our store.

MR. RAWLS: Now, if Your Honor pleases, I object to that question, including the answer,

1 Mr. Rawls:

2 on the ground that it's entirely illegal, irrelevant
3 and immaterial.

4 THE COURT: Mr. King, I'm not clear exactly
5 the pertinence of that. Will you explain to me what
6 you think the pertinence is?

7 MR. KING: If Your Honor please, he has
8 testified as to the number of people who apparently
9 are attracted in this area as a result of certain
10 protestations taking place in the area of the City
11 Hall. My interest here is establishing whether or
12 not on innumerable occasions there haven't been
13 parades more immediately in proximity to his store;
14 and I would certainly be interested to know whether
15 this has an effect on his business.

16 A The Witness: It very definitely does. It
17 hurts.

18 Q Mr. King: Then, I ask you, sir, by way
19 of comparison of the number of people who are attracted
20 and who are physically present in the area where these
21 parades are concerned and these military parades are
22 concerned far exceed those which are occasioned as a
23 result of protestations in the area of the City Hall?

24 A Yes, the number would exceed those but the
25 parades are advertised.

Q No further questions.

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witness called and sworn in
behalf of Plaintiffs, being
RECALLED, testified further

REDIRECT EXAMINATION

BY MR. RAWLS:

Q Mr. Morris, do you have with you the tape that
you played here in the presence of the Court yesterday?

A Yes sir, I do.

Q Will you deliver it to me, please?

A (Witness handing tape to counsel for Plaintiffs)

Q This is the tape which you played?

A Yes sir.

THE COURT: I notice counsel said the tape
you played yesterday; to be sure it is correctly
identified, I want you to explain --

MR. RAWLS: There wasn't but one tape played,
Your Honor, I don't believe.

A The Witness: This was played day before
yesterday. I was in Atlanta yesterday.

Q Mr. Rawls: What is this a tape of?

A It's a tape of the voice of Dr. Anderson and
Rev. Abernathy and some singing.

Q Is it or not the same tape which you played on
your machine here on the desk day before yesterday?

A Yes, it is.

MR. RAWLS: He's with you.

MR. HOLLOWELL: We just want to renew our

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Mr. Hollowell:

objection inasmuch as it was under the testimony of this witness only small excerpts from a total program, No. 1. And No. 2, it's an impression of an original without the original having been produced, And No. 3, it was so erratic that it was too difficult to understand so as to be sure that this was the thing that was actually said by those whose voices the witness testified were being portrayed.

THE CLERK: P-20 (Tape recording).

THE COURT: I will rule on the objection when it is offered in evidence. It hasn't been offered yet.

MR. RAWLS: Call the Defendant, Charlie Jones, for the purpose of cross-examination.

MR. CHARLES JONES

one of the Defendants, called by Plaintiffs as adverse party, being first duly sworn, testified on

CROSS EXAMINATION

BY MR. RAWLS:

Q You are Charlie Jones, one of the Defendants?

A Charles Jones, yes.

Q What connection, if any, do you have with the Non-Violent Coordinating Committee? What is your title

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1 with that aggregation?

2 A I'm a field secretary for the Student Non-Violent
3 Coordinating Committee.

4 Q Do you have any Communistic connection? Are
5 you a Communist yourself?

6 A No.

7 Q Or do you have any Communistic connections?

8 A No.

9 Q What is your - you've already stated your
10 title; now, who is your local representative of the Student
11 Non-Violent Coordinating Committee here in Albany?

12 A There are several persons here in Albany who
13 have been here for some 8 or 9 months, since October
14 and November, all of which are representatives. There
15 is no special representative as such.

16 Q Is it an unincorporated association or a
17 corporation?

18 A It is an unincorporated association of
19 individuals.

20 Q Where is its principal office?

21 A The principal location is in Atlanta, Georgia.

22 Q Does it have a board of directors?

23 A Could you define "board of directors"?

24 Q You know what a board of directors is, don't you?

25 A Theoretically, the function is the thing I'm

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Interested in. We have --

Q I'm talking about a board that is the governing body?

A The policies of the Student Non-Violent Coordinating Committee.

Q Is there a policy board?

A Yes, it's made up of most of the members of the staff, along with some advisers.

Q Who are they?

A The members of the staff or the advisers?

Q Yes?

A Which, all of them?

Q All of them?

A Well, James Foreman, Charles McDew, Charles Sherrod, Bill Hansen, Reginald Robinson, Charles Jones, Norma Collins, Mrs. Ella - Miss Ella Baker; Dr. Martin Luther King; Harry Bellafonte, Harry Golden.

THE COURT: Is he from North Carolina?

A The Witness: North Carolina, Charlotte, yes. Ralph Allen, Paul Brooks, Cordell Reagin, Robert Zellner, Connie Curry - Constance Curry, Tim Jenkins. As of now, I think this would pretty much exhaust the immediate persons that are working in connection with Student Non-Violent Coordinating Committee.

Q Mr. Rawls: Do you have any knowledge

1 concerning whether or not any person you've named has any
2 Communistic affiliation or connection?

3 A Tony knowledge, they have no Communistic
4 affiliations or connections.

5 Q Are you paid a salary?

6 A No.

7 Q You're not?

8 A No.

9 Q Well, how do you subsist?

10 A At times I wonder. We have a main office
11 that does provide us when necessary with subsistence,
12 such to be determined by our own means of living. This
13 can be consistent in terms of annually, eachweek; usually
14 it isn't but it comes when it is needed.

15 Q I exhibit to you PLAINTIFFS' EXHIBIT #3, which
16 is entitled "The Student Voice", dated February 19, 1962,
17 and I'll ask you to indicate whether or not that is an
18 authentic copy of that publication?

19 A Yes, these are authentic copies of what
20 is called "The Student Voice".

21 Q Is that the official publication of The Student
22 Voice, a copy of it?

23 A Yes.

24 Q As a matter of fact, it is mimeographed and
25 run off under your supervision, isn't it, or your staff,

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1 people that are working in connection with you?

2 A Individual persons use what we have been using
3 as an office to run this off, yes.

4 MR. RAWLS: Mark that as an exhibit.

5 (Exhibit handed to counsel for Defendants) . . .

6 Q I exhibit you two documents, one marked P-11,
7 which is entitled "Citywide prayer vigil", and another
8 one marked P-21, which is entitled "Remember this week";
9 and I will ask you if you have any knowledge or information
10 concerning the publication of either one or both of those
11 hand-bills or pamphlets, whatever you want to call them?

12 A I have no knowledge of the publication of
13 these pamphlets. I have some knowledge of some of the
14 incidents involved in "Remember this week"; Mrs. Marian
15 King being slapped and kicked, Dr. Martin Luther King
16 being arrested, Bill Hansen being beaten, C. B. King
17 being struck by Sheriff Campbell. But as far as the
18 publication is concerned, I have no knowledge of who
19 or at what point it was done.

20 Q You have no knowledge of the publication or
21 distribution of either one of those pamphlets?

22 A No, I don't.

23 Q Did you make a speech to any group or make a
24 statement to any group after Judge Elliott issued the
25 temporary restraining order in this case, which was served

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1 on you on July 21; did you make the statement to any group
2 that night that you had been enjoined but that there wasn't
3 any reason why they shouldn't march if they wanted to?
4 Did you make any such statement as that?

5 A Would counsel identify which group? I spoke
6 to many groups that particular night.

7 Q Well, I asked you as to any group; did you tell
8 any group of persons any statement similar to what I have
9 stated there?

10 MR. HOLLOWELL: May it please the Court, I
11 object to the statement as made. It's one thing
12 to make that statement and another thing to make
13 some statement similar. And I think it is too broad
14 in its scope.

15 THE COURT: All right, let's bring it
16 down and ask him if he made that statement; and
17 depending upon what his answer is to that, you may
18 ask him if he made one similar.

19 Q Mr. Rawls: Did you make the statement
20 that I asked you about?

21 A I don't recall making that statement.

22 MR. HOLLOWELL: Just a moment! Excuse me just
23 a moment. He still has asked two and I want to know
24 which one we're talking about.

25 Q Mr. Rawls: I'm asking you about a statement



1 that was made on Saturday night, July 21, after you had
2 been served with the restraining order in this case?

3 THE COURT: Mr. Rawls, may I suggest that
4 you treat it this way, that you asked him specifically.
5 You recited it once. Ask him specifically whether he
6 made that statement or not. If he says he did, all
7 right, then it's in the record. If he says he didn't,
8 then you can ask him whether he made any statement
9 similar to that. In other words, let's have it clear
10 exactly what you're talking about.

11 Q Mr. Rawls: Well, I'm asking you now, No. 1,
12 did you make the specific statement to any group -

13 MR. HOLLOWELL: What group, what specific
14 statement?

15 MR. RAWLS: I'm fixing to say the specific
16 statement, Your Honor.

17 THE COURT: Just a moment . . . All right.

18 Q Mr. Rawls: -- to the effect that you had
19 been served with an injunction that prohibited you from
20 participating in a march, but there wouldn't be any reason
21 why your hearers couldn't so participate?

22 A No, I don't recall having made that statement.

23 Q Did you make any statement of similar import?

24 A I would say what statement I made, not saying
25 it was of similar import or not. I would say what I did

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1 say in regard to the restraining order to a group of
2 people who were assembled at Shiloh Church on the night
3 of January 21.

4 In attempting to explain what this restraining
5 order, in my very limited understanding of its implications,
6 I indicated that I had been served, along with - at least
7 had been cited, I didn't know whether they had been served
8 or not - some eight other persons; and that the injunction
9 addressed itself or the restraining order addressed itself
10 to the "illegal picketing, illegal demonstrations",
11 unlawfully I think specifically pointed out.

12 And I said ifelt I must recognize, until such
13 time as I more clearly understood what it meant, this
14 restraining order, even to the point of not engaging in
15 any activities which even in my mind were clearly not
16 illegal but may have some interpretations as to their
17 legality or unjust application.

18 I further stated that any matter in which the
19 persons involved in the Albany Movement engaged in was
20 purely a matter of personal commitment. If they felt
21 that such a restraining order should restrain them,
22 fine; if they felt such a restraining order should not
23 restrain them, then they must make up in their own minds
24 what they were to do, being fully aware of the consequences.
25 This was the essence of the statement I made to the group

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1 that night.

2 Q Now, have you on any occasion ever encouraged
3 groups of juveniles to engage in what is the so-called
4 "sit-in" practices?

5 A Again, everything that I have been involved in
6 in the Albany Movement has been done as a basis of my own
7 personal commitment and on the basis in cooperation with
8 other persons of their personal commitments.

9 Now, you asked me if I encouraged juveniles to
10 sit in. I would say I have informed persons of what I am
11 going to do. If they so choose to respond, then this is
12 their own basic commitment.

13 Q As a matter of fact, you have sat in with them,
14 haven't you?

15 A I don't understand what you mean.

16 Q You have sat in with juveniles at these various
17 places, where you conducted these sit-in activities, haven't
18 you?

19 A I have been with other persons who have sat
20 at lunch counters, attempting to get service as any other
21 person in the City would attempt to get service, if this
22 is what you mean, yes.

23 Q Weren't you one --

24 A Whether they were juveniles or not, I don't know.
25 I don't check ages.

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1 Q Were you one of the sit-in-ers that was sitting
2 up at the stool at a lunch counter, pretending you wanted
3 service, when you didn't have a cent of money in your
4 pocket?

5 A No.

6 Q You were not?

7 A No, I was at Crowe's Drug Store, when I was
8 arrested for loitering on a City Code that had been passed
9 five days before to deal with this kind of situation. I had
10 ample money in my pocket to take care of whatever I would
11 have consumed there, had I had a chance to be served as
12 any other normal person.

13 Q You mentioned a while ago about your practice
14 of deciding what laws you would obey; now, would you
15 specify some law or regulation which is being enforced
16 in Albany that you regard as unjust and illegal?

17 A Yes.

18 Q All right, let's have them?

19 A The segregation laws of the parks, the bus
20 station, the library, the auditorium, the coliseum, the
21 schools; and the attempt through City Code to apply these
22 same segregated practices to theaters, to lunch-counters,
23 and any other private or public facility that excludes the
24 participation of Negroes on the basis of race.

25 Q Do you know of any reason why you should resort

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1 to demonstrations and acts of violence, rather than resort
2 to the courts to enforce your so-called and claimed rights?

3 MR. HOLLOWELL: Well, we would object to that,
4 if Your Honor please, on two grounds: #1, there
5 is no testimony to the effect that this witness has
6 at any time participated in any illegal or any acts
7 of violence, No. 1. And No. 2, it is argumentative.

8 THE COURT: Sustain the objection to the
9 question as asked. If you wish to rephrase it,
10 Mr. Rawls --

11 Q Mr. Rawls: Do you regard the City ordinance
12 with reference to regulation of parades and mass meetings
13 in the category of illegality?

14 MR. HOLLOWELL: If it please the Court, this
15 is further argumentative, No. 1. And No. 2, this
16 witness is not a lawyer, and not a judge.

17 THE COURT: Well, he's not asking him
18 whether they are illegal or not. He is asking him
19 if he regards them that way.

20 MR. HOLLOWELL: Well, I would submit that this
21 requires him to make a legal interpretation of it.

22 THE COURT: I think it's an appropriate
23 question in view of the philosophy that he's
24 propounding in response to previous questions;
25 in other words, he has testified that the reason he

1 The Court:

2 has done these things is because he's protesting
3 certain ordinances. I think it's an appropriate
4 question to ask him then if he regards these
5 ordinances as being illegal.

6 MR. HOLLOWELL: Well, there's some question in
7 my mind as to whether he means it is legal per se
8 or illegal or whether or not it is illegal in the
9 manner in which it is applied.

10 THE COURT: I think it's clear enough.
11 I think it's clear enough to be answerable and I
12 don't think it's objectionable under the circumstances.
13 Go ahead and answer the question.

14 A The Witness: For the record I would have
15 to clear up in my own mind, you said parades and mass
16 meetings. I have no knowledge of an ordinance yet
17 which has been enacted to prohibit mass meetings. But
18 I think this is what you covered. But as far as the parade
19 ordinance, first of all, I have never considered anything
20 I've done or in concert with other persons to be a parade.
21 As far as whether I feel the regulatory definition of these
22 ordinances is illegal or on its face, no. I again cannot
23 give a legal determination. The courts will have to do
24 this. But in its application I have most definitely felt
25 that it has been unjustly applied in an attempt, an obvious

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1 attempt, to deny persons constitutionally guaranteed
2 rights of assembly to redress grievances, peaceful
3 protests, peaceful picketing and this kind of thing.

4 Q Mr. Rawls: You do understand that you
5 have a right to resort to the courts for legal redress
6 of any right that you contend is denied you, don't you?

7 MR. HOLLOWELL: Well, if it please the Court,
8 that's argumentative, No. 1. It calls for a legal
9 interpretation, No. 2. And No. 3, there is nothing
10 that I know of in the law which gives this Court
11 jurisdiction to handle any type of legal claim
12 that he may be entitled to.

13 THE COURT: We went through this in connec-
14 tion with a previous witness here on the stand. I
15 think it's a fair question and an appropriate
16 question to ask him whether he knows that he has
17 a right to go into the courts. That doesn't require
18 any legal conclusion on his part. I remember the
19 previous witness answered the same question by
20 saying, no, that he did not know. And I don't know
21 what the answer of this witness will be, but I think
22 it's appropriate. You may go ahead.

23 A The Witness: No, I don't know of any legal
24 proceeding that would allow us to get the City Commissioners
25 to sit down and talk about grievances. This is just one of

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1 the things. I could say categorically, no; I don't know
2 of a legal procedure that would force a climax to the
3 things that we are concerned about here. There are many
4 things, many grievances that we have that I don't have any
5 idea at all could be resolved through a legal proceeding.
6 I think this is probably why the Constitution provided
7 for peaceful assembly, to bring these matters to the minds
8 of duly constituted bodies, so there could be something
9 resolved in a peaceful democratic way.

10 THE COURT: Anything further from this witness?

11 MR. RAWLS: Nothing further, Your Honor.

12 THE COURT: You may go down.

13 MR. RAWLS: Now, if Your Honor pleases,
14 we tender into the evidence the exhibits which
15 have been identified in the course of the proceedings:
16 P-1, "Albany Movement Headquarters" dated March,
17 1962, PLAINTIFFS' EXHIBIT No. 1.

18 THE COURT: Any objection?

19 MR. HOLLOWELL: If you would just hand them all
20 over as you get through with them, then I will
21 indicate those to which I do have an objection
22 and might save some time, if this is all right.

23 THE COURT: Now, just a moment, Mr. Rawls;
24 let's see if there is any objection to this one
25 before you present the next one?

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MR. RAWLS: What's that, Your Honor?

THE COURT: Let's see if there's any objection before you present another. Is there any objection to Plaintiffs' Exhibit No. 1?

MR. HOLLOWELL: None to No. 1, sir.

THE COURT: It is admitted. (P-1)

MR. RAWLS: We offer P-2, Your Honor.

MR. HOLLOWELL: No objection.

THE COURT: It is admitted (P-2).

MR. RAWLS: P-3, Your Honor.

MR. HOLLOWELL: No objection?

THE COURT: It is admitted. (P-3)

MR. RAWLS: P-4.

THE COURT: I haven't heard anything with regard to P-4 yet?

MR. HOLLOWELL: No objection.

THE COURT: P-4 is admitted.

MR. RAWLS: P-5.

MR. HOLLOWELL: P-5.

THE COURT: P-5 is admitted.

MR. HOLLOWELL: 6.

THE COURT: P-6 is admitted.

MR. RAWLS: 7.

MR. HOLLOWELL: 7.

THE COURT: P-7 is admitted.

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MR. RAWLS: P-8.

MR. HOLLOWELL: 8.

THE COURT: P-8 is admitted.

MR. RAWLS: P-9 is the rock that was identified by the Trooper.

MR. HOLLOWELL: 9.

THE COURT: P-9 is admitted.

MR. RAWLS: No. 10 is the mirror, the broken mirror.

MR. HOLLOWELL: That's the one that, what's his name, the gentleman's name --

THE CLERK: Red Wills.

MR. RAWLS: Big Red.

MR. HOLLOWELL: No objection.

THE COURT: P-10 is admitted.

MR. RAWLS: While my associate is looking for No. 11, with Your Honor's permission I will pass on to other exhibits that I do have.

THE COURT: Let's wait just a moment.

THE CLERK: That's the notice of prayer meetings.

MR. RAWLS: Notice of what?

THE COURT: Those two hand-bills or pamphlets.

MR. RAWLS: P-11.

MR. HOLLOWELL: We object to it, sir; nobody has identified it.

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THE COURT: What about that, Mr. Rawls?

MR. RAWLS: We agree with that, Your Honor.

THE COURT: I don't recall it being identified.

(P-11 excluded)

MR. RAWLS: P-12 is certified copy --

THE COURT: Now, just a moment, we're still on P-11 now. Objection has been made to P-11.

MR. RAWLS: I meant to say and I probably didn't say it loud enough for Your Honor to hear, that we do not insist that it has been sufficiently identified.

THE COURT: P-11 is withdrawn.

MR. RAWLS: P-11 is withdrawn. We offer P-12, which is a certified copy of City ordinances.

THE CLERK: Six of them.

MR. RAWLS: There are six certified copies under the heading of P-12.

MR. HOLLOWELL: Of the same or different ordinances?

MR. RAWLS: They're different ordinances. They're copies of the ordinances.

MR. HOLLOWELL: Let us just write down the numbers of them. . . . No. 12.

THE COURT: P-12 is admitted.

MR. RAWLS: We offer next, if Your Honor

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1 Mr. Rawls:

2 pleases as our No. 13, certificate from the Secretary
3 of State with reference to the Student Non-Violent
4 Coordinating Committee.

5 MR. HOLLOWELL: We don't have any major objec-
6 tion, except to say that it is surplusage; and as far
7 as we're concerned is really irrelevant. The witness
8 has testified that it wasn't a corporation and all
9 this does is certify that it is not a corporation.
10 It would just be surplusage in the record.

11 THE COURT: Well, I will admit it. (P-13)

12 MR. RAWLS: We offer as P-14 the same type
13 of certificate relative to The Albany Movement.

14 MR. HOLLOWELL: The same.

15 THE COURT: It is admitted. (P-14)

16 MR. RAWLS: We offer P-15 to show certified
17 copy of the statement which was filed with the
18 Secretary of State relative to the National Association
19 for the Advancement of Colored People.

20 MR. HOLLOWELL: No objection.

21 THE COURT: It is admitted. (P-15)

22 MR. RAWLS: We offer as P-16 similar
23 certificate from the Secretary of State relative to the
24 Southern Christian Leadership Conference.

25 MR. HOLLOWELL: No objection.

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THE COURT: P-16 is admitted.

MR. RAWLS: We offer as P-17, Your Honor, EXHIBIT "A" to the petition, which has been identified by Dr. William G. Anderson, as being authentic.

MR. HOLLOWELL: No objection.

THE COURT: It is admitted (P-17).

MR. RAWLS: Now, we bring to the Court's attention that our P-18 is identical with P-1.

MR. HOLLOWELL: We concede that this is the same as that one.

MR. RAWLS: And it would be duplication to put that in.

THE COURT: All right, it's withdrawn (P-18)

MR. RAWLS: We offer P-19, which is the letter which was brought out on cross-examination from Mr. Allen Churchwell.

MR. HOLLOWELL: We would object to this on the ground, Your Honor, that it is not addressed to any one; there is no envelope showing that it was in fact mailed; there is no enclosed address; and in addition to that it's irrelevant and immaterial.

THE COURT: Well, the witness testified that he did receive that through the mail. He testified to that; so, I will admit it (P-19).

MR. RAWLS: Now, Your Honor, we introduced

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Mr. Rawls:

P-20, which is the tape which the witness testified is what he played into the record day before yesterday.

MR. HOLLOWELL: Without repeating argument,

Your Honor, we want to renew the argument made at the time that this was first used.

THE COURT: The record will show that you are objecting to it on the same grounds previously stated.

MR. HOLLOWELL: Yes.

THE COURT: It is admitted (P-20).

MR. RAWLS: Now, if Your Honor pleases, P-21 is in the same category as the other hand-bills which when offered were objected to and we conceded had not been established sufficient to be introduced into evidence; therefore, we withdraw that exhibit.

THE COURT: All right.

MR. RAWLS: We rest.

P L A I N T I F F S R E S T

THE COURT: All right, proceed for the Defendants.

MR. HOLLOWELL: One moment, Your Honor, I am thinking about the time and so forth. . . If it please the Court, since it is so close to the noon hour, I am wondering if we might take an early recess

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Mr. Hollowell:

so as to enable us to come back and maybe push on,
if in fact we are going to be in court this afternoon.

THE COURT: Do you have any motion that you
intend to make?

MR. HOLLOWELL: We have thought strongly in
terms of a motion, sir.

THE COURT: What I would like to do, if it
could be done, would be to hear any motion which
you have to make before we take our noon recess,
and then we can evaluate what the situation may be,
depending upon whether the motion is sustained or
denied, and depending upon what the situation might
be at that time, and fit it in with what we might do
this afternoon. Of course, I don't know how long
it will take you to present your motion.

MR. HOLLOWELL: I would think that in order to
present it properly, we would probably need about
five minutes recess; and then, I would rather suspect
that unless the Court ruled immediately, that it would
certainly take longer than the 15 minutes that would
normally be utilized; that is, 15 minutes that we
would now have if we left for lunch at approximately
the same time we have been leaving.

THE COURT: How long, maybe you don't know,



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1 The Court:

2 but if you do know, maybe it would be of some help
3 to us, how long for whatever motion or motions you
4 have to present, how long do you think it would take
5 you to make your presentation of such motions?

6 MR. HOLLOWELL: I would suggest, sir, that if
7 we had five minutes at this time, we could certainly
8 conclude and I think it would facilitate the presenta-
9 tion and would not take more than 15 minutes.

10 THE COURT: Suppose we do this, it may work
11 out that it will be more convenient with everybody
12 if we do; suppose we take at this time, instead of
13 5 minute recess, let's take a 10 minute recess and
14 get yourself in order about how you want to proceed;
15 and then, you present your motion, and then we will
16 see where we are at that time about how we will
17 proceed further.

18 RECESS: 12:18 PM to 12:30 PM - 8-3-62

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DEFENDANTS' MOTION TO DISMISS

THE COURT: Allright.

MRS. MOTLEY: May it please the Court, now that the Plaintiffs have presented their case, the Defendants would like to move this Court for an order dismissing this action.

At the opening of the Plaintiffs' case, we moved to dismiss this action for lack of jurisdiction. We would like to renew those grounds for dismissing this action, and say to the Court that the Plaintiffs have failed to prove that there is jurisdiction under Title 28 Section 1331 in this Court. That section requires two things in order to confer jurisdiction on this Court. The first is that there has to be a question arising under the Constitution or laws of the United States; and the second is that the matter in controversy must exceed exclusive of interest and costs an amount in excess of \$10,000. And there has been no showing here of any damage to any person in the amount of \$10,000, or that the matter in controversy exceeds, exclusive of interest and costs, \$10,000. So that, we say that this Court has no jurisdiction under 1331.

Then, we say that Plaintiffs have not shown that their case presents to this Court a matter



1 Mrs. Motley:

2 arising under the Constitution and laws of the United
3 States, again as required by 1331.

4 Now, the law which they claim their case arose
5 under is Title 42 of the United States Code, Section
6 1985(3), which provides for damages against persons
7 who conspire to deny constitutional rights.

8 Now, we say and I will be repeating this through-
9 out that there has been no showing made on this
10 hearing that these Defendants have conspired or have
11 in fact denied the constitutional rights of anybody,
12 the majority, minority or anyone else.

13 Now, at the opening of this hearing, we moved
14 to dismiss on the ground that the Court did not have
15 jurisdiction under 1343(3). That is a provision
16 of the Civil Rights Statute which gives this Court
17 jurisdiction of actions against persons acting under
18 color of state law.

19 Now, after five days of testimony there hasn't
20 been a scintilla of evidence that any of these
21 Defendants acted or purported to act under color
22 of state law. There has been no showing that these
23 Defendants conspired with state officers, which is
24 one ground of getting jurisdiction under 1343(3).
25 There has been no showing that any of these Defendants



1 Mrs. Motley:

2 are in fact themselves state officers, which is the
3 primary criterion for determining when an individual
4 acts under color of state law. So, there could be
5 no jurisdiction in this Court under 1343(3). And
6 the Supreme Court has ruled that, as we said before,
7 in the Screws case, Screws v. United States, United
8 States v. Williams. In civil rights cases I think
9 there are at least 200 cases in which the Supreme
10 Court has ruled that jurisdiction under 1343(3) is
11 predicated upon action taken under color of state
12 law; and an action taken under color of state law
13 is an action taken by a state officer, who purports
14 to act pursuant to state law, or who has exceeded
15 his authority as defined by state law. So, there
16 couldn't possibly be any jurisdiction in this
17 Court under 1343(3).

18 Now, as I said previously, there is no juris-
19 diction shown here under 1983. There has been no
20 fact proved here to show a violation of the consti-
21 tutional rights by these Defendants, these Defendants,
22 of anybody at the City Hall. There has been no proof
23 that there is a conspiracy on the part of these
24 Defendants or any one else to deny other persons'
25 constitutional rights.

902

1 Mrs. Motley:

2 Now, what has been proved here is simply that
3 the Negro citizens of the City of Albany have formed
4 themselves together into a loosely formed association
5 of individuals, composed of members of other civil
6 rights organizations, for the purpose of peacefully
7 protesting against state enforced racial segregation
8 in public facilities in the City of Albany and in
9 private businesses which Negroes patronize. Now,
10 that's what has been proved here that the Defendants
11 have done. They have formed this organization to
12 peacefully protest against segregation.

13 Now, in protesting against state enforced
14 racial segregation, what have they done? The record
15 shows that they've had many meetings at Negro churches,
16 at which they protested against segregation and
17 said that they want Negroes to have freedom and the
18 same rights as other citizens.

19 The tape that was introduced by the Plaintiffs
20 of what Reverend Abernathy said and what Dr. Anderson
21 said proves this, that all that they were interested
22 in was securing the rights guaranteed Negroes by the
23 constitution and laws of the United States. They weren't
24 asking for greater rights than white people have, or
25 different rights; but they were asking for rights

903

1 Mrs. Motley:

2 already guaranteed them by the constitution and laws
3 of the United States.

4 The Supreme Court in many cases has ruled over
5 and over and over again that the state may not enforce
6 racial segregation in transportation, libraries,
7 playgrounds, auditoriums, any public facility that
8 you can name that there has been a case on. And
9 these Plaintiffs know it because they're lawyers.
10 The Mayor is a lawyer and so are these other people,
11 and they know that the Supreme Court has already
12 ruled their activities unconstitutional; and this is
13 what the protest by the citizens was against.

14 Now, also in protesting against state enforced
15 racial segregation, the record shows there have
16 been Negroes picketing in front of the City and in
17 front of department stores; that the protest in front
18 of department stores is against segregation in those
19 department stores which Negroes patronize.

20 Then, the evidence shows and these pictures
21 here demonstrate that the Negro citizens of Albany
22 walked to the City Hall, 2-abreast, and when they
23 got there, they knelt in front of the City Hall and
24 offered a prayer. That is what they did in protest
25 against state enforced segregation.

904

1 Mrs. Motley:

2 The evidence also shows that they petitioned
3 the City officials for a redress of their grievances.
4 The minutes of the Albany Movement, which is Plaintiffs'
5 Exhibit - I don't remember the number - but anyway,
6 the minutes of the Albany Movement set forth that they
7 will petition the Government here for a redress of
8 their grievances, and they list them: segregation of
9 parks, the libraries, the hospital, and what else
10 they have here which is segregated. So that, this is
11 another thing, we say, which the Albany Movement
12 did in protest against state enforced segregation.
13 They petitioned the Government.

14 And as the record shows, the City officials have
15 never met with them to discuss specifically a redress
16 of those grievances. Instead of meeting with these
17 citizens, they appointed the Chief of Police, the
18 chief law enforcement officer, with all of the intimi-
19 dation that that represents to the average citizen,
20 to deal with these people who sought to deal with the
21 City Government, regarding grievances which the Supreme
22 Court has already ruled on.

23 Now, that can only have one effect and that is
24 to intimidate helpless, unsophisticated citizens, who
25 are seeking to secure their constitutional rights.

905

1 Mrs. Motley:

2 That's the only thing that the appointment of a police
3 officer, the chief police officer, to deal with them
4 could represent.

5 Now, as a result of that appointment of the
6 Chief of Police to deal with people who were seeking
7 a redress of grievances concerning their constitutional
8 rights, we had arrests of pickets, obviously peaceful
9 picketing; we had arrests of people participating in
10 peaceful protests in front of the City Hall. They had
11 to walk to get to the City Hall. There is no evidence
12 that there was an organized parade here, in the sense
13 in which the ordinance introduced in evidence intended.
14 That ordinance says "parade" and, as the Chief testi-
15 fied, there was a group here that wanted to crown a
16 queen and have a parade through the streets.

17 Now, we all understand what a parade is.
18 But the evidence here shows that none of these
19 Defendants at any time ever intended a parade to
20 exhibit themselves in that fashion. The only thing
21 they did was to walk from the Shiloh Church or whatever
22 the church was to the City Hall and pray when they got
23 there. And that's not a parade in the ordinary and
24 usual understanding about parades. So, there was no
25 violation of the ordinance. It was an activity which

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1 Mrs. Motley:

2 could only be denominated a peaceful protest against
3 segregation, because their objective was to go to the
4 City Hall and pray that segregation be ended.

5 Now, the record shows that in connection with
6 these peaceful protest activities, there were on
7 3 or 4 occasions crowds of spectators who came because
8 they saw these people walking to the City Hall and
9 because the police were preceding them as if it were
10 a parade, the spectators had come.

11 On the night of July 24, I believe it was,
12 some of these spectators, unidentified, certainly
13 not any of these Defendants, threw stones and bottles
14 at the police. And this is all that the record
15 shows by way of damage or injury to anyone. There's
16 a broken mirror on the Clerk's desk, and that's the
17 irreparable injury, I guess, that they're talking about.
18 There is the light on the top of the police car, which
19 was smashed. Another, I guess, assumed irreparable
20 injury. This is the only physical injury to any
21 property that has been placed or proved in the record
22 in this case.

23 Now, one police officer, I think, testified
24 yesterday that he had a rock in the cheek and another
25 one, I think, said he was hit on the leg; and a reporter

AOT

1 Mrs. Motley:

2 said a bottle glanced off of his head.

3 Now, as far as physical injury to citizens of
4 Albany, this is all that this record shows has occurred.
5 None of it was so serious as to have required the
6 hospitalization of anyone or any sustained medical
7 treatment.

8 Now, the City's complaint, as I understand it,
9 is that because the citizens of Albany have engaged
10 in this kind of activity and a lot of people have
11 congregated to watch these marchers, they have had
12 to utilize many members of the police force to keep
13 order. Now, they have to do this whenever there's
14 a parade or whenever there's a major accident in any
15 part of town. Many policemen have to be dispatched
16 sometimes to the outskirts of the city, if there is
17 a major automobile collision, maybe involving several
18 cars or injury or death to passengers. Many policemen
19 may be dispatched and fire trucks may be dispatched.
20 This happens every day in the normal life of any
21 growing city and no person, I'm sure, has the right
22 to go into court and claim that, because the police
23 are out there on the outskirts of the city attending
24 to a major accident or other matter, that they are
25 denied some constitutional right, and have a right to



1 Mrs. Motley:

2 go into Federal Court and enjoin that automobile
3 accident from taking the police away, which in turn
4 deprives them of equal protection of the law. And
5 I think that argument on its face - well, it's just
6 absurd, for any one to argue that that presents a
7 substantial constitutional question, which is another
8 consideration which this Court has before it, which
9 is whether there is any substantial constitutional
10 claim here. And I say that kind of claim is wholly
11 frivolous and will never be sustained on appeal.
12 If there's a denial of constitutional rights when
13 the police are busy in one section of a city and
14 can't get to somebody's call, if that constitutes
15 a denial of constitutional rights, entitling the
16 person over here to go into Federal Court and
17 secure an injunction --

18 Now, the Plaintiffs here ask this Court to
19 issue an injunction which, as this Court knows, is
20 a drastic remedy and must only be issued where it
21 clearly appears that in the future there is some
22 imminent danger that the defendants will cause injury
23 complained of. Now, this Court cannot, as I see it,
24 issue an injunction for the reason that these Plaintiffs
25 have failed to prove that these Defendants threatened

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1 Mrs. Motley:

2 any immediate or irreparable injury to anyone.

3 There is not a shred of evidence that any of these
4 Defendants participated in any act of violence.

5 There's not a shred of evidence that any of these
6 Defendants threatened violence, urged violence or even
7 condoned violence. There is not a shred of evidence
8 that any of the Defendants were engaged in illegal
9 picketing. If two pickets on one side of the street
10 is illegal picketing, then picketing has no meaning
11 at all. I can't think of any picketing which could
12 have been conducted in a more peaceful manner.

13 Now, certainly mass meetings are not illegal.

14 And finally, as I said, there's no evidence
15 here that these Defendants have perpetrated any
16 irreparable harm on any of the Plaintiffs or anybody
17 else in the City of Albany or even threatened.

18 So that, there is no basis in equity or in
19 law for the issuance of an injunction in this
20 case; and we say that, on the basis of the record
21 as it now stands, the Plaintiffs have failed to
22 sustain their burden of proving the allegations
23 of the complaint.

24
25
90

1 MR. LEVERETT: May it please the Court, with
2 reference to the contentions of 1331 of the Judicial
3 Code and the jurisdictional allegations, the complaint
4 was amended to allege that the amount in controversy
5 exclusive of interest and costs did exceed \$10,000.
6 And I think this Court can take judicial notice of
7 the fact that under both Federal and State law, these
8 Plaintiffs are charged by law with the performance of
9 certain duties, and that there are both civil and
10 criminal liabilities in connection with those duties.
11 And we think that certainly, with no end to their
12 responsibility thus imposed, this could possibly
13 subject them to liability in excess of \$10,000.
14 I don't know of any way of proving in a definite
15 situation just how much they would be subject to,
16 but I think it is obvious at once that it could be
17 \$10,000, or much more than that.

18 Now, with respect to our claim, again let me
19 reiterate that we state and we take the position
20 that the claim asserted here arises both under the
21 14th Amendment, the supremacy clause and the oath
22 clause, as well as under 42 USCA 1985-sub-3, as was
23 held in the Hoxie Arkansas case and as was held in
24 the Clemmons case and the earlier case, the Cohens
25 case.

Now, the Williams case that counsel has

P 11

1 Mr. Leverett:

2 referred to was a criminal case. It was not a civil
3 case and I don't recall any discussion in that case
4 about the jurisdictional statute applicable to civil
5 cases.

6 Insofar as the claim is made with reference to
7 the First Amendment, we call the Court's attention to
8 the Feiner v. New York case, 340 U. S. 315, where the
9 Court sets out that freedom of speech does not extend
10 to someone getting up in the streets and inciting
11 others to violence, that there is not a protective
12 guaranty under the First Amendment. There have been
13 other similar decisions, other decisions to similar
14 effect: The Cox case, Cox v. New Hampshire, the
15 Cantwell case; and, of course, the classic case, I
16 suppose, American Association v. Dowd, involving the
17 Smith Act, I believe.

18 Now, we take the position in this case that
19 we have proved a conspiracy, that we have proved
20 that these Defendants conspired together; that they
21 mapped out a plan; that they held mass meetings in
22 which inflammatory speeches were made; that they
23 conducted a program; that they had clinics on sit-ins
24 and on other demonstrations; that they anticipated
25 violence because they gave instruction to their own

9/2

1 Mr. Leverett:

2 people on how to deal in those situations.

3 Of course, it is certainly true that none of
4 the Defendants themselves, the named Defendants, the
5 individual defendants, other than certainly perhaps -
6 well, none of them have been tied insofar as
7 themselves actually committing any act of violence.
8 I think there is evidence here that there has certainly
9 been incitement by the individual defendants. Rev.
10 Abernathy made a speech, which under the circumstances
11 and in view of the language used, certainly could not
12 be construed to be anything but incitement to violence,
13 as indicated by the spirit, the temper of the crowd,
14 certainly when he got up and stated "Ain't nobody
15 going to turn me around", and "If we've been dying
16 in other places, why can't we die here in Albany."
17 Now, whatever he may have meant in his sophisticated
18 way of thinking, certainly the group that he was
19 talking to, the time, the temper and the circumstances,
20 certainly are indicative to open incitement to violence.

21 And just as a man or a grown person, who gives
22 dynamite and matches to a six year old, cannot dis-
23 claim responsibility for what ensues, we take the
24 position that these Defendants cannot disclaim the
25 natural and probable consequences of what they have

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1 Mr. Leverett;

2 done. And certainly it is not within the limits of
3 any protective constitutional guaranty to incite a
4 surging, howling mob of people into such a frenzy
5 that they march on constituted authority, throwing
6 bottles, shooting out mirrors on automobiles, throwing
7 boulders under cars, engaged in insulting, threatening
8 remarks, requiring the combined forces of the Revenue
9 Department, the State Patrol and the Police Department
10 of the City of Albany to undertake to partially quell,
11 we do not believe that any latitude of spirit of
12 personal guaranty is embraced in such conduct
13 as that.

14 Now, the actions of these Defendants were
15 necessarily calculated to bring that situation about.
16 They anticipated it. In fact, they wanted it. I think
17 it must be of great concern and misgiving to them that
18 more acts of violence or any acts of violence were
19 not committed against these marchers, because certainly
20 that was what the whole thing was calculated to do,
21 to bring about this unsettled, this chaotic condition,
22 to precipitate, to provoke acts of violence, not
23 only against people in general but against themselves
24 in particular, for the obvious purpose, I think, of
25 encouraging sympathy, for soliciting funds and getting
the eyes of the Nation upon them.

914

1 Mr. Leverett:

2 Now, something was said about this being the
3 ordinary normal affairs of life in any American city.
4 We submit that it is certainly not the normal every-
5 day thing to have these howling mobs of 2,000 people
6 marching repeatedly over a period of months into the
7 downtown section, requiring dispersal of all of the
8 police forces of the City. And it's apparent here,
9 I think, that this thing started out in December and
10 has gotten worse and more or less came to a climax
11 on the 24th, and there have been activities since
12 then; and, of course, the Court will take notice
13 that this suit was pending at that time.

14 The injunction that we seek here, if it please
15 the Court, is not drastic, it is not sweeping. We
16 merely ask that these Defendants be enjoined from
17 conduct that is unlawful. There is certainly nothing
18 novel or unusual about that.

19 MRS. MOTLEY: I might reply that in *Screws*
20 *v. United States* and *United States v. Williams*, although
21 those involved the criminal civil rights statutes,
22 the language is identical with the civil statutes.
23 And so, the Supreme Court undertook to explain the
24 history of those provisions and to clarify precisely
25 what I said before. These statutes were all enacted

905

1 Mrs. Motley:

2 to enforce 14th Amendment; and they undertook in those
3 cases to define the term "under color of law"; and
4 they said that these words are meaningless unless those
5 words are put in there to distinguish that situation
6 "under color of state law" from those situations where
7 private action was involved.

8 They said specifically in those cases that "under
9 color of state law" could only mean a state officer,
10 one who by virtue of his position seeks to exercise
11 his authority and in doing so violates someone's
12 rights. They said that the Congress at that time was
13 clearly trying to enforce the provisions of the
14 14th Amendment; and they have ruled consistently in
15 civil rights cases that the 14th Amendment applies
16 only to state action.

17 And if, as suggested here, the 14th Amendment
18 applies to Martin Luther King and Rev. Abernathy
19 and these other party Defendants, these other private
20 citizens, we will be overruling civil rights cases
21 and we will be saying that the Supreme Court was
22 wrong in the civil rights cases and in 2- or 300
23 cases decided since, in which they held that the
24 14th Amendment applies only to state action.

25 Now, in Collins v. Hardyman, the section on



1 Mrs. Motley:

2 which they rely, Title 42 Section 1985 was specifically
3 involved and this Court read a sentence from that
4 decision the other in which it predicated its juris-
5 diction. They recognized, this court itself recognized --

6 THE COURT: I did not - if I may correct
7 you there - I have not predicated my jurisdiction on
8 any one sentence or any decision. I simply read that
9 sentence as an indication of the problems of jurisdic-
10 tion being recognized, even in the decision which had
11 been referred to by others. I did not base my ruling
12 of jurisdiction on that sentence.

13 MRS. MOTLEY: Well, let me withdraw that,
14 Your Honor. Let me say that in Collins v. Hardyman,
15 the Supreme Court said again that the 14th Amendment
16 applies only to state action; and, therefore, the
17 plaintiffs in that case could not go into the Federal
18 Court and get an injunction against the action of other
19 private citizens, not matter how wrongful that action
20 was.

21 Now, they did say that, we are not saying that
22 there may not at some time be a conspiracy of private
23 citizens, so widespread in a state as to amount to a
24 denial of equal protection; and they said what we
25 have in mind is the situation which existed in some of

917

1 the southern states in the 1870's, when we had the
2 Ku Klux Klan, which was composed of the majority of
3 white male citizens of those states, which included
4 state officers and private citizens. And under those
5 circumstances they said you may have a conspiracy
6 so widespread as to amount to a denial of equal
7 protection. And in Strauder v. West Virginia the
8 Court pointed out that the 14th Amendment was designed
9 primarily to protect the rights of colored citizens
10 and to give them the same rights as white citizens.
11 This was the primary purpose of the 14th Amendment.

12 So, when the Court was talking about the Ku
13 Klux Klan in that case and a conspiracy of private
14 citizens so widespread, they had that situation in
15 mind, the situation which led to the adoption of the
16 14th Amendment.

17 Now, the only thing we have comparable in
18 our society today would be the White Citizens Council
19 of Mississippi or some other state where the majority
20 of the white citizens of that state, including the
21 state officers, are members of the White Citizens
22 Council. Now, they're capable of denying Negroes
23 in Mississippi the equal protection of the law, and
24 that's what the Supreme Court was talking about.

25 But we don't have that situation in Georgia.

P. J.

1 Mrs. Motley:

2 You don't have the majority of white citizens here
3 and state officers in the White Citizens Council.
4 So, the Supreme Court dicta in Collins v. Hardyman
5 cannot be invoked here.

6 Now, in Feiner v. New York, which Mr. Freeman
7 cites, and those other cases, those cases are well
8 known free speech cases, in which the speaker used
9 words which were intended to and did in fact incite
10 violence. Now, the words used by the Rev. Abernathy

11 in that church, I couldn't hear them all, I confess,
12 but what I did hear is that "we want freedom
13 now." He was in a Negro church, he's a minister;
14 and when he said "ain't nobody going to turn me 'round",
15 that's a well known Negro spiritual; and what it
16 means is that nobody is going to turn me around from
17 God. That's what the spiritual is about and that's
18 what he meant and he was talking to people who knew
19 what he meant.

20 Now, another thing, he said that the people in
21 the church were in a frenzy. Well, this is true in
22 certain types of religious services. There is a great
23 deal of emotion and excitement in certain churches
24 or at least so it appears to the outsider; but the
25 people who are participating in that worship in that

9/9

1 Mrs. Motley:

2 fashion. That's the way they know, that's the way
3 they've always worshipped; and there is no restriction
4 on their emotional efforts in participating in a
5 religious service. That's the way they worship and
6 that was what was going on in that church. And that
7 was A Baptist Church, was it? And anybody that knows
8 anything about Baptist churches knows that they're
9 singing, they're shouting, there's loud preaching
10 and loud praying, and that it goes on for hours. And
11 there's nothing wrong with that at all. Certainly
12 this Court can't enjoin that.

13 Now, these incidents of violence that Mr.
14 Freeman refers to, of course, we all know them because
15 they're so few. They were all isolated instances
16 of violence, and that's what we have here. You don't
17 have any proof that these Defendants intended to or
18 did or incited or coerced or condoned or sanctioned
19 violence. Everybody who took that stand, when
20 there was any violence at all, testified that the
21 Defendants were not responsible for it.

22 Now, in the light of that testimony, this Court
23 certainly could not enjoin these Defendants.

24 Now, if they bring somebody here who was in fact
25 engaged in violence, I have no doubt that this Court

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Mrs. Motley:

or another State court could enjoin that person, but this Court can't enjoin these Defendants on the ground that they participated or were responsible for violence.

THE COURT: Anything further?

If not, I deny the motion to dismiss, and we will proceed further now in the hearing of this case at 2 o'clock next Tuesday Afternoon, 2 o'clock next Tuesday Afternoon. That will give everybody involved a day, Monday, to possible attend to some other affairs which parties and counsel might like to have and the Court might like to have a little time to attend to.

So, we will proceed further in the case at 2 o'clock Tuesday Afternoon, and we stand in recess until that time.

1:10 PM AUGUST 3, 1962: HEARING RECESSED.

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

Asa D. Kelley, Jr., Mayor of the
CITY OF ALBANY, GEORGIA, et. al.
Plaintiffs

v.

M. S. Page, Dr. W. G. Anderson,
THE ALBANY MOVEMENT, et. al.
Defendants

Civil Action

No.727

AT: ALBANY, GEORGIA,
AUGUST 7-8, 1962

VOLUME 4

PAGES: 893 to 1207

Prepared For:

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FILED AT 10:00 A.M.
APR 2 1962
Hollowell & Campbell

CLAUDE JOINER, JR.
OFFICIAL COURT REPORTER
204 POST OFFICE BUILDING
MACON, GEORGIA

PHONE 3-6136

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CLAUDE JOINER REPORTING SERVICE

1 ALBANY, GEORGIA,
2:00 P.M., AUGUST 7, 1962:

2 THE COURT: It has just come to my attention
3 within the last few moments that the Defendants in
4 the case which is now under consideration have filed
5 an answer to the Plaintiffs' complaint and that the
6 Defendants have also filed a motion to consolidate
7 the case now before us for consideration with two
8 other cases pending in this Court, they being
9 identified as Civil Action No. 730 and Civil Action
10 No. 731.

11 Do counsel wish to be heard on that motion at
12 this time before we proceed further?

13 MRS. MOTLEY: May it please the Court, we
14 had planned to argue that motion at the end of the
15 introduction of our evidence, if that is agreeable
16 with the Court, because the nature and grounds for
17 the motion are that the evidence in this case will
18 be the same in both cases; and after all the evidence
19 is in we will then ask the Court to issue an order
20 consolidating those cases, so that we wouldn't have
21 to try the same thing all over again maybe next week
22 or whenever those cases are heard.

23 THE COURT: Well, it occurs to me that it
24 would probably be more appropriate, if any considera-
25 tion is to be given to the motion to consolidate, it

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1 The Court:

2 would probably be more appropriate to give considera-
3 tion to that before proceeding further with the
4 introduction of evidence in this case, rather than
5 after, for this reason. Conceivably, if the cases
6 were to be consolidated and tried as one, evidence
7 which might be material and admissible from a witness
8 on the stand might be admitted if the cases were to
9 be consolidated, whereas it would have to be excluded
10 if the cases were not consolidated.

11 I am wondering if we wouldn't simply be spinning
12 our wheels by going further with the introduction of
13 evidence until a decision is reached on the question
14 of consolidation. And I simply raise that question.
15 I know that counsel do not wish to waste counsel's
16 time and certainly I do not want to waste the
17 Court's time in going over the same facts more than
18 once.

19 Now, here's the situation we're in, as I see it:
20 There is a suit filed by the Plaintiffs in this case
21 against certain Defendants, which we are now in the
22 process of trying, in which injunction is prayed for.
23 Now, there has been a suit filed, which I believe is
24 Civil Action No. 730 - I think that's the correct
25 identification-which has been filed by some of these

923

1 The Court:

2 Defendants, some of these parties who are Defendants
3 in the suit now being tried, against the Plaintiffs
4 in the suit now being tried, plus certain other named
5 parties; the purpose of that suit being to pray for
6 an injunction against the Plaintiffs in the present
7 case. In other words, there, as I have it, we have
8 a petition for injunction and another suit filed by
9 some of the same parties against some of the same
10 Plaintiffs, asking for an injunction in their case.

11 An answer has been filed in that case by the
12 Defendants - I'm referring to Civil Action No. 730 -
13 as I understand it now, that's correct, that an
14 answer has been filed in that case. Is that a
15 correct statement?

16 MRS. MOTLEY: I don't know whether Your Honor
17 is referring to the case filed by some of these
18 Defendants --

19 THE COURT: No, my problem is, I incorrectly
20 identified the case. It's Civil Action No. 731
21 instead of 730. Now, an answer has been filed.
22 Everything else that I have said I think is correct
23 statement except I incorrectly identified the case by
24 number. An answer has been filed in Civil Action No.
25 731, but no answer has been filed in Civil Action No. 730.

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1 The Court:

2 If I may have counsel's attention? No answer has
3 been filed in Civil Action No. 730 and the time has
4 not yet elapsed in which an answer would be required
5 to be filed.

6 I cannot know what the issues are in that case
7 until an answer is filed. I think any action on my
8 part in consolidating the cases at this time would be
9 premature and invalid, because until we know what the
10 issues are and until the case is at issue, it would be
11 inappropriate to consolidate on the theory that the
12 issues are the same, because we don't know what the
13 issues are.

14 MRS. MOTLEY: Your Honor, may I address the
15 Court?

16 THE COURT: Yes.

17 MRS. MOTLEY: In both of those cases we have
18 filed a motion for a preliminary injunction, and
19 actually what the Court would be consolidating is
20 our hearing on those motions for preliminary injunc-
21 tion with the hearing on this case here; and, as I
22 understand it, no answer need be filed before the
23 Court hears the motion for preliminary injunction.

24 THE COURT: That's true.

25 MRS. MOTLEY: That can be filed with the

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1 Mrs. Motley:

2 complaint and it should be heard promptly, whether the
3 answer is filed or not. So, really, what we're
4 asking for is a consolidation, not of the trial of
5 that case but of the hearing on our motion for
6 preliminary injunction, which, as I said before, the
7 same evidence would be put on by us in support of
8 those two motions, which has already been put on in
9 this case, and we would just be repeating all of that
10 testimony.

11 THE COURT: Well, of course, your motion is
12 that the cases be consolidated.

13 MRS. MOTLEY: Well, we would like to amend it
14 and clarify that because what we're trying to accom-
15 plish is a consolidation of a hearing which we
16 anticipate would take place next week. We filed
17 the motion with the complaint and we thought the
18 Court would hear it probably next week. We set it
19 d. down for last Friday but, of course, it could not be
20 heard then. But in order to avoid a duplication of
21 that hearing with this hearing now, we thought we
22 would move to consolidate.

23 THE COURT: Let me simply make this statement
24 and see what counsel think of it: Having in mind the
25 desire of all parties, counsel and the Court to avoid

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1 The Court:

2 consuming unnecessarily the time of counsel and the
3 parties and the Court, and having in mind that some of
4 the same evidence which would be considered in one
5 matter would be considered in another on like questions,
6 what would be the attitude of counsel for both sides
7 to the suggestion that we try everything at one time?
8 By that I mean your original petition for injunction,
9 the petition for injunction represented by Civil Action
10 No. 731, your petition for injunction against the City
11 in connection with the enforcement of certain ordi-
12 nances and so on, which is Civil Action No. 730; that
13 we consider the advisability of consolidating, as
14 prayed for in your motion as presently drawn, after
15 answer has been filed in Civil Action No. 730, unless
16 I have again confused the numbers, the action in which
17 no answer has as yet been filed; so that we would know
18 what all of the issues are and we would know whether
19 it would be appropriate to consolidate all features of
20 all three cases into one proceeding.

21 Now, if we do that, if we do that, what I would
22 want to do is, after an answer is filed in the other
23 case, then pass upon the motion to consolidate as
24 filed, as now before me. It may be that counsel for
25 both sides would agree that that is the most practical

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1 The Court:

2 thing to do. If counsel for both sides do not agree,
3 I would be glad to hear from counsel for each side,
4 by written argument or, if you prefer, oral argument,
5 as to whether or not I should consolidate, regardless
6 of whether counsel agree or not.

7 But I'm suggesting that that be done after an
8 answer is filed, because we won't have all of the
9 issues before us and won't know what all the issues
10 are until that time. If that is done, if we even-
11 tually consolidate the entire matter and try it at
12 one time it, of course, would be necessary in the
13 light of that circumstance to allow Plaintiffs in
14 the original case to introduce such evidence as
15 they might wish to introduce, which would be pertinent
16 to the two suits with which it has been consolidated;
17 and then Defendants could proceed with a full pre-
18 sentation of the case as regards the Defendants in
19 the original suit and as regards their position as
20 plaintiffs in the two other suits.

21 If we do that, all of us might save about - oh,
22 I don't know - about another week's time, maybe more,
23 if we do that. And I simply throw that out as a suggestion
24 for consideration of the parties and counsel.

25 It may be that you want to think about it a few

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1 The Court:

2 moments before you express yourself.

3 MR. LEVERETT: May it please the Court, may we
4 inquire what would be the status of this case as of
5 today; in other words, just postpone the continuation
6 of this hearing until such time?

7 THE COURT: In other words, if we eventually
8 decide that the cases should not be consolidated for
9 some reason, if we decide that they should not be
10 consolidated, we would simply be in exactly the position
11 that we're in now, which is you have concluded your
12 presentation and the Defendants would proceed with
13 t the presentation of their evidence.

14 MR. LEVERETT: In other words, this hearing
15 today would be postponed until such time as we had,
16 the time permitted by law to file an answer to the
17 suit for the injunction against further interference
18 and demonstrations that the Defendants in this case
19 allege they are doing?

20 THE COURT: We would simply suspend further
21 proceedings in this matter until such time as answer
22 has been filed in the suit in which no answer has yet
23 been filed and I have passed upon Defendants' motion
24 to consolidate one way or another; and if I pass upon
25 the Defendants' motion to consolidate favorably, then

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1 The Court:

2 we would simply proceed with the trial of all three
3 cases. And I would presume - of course, I could not
4 control it by any dictation of what counsel should
5 do - but I would presume if we consolidated, counsel
6 for both sides would stipulate that everything that
7 has been introduced in evidence so far in this case
8 would be considered as having been introduced in the
9 trial consolidated; and then we would proceed from
10 there and add to it in any way that might be appropriate.

11 MR. LEVERETT: Speaking for myself, if it
12 please the Court, I think there are some public
13 officials involved in this case and we would like
14 at least a few minutes to confer with them, because
15 there are several counsel in the case and I certainly
16 would not pretend to speak for all of them in behalf
17 of the Plaintiffs in this case.

18 I do say that at this juncture we would certainly
19 object to consolidation because it comes rather as
20 a surprise; and secondly, as to one of these cases as
21 the Court has pointed out, no answer has been filed
22 and no other defensive pleadings; and the suit
23 contains matter which I think addresses itself to
24 the City Commission, and they have not even met to
25 discuss it and give us any direction in that matter.

930

1 THE COURT: Well, all of that is the reason
2 I said that I realized at this particular stage that I
3 would not take it upon myself to consolidate the cases,
4 because all of the cases are not at issue; and I would
5 not consolidate them at this stage.

6 Let me - I don't think it's necessary for me to
7 repeat what I have said, but suppose we leave it this
8 way: If counsel for either side has any question
9 about interpreting what I've said, let's talk about
10 that for a moment. In other words, you ask me
11 any question that occurs to you, unless I have made
12 myself clear, as I have tried to do.

13 And it may be that counsel would like a few
14 moments to think about the suggestion.

15 MR. COOK: May it please the Court, I was
16 going to ask insofar as I am concerned that we do
17 be allowed that time, a few minutes.

18 THE COURT: Suppose we do this, suppose we
19 take a recess for about 15 minutes; and counsel for
20 each side can discuss the matter among yourselves
21 and come to some conclusion. In other words, now,
22 let me repeat: What I am suggesting is the advisa-
23 bility, as has been suggested by counsel for the
24 Defendants in this motion, the possible advisability
25 of consolidating all three cases for trial of all

931

1 The Court:

2 issues at one time, so that we won't have to back-track
3 and go over things so many different times; and we won't
4 have these constant questions arising about what it's
5 material in this case or not material in another case;
6 and also, we can proceed in a more orderly fashion
7 to where, when we conclude the whole matter, there
8 can be one general order which will cover everything
9 which we would have some hope of being some solution
10 to the solution.

11 Is there any question about the Court's meaning?

12 . . . All right, then suppose we take a recess for
13 15 minutes.

14 RECESS: 2:25 PM to 2:42 PM, AUGUST 7, 1962:

15 THE COURT: All right, have counsel had an
16 opportunity now to consider the idea that was
17 discussed about consolidation?

18 MRS. MOTLEY: Yes, we have, Your Honor. We
19 have reconsidered in the light of Your Honor's state-
20 ment and our position is this: We do not care to
21 relinquish our right to a hearing on our motion for
22 preliminary injunction in the cases which we filed
23 last week. We feel that we have a right to an early
24 hearing on those motions.

25 What we were hoping to do was to avoid having

1 Mrs. Motley:

2 to put on the same testimony in support of those
3 motions which has already gone into the record;
4 and that was our only objective in moving to con-
5 solidate these cases; that is, we wanted to consoli-
6 date the hearing on those motions for preliminary
7 injunction with the present hearing. So that, we
8 wanted to clarify that, that all we were seeking by
9 way of consolidation was that; and we do not want to
10 discontinue this hearing in order to accomplish a
11 hearing on the merits of those cases, which would
12 result in a continuance of the present hearing.

13 THE COURT: All right, you may proceed
14 in this case. Now, before we proceed with the
15 taking of any evidence in the case, since we are
16 not consolidating any of the cases at this time, we
17 are proceeding now with the Defendants' presentation
18 of its evidence in the case which we had heretofore
19 under consideration; and since there is no consolida-
20 tion of any other case, I ask the cooperation of
21 counsel for both the Defendants and the Plaintiffs
22 in restricting their questioning of witnesses and
23 their presentation of evidence, either by direct or
24 cross examination, to the issue involved in this case
25 only, and let's don't get into any other suit, which is
pending in this Court. All right, you may proceed.



1 1st witness called and sworn in
2 behalf of Defendants, testified

3 DIRECT EXAMINATION

4 BY MR. HOLLOWELL:

5 Q Will you give your name, address and your
6 occupation, sir?

7 A B. F. Cochran, Jr., Route 2, Box 690, Albany,
8 photographer.

9 Q How long have you been a photographer?

10 A 17 years.

11 Q I show you D-9 and ask you whether or not you
12 had the occasion to make that photograph; if so, when and
13 where?

14 MR. RAWLS: Your Honor, before he goes
15 into the photographs, I think they ought to be
16 submitted to counsel for the other side.

17 MR. HOLLOWELL: Excuse me. I believe you've
18 seen all of them before but I have no objection.

19 MR. RAWLS: I haven't seen any of them.

20 (Photographs tendered to Plaintiffs; counsel)

21 Q Mr. Hollowell: Now, I hand you back D-9, Mr.
22 Cochran, and ask you if you will look at that photograph
23 and see if it's one that you have taken and also indicate
24 the date, if you can recollect and the circumstances under
25 which it was taken?

A This is a photograph of Rev. Alford that was

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1 taken June 23, 1962. He was walking north of the 200 block
2 of North Washington Street.

3 Q Was it taken by you?

4 A It was taken by me.

5 Q Does it reflect the situation as it was as of
6 the time that you took the photograph?

7 A It does.

8 Q I ask you whether or not you had the occasion
9 to observe the general street traffic in the vicinity of
10 the 200 block on Washington Street about the time that you
11 took that picture?

12 A Yes, I know about what the traffic was.

13 Q Would you indicate for the record what the
14 pedestrian traffic was like about the time that you took
15 that picture in the vicinity of the area that you observed?
16 In other words, was it light or heavy?

17 MR. RAWLS: I object to him leading the
18 witness, Your Honor.

19 MR. HOLLOWELL: I asked him whether it was light
20 or heavy.

21 THE COURT: I think that's all right; I
22 overrule the objection.

23 A The Witness: It was normal. I would say
24 fairly light.

25 Q Mr. Hollowell: All right - excuse me --

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1 A There were people going in the normal way in
2 the line of traffic and there was a few people standing in
3 the doorways looking; other than that, it was normal.

4 Q I show you D-10 and ask you whether or not
5 you took that photograph and when, and the circumstances
6 as to the situation at the time that you took it?

7 A This is a picture of a young lady in the 200
8 block of North Washington. She's walking south, and this
9 just about shows the amount of traffic that was on the
10 street.

11 Q Was it taken by you?

12 A It was taken by me.

13 MR. RAWLS: The date?

14 The Witness: The date is on the back.

15 It is the same as the other one; that's June 23, '62.

16 Q Mr. Hollowell: I hand you D-11 and ask you if
17 you will relate the same information as to it?

18 A This was likewise taken June 23, '62, and it
19 shows a picture of a person walking north in the 200 block
20 of North Washington Street. It was taken by me.

21 Q And was the pedestrian traffic -- Well, what
22 was the pedestrian traffic within the general vicinity of
23 this photograph, that is the general vicinity of the area
24 where this photograph was taken and up and down the street
25 generally?

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1 A It was just about the same as the No. 2 photo-
2 graph that I looked at.

3 Q Well, I believe you testified that it was
4 normal --

5 A Normal.

6 Q -- and generally light except occasionally there
7 would be a few people maybe standing in the door?

8 A That's right.

9 Q Did you at any time ever see these people block
10 any pedestrian traffic?

11 A No, I did not.

12 Q D-12 and ask you to give the same general
13 information?

14 A This picture shows a person walking south in
15 the 200 block of North Washington Street, in the vicinity
16 of Kress' 10 cent store; and it shows generally the amount
17 of traffic that was on the street at the time. It was also
18 taken by me.

19 Q Would you give the same information as to D-14,
20 sir?

21 A This is a picture that was taken July 11 by me
22 of a march led by Rev. Alford and Dr. Steele as they were
23 crossing Oglethorpe Avenue going north. It was on Jackson.
24 It was likewise taken by me.

25 Q Sir, I will ask you whether or not it reflects

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1 the crowd situation such as it existed as of the time that
2 you took the photograph?

3 A It does. It shows everything in the background
4 that was there at the time I took it.

5 Q Did you have any occasion to notice whether there
6 was any crowd condition up and down South Jackson as of
7 the time that you took that photograph, which was in a
8 more congested or less congested state than the photograph
9 that you are referring to; that is D-14?

10 A Not any more what South Jackson usually is. It's
11 usually congested down there anyway.

12 Q Calling your attention to the person who is
13 standing in the window, would you be able to indicate
14 whether that person standing in the window on the second
15 floor of the Trailways Building is a police officer or not?

16 A I would not be able to say.

17 Q I show you D-15 and ask you to give us the same
18 information relative to it, sir?

19 A D-15 was taken July 11, '62 and it shows a group
20 of people moving north on Jackson Street at the intersec-
21 tion of Oglethorpe Avenue.

22 Q How close were you to the head of that group
23 of people there as of the time that you took the photograph?

24 A 12 or 15 feet.

25 Q Do you know whether or not they are under arrest

1 as of that time, whether they were under arrest?

2 A They were not under arrest at this time.

3 Q What side of Oglethorpe is it, the south side
4 or the north side of Oglethorpe?

5 A This is the south side.

6 Q Were they walking as of the time you took the
7 picture or were they stopped?

8 A They were stopped.

9 Q Do you know who stopped them?

10 A Chief Pritchett.

11 Q Do you see him on that photograph?

12 A Yes, I do.

13 Q And this was on the south side of Oglethorpe,
14 you say?

15 A The south side.

16 Q D-20, sir; would you indicate the same informa-
17 tion?

18 A D-20 was taken by me March 24 and it shows a
19 picture of a group of people who are prisoners or working
20 for the City.

21 Q Anybody on there that you knew personally?

22 A Yes, it is.

23 Q Who are they?

24 A Slater King, Mr. King.

25 Q Where is he on the picture as you look to it?

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CLAUDE JOINER REPORTING SERVICE

1 A On the extreme right.

2 Q On the extreme right?

3 A Yes.

4 Q Anybody else?

5 A I believe there's a Mr. Jackson on here.

6 Q Where is he?

7 A About the center.

8 Q Anybody else?

9 A It appears to be a Harris; I don't know his
10 first name.

11 Q Now, would you look again at D-12 and account,
12 if you can, for the fact that there is what appears to
13 be some cracks where the photograph may have been cut,
14 either accidentally or on purpose?

15 A Yes.

16 Q And indicate whether you can account for this?

17 A Yes, I can account for it. This was cut for
18 newspaper publication and they did not want any more to
19 show than the person marching; so, it was cut.

20 Q As it is now mended, does it reflect the photo-
21 graph which you actually took?

22 A Yes, it does.

23 Q D-27, sir.

24 A I cut the photograph myself.

25 Q You cut it yourself?

A That's right.

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1 Q And you pasted it back yourself, did you?

2 A That's right. No, some one else pasted it back.
3 I was there when it was cut. After we cut one, we decided
4 to mask off some of the rest of them because it just ruined
5 the picture being cut.

6 Q Now, would you relate the same general informa-
7 tion, sir, as to D-27?

8 A D-27 was also taken July 11, '62 Rev. Alford
9 and Dr. Steele and some more people behind, whom I don't
10 recognize; and, of course, the officers. These people
11 were under arrest at this time --

12 Q How do you know that?

13 A -- and bein g marched to jail.

14 Q How do you know that?

15 A Well, as they crossed Oglethorpe they were
16 arrested.

17 Q I see. Do you recall whether D-27 was taken
18 before or after D-14?

19 A D-14 was taken before D-27.

20 Q Now, was D-14 also taken before D-15 or after
21 D-15?

22 A D-14 was taken after D-15.

23 Q D-14 was taken after D-15?

24 A Right.

25 Q Now, as to sequence, would you now put it in
the proper sequence; that is, 14, 15 and 16: would you point

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1 out which one was taken first and which one was taken
2 second and which one was taken third?

3 A D-15 was taken first.

4 Q This is the one where they had not stepped off
5 of the curb at Oglethorpe? The south curb?

6 A They had not stepped off of the curb.

7 Q I see.

8 A D-14 was taken next and D-27 the last one of
9 that series.

10 Q Now, do you know where the group is walking as
11 of the time that you took the shot?

12 A Yes.

13 Q In D-27?

14 A They were walking down the middle of the street.

15 Q Do you know whether or not they were doing
16 that at their own behest or at the behest of someone else?

17 A They were ordered to do so.

18 Q How do you know that?

19 A They were ordered under arrest and they were
20 walking down the middle of the street under Chief Pritchett's
21 direction.

22 Q Do you know that as a matter of fact?

23 A I heard him say it.

24 Q You heard him say it?

25 A Yes.

MR. HOLLOWELL: He's with you.

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CROSS EXAMINATION

1
2 BY MR. RAWLS:

3 MR. RAWLS: May I proceed with the cross-
4 examination, Your Honor.

5 THE COURT: Yes sir.

6 Q Mr. Rawls: What was the object and purpose
7 of you taking these pictures?

8 A I'm a commercial photographer. They were for
9 sale to newspapers, anybody that wanted to buy them,
10 the UPI, AP, New York Times, Newsweek, Time, Life.

11 Q So, you figured that there would be big
12 notoriety about this happening, is that correct?

13 A I'm in business to take pictures, sir; whether
14 there's notoriety or not.

15 MR. RAWLS: Your Honor, I would like for
16 him to answer my question.

17 THE COURT: Yes, answer the question.

18 A The Witness: I figured I had a sale for them.

19 Q Mr. Rawls: So, you figure that just because
20 pickets were walking up and down the streets that there
21 would be a demand for snap-shots or pictures of these
22 particular situations all over the United States, is that?
23 Is that what you conceived?

24 A Well, some of them were taken for newspapers.
25 I work for the Southwest Georgian and the ones of the pickets,

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1 they were taken directly for the paper.

2 Q How long had the picketing been in progress
3 when you arrived with your camera equipment and everything?

4 A I was there waiting on them.

5 Q Oh, they sent you along ahead before they
6 started to picketing, is that correct?

7 MR. HOLLOWELL: Now, may it please the Court,
8 I think that is an unfair question, in that there is
9 nothing in the record to indicate what the antecedent
10 of "they" is.

11 MR. RAWLSA: I'm talking about the picketing,
12 Your Honor. He knows what I'm talking about.

13 THE COURT: Well, he testified I believe --
14 I believe he testified that he was there before
15 they started, is that your testimony?

16 A The Witness: That's right.

17 THE COURT: So, the question "they sent you" -
18 of course, he hasn't testified that anybody sent him.
19 You can ask him how to happened to be there, but he
20 hasn't said that anybody sent him.

21 Q Mr. Rawls: How did you happen to take up
22 your position as a commercial photographer at a place
23 where they were planning to do some picketing; do you
24 know?

25 A At this time I was on the scene at all times

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1 whenever - all the news photographers, whenever you heard
2 something was going to happen, you just moved where they moved.

3 Q Well, you were not interested in anything
4 except matters involving the Albany Movement, were you?

5 A State your question again?

6 Q You were not interested in any pictures, in taking
7 pictures of anything except matters that were sponsored by
8 and promoted by the Albany Movement, were you?

9 A Not at that time.

10 Q If some big train wreck had happened out here
11 at the station, you wouldn't have naturally rushed down
12 there to take a picture of that, would you?

13 A I have done it.

14 Q But you were too busy with the Movement's
15 pictures to have the time to devote to matters like
16 train wrecks and automobile collisions?

17 A I stop on my way home, wherever I see it, I
18 stop and do work; I have stopped and taken wrecks and
19 other things that I thought were salable.

20 Q Now, for instance, we'll take here this D-11,
21 where you have a man walking along with a sign that says
22 "Donot invest where you can't sit and rest": Now, you
23 designedly and deliberately took that picture so as not
24 to show any living human being except that picketer, didn't
25 you?

943

1 A I took the picture as he came down the street.
2 I did nothing calculated on the number of people that were
3 passing. The people that were there show on the picture.

4 Q But you just happened to get that picture where
5 nobody except the picketer was in the picture, is that right

6 A That's what the camera saw.

7 Q You were operating the camera though; it wasn't
8 moving around by itself, was it?

9 A No, indeed.

10 Q Now, I hand you here D-10; it has the picture of
11 a woman that's got "Shop in dignity" on a sign up in front
12 of her. Now, you, of course, couldn't get her off by
13 herself where you could take her picture; you had to
14 take several pedestrians with her, didn't you?

15 A I took it the same as I did the others, as
16 she came down the street.

17 Q Now, this D-9 here has a picture of a man
18 walking along with a sign in front of him, says "Open
19 your account with freedom"; You didn't show any pedestrian
20 traffic with him either, did you?

21 A The camera did not show any. I had nothing to
22 do with it.

23 Q You could have found him walking along where
24 there were other pedestrians if you had wanted to, couldn't
25 you?

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1 A I wouldn't say I could make them there. I took
2 as they came down the street at that particular time.

3 Q Now, you were explaining a while ago to counsel
4 for the other side about this picture that's cut: Now,
5 don't you know the reason the newspaper that published
6 this picture didn't want to publish the whole picture was
7 because it shows, besides the picketer - I reckon that's
8 what you'd call them - some other people using the sidewalk;
9 isn't that the reason you cut it out?

10 A The reason I cut it, I happened to bend there -
11 the reason why I cut this picture out was that they wanted
12 to show the full picture of the picket. It was not
13 designed to eliminate anybody.

14 Q Now, as a matter of fact, you know that the
15 people that you're interested in pleasing want to show
16 in pictures and other evidence that these picketers did
17 not interfere with the normal traffic on the sidewalk;
18 don't you know that? And didn't you know it when you took
19 these pictures?

20 A I did not.

21 Q You didn't have any suspicion of that?

22 A Indeed, I didn't.

23 Q Now, is this D-27 a picture of the paraders
24 or marchers after they had been arrested or before they
25 were arrested?

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1 A After they had been arrested.

2 Q Now, did you see this group of marchers prior to
3 the time they were arrested?

4 A I did.

5 Q Was there any group of people following along,
6 that were not in the organized march?

7 A Let's see that - let's see the one here. . .
8 There are some standing there you can see.

9 Q Well, as a matter of fact, the truth is, there
10 was quite a large number or group of people that were
11 following along with them until Chief Pritchett told
12 everybody that didn't want to go to jail to obey his
13 orders and stop marching; isn't that true?

14 A I wouldn't know how many were behind. I was
15 doing my work and, truthfully, I could not say other
16 than those that show on that photograph.

17 Q Had you been to the meeting where this march
18 or parade was organized?

19 A I had not been to that one.

20 Q You had not?

21 A No.

22 Q You have been to many meetings though, haven't you?

23 A I have been to quite a few.

24 Q You're a member of the Movement?

25 A I am.

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1 Q You had been to the meetings and you know that
2 they would have large groups =people in both churches,
3 full to capacity, and be a large group on the outside of
4 both churches; and then, when they'd start out on the
5 march, the group that marched along with the leader in
6 organized groups would be followed by the people who were
7 in and out of the church, who did not join in the march,
8 isn't that true?

9 A I would not know how many people followed or
10 anything in that regard. When I heard that there was
11 going to be a march, just as other photographers, we
12 moved automatically into the downtown section, where we
13 thought that they would be coming.

14 Q You didn't think that your subscribers would be
15 interested in knowing what size group of people were follow-
16 ing along in the wake of this march?

17 A I have taken groups of people down at the
18 church, the masses there; yes, I've taken them.

19 Q Do you have any of those pictures with you?

20 A No, I don't.

21 Q How long would it take you to get them, if you
22 wanted to bring them?

23 A Right now I don't even have the negatives.
24 They're in New York at the film library.

25 Q Do you know what they're doing up in New York?

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1 A They ordered them and wanted to buy them.

2 Q And the other pictures that you took that you
3 don't have here show large groups and masses of people
4 that are around those churches, don't they?

5 A They show large groups of people in the church.

6 MR. HOLLOWELL: Just a moment! Just a moment!.
7 The pictures themselves would be the highest and best
8 evidence.

9 THE COURT: I think he's asking him about
10 pictures that he doesn't have.

11 MR. HOLLOWELL: That's true and that's what I'm
12 saying that they would be the highest and best
13 evidence as to what those photographs contained.

14 THE COURT: That's true. I think he
15 has answered the question already and probably any
16 objection is moot as he's already answered the question.

17 MR. HOLLOWELL: I wish the witness instructed
18 that when an objection is made that he would refrain
19 from further testimony until after the objection is
20 completed.

21 THE COURT: All right, Mr. Witness, when a
22 question is asked and if counsel on either side make
23 an objection, you hold up answering the question until
24 the Court can rule on the objection.

25 MR. HOLLOWELL: May it please the Court, I don't

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1 Mr. Hollowell:

2 know that I heard that answer and I would be pleased
3 if there was one and the reporter got it, I would like
4 to have it.

5 A The Witness: I'll be very happy to --

6 THE COURT: All right, Mr. Reporter.

7 THE REPORTER: The only answer I have is,
8 "They show large groups of people in the church".

9 A The Witness: That's right, I took --

10 THE COURT: Go ahead.

11 A The Witness: I took the groups of people in
12 the church. I never took an exterior. They were all
13 interior.

14 MR. RAWLS: Would you mind reading his
15 answer to my question?

16 THE REPORTER: "I took the groups of people in
17 the church. I never took an exterior. They were all
18 interior."

19 Q Mr. Rawls: Now, did you take some shots
20 of all of the various planned parades and picketings;
21 did you take pictures of all of them?

22 A Of all of the parades?

23 Q Yes?

24 A I did, most of them; that I knew about, those
25 that I knew about.

1 Q Well, how about the ones on July 21 and July
2 24 of this year, did you take pictures of them?

3 A Were those at night? I just don't recall what
4 those dates were.

5 Q I believe the one on the 24th was at night?

6 A If that was on a Tuesday, I took it.

7 Q I'm talking about the night where they were
8 throwing all of the bottles and the rocks at the policemen,
9 you've heard about that, haven't you?

10 A A was there.

11 Q You were?

12 A Yes.

13 Q Did you take pictures of that group?

14 A I took pictures of the group marching, I did.

15 Q Did you take pictures of the group that
16 followed them from the church down there to Jackson St.?

17 A I did not.

18 Q Why didn't you take pictures of that, too big
19 a crowd?

20 A Well, you couldn't cover that big a crowd with
21 the night light that I had. My limits are in the area of
22 15 to 20 feet, about as much area as I can cover at night,
23 with that light.

24 Q As a matter of fact, all of these pictures
25 here, D-14, D-27, D-15, are all what you call close-up

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1 exposures, aren't they?

2 A This is a close-up exposure; this is a general
3 view I would say, takes in a span of more than 100 feet
4 wide. This takes in a span of much more than that, possibly
5 200 to 300 feet span, from the edge of Sears sign across
6 the middle of the street and back down to Highland Avenue.

7 Q Now, the last picture you referred to is D-27,
8 which shows a view of the people who had been arrested
9 walking along in the custody of the police officers,
10 doesn't it?

11 A That's right.

12 Q Naturally, the big crowd was back down Jackson
13 Street from there; that's the reason you didn't get them
14 in that picture, wasn't it?

15 A If there were people, that would obstruct the
16 view, just as it does, houses and stores and everything
17 else in the background; but I'm not sure as to whether there
18 were people there or not.

19 Q You wouldn't say --

20 A I wouldn't know.

21 Q You wouldn't say there wasn't a large group of
22 people --

23 A I wouldn't say there was or wasn't.

24 Q I see. Now, D-14 that you explained about, it
25 shows the paraders marching by the bus station, doesn't it?

1 A It does.

2 Q They hadn't been arrested then, had they?

3 A They had not been arrested then.

4 Q Allright, you see in the background some people,
5 other people that are not actually engaged in the march,
6 don't you?

7 A I see some, yes.

8 Q Now, I show picture D-20, what is that? Tell us
9 what that is?

10 A That's a picture of some prisoners working
11 somewhere in the vicinity of North Jackson and First
12 Avenue, back over there in the alley somewhere.

13 Q Dr. Martin Luther King is one of the prisoners
14 there, isn't he?

15 A No, he's not on here.

16 Q He's not?

17 A No.

18 Q Who is the most prominent prisoner in that
19 picture?

20 A Mr. King, Slater King.

21 Q Slater? Well, who is that wanted a picture of
22 that scene to publish? Will you tell us somebody that
23 ordered that, that ordered you to take that and get it
24 to them, so they could publish it?

25 A Nobody actually ordered it.

1 Q Nobody ordered it?

2 A It was taken --

3 Q Who did you let have it so they could publish it?

4 Do you recall who you did?

5 A I let the Southwest Georgian have it.

6 Q Well, who else besides the Southwest Georgian?

7 A NO one else besides the Southwest Georgian.

8 Q Nobody published that except the Southwest
9 Georgian?

10 A Not that I know of.

11 Q Well the editor of the Southwest Georgian could
12 have gone around there and seen those people, if he had
13 wanted to, couldn't he?

14 A I really don't know.

15 MR. HOLLOWELL: May it please the Court - just
16 a moment if you don't mind --

17 Q Mr. Rawls: So, you claim --

18 MR. HOLLOWELL: Just a moment, if you don't mind,
19 sir! This appears to be most irrelevant, Your Honor,
20 as to what somebody else might have done. I don't see
21 that it has any place in this trial. I haven't wanted
22 to interrupt. I just presumed that it would be within
23 the reasonable scope of this case; and I submit, Your
24 Honor, that this line of questioning that is being done
25 at this time is immaterial and irrelevant.

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1 MR. RAWLS: I'm undertaking to show the
2 interest of the photographer, Your Honor.
3 I think the witness' interest or want of interest
4 is always relevant.

5 THE COURT: Well, he testified that he
6 sold it, gave it or somehow delivered it to a
7 newspaper, I suppose it is; I'm not familiar with it.

8 Q Mr. Rawls: How did you happen to know --

9 THE COURT: Just a moment!

10 MR. RAWLS: Pardon me, Your Honor.

11 THE COURT: So, you may inquire of him if
12 you wish why he delivered it to them. I don't think
13 the point ought to be belabored much further.

14 Q Mr. Rawls: How did you happen to know
15 where those prisoners would be on that particular date?

16 A I didn't know.

17 Q Did you cruise around town until you found them?

18 A Exactly.

19 Q Did you have them to pose for the picture or
20 did you actually catch them at work?

21 A I took it from the car.

22 Q They didn't know you were taking it?

23 A I never got out of the car.

24 Q Were they actually at work?

25 A It shows they're at work, digging leaves.

Q Digging leaves?



1 A Digging leaves or shoveling leaves or something.
2 There was a big pile of leaves on an open area. Somebody
3 that works for the City would know more about why they
4 were there. I don't know.

5 Q I believe the only one that's got his foot on
6 his tool or whatever he's working with is Slater King,
7 isn't that right? Is that correct?

8 A That's the only one who has his foot on a
9 shovel. The rest of them appear to have rakes. I don't
10 know what they have ; I don't know.

11 Q Did you holler and tell Slater to pose, that
12 you were fixing to take his picture?

13 A Well, you know how everybody does when they
14 see a camera; they usually pose. I did not tell him,
15 however.

16 Q You didn't tell him?

17 A No, indeed.

18 Q So, you were interested in getting views every
19 time you took a picture that would ~~xxxx~~ sustain the position
20 and contention of the Albany Movement, that everything that
21 was done was done very orderly and without any commotion;
22 isn't that right?

23 A I was interested in sale of pictures. That's my
24 business and I'm not interested otherwise other than taking
25 pictures and selling them and making a living.

JGG

1 Q The people who would want to buy them though
2 wouldn't want to buy a picture, as a matter of fact, the
3 people who were your clientele wouldn't have published a
4 picture that would have shown any measure of commotion in
5 the City of Albany?

6 MR. HOLLOWELL: Now, may it please the Court, we
7 object. It's argumentative, No. 1; it's irrelevant,
8 No. 2; and it would call for a conclusion, No. 3.

9 THE COURT: Yes, he couldn't know what
10 the people who were his customers would do; he couldn't
11 know that. I sustain the objection.

12 Q Mr. Rawls: Do you know how long these people
13 stayed in custody there after that picture was taken?

14 A No.

15 Q You don't know?

16 A I don't know.

17 Q Would you say yes or no to the proposition that
18 you were interested in taking pictures which would show
19 the lack, l-a-c-k (spelling), or the want or the absence
20 of commotion and strife in Albany?

21 A I would not say that, sir.

22 Q Doyou answer that either way, yes or no?

23 A My only interest in taking photographs, as I
24 said before, was for sale of pictures and I had no ulterior
25 motives, if that answers your question. Other than that.

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1 Q But you wanted to take pictures that would
2 sell the people who were interested in your side of the
3 proposition, is that right?

4 A I wouldn't be interested in taking them unless
5 they sold.

6 Q If you couldn't sell them, you wouldn't want to
7 take them?

8 A No.

9 Q That's all.

10 REDIRECT EXAMINATION

11 BY MR. HOLLOWELL:

12 Q Mr. Cochran, I'll ask you just this one question:
13 Mr. Rawls asked you about a certain situation as of the
14 time you would take these pictures, dealing with the
15 matter of commotion and so forth: Have you at any time
16 ever taken any photographs which would show any violence
17 at all on the part of any person who was connected with
18 the Movement?

19 A I have not had an occasion to take any pictures
20 that showed any violence of any sort.

21 Q As a matter of fact, you've never seen any,
22 have you?

23 A I've never seen any.

24 Q You can come down.

25 MR. RAWLS: Just one second.

REXCROSS EXAMINATION

1
2 BY MR. RAWLS:

3 Q Now, back to the night of April 24, you said
4 you didn't take any pictures of the crowd that was down
5 there on Jackson Street --

6 THE COURT: Did you say April 24?

7 Q Mr. Rawls: I meant July 24. Did you hear
8 anything or see anything that you didn't take a picture of
9 that would indicate to you that there was quite a bit of
10 strife and commotion in that area?

11 A No, I did not.

12 Q You didn't see anything?

13 A I left immediately after I took two pictures.
14 I took two pictures of the marchers and I had to get those
15 on the plane or bus going out, whichever was going out on
16 that particular night, to Atlanta.

17 Q You were not --

18 A Actually, my camera on that night, actually my
19 camera jammed. I possibly would have been there longer,
20 had it not jammed.

21 THE COURT: All right, you may go down.

22 MR. HOLLOWELL: May it please the Court, this
23 witness may be excused as far as we are concerned, if
24 the Plaintiffs have no objection.

25 THE COURT: Any objection to this witness
being excused?

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MR. RAWLS: I know of none, Your Honor;
I see no reason why he shouldn't be excused.

THE COURT: He is excused.

MR. HOLLOWELL: Mrs. Motley will interrogate the
next witness, Your Honor.

MRS. MOTLEY: Mayor Kelley --

THE CLERK: Have you been sworn?

MR. KEKLEY: I think, not, Mr. Clerk.

(Witness sworn)

MAYOR ASA D. KELLEY, JR.

a party Plaintiff, called by Defendants
as adverse party, testified on

CROSS EXAMINATION

BY MRS. MOTLEY:

Q Mayor Kelley, would you state your full name
for the record, please?

A Yes, I am Asa D. Kelley, Jr.

Q How long have you been the Mayor of the City of
Albany?

A Since 1960, January, 1960.

Q What is your profession, Mayor Kelley?

A I am a practicing attorney.

Q And how long have you been practicing?

A I was admitted to practice in 1943, after which
time I served three years in the United States Marine Corps;

1 and after which time I served approximately two years as
2 a Law Assistant on the Court of Appeals of Georgia; and in
3 1948 began the active practice of law in Albany, Georgia.

4 Q When was the first time you ever received any
5 communication or gained any knowledge of the existence of
6 the Albany Movement?

7 A That's rather difficult to answer, in that I
8 don't recall when the organization was first identified
9 as the Albany Movement. I do recall that Dr. Anderson and
10 I believe Marion Page, and I think C. B. King and perhaps
11 Slater King, I'm not sure, came to see me as early as
12 February of 1961, to discuss the feelings of certain members
13 of the Negro community; and I believe presented at that
14 time a request to be submitted to the City Commission;
15 which, in substance if I recall correctly, sought complete
16 desegregation of all public facilities. But I am not clear
17 as to exactly what the demand was at that time. At that
18 time I indicated to Dr. Anderson and to the others present
19 that in my judgment the proper forum for the relief they
20 sought was in the Federal Courts.

21 Q You say this was February, 1961?

22 A To the best of my recollection, yes.

23 Q Let me show you this letter, which has been
24 marked D-28 for identification, with a receipt for certified
25 mail attached thereto, and ask you if you recall receiving



1 that letter?

2 A Yes, I think that I received this letter.

3 Q Did that have anything to do with segregation
4 or desegregation of public facilities?

5 A Well, it certainly requests the appointment of
6 a bi-racial committee; and my recollection is that Dr.
7 Anderson and several others actually came to see me and
8 discussed the whole area at that time. Of course, I
9 would not be positive as to exactly what was discussed
10 because it's been so long, but that is my best recollection.

11 Q But you think that letter requests desegrega-
12 tion of public facilities?

13 A No, it does not specifically. It does request
14 a bi-racial committee.

15 Q What was it complaining about, so that the Judge
16 will know what it's about?

17 A At that time there was some stoning of houses
18 of Negro ministers and acts of vandalism, and some damage
19 to equipment at Albany State College. In that connection,
20 I think it was later determined as a result of request I
21 made of the Chief of Police, that many of these acts com-
22 plained of were actually committed by members of the colored
23 community, the Negro community. He would be in better
24 position to give you the details than I.

25 Q Is Albany State College a Negro college?

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1 A It is a Negro college, and I understand one of
2 the best.

3 Q Did you ever respond to that letter, Mayor
4 Kelley?

5 A I have no recollection of having replied in
6 writing, no.

7 Q Now, a moment ago you said that Slater King
8 and Dr. Anderson and who else was it came to see you
9 about desegregation of public facilities?

10 A To the best of my recollection, Marion Page
11 was with the original group; and I think C. B. King was,
12 but I'm not at all positive as to who was there, as I've
13 had so many meetings with so many different representatives
14 that I can't be positive.

15 Q Do you remember the date of that meeting?

16 A I do not.

17 Q Was it in November, 1961?

18 A There was a meeting as early as February of '61.
19 I'm sure there were some in November of '61 too.

20 Q Well, let me show you your EXHIBIT 7 and ask
21 you if at that time this exhibit was presented to you by
22 the gentlemen you have named as having been present?

23 A This was presented. I do not recall how and
24 in what manner it was presented, whether it was a meeting
25 or whether it was delivered to us. I just don't recall.

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1 Q That you say was presented to you at that
2 meeting?

3 A I recall seeing this, yes.

4 Q And that is the matter or document which you
5 say requested desegregation of public facilities?

6 A This is one of the documents which requests
7 desegregation of all public facilities, yes.

8 Q What action has been taken on that petition?

9 A It was presented to the City Commission.
10 It was the feeling of the City Commission that the request
11 embraced too much, based on the long-term customs of
12 this area, that it was not feasible at this time to
13 consider complete desegregation; and that the Albany
14 Movement or the people representing the Albany Movement
15 should properly resort to the Federal Courts for redress.

16 Q At that time -- Let me ask you this, let me
17 show you this newspaper clipping --

18 MR. RAWLS: Now if Your Honor please, I
19 object to giving to this witness any clipping, unless
20 it's been identified and is authentic. A printed
21 piece of paper without any authenticity at all
22 about it is not the proper way to prove what was
23 in a newspaper.

24 MRS. MOTLEY: I wasn't trying to prove what
25 was in the newspaper, Your Honor.

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THE COURT: I would not allow it to be introduced under those circumstances. Of course, I don't know how she intended to use it yet.

MRS. MOTLEY: I intended to ask him to read it and ask him whether the statement made therein regarding this petition was a true statement.

THE COURT: You may do so.

Q (Newspaper clipping handed to witness) . . .

A Yes, I think the newspaper article speaks the truth.

Q Mrs. Motley: And that indicates that you said that there were no areas of agreement between you and the petitioners?

MR. RAWLS: Now, if Your Honor pleases, I move to strike the testimony that is elicited here from the Mayor, on the ground that it's illegal, irrelevant and immaterial as to the suit under consideration. There's nothing about the question or answer that is indicative of anything charged in our complaint or set up in their answer in the injunction suit.

THE COURT: I haven't seen the newspaper article and don't know what's in it.

(Newspaper clipping handed to Court)

MR. RAWLS: Your Honor please, I'm talking

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CLAUDE JOINER REPORTING SERVICE

1 Mr. Rawls:

2 about his evidence generally that has been elicited so
3 far.

4 MRS. MOTLEY: In that connection, we would
5 like to direct the Court's attention to paragraph 19
6 of the answer filed in this case.

7 THE COURT: Let's maintain order in the
8 courtroom, Mr. Marshal.

9 THE MARSHAL: Let's have order in the courtroom.

10 MR. RAWLS: In other words, if Your Honor
11 pleases, it is our position in this suit for injunc-
12 tion that these defendants ought to be restrained
13 from this illegal conduct; and, of course, they
14 cannot in law justify illegal conduct just because
15 they contend that the City officials are engaging in
16 a practice of segregation which they contend is illegal.
17 There's proper redress for such relief as that, which
18 would be in a suit in the Federal Court, and not by
19 illegal parades.

20 THE COURT: Well, the trouble is, Mr. Rawls,
21 on direct examination of some of Plaintiffs' witnesses,
22 there was some testimony that went into the record
23 with regard to negotiations and conferences that had
24 been had and so on; and in the light of that circum-
25 stance I am going to allow counsel for the Defendants

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1 The Court:

2 to develop the general theory, which is expressed in
3 the type of question that is being asked, about
4 whether negotiations did go on, and the dates of
5 them, and such as that.

6 I'm not going to go beyond that. I'm not going
7 to allow counsel to go into specific instances where
8 certain things were done, which counsel may complain
9 of as having been denied, whereby somebody was denied
10 some alleged constitutional right. But by virtue of
11 the general type of testimony that went in when the
12 Plaintiffs presented their case, I'm going to allow
13 this line of questioning and we'll draw the line at
14 that point as I think it goes beyond developing that
15 theory. You may go ahead.

16 MRS. MOTLEY: If I might say this further,
17 Your Honor, in paragraph 19 of our answer, we allege
18 that the activity of the Defendants here was to seek
19 desegregation of public facilities; and I think that
20 we are entitled to prove that.

21 THE COURT: I say, I'm agreeing with you.
22 I say that I am going to allow you to go into it, to
23 the extent - although if this kind of testimony had
24 not come in, in the Plaintiffs' presentation, I would
25 rule it out now, but it did come in, in Plaintiffs'



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The Court:

presentation, and I'm going to allow Defendants to go into it to that extent, to show what the general situation was. And we will draw the line at the point when I think it has gone far enough to demonstrate it.

Q Mrs. Motley: Now, let me ask you this, Mayor Kelley: After P-7, which is this petition to desegregate public facilities, was presented to you, did you or the Council ever meet with the Defendants in this case who presented this petition?

A To my knowledge, there was never any official meeting. I have on numerous occasions met unofficially with Dr. Anderson and others to discuss this very problem, and did so throughout practically all of last year, as I recall, particularly in November.

THE COURT: Will you talk a little louder, please?

A The Witness: Yes sir - particularly in November of last year. But to answer your specific question as to whether there was a meeting of the Commission, official meeting of the Commission and members of the Albany Movement, I do not recall one; nor did the members of the Albany Movement ever come to a regularly scheduled meeting of the City Commission, other than at the time that this matter was presented, if it was presented at that time.



CLAUDE JOINER REPORTING SERVICE

1 Q Now, the statement which you made in the newspaper
2 was that the statement which you were making on behalf of the
3 Commission?

4 A Yes, I was speaking for the Commission when I
5 said that when the Albany Movement demanded complete inte-
6 gration of all public facilities, that the Commission felt
7 that there was no area in which agreement could be made on
8 that basis. And I would like to hasten to point out that
9 at that time, in conversations with Dr. Anderson and other
10 leaders, we reiterated the stand that if desegregation was
11 sought or integration was sought of any facility that they
12 should proceed in the normal legal manner in the United
13 States District Court.

14 Q I didn't hear the end of that. When did you tell
15 them to proceed in the United States District Court?

16 A I've told them on every occasion I've had
17 an opportunity, beginning in February of 1961, up until
18 no later than this morning.

19 Q Now, which of these facilities are under the
20 direct control of the City Commission, to which this
21 petition was presented?

22 A May I see the list of the facilities?

23 Q (Document handed to the witness) . . .

24 MR. RAWLS: Your Honor, I object to that
25 question on the ground that it has no relevancy so
far as this particular case is concerned.

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1 THE COURT: Yes, I sustain that objection.
2 I think we are now going, Mrs. Motley, we're going
3 too far; we're getting over into specifics, you see,
4 t that would have pertinency on the trial of another
5 suit which you have pending, which will come up in
6 due course; that is, where you ask for injunctive
7 relief and desegregation of certain specified facili-
8 ties. But I don't think these details now that you
9 are about to get into have any relevance here. I think
10 your showing that you have made, that there were con-
11 ferences and demands and so on, and what was said
12 in response, I've allowed all of that. But when you
13 get into these specifics, I think that's going too far
14 in this suit. It will be pertinent in the other suit
15 but not in this suit.

16 MRS. MOTLEY: Well, Your Honor, the purpose
17 of this question is to show that the activity of the
18 Defendants, which is sought to be enjoined, was a
19 peaceful protest against the refusal of the City
20 Commission to desegregate the facilities which were
21 under their direct supervision and control.

22 THE COURT: No. I'm sure that's your theory
23 and you have already shown that. You see, he's already
24 testified now, that in response to the demands that
25 were made, that the City said that as long as the demand

1 The Court:

2 was for the complete integration or desegregation of
3 all public facilities, that there was no area of
4 agreement. So, you have it in the record that that
5 was the difference between them.

6 MRS. MOTLEY: Yes.

7 THE COURT: But that would not -- And I've
8 allowed that for the reason that there was some refer-
9 ence in Plaintiff's testimony to conferences and so on.
10 But to go beyond that would be to seek to justify
11 what the Plaintiffs claim was illegal conduct, which
12 resulted in this disrupted situation in the community,
13 if there has been such, to seek to justify it by saying
14 that the reason we were doing this was so and so.
15 And we can't go into details about that.

16 I've allowed you to get into the record that
17 the purpose of your demonstrations was to object to
18 the failure of the City Commission to agree with your
19 demands. But now, let's don't go into specifics
20 about this being of the facilities or this being
21 one, or the other one being one; that on a certain
22 date you didn't let a certain person do this or you
23 did require a person to do that. Let's don't get
24 into specifics.

25 MRS. MOTLEY: Well, I didn't think my last



1 Mrs. Motley:

2 question was directed to the underlying reasons.

3 I thought I was trying to clarify the record with
4 respect to which of these listed facilities are under
5 the jurisdiction of the Commission, because there are
6 other facilities here, such as the bus station, and
7 so forth.

8 THE COURT: But you see, that becomes
9 immaterial because he's already said, in response to
10 your question, that the City Commission did not or
11 could not go along with the demands for the complete
12 desegregation of all of these public facilities,
13 whatever they were, whatever they were. And you have
14 indicated that that's the reason that you were demon-
15 strating, was because they wouldn't go along with your
16 demands. As a matter of fact, some of the Defendants
17 themselves have already testified to that. So, let's
18 leave it there, without going into the details.

19 Q Mrs. Motley: Were you here during the time
20 that Chief Pritchett was testifying?

21 A I think I was here during most of the time, yes.

22 Q Did you hear his testimony with respect to the
23 enforcement of certain City ordinances?

24 A Yes, I did.

25 MR. RAWLS: Now, if Your Honor pleases, we



1 Mr. Rawls:

2 object to that. As a matter of fact, Mr. Kelley
3 conducted the examination; but nevertheless, it's
4 not proper to ask one witness what he thinks about
5 what another witness testifies.

6 THE COURT: Yes, I don't see how it would
7 be pertinent to ask this witness what he -

8 MR. RAWLS: - what his impression was of
9 the testimony.

10 THE COURT: - what his impression of the
11 testimony was.

12 MRS. MOTLEY: I was going to ask him whether he
13 agreed with it, the Commissioners or the Police
14 Chief's statement as to which of these ordinances
15 were going to be enforced and which were not.

16 THE COURT: Well, there again, Mrs. Motley,
17 aren't we getting into the other lawsuit which you
18 have pending? In other words, you've got another
19 lawsuit pending, which will come up in due course,
20 in which you ask that the City be enjoined from
21 enforcing certain local ordinances to which you
22 refer, and so on.

23 Now, in this case I don't see the materiality
24 of asking this witness, and I did not see the materi-
25 ality of it at the time that Chief Pritchett was

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1 The Court:

2 answering those questions on cross examination. That's
3 when he answered them, was on cross examination. If
4 objection had been made at that time, I would have
5 sustained an objection to that line of questioning;
6 but no objection was made. But I do not -- simply
7 because some immaterial evidence got in then, because
8 no objection was made, is no foundation for me to
9 allow you now, since I do have an objection, to go
10 into what I consider immaterial matter in the adjudi-
11 cation of this lawsuit. Let's save that for your other
12 suit which you have.

13 MRS. MOTLEY: Excuse me just a moment . . .

14 I would like to say this, Your Honor: I think that
15 the Defendants here are entitled to show exactly what
16 the situation is in the City of Albany about which
17 t they are protesting. The Mayor has admitted that he
18 was presented with a petition requesting desegregation
19 of all public facilities. We now intend to show that
20 there are certain ordinances of the City of Albany
21 requiring racial segregation in certain other non-
22 public facilities, and that the protest goes to these
23 ordinances and the segregation enforced therein pursuant
24 to these ordinances.

25 THE COURT: Weren't those ordinances introduced

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1 The Court:
2 in evidence the other day?

3 MR. RAWLS: Now, if Your Honor pleases,
4 they're here; the ordinances are in writing and the
5 ordinance itself would be the highest and best evidence
6 of its existence; and there's a proper way to prove
7 the existence of an ordinance than to ask the Mayor
8 what the ordinance is, which is not the proper method.

9 THE COURT: Yes, I agree with that; the
10 ordinance would be the highest and best evidence.
11 I just don't know really how material that would be.
12 I have allowed some of your Defendants to testify
13 when they were on the stand about why they were carry-
14 ing on these protests. I really don't think it was
15 material, but they were allowed to so testify.

16 And the purpose of my ruling here, as I am
17 now ruling, is not to eliminate from the case that
18 theory upon which - that theory which you seek to
19 urge, that the reason you were doing this was in
20 furtherance of your cause and so on. But I don't think
21 we should go any further with it. It's already in the
22 record. It's in the record from the testimony of the
23 Defendants and it's already in the record actually
24 from the testimony of Mayor Kelley, where he says,
25 as a result of these demands being made, on behalf of



1 The Court:

2 the City I advised the representatives that we could
3 not accede to them; and I advised them that I thought
4 what they should do was so and so in the Federal
5 Courts. So, it's in the record.

6 Now, what I am ruling is that to go further, to
7 ask him about, now don't you have another ordinance
8 which says this, and don't you have one that says
9 this, and are you going to enforce this, and are you
10 going to enforce that; that's evidence that will be
11 highly pertinent and material in Civil Action 730
12 or 731, whichever it is. But I don't consider that
13 pertinent in this case. And I'm going to exclude
14 any further questioning along that line.

15 MRS. MOTLEY: In that case, Your Honor, we
16 would have to invoke the provisions of Rule 43(c)
17 because I think that we do have a right to prove
18 our defense, and we have a right to complete the
19 record as to exactly what the Mayor and the City
20 Council are enforcing by way of segregation, so that
21 it will be plain in the record what the protest was
22 all about. I don't think it's clear and I think that
23 on our direct case we have a right to complete the
24 record and to make the record speak distinctly and
25 clearly as to exactly what the Albany Movement is all

1 Mrs. Motley:

2 about and what the City seeks to enjoin; so that, if
3 the Court, excuse me Your Honor, if the Court rules
4 that we can't go into this any more, then we would
5 like to get it in the record, pursuant to Rule 43(c).

6 THE COURT: I think Rule 43(c) reads that
7 you may be allowed to supplement the record unless,
8 in the judgment of the Court, what is sought to be
9 shown is clearly immaterial; and, in my judgment, it
10 is clearly immaterial. I've allowed you to get into
11 the record the general proposition in the testimony,
12 as I have said, of some of the Defendants and your
13 questioning thus far of the Mayor.

14 I am ruling that to go into specifics would be
15 an attempt on the part of the Defendants to justify
16 what the Plaintiffs claim is improper conduct, by
17 saying that these ordinances are on the books; and,
18 therefore, we think we have a right to act as we have
19 acted. The question is, whether the conduct of the
20 Defendants is, as alleged in the petition, and whether
21 that conduct deprives other persons of the equal pro-
22 tection of the law. The question is not whether the
23 Defendants in their own minds think they're justified
24 in their conduct; and that's what you are attempting
25 to go into now.



1 MRS. MOTLEY: No, Your Honor, I'm sorry --

2 THE COURT: And I am not going to allow
3 the questioning to go any further into details. If
4 we did, Mrs. Motley, it would open the door for you to
5 present evidence here of every incident that may have
6 occurred since all of this agitation started, when
7 anybody may have been denied access to any public
8 facility which you think should be desegregated,
9 which would not be pertinent here.

10 What you're doing, in my estimation, is confusing
11 what you want to show in the other suit with what
12 would be pertinent in this case. And I suggest that
13 we leave it right where it is. I am not going to
14 rule out or exclude anything that is already in the
15 record. You have your theory in the record already,
16 but to go into specifics about specific ordinances
17 and specific instances, that the City does or does
18 not enforce certain ordinances or statutes is not
19 pertinent in this case, as I see it.

20 And that's the way I view it and I trust that
21 we can go on to something else.

22 Q Mrs. Motley: Let me ask you this question,
23 Mayor Kelley: When you directed the petitioners to the
24 Federal Court, were you conceding in effect that all of
25 these facilities which are segregated would not be segregated



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BY THE City?

MR. RAWLS: Now, if Your Honor pleases -

THE COURT: Just a moment; let her complete the record.

Q Mrs. Motley: But only if the Court required you to desegregate them?

MR. RAWLS: I will object to that question, if Your Honor please and the anticipated answer on the ground that it's illegal, irrelevant and immaterial to this particular suit.

THE COURT: Yes, you're asking him for a conclusion, which I think would be inappropriate, Mrs. Motley.

MRS. MOTLEY: Your Honor, as I understand the complaint here, the complaint charges these Defendants with certain unlawful conduct in doing things which they know to be wrong and, therefore, the Plaintiffs are entitled to come into a court of equity and get an injunction, enjoining them from doing what the Plaintiffs believe to be wrong.

I think that the Defendants have the right to show that the Plaintiffs were the ones who were violating the law, and that they are the ones that should be enjoined.

Now, the Mayor is a lawyer, he testified he's been

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CLAUDE JOINER REPORTING SERVICE

1 Mrs. Motley:

2 since 1943; and I think we're entitled to show that
3 when these people presented the petition, he knew
4 as a matter of law that the Supreme Court had ruled
5 with respect to all of these public facilities that
6 they could not be operated on a segregated basis; and
7 it was they who were violating the law and not the
8 Defendants. I think we are entitled to show that.

9 THE COURT: Mrs. Motley, it gets back to
10 the very fundamental difficulty that's involved
11 here. You have another suit, in which you make the
12 very contention that you have just made to me. It's
13 either Civil Action No. 730 or 731, in which you seek
14 to enjoin the City of Albany from doing the things
15 that you say are improper; and that question which
16 you have just asked would be the most pertinent
17 question that could be asked in that suit, but not
18 in this suit, because any improper conduct, if there
19 has been any, on the part of the Defendants could not
20 be justified, could not be justified by a showing on
21 the part of the Defendants that they themselves think
22 that the City of Albany should not enforce such statutes.
23 That will be material in the other suit but not in
24 this suit. In other words, what Mayor Kelley may think
25 about it, what he may think about whether certain



1 The Court:

2 City ordinances are unconstitutional or are invalid
3 or not, would have no pertinency in this case. It
4 will in the other.

5 MRS. MOTLEY: I would like to say too, please
6 Your Honor: First, in addition to the fact that we
7 have filed a suit, we also have in this case the
8 right to present a defense and we've filed an answer
9 in this case, in which we allege segregation is being
10 enforced. I think we have a right to prove that.
11 I think we have a right, as I said before, to show
12 exactly what the Albany Movement is all about as a
13 defense in this action. Otherwise, we're not getting
14 a hearing.

15 Now, the second thing is, this Court is
16 sitting as a court of equity and I'm sure that
17 Your Honor is familiar with the equity maxim that
18 when one comes into court and asks for an injunction,
19 he must come in with clean hands. Now, we intend to
20 show that the Plaintiffs do not have clean hands,
21 as they've asked the Court to enjoin us from doing
22 certain acts, which they contend are unlawful because
23 we could go to the Federal Court and get the same
24 result. That doesn't say our acts which we did are
25 unlawful. But we want to show that their hands are



1 Mrs. Motley:

2 unclean. We do not believe that a Federal Court can
3 in an action of this kind enjoin those who are
4 protesting against segregation, when that segregation
5 is in fact being enforced by those seeking the injunc-
6 tion, in violation of established law.

7 And that's our defense to this action, that
8 they're not entitled to an injunction as long as
9 they segregate Negroes in the City of Albany; and
10 they can't come into a Federal Court and say, enjoin
11 them from protesting against that which is illegal
12 and already declared illegal by the Supreme Court.
13 That's why we want to show this.

14 THE COURT: The fundamental diversion -
15 the fundamental divergence in our views, Mrs. Motley,
16 is you continue to view this as being the trial of
17 your other suit along with this suit, which it is not.
18 Now, this is the very reason I made the suggestion
19 that I did earlier today, about the feasibility of
20 consolidating all of them, just so that we wouldn't
21 have these problems.

22 This suit is brought by these Plaintiffs, not
23 to enjoin, not to enjoin any Defendant from objecting
24 to or interposing any objection to any segregation
25 ordinance in the City of Albany. It is brought to

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1 The Court:

2 enjoin the violation of certain penal statutes, which
3 relate to unlawful assembly and which relate to other
4 features which are described in the petition.

5 Now, the mere fact that the Defendants may
6 in their minds say , "Well, the reason we have done
7 these things is because there are certain segregation
8 ordinances which we think the City should not enforce",
9 it would not be pertinent to show as a defense in
10 this case.

11 Now, the Defendants have a perfect right to
12 show that their marches or their parades or their
13 walkings, whatever you want to call them, that they
14 have a perfect right to show that it was not disrupt-
15 ing, as alleged in the Plaintiffs' petition; they have
16 a right to show that it was not in violation of any
17 ordinance against parades and so forth; they have a
18 right to show that we were not guilty of the acts of
19 violence which have been described. You have a right
20 to show that "our activities did not cause a situation
21 which was likely to erupt in violence, that our
22 activities were peaceful, our activities were clean,
23 our activities were honorable, and we did not create
24 any of the situations which are complained of here ,
25 if the situation did exist at all." You have a right

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1 The Court:

2 to show that it didn't even exist.

3 But to allow you to come in and say that "we
4 were justified in doing these things because we think
5 that certain ordinances of the City of Albany are
6 invalid" would be simply opening the door to the
7 trial of your other lawsuit, which I'm not going to
8 allow in this case. I'm going to allow it at the
9 proper time, when we try that lawsuit, but not in
10 this case.

11 And I think we've gone far enough with it, and
12 I suggest that we proceed now with another line of
13 questioning.

14 Q Mrs. Motley: Let me show you PLAINTIFFS'
15 EXHIBIT 12, which is the ordinance having to do with
16 parades, demonstrations and public addresses: Have you
17 ever read that ordinance?

18 A I have.

19 Q Have you ever given any legal consideration to
20 the constitutionality of that ordinance on its face?

21 MR. RAWLSA: Now, if Your Honor pleases,
22 the constitutionality or unconstitutionality of that
23 ordinance hasn't got a thing in the world to do with
24 this case.

25 THE COURT: I'm going to allow that question



1 The Court:

2 because this relates to one of the issues in the case,
3 whether there was a parade and whether it was improper,
4 or whether it was simply people walking down the sidewalks.
5 I'm going to allow that question.

6 MRS. MOTLEY: I was going to ask the witness
7 his opinion. He testified that he's a lawyer and
8 I think he is able to give an opinion on the consti-
9 tutionality of the ordinance with which the Defendants
10 are charged with violating.

11 MR. RAWLS: Now, if Your Honor please, I
12 don't think this witness' opinion can be introduced
13 on a legal problem.

14 THE COURT: No.

15 MR. RAWLS: It has no place in this
16 case at all and that's exactly what they're attempting
17 to do.

18 THE COURT: I don't believe it would be
19 proper, Mrs. Motley, and I think on reflection you
20 will agree, that it would be proper to ask the witness
21 for any legal conclusion concerning the matter, because
22 it is simply incidental that he's a lawyer. I don't
23 think it would be any more pertinent to ask him for
24 a conclusion than it would anybody else. I will allow
25 you to examine him about how, what he considers a

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1 The Court:

2 parade to be and such as that; and whether these
3 instances he considered them parades; but not a
4 legal conclusion about constitutionality.

5 MRS. MOTLEY: Well, the reason I was asking
6 that, Your Honor and I won't press it, but I did want
7 to say this: Again, this goes to the clean hands.
8 The Mayor is also a lawyer. He comes into court and
9 asks that people be enjoined from violating this
10 ordinance, which I think he knows is unconstitutional
11 on its face, and that is what I was trying to bring
12 out; that he has unclean hands when he comes in and
13 asks a court of equity to enjoin people from violating
14 the law.

15 MR. RAWLS: Now, if Your Honor pleases, in
16 view of the statement made by counsel, I want to say
17 this: The Supreme Court of the United States has
18 held that ordinances regulating activities on the
19 streets and sidewalks, almost identical to the ones
20 t that are in our City Code, have been held constitutional
21 by the Supreme Court of the United States.

22 THE COURT: Yes.

23 MR. RAWLS: Under the police powers.

24 THE COURT: Well, I'm not ruling one way
25 or another on that, because that's not before me at

1 The Court:

2 this moment. All I'm saying is that I will allow you
3 to examine the witness about whether these things,
4 if there were arrests made, whether the arrest were
5 made, if he knows - he may not know - whether the
6 arrests were made because they violated this ordinance
7 or whether they were made for some other reason.

8 But don't ask him for a legal conclusion
9 about constitutionality.

10 Q Mrs. Motley: All right, Mayor Allen, which
11 are the activities of these Defendants do you say --

12 A Just for the record, my name is Kelley, please.

13 Q What's that?

14 A Just for the record, my name is Kelley, not
15 Allen.

16 Q I'm sorry; I was thinking of Mayor Allen,
17 I guess, in some other town: Which of the activities of
18 the Defendants do you say violated that ordinance?

19 A First of all, I would like to point out that
20 the so-called "parade ordinance" was adopted in 1913,
21 many, many years ago. In my judgment, the activities of
22 the Albany Movement by having parades on the streets of
23 the City of Albany, without first obtaining written consent
24 of the City Manager, is a violation of this penal statute.

25 And I might add that at no time to my knowledge,

1 either in November or December or since, has any represen-
2 tative of the Albany Movement ever requested permission
3 for a parade or demonstration.

4 In addition to that, I think that it has been
5 clearly demonstrated by the evidence of the Plaintiffs
6 that the Georgia law enacted in 1913, relative to obstruct-
7 ing pedestrian traffic --

8 Q Excuse me, let's take one ordinance at a time,
9 please sir?

10 A All right.

11 Q Which parades of the Defendants do you say
12 violated that first ordinance?

13 A There were several parades in November, I
14 mean in December and there were several in July. I don't
15 recall the exact dates. I think the latest parade was
16 on the 24th of July, is my recollection. There were several.

17 All of those parades, all of the cases that
18 have been made based on this parade ordinance, certainly
19 in my judgment are valid exercises of the police powers
20 of the City of Albany, and the activities of the Albany
21 Movement and those acting in concert violated this ordinance.

22 Q Well, you can't name any specific activity of
23 the Defendants by date and describing that activity which
24 you say violated that ordinance, can you?

25 A Yes. I have witnessed most of the demonstrations,



1 parades. I know that there was a parade on, I think, the
2 24th of July. I know there was on the 21st of July.

3 Q Now, let's take the one on the 24th?

4 A Allright.

5 Q What about that constituted a parade?

6 A I think, if my memory serves me correctly, there
7 were some 30 or 40 people marching down the street at
8 relatively close intervals, with large bodies of people
9 following them, and they did not have the written consent
10 of the City Manager to do so; and, in my judgment, that
11 constituted an illegal, unlawful parade.

12 Q You say 30 or 40 people walking down the street
13 is a parade?

14 A When they are acting in concert, yes, at
15 close intervals and obviously marching as a demonstration.

16 Q Were they marching in tune to music?

17 A If there was music, I did not hear it.

18 Q Were there any banners or floats?

19 A Not to my knowledge.

20 Q Was there a leader with a baton or something
21 in his hand directing this parade?

22 A No, there was a leader, whose name I do not know.
23 He is the one who was requested to present the written
24 permit and did not have it. I don't know what his name
25 is, but he was obviously a leader of the group.



1 Q Were they marching in the manner that soldiers
2 march, keeping step?

3 A I am informed and believe that is the manner
4 in which they were marching, yes.

5 Q I thought you said you were there?

6 A I think I was there on the 24th.

7 Q Well, let's find out?

8 A I've seen most of them.

9 Q Were you there or were you not there?

10 A I just don't recall whether I was or I wasn't.
11 I've seen many of them; but whether I was actually present
12 on the 24th I donot know.

13 Q All right now, what about the 21st of July,
14 what parade did you see on that day?

15 A I believe that is the parade which took place
16 after this Court issued a restraining order on July 20.

17 Q Were you there?

18 A Was I where?

19 Q At that parade or whatever this activity is
20 you're describing on the 21st?

21 A Yes, I believe I was.

22 Q Where were you standing?

23 A I was in the vicinity of the City Hall. I then
24 went down to, I think, almost to the old Colonial Store
25 building. I'm not at all sure exactly. I was all over,

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1 looking to see what was going on.

2 Q Okay, how many people were in this so-called
3 parade?

4 A I do not recall how many there were.

5 Q You don't know how many there were?

6 A I don't know.

7 Q Well, were there 10 or 10,000? Can't you give
8 us an estimate of how many people were in that parade?

9 A I do not know how many there were.

10 Q Were there any banners or floats or signs?

11 A Not to my knowledge.

12 Q None of that?

13 A Not to my knowledge.

14 Q What were the people doing?

15 A They were violating the ordinances of the City
16 of Albany by parading on the streets. They were also, in
17 my judgment, violating the restraining order which had
18 been issued by this Court.

19 Q All right, what were they doing, how were they
20 violating the order?

21 A Well, according to the ordinance they were
22 parading and demonstrating on the public streets without
23 the written consent of the City Manager, and in violation
24 of the order of this Court; they were violating that, in
25 that they were parading and demonstrating on the public

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1 streets when they had been ordered not to do so.

2 Q Well, you're reading the words of the statute,
3 Mayor Kelley, I'm asking you what they were doing?

4 A I'm telling you what they were doing.

5 Q You just read the words of the statute; I want
6 to know precisely what they were doing? Were they marching
7 2-abreast or 4-abrest, 6-abrest; how were they marching?

8 A They were marching 2-abreast, I believe.

9 Q How far apart were they?

10 A Very close interval.

11 Q How far would you say?

12 A I don't know.

13 Q You don't have any idea?

14 A No, they were very close.

15 Q Where did you first see them, at what point?

16 A I don't recall that.

17 Q Was it before they arrived at Oglethorpe or
18 afterwards?

19 A I just don't know. I don't know. I am inclined
20 to think it was before they reached Oglethorpe but I just
21 simply do not recall. I witnessed so many of the things
22 that I don't remember exactly on this particular occasion.

23 Q Did you ever get as far as Oglethorpe yourself?

24 A Did I get to Oglethorpe? I have been to
25 Oglethorpe, yes.

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1 Q At that time I'm talking about?

2 A I think not.

3 Q How did you happen to be there?

4 A I have a responsibility to enforce the laws
5 and ordinances of this City and I make it my business to
6 be in proximity to the places where people have announced
7 their intentions to violate our ordinances and do everything
8 I can to preserve order and peace in our community.

9 Q Did you see Chief Pritchett that night?

10 A Which night?

11 Q The 21st of July?

12 A I'm sure I did.

13 Q Where was he?

14 A Well, Chief Pritchett is a very fine law
15 enforcement officer and it's very difficult to keep up
16 with him. At one time he will be at one place and the
17 next minute he will be somewhere else. I don't know where
18 all he went. I do know that he made the arrests after
19 it was known to him that people were violating the ordinances
20 of our City.

21 Q Were you there when he made the arrests?

22 A No, I was not.

23 Q So, you say you were not there when he made
24 the arrests, is that right?

25 A No, I was not.

1003

1 Q So, you say you were not there when he made
2 the arrests, is that right?

3 A No, I was not.

4 Q So, you don't know whether the ordinance was
5 violated or not, do you?

6 A I saw them parading without a permit. I know
7 that no application was ever made for a permit. I know
8 also that they were obstructing traffic, they were causing
9 great crowds to mingle in Harlem.

10 Q Where were they obstructing traffic? Let's be
11 specific.

12 A In the neighborhood of the Trailways bus station
13 and on Oglethorpe also.

14 Q Let's name the streets and the points at which
15 they were obstructing traffic?

16 A Be on Oglethorpe Avenue and I suppose the 2-
17 and 300 blocks of Jackson Street south of Oglethorpe.

18 Q In what manner was the traffic obstructed?

19 A Automobiles and motor vehicles did not have
20 free passage because of the throngs of people congregating.

21 Q How many automobiles did you see obstructed?

22 A I do not recall.

23 Q Well, were there 2 or 100 or what?

24 A I just simply do not know. I didn't count them.

25 Q Now, who else was at this parade on the 21st,

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1 xother than Chief Pritchett?

2 A Who else was there? I didn't understand your
3 question?

4 Q Who else was at the parade that you say took
5 place on July 21?

6 A I don't know the identities of all those present.

7 Q Well, can't you name any? If it was a parade,
8 there should have been a lot of people out there watching it?

9 A Yes, as a matter of fact, I think those partici-
10 pating actively in the parade in violation of our ordinance
11 and in violation of the Judge's order were incarcerated.
12 I'll be happy to get you the names if you want them. I don't
13 know who will was in the parade.

14 Q Do you know anybody who was on the sidewalk as
15 a spectator?

16 A No, I do not.

17 Q Isn't it a fact that the police blocked off the
18 traffic on the streets which you have just described?

19 A They did not, to my knowledge.

20 Q Do you have any connection with the issuance of
21 permits for parades?

22 A Do I?

23 Q Yes?

24 A I have connection with it only to the extent
25 that as a member of the City Commission, we establish a

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1 policy to be followed by the City Manager. The City Manager
2 is the person who actually issues or denies a permit. The
3 Commission will establish policy as to the issuance of
4 these permits.

5 Q All right, let's see what the policy is, Mayor
6 Kelley?

7 A The policy of the City Commission in the issuance
8 of permits has been to allow any parade, which is composed
9 of people who wanted to have a parade at a time and place
10 and under circumstances that the public interest would not
11 be affected. For example, on many occasions the Albany
12 State College has been given permission to parade. Every
13 year the Negro community has a Christmas parade. We have
14 frequently granted permits - I say we, the City Manager
15 has - for parades by fraternal and civic organizations,
16 including those made up of Negroes. I recall not too long
17 ago some Masonic order had a larger gathering for 2 or 3
18 days here and they wanted to parade.

19 But those people went about it in the normal
20 and legal manner. They came to the City, they made an
21 application for a permit to parade, they outlined the
22 time at which they would like to have the parade and the
23 route they would like to follow. And those permits have
24 been issued. On other occasions permits have been denied.
25 For example, when Miss Georgia --

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1 Q Are you on the policy now?

2 A I'm trying to answer your question.

3 Q Oh, all right; I didn't know?

4 A For example, when Miss Georgia was crowned,
5 the JayCees here in Albany wanted permission to parade
6 Miss Georgia around the streets of the City of Albany,
7 and that was not denied, or not denied, they just weren't
8 given permission to do it, because of the tenseness created
9 in this City by law violators; namely, the people who have
10 advocated the violation of our ordinances, like the Albany
11 Movement.

12 Q So, this is the policy, you say?

13 A Yes, it goes to the policy. We do not issue a
14 permit if we think that the situation is so tense and so
15 upset that the peace may be disturbed, or there will be
16 an undue interference with the traffic of the City.

17 Q Well, what I get out of your statement then is,
18 first, that there's a policy of giving permits to Negroes
19 and whites who want to parade, right?

20 A If they make the application properly and the
21 time that they want to have the parade is such that it will
22 not interfere unduly with the normal flow of traffic,
23 and the route they prescribe is a route which can be
24 followed at a time when it will not interfere too much
25 with the rights of other people to use the streets.

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1 Q Allright, now the second thing I get out of
2 your policy statement is that you give permission for
3 the Santa Claus parade and the Elks and the Girl Scouts:
4 Now, what about a parade in protest against the City's
5 policy on segregation?

6 A If it's in violation of the ordinances of the
7 City, certainly we would -- reframe your question.

8 Q I'm asking you what the policy is with respect
9 to the issuance of permits to protest against the City's
10 policy of segregation?

11 A There has been no request for such a permit.

12 Q You mean you would give one if such requests
13 were made?

14 A It depends upon the time it's made, the situation
15 existing as to public protection of the public, and when
16 it's made. I would not presume to announce a policy at
17 this time, without consultation with other members of the
18 Commission because, as I've just related, we just recently
19 denied a permit because of the tenseness of the situation
20 existing in Albany.

21 Now, if a person or the Albany Movement were to
22 make application for a permit to parade, I'm sure that it
23 would be given very serious consideration, if they want
24 to do it at a time and over a route which would not unduly
25 interfere with the rights of others.

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1 Q With the what?

2 A Which would not unduly interfere with the rights
3 of others.

4 Q Well, what do you mean by that? Over a route in
5 the colored area, where the white people wouldn't see it?
6 Is that what you mean?

7 A No, I do not mean that.

8 Q Well, what do you mean?

9 A I mean that the route that they want to follow
10 must be a route which is consistent with the use of the
11 streets and thoroughfares by other people, and will not
12 unduly interfere with their use.

13 Q Now, let me show you the letter, written to
14 Mr. Roos by W. G. Anderson, the President of the Albany
15 Movement, which you attach as Exhibit "A" to your complaint
16 in this case: Now, what is there about that request for
17 a parade that you would deny?

18 A The simple fact is that this is not a request
19 for a permit to parade.

20 Q What is it?

21 A At no time or at no place in this letter will
22 you find any request for the issuance of a parade permit.
23 As I construe this letter, it is nothing more than a
24 notification by the Albany Movement that they intended
25 and did as a matter of fact violate the ordinances of the

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1 City of Albany/ And, in addition to that, they at the
2 time violated the order of this Court. This is no request.
3 It was not treated as a request.

4 Q The order of this Court had not been issued at
5 that time, Mayor Kelley?

6 A That's very true but at the time of the violation
7 of the City ordinance on July 21, the order had been issued
8 as of July 20.

9 Q Allright, now we're on this letter - what's the
10 date of that letter?

11 A This letter is July 19.

12 Q What in that letter is a violation of the parade
13 ordinance?

14 A There's nothing in the letter itself, except
15 the announced intention to violate the City ordinance.

16 Q Allright, where is the announced intention
17 to violate the City ordinance?

18 A (Reading letter): "A group of citizens and
19 members of the Albany Movement proposes to manifest a
20 peaceful protest in front of the City Hall on Saturday,
21 July 21, at 4:00 PM. This manifestation will involve
22 approximately 300 to 500 people. They will walk from
23 Shiloh and Mt. Zion Baptist churches east to Jackson,
24 then north Jackson" and so forth. "The group will walk
25 on the sidewalks and observe all traffic signals, thereby

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1 avoiding the necessity for the interruption of the normal
2 flow of traffic. This group will welcome assistance by
3 the Albany Police Department in facilitating the crossing
4 of the streets."

5 But the truth of it is, they didn't abide by
6 the traffic signals, according to the information I have.
7 And they intended to parade and did parade, as a matter of
8 fact, close together, in a large body.

9 Q You say that Dr. Anderson paraded?

10 A I didn't say Dr. Anderson did, no.

11 Q Well, he wrote the letter, didn't he?

12 A Yes, he wrote the letter.

13 Q You said he had that parade, when did he have it?

14 A It was on July 21, or the Albany Movement =
15 at least those in concert with the Albany Movement had it.
16 I think Dr. Anderson was not in it, I'm sure.

17 Q Now, who were those in concert with the Albany
18 Movement that had the parade?

19 A I'll have to ask the Chief of Police to give me
20 a list of those who were incarcerated by reason of violating
21 the ordinance and the Court's order. I don't know their
22 names.

23 Q But you say this letter violates your ordinance,
24 is that right?

25 A I didn't say that the letter violated the ordinance.

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1 I said the activities announced in the letter which subse-
2 quent occurred violated the ordinance and the Court order.

3 Q I'm not asking you about what subsequently
4 occurred; I'm asking you whether this announced activity
5 would violate your ordinance?

6 A The announced activity?

7 Q Yes, what they said they were going to do in
8 here; would you say that's a violation of your ordinance?

9 A If they carry out the announced activity in
10 the manner which they actually carried it out on July 21,
11 yes.

12 Q Alright, now you've answered that question.
13 I'm now asking you whether the activity described in this
14 letter is a violation of the ordinance?

15 A It is if -- the letter itself --

16 MR. RAWLS: Now Your Honor please, I object
17 to that question and the answer, on the ground that it
18 would constitute a legal opinion.

19 THE COURT: Well, he's on cross-examination
20 and I don't think the intent of the question calls for
21 a legal conclusion. She's simply trying to get his view
22 of what constitutes a violation of the ordinance.

23 MRS. MOTLEY: That's right.

24 THE COURT: I will allow the question.

25 A - The Witness: As a matter of fact, I think

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1 that if the Albany Movement had done what they said they
2 were going to do in the letter, that there would be some
3 question as to whether or not there would be a violation
4 of the ordinance. But it's my information and belief that
5 they did not do what they said they intended to do.

6 Q Well, if they did what they said they intended
7 to do by this letter, what question do you have about it?

8 A Well, I think a group of people would not be
9 in violation of this parade ordinance, if as a matter of
10 fact they simply walked on the sidewalks at a reasonable
11 distance apart, in reasonable numbers and obeyed the traffic
12 signals, didn't obstruct traffic, didn't congregate on
13 the sidewalks and obstruct the pedestrian traffic, and
14 didn't unduly keep customers from going into places of
15 business, that that wouldn't be a violation.

16 But I hasten to reiterate that what actually
17 happened is, in my judgment, a violation, not only of
18 the City ordinance but of the Court's order.

19 MR. RAWLS: We submit, if Your Honor please,
20 that that particular statute or ordinance doesn't need
21 any interpretation to determine what is a violation
22 of it, because the statute says it's a violation to
23 parade without a permit.

24 THE COURT: I'm allowing the line of question-
25 ing as I previously announced. She has a right to go

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1 The Court:

2 into what is in his mind as the Mayor of the City
3 when the ordinance is enforced; that is, what he
4 considers a violation of it, from a practical stand-
5 point, from a factual standpoint.

6 MRS. MOTLEY: That's right.

7 THE COURT: Not a legal conclusion.

8 MRS. MOTLEY: That's right.

9 THE COURT: All right, go ahead.

10 Q Mrs. Motley: Did you advise Mr. Anderson of
11 what you've just said, as to what you would consider not
12 in violation of the ordinance, in reply to this letter?

13 A I did not.

14 Q You went into court, didn't you, and got an
15 injunction based on that letter, didn't you?

16 A It was made an exhibit to the petition, and I
17 went into court primarily for the purpose of trying to
18 maintain peace, good order, dignity and tranquility of
19 the City of Albany, to avoid violence, riots and possibly
20 blood-shed.

21 Q Well, why didn't you call Mr. Anderson in and
22 say, "I got your letter, it sounds very good, and let's
23 see if we can't do it this way"?

24 A Why didn't I?

25 Q Yes, why didn't you do that?

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1 A Because I considered this letter as nothing
2 more than a threat on the part of the Albany Movement to
3 violate our ordinance. Dr. Anderson knows, I'm sure, as
4 do his attorneys, that in order to have a parade or a
5 demonstration on the streets of this City, they must first
6 have a permit in writing from the City Manager. Whoever
7 wrote the letter studiously avoided requesting a permit,
8 in my judgment, in order that they could say that they
9 were simply telling us what they were going to do and when
10 they were going to do it; and, as a matter of fact, they
11 did it.

12 Q Do you know who drew the letter?

13 A I have no idea who drew it.

14 Q It's signed by Dr. Anderson, isn't it?

15 A Yes, I think it is.

16 Q Do you think he's a lawyer?

17 A No, but I am confident that he has able counsel
18 at his beck and call.

19 Q Are you sure that he always listens to his counsel?

20 A Well, sometimes he does and sometimes he
21 doesn't, if he's like most clients.

22 Q Now, I think during the course of one of your
23 several answers you said that this letter would have been
24 all right, if they had marched along in reasonable numbers;
25 what do you mean by "reasonable numbers"? What is a

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1 reasonable number?

2 A A number which would not unnecessarily obstruct
3 the public ways, such as the sidewalks and the streets
4 when they're crossing them, vehicular and pedestrian
5 traffic, and would not cause throngs of people to become
6 onlookers and to throw bottles, bricks and cast insults at
7 officers and others.

8 Q Well, give us a figure; what's a reasonable
9 number, in your opinion, for a parade?

10 A I would not venture a guess on the number as
11 a parade, I don't know.

12 Q Have you ever seen any parades here in Albany?

13 A Yes, I have participated in many parades.

14 Q What parades have you participated in?

15 A Well, sometimes it seems there's one every day.

16 MR. RAWLS: Your Honor please, this is
17 irrelevant and immaterial to drag this situation out
18 with questions like that.

19 THE COURT: Well, she's trying to show what
20 his experience in parades has been and so on. ~~M~~ will
21 allow it.

22 A The Witness: I have participated in the Armed
23 Forces Day parades regularly, various parades sponsored by
24 fraternal and civic organizations. Some of the parades have
25 lasted as long as 20 to 25 minutes; that is, they would

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1 take that long for the entire parade to pass one particular
2 point. I have seen parades which would require less than
3 just a few minutes to pass a given point, very small group.
4 There are many, many parades. As a matter of fact, Albany
5 is a civic town that has attracted many conventions of
6 all kinds, and it has encouraged people to come to Albany
7 for such purposes; and we've always tried to cooperate
8 with the parades when it's possible and not interfere with
9 the use of the streets and public ways.

10 Q How many people would you estimate marched in the
11 Armed Forces Day parade?

12 A I would have no way of estimating it. I would
13 say several thousand.

14 Q Several thousand?

15 A Yes.

16 Q How about the fraternal parades?

17 A Some of the fraternal parades are very small.
18 I have seen them with as few in number, I suppose, as
19 oh, 50 to 75; some 100 and 500.

20 Q What procedure must a group follow in seeking
21 a permit for a parade?

22 A Make an application with the City Manager.

23 Q Is that a formal application? Do you have a form?

24 A Yes.

25 Q Who has those forms?

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1 A The City Manager.

2 Q Have you ever seen one?

3 A Yes, I have.

4 Q Do you recall what the form contains?

5 A I do not.

6 Q Nothing at all about the form?

7 A No, I don't; I have seen it but I wasn't
8 interested in the content of the thing and I just don't
9 recall.

10 Q Now, the Armed Forces Day parade, was that down
11 the middle of the street?

12 A It was.

13 Q How about these fraternal parades, were they
14 down the middle of the street?

15 A Yes.

16 Q Have you ever seen any of these groups parade
17 on the sidewalk?

18 A No.

19 Q This Albany Movement, their letter said that
20 they were going to walk down the sidewalk to the City
21 Hall, didn't they?

22 A Yes.

23 Q And you call that a parade?

24 A If they're obstructing the public ways unneces-
25 sarily or unduly and they're in such numbers as to attract

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1 others to congregate and to do the things that were done
2 on July 21, yes, I would say that was a parade.

3 Q You mean a group which congregates and blocks
4 the street is a parade?

5 A If they conduct themselves as the group did on
6 July 21, yes.

7 Q Well, that's just a big crowd, unruly crowd,
8 isn't it? That's not a parade?

9 A Yes, but they were attracted by those parading,
10 in my judgment.

11 Q Now, I'm trying to get at whether walking on the
12 sidewalk is a parade, in your view?

13 A There would be some question, if they do what
14 they said they were going to do in the letter, whether it
15 would be a parade or not, yes. There's some question in my
16 mind about it.

17 Q Oh, there's a question as to whether there's
18 a parade?

19 A There would be some question in my mind.

20 Q As to whether this letter, in which it indicates
21 that they're walking on the sidewalks would be a parade;
22 is that what you're saying?

23 A That's right. I think that's a matter which
24 would address itself solely to the discretion of the trial
25 judge, if a case were made.

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Q This group of 12 marching in front of the City Hall, were they carrying any signs?

A Yes, they were.

Q What did the signs say?

A I do not recall.

Q Well, do you know the nature of the communication on the signs?

A No.

Q You have no idea?

A No.

Q What they were parading about?

A No.

Q Did you see them?

A Yes, I saw them.

Q And is this a violation of your ordinance on parades?

A We recognize the fact that a person has a right to picket peacefully, provided it is not done in such a manner as to create disturbance, to cause large crowds to gather, and provided they do not obstruct traffic, either pedestrian or vehicular.

Q Now, let me see if I understand your answer: Are you saying that the group of 12 in front of the City Hall constituted a violation of your parade ordinance? Yes or no?

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CLAUDE JOINER REPORTING SERVICE

1 A I think not.

2 Q Now, let me show you DEFENDANTS' EXHIBIT 12,
3 which is a girl marching with a sign in front of a store;
4 is that a violation of your ordinance?

5 A I did not personally see this person march,
6 but I think that would not be a violation of the parade
7 ordinance, unless, of course, her presence tended to disturb
8 the peace or cause great crowds to gather, or something of
9 that nature. But looking at it, just as is in this picture,
10 I think there would not be a violation of the ordinance.

11 Q All right, now looking at that picture again,
12 tell us what ordinance, if any, that picket is violating?

13 MR. RAWLS: Your Honor please, there's been
14 no evidence in this case that that picket or any other
15 picket was ever prosecuted for picketing in the City
16 here.

17 THE COURT: Well, I don;t think there would
18 have to be for her to be allowed to ask him that question.
19 These pictures, of course, haven't been tendered in
20 evidence. They've been identified by the photographer
21 who took them, and she's simply showing him a picture
22 and saying now, "in this situation would that be a
23 violation of the parade ordinance". Now, he can explain
24 his answer any way he wants to, but I think he should be
25 required to answer her question.

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1 A The Witness: I think not. It's not a
2 violation of the parade ordinance.

3 Q Mrs. Motley: Well, I was asking you about any
4 other ordinance? Is it a violation of any other ordinance
5 that you know anything about?

6 A It's not unless it was shown under the circum-
7 stances that her presence disturbed the peace and tran-
8 quility of the City, or caused large crowds to gather,
9 or she obstructed unnecessarily the use of the sidewalk.
10 I wasn't there; I don't know what the circumstances were
11 and I don't know what happened.

12 Q Well, I'm just asking --

13 A Looking at the picture itself, I can see no
14 violation.

15 Q All right, let's look at D-11, tell me what
16 violation you see there?

17 A I see none just looking at the picture; but
18 again, I hasten to add that I do not know the circumstances
19 ;which were surrounding the situation at the time this
20 picture was taken.

21 Q All right, what about D-9, and what violation
22 do you see there?

23 A I have the same answer to this.

24 Q X D-10?

25 A And the same answer to that.

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1 Q How about D-14?

2 A It is not clear to me but looking at D-14, it
3 seems that those picketers are engaging in a march or
4 demonstration or something. I see a lot of people with
5 cameras around. I see a large number of people in the
6 background and foreground.

7 Q Well, what's being violated, let's be specific;
8 what's being violated?

9 A If they were parading without a permit then,
10 of course, it would be a violation of the 1913 law against
11 parades and demonstrations without a permit.

12 Q Do you think that's a parade?

13 A It certainly seems to me that it possibly could
14 be, yes. They're very close.

15 Q Pardon?

16 A They're very close together. They're not just
17 walking down the street singly.

18 Q Do you see a police officer in that picture?

19 A Yes, I do.

20 Q What's he doing?

21 A Beg your pardon?

22 Q What's the police officer doing?

23 A It seems to me that he's just standing there
24 observing. I don't know what he's doing other than
25 standing there.

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1 Q Now, let me show you D-27 and ask you what
2 there is about that, that's a violation of an ordinance?

3 A If this picture was taken after the people
4 were arrested for parading without a permit, they would
5 be in the custody of the police and there would be no
6 violation. If, as a matter of fact, it was taken before
7 they were arrested, in my judgment, there would be a
8 violation of the parade ordinance.

9 Q Now, let me show you D-15: do you recognize that
10 picture? Have you seen it before?

11 A No, I have not.

12 Q Let me show you D-14 again and ask you if these
13 people had not been arrested at this point and if they
14 weren't marching down the street pursuant to orders of
15 the police?

16 A I don't know.

17 Q All right, how about D-27?

18 A I just stated I don't know whether they had been
19 arrested or not.

20 Q You don't know about that either?

21 A No.

22 Q Now, let me show you D-17: Is there anything
23 about this which is a violation of an ordinance?

24 A I think there is no violation of an ordinance
25 shown in the picture itself. Of course, I again say I don't

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1 the attendant circumstances, whether the presence of -
2 I believe it's Dr. Anderson - created a disturbance or
3 whether it caused large numbers to congregate or to unduly
4 obstruct the pedestrian traffic on the street. I just
5 don't know the attendant circumstances.

6 Q Doyou see any of that in that picture?

7 A I do not.

8 Q How about D-18: Is there any violation in that?

9 MR. RAWLS: Now, if Your Honor pleases,
10 I don't recall any small pictures like that, like
11 counsel is exhibiting to the witness.

12 MRS. MOTLEY: They're marked, Your Honor.

13 MR. RAWLS: They haven't been tendered to
14 me or any member of our staff to look over them
15 before being used. We ought to have an opportunity
16 to see them.

17 MRS. MOTLEY: I assumed that he had seen
18 them; they're marked.

19 THE COURT: I don't believe any small pictures
20 were discussed. Mr. Hollowell, you didn't discuss the
21 small ones, did you?

22 MR. HOLLOWELL: Not on my cross examination or
23 direct of this man, that is of Mr. Cochran; but I
24 think all of them were exhibited last week at the
25 time that we tried to get the City to permit us
to have these other pictures.

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1 THE COURT: Hand them to Mr. Rawls and
2 see if he has seen them.

3 MR. HOLDWELL: We tendered them all last
4 Friday, as I recall.

5 (Pictures tendered to Plaintiff's counsel)

6 Q Mrs. Motley: I think you were looking at
7 D-18 and deciding whether there was any ordinance being
8 violated?

9 A This picture is not clear to me. If, as a matter
10 of fact, they're obstructing the traffic in this alleyway,
11 that would be a violation; but the mere fact that he's
12 standing holding a sign would not be a violation of any
13 ordinance, unless it tended to create a disturbance or to
14 cause great crowds to gather and unduly obstructed the use
15 of the public ways by other people.

16 Q Were you there when that picture was taken?

17 A I was not.

18 Q So, you don't know what the circumstances were,
19 do you?

20 A I do not.

21 Q And all you see is a man holding a sign and a
22 police officer with a sign?

23 A That's right.

24 Q Have you seen any Negro citizens in Albany
25 approach the City library?

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A I have not.

Q Have you heard of any?

MR. RAWLS: Now, if Your Honor please, that would be hearsay and we object. And I object for the further reason that that issue hasn't got anything to do with this case. Counsel is undertaking to prove the other case and object on that ground.

THE COURT: I sustain the objection on the ground of whether he's heard any or not. I sustain that objection.

____Q Mrs. Motley: Let me ask you, do you know of your own knowledge that some Negro citizens of Albany attempted to go into the library and were arrested and charged with some violation; do you know about that?

A Not of my own knowledge, no.

Q You don't know anything about that?

A No.

Q Doyou know that some Negro citizens went into Tift Park, a recreation park -

MR. RAWLS: Now, if Your Honor please, I object to that question and the contemplated answer on the ground that it's illegal, irrelevant and immaterial and has no bearing on this particular case. It's an effort on the part of counsel to prove issues that are made in another case.

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1 THE COURT: Yes. We've been into this
2 before, now Mrs. Motley, these specific cases. Now,
3 that would be highly pertinent and I'm sure you will
4 introduce evidence of that type, if it did happen
5 and so on, in your other case; but that's getting
6 over into the specifics that I want to avoid in the
7 trial of this case, because it has nothing to do
8 with the issue here; it has nothing to do with this
9 issue.

10 MRS. MOTLEY: I was trying to determine,
11 Your Honor, whether this was one of the activities
12 of the Albany Movement that the Plaintiffs wanted
13 this Court to enjoin; whether they considered this
14 a violation of some ordinance. They brought it out
15 incidentally that this happened, I believe, in their
16 case.

17 THE COURT: No, I don't recall any allega-
18 tions about any particular incident.

19 MRS. MOTLEY: The testimony, I'm sorry.

20 THE COURT: I don't recall that. I remember
21 on cross examination something was asked some witness
22 about whether there was a park or maybe one of your
23 witnesses, not your witness but one of the Defendants
24 on the stand.

25 MRS. MOTLEY: I don't remember exactly who.

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1 THE COURT: -- testified that there was a
2 park for use of colored and a park for the use of
3 white. I believe that's the way it got into the record.
4 Which is immaterial in the trial of this case, as I
5 see it. Let's stay away from the specifics. That
6 question gets us right into the trial of the other
7 case.

8 MRS. MOTLEY: May I ask whether this is one
9 of the activities which they seek to have this Court
10 enjoin, to keep Negroes from going into the library
11 and in the park.

12 THE COURT: Yes, you may ask him that.
13 You may ask him that question.

14 Q Mrs. Motley: Do you see to have this Court
15 enjoin negroes from going into the public library?

16 A We seek this Court to enjoin only the unlawful
17 and illegal acts of the Defendants inviolating the ordi-
18 nances of this City.

19 Q Well, that doesn't answer the question, Mayor
20 Kelley:

21 THE COURT: Now right there, the ordinances
22 are referred to in the petition. I'm not sure that I
23 have the file. I think somebody borrowed it. No,
24 here it is. As I recall it, the ordinances referred
25 to in the petition are - well, it's a Georgia statute,

1 The Court:

2 some Georgia statutes and various ordinances of the
3 City; and they are "acts declaring it a misdemeanor
4 to refuse to leave the premises of another when
5 requested to do so";

6 Another Code section, "Unlawful assembly and
7 disturbing the peace";

8 Another one relating to riots;

9 Another one relating to attempt to incite
10 insurrection.

11 And then, reference to various ordinances of
12 the City of Albany governing parades, compliance
13 with lawful orders of the City of Albany and
14 disturbing the peace.

15 You see, there's no reference in the complaint
16 which we are now trying to any segregation ordinance
17 or any segregation statutes. The only reference is
18 to violation of these penal provisions, these penal
19 statutes. And that's the reason that I consider it
20 impertinent for us to get into questions of viola-
21 tions consisting of segregation ordinances.

22 Now, you may ask him, as I have just indicated
23 that you might, whether he considered, if a person,
24 simply a colored person going into a particular
25 library, whether he considers that and that act alone

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1 The Court:

2 a violation of one of these things which he seeks to
3 enjoin. You may ask him that question.

4 MRS. MOTLEY: Yes sir, that's what I was trying
5 to ask him.

6 Q Now, let me ask you then, do you consider if
7 a Negro goes into Carnegie Library to use the books
8 therein in violation of any of those laws which the Judge
9 has just read?

10 A I do not.

11 Q Suppose they refuse to leave when the librarian
12 asks them to do so?

13 A If their presence there tends to create a
14 disturbance and there is a probability, because of the
15 presence, of violence or bodily harm, either to the person
16 or to others, and the person refuses to leave when request-
17 ed by an officer, in my judgment, there would be a violation
18 of the ordinance.

19 Q Which ordinance?

20 A Failing to obey an officer, for one.

21 Q Oh, I thought you meant by officer, someone
22 employed to work in the library?

23 A No, no.

24 Q Well, that was what I meant by my question:
25 suppose the librarian requested the Negro to leave, on

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1 the ground that the Carnegie Library is for whites; is
2 that a violation of some ordinance?

3 A No, not to my knowledge.

4 Q What about Tift Park, a Negro goes into Tift
5 Park and he is requested to leave by the Park Superintendent
6 on the ground that this is -

7 MR. RAWLS: Now, if Your Honor please, I
8 object to this question and the contemplated answer
9 upon the ground that it's illegal, irrelevant and
10 immaterial, and asking for a supposition and an
11 attempt to prove another case which is not on trial,
12 clearly and distinctly.

13 THE COURT: No, I don't agree with you, Mr.
14 Rawls. These Plaintiffs have brought a petition
15 seeking to enjoin the violations of certain ordi-
16 nances and so on and seeking to enjoin certain
17 activities which are described in the petition.
18 And I think counsel is entirely within her proper
19 sphere, if she desires to do so, to ask this witness,
20 since he is one of the Plaintiffs in the case, whether
21 he seeks to enjoin a particular thing; in other words,
22 his own interpretation of what it is he seeks to
23 enjoin; whether the mere fact that a person goes to
24 t this place, the mere going there, whether that is a
25 violation of any of these statutes or ordinances.
You may go ahead.

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1 Q Mrs. Motley: If a Negro goes into Tift Park,
2 is that a violation of some ordinance?

3 A It is not.

4 Q If he refuses to leave when asked to do so by
5 the Park Superintendent or some other employee of the Park,
6 on the ground that that park is limited to white persons,
7 is that a violation of some ordinance?

8 A No, not to my knowledge.

9 Q Suppose he goes to the Teen Center and Park,
10 is that a violation of some ordinance?

11 A The mere fact that he goes is not a violation
12 of the ordinance, of the ordinances we are seeking to
13 have the Court require the Defendants to obey. It may
14 be a violation of another ordinance.

15 Q I don't understand that; what are you saying?

16 A The mere fact that a Negro goes to the Teen
17 Center would not violate, in my judgment, any of the
18 ordinances or statutes which we are now seeking to prevent
19 the Defendants from violating.

20 Q Allright, suppose that Negro seeks to partici-
21 pate in the activities of the Teen Center, is that a
22 violation of some ordinance?

23 A It's not a violation of any of the ordinances
24 we are seeking to prevent the Defendants from violating.

25 Q Allright, suppose --

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1 A -- in this suit.

2 Q Suppose that Negro youngster is asked to leave
3 the Teen Center by an employee of the Center, on the
4 ground that the Center is limited to white youths; is
5 that a violation of some ordinance?

6 A It would not be a violation of any of those
7 we are seeking to cause the Defendants to obey in this
8 suit.

9 Q Suppose the Negro youngster refuses to leave
10 when a police officer orders him to leave on the ground
11 that that is for white youths, is that a violation of some
12 ordinance?

13 A I know of no instance in which a police officer
14 has ever made that statement, that he was asked to leave
15 because it was only for white youths.

16 Q Suppose the officer just asks him to leave,
17 without any further statement, is that a violation of
18 some ordinance?

19 A I think it would be.

20 Q What ordinance?

21 A The ordinance requiring any person to obey the
22 order or direction of police officers, Section 6, Chapter
23 11, of the Code of the City of Albany. And I am sure that
24 none of our police officers would ever ask any person to
25 leave any public facility unless in his judgment it was

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1 necessary to main peace, good order and tranquility in
2 the community.

3 Q Don't you know as a fact that some Negroes
4 were asked by police officers to leave Tift Park?

5 A Do I know that of my own knowledge? I do not.
6 I've heard that, yes, but of my own knowledge, I don't
7 know it. I was not there.

8 MR. RAWLS: I object to what he heard,
9 Your Honor as it would be hearsay.

10 Q Mrs. Motley: Did you get that information
11 from some police officer?

12 A Yes.

13 Q All right, which police officer?

14 A Chief Pritchett.

15 Q Pardon?

16 A Chief Pritchett.

17 Q What did he tell you those Negroes were doing
18 in Tift Park?

19 A Creating a disturbance.

20 Q In what way?

21 A By going to the pool in large numbers and
22 causing some of the youths who were in swimming to
23 express fear that there would be a riot and causing
24 large crowds to congregate; and that he felt it was
25 necessary to disperse the crowd in order to maintain

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CLAUDE JOINER REPORTING SERVICE

1 peace and tranquility in our community.

2 Q Are you trying to get this Court to enjoin
3 Negroes from riding in certain taxicabs, which have
4 signs on them saying "White Only"?

5 A I do not recall any mention of such a request
6 in our petition. All we're trying to do is to get the
7 Defendants to comply with the ordinances of the City of
8 Albany and the statutes of the State of Georgia.

9 Q Well, I don't understand your petition, so I'm
10 trying to find out what you want to enjoin; and I want to
11 know if you want this Court to enjoin Negroes from
12 getting in cabs which have signs on them, saying "White
13 Only"?

14 A That's not one of the prayers of the petition.

15 Q What about theaters and other places of public
16 amusement, are you trying to enjoin, to get this Court to
17 enjoin Negroes from going into theaters operated for
18 whites only?

19 A There's no reference made in this petition to
20 any theaters or places of public amusement, to my knowledge.

21 Q So, you're not trying to enjoin that?

22 A ^{No} All we want the Defendants to do is to obey
23 the ordinances of the City of Albany and the statutes of
24 the State of Georgia, in order to maintain peace in our
25 City.

1037

1 Q Are you trying to get this Court to enjoin a
2 peaceful protest of segregation in the City of Albany?

3 A If it's done in an illegal manner, yes.

4 Q Well, what if it's done, two people or four
5 people standing in front of the City Hall with signs,
6 as you said a moment ago; I believe you said there were
7 12 people standing in front of City Hall one day: Are you
8 trying to enjoin that?

9 A We did mention picketing, unlawful picketing
10 in the suit. The reason for that is - well, take the 12.
11 To my knowledge, there were large crowds congregated in
12 the area of the City Hall, both east and west, north -
13 and north, I don't know about south - as a result of the
14 presence of these people. And in my judgment, their
15 presence in the number of 12 created a very tense situa-
16 tion, which could have been explosive and could have caused
17 damage to the picketers or personal injury to the picketers
18 or to some of the people in the crowds.

19 Q Did the police attempt to disperse that crowd
20 that may have caused injury to the picketers?

21 A Yes, they did.

22 Q And did they succeed?

23 A Not completely.

24 Q Well, in what respect did they fail?

25 A Because many of the people remained in the area;

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1 they would move on a few feet and then turn around and
2 come back, as long as the picketers were there.

3 THE COURT: Just a moment, Mrs. Motley.
4 Mr. Marshal, I notice that 2 or 3 people have desired
5 to leave and I am holding somewhat overtime today
6 beyond the normal time. At this time anybody who
7 wants to leave the courtroom may do so. We're going
8 to stay in session until all examination of this
9 witness has been concluded, whatever time that is.
10 So, anybody who wants to leave may do so at this time.

11 Q Mrs. Motley: Now, Mr. Mayor, I think you
12 said that the police were attempting to disperse this
13 crowd which may have injured some of the picketers in
14 front of City Hall, and that they would tell them to
15 leave and then they would come back; is that right?

16 A Some would, yes.

17 Q Did the police arrest any of those for failing
18 to obey an officer?

19 A Not to my knowledge.

20 Q You keep saying that you would like the
21 Defendants in this case to obey the ordinances of the
22 City of Albany, is that right?

23 A That's true.

24 Q Do you include in that the segregation ordinances?

25 A There's nothing in this petition about any

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segregation ordinances.

Q So, you're not seeking to enforce any of those in this action, are you?

A We certainly are not.

MRS. MOTLEY: I believe that is all the questions for this witness, Your Honor.

MR. RAWLS: Come down, Mr. Kelley.

THE COURT: Alright, now the examination of this witness has been concluded by both sides, as I understand it; so, we will take a recess at this time until 9:30 o'clock tomorrow morning.

HEARING RECESSED - 5:22 PM, AUGUST 7, 1962

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ALBANY, GEORGIA,
9:30 A. M.
AUGUST 8, 1962:

MRS. MOTLEY: The Defendants call Mr. Roos.

MR. STEPHEN A. ROOS

a party Plaintiff, called by Defendants
as adverse party, being first duly sworn,
testffied on

CROSS EXAMINATION

BY MRS. MOTLEY:

Q Mr. Roos, would you please state your full
name and position for the record?

A Stephen Arthur Roos, City Manager, City of
Albany.

Q How long have you been City Manager of the
City of Albany?

A One year today.

Q Mr. Roos, do you have any connection with
the issuance of permits in the City of Albany for the
holding of parades and demonstrations?

A Yes, I do.

Q What authority do you have?

A Under this section of the Code, which I believe
is Chapter 24, Section 35, I am called upon to offer
consent in writing to any parade.

Q Do you have any written policyguide, which you
use in determining when a permit will issue and when it
will not?

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CLAUDE JOINER REPORTING SERVICE

1 A Not as such.

2 Q Well, let me ask you this: What criteria do
3 you use when you receive a letter requesting permission
4 for a parade?

5 A Check generally the time, the route and the
6 effect it would have on the overall use of the streets
7 and public ways.

8 Q How long does it usually take you to act upon
9 such a request for a permit?

10 A We'd like to have at least two days, more
11 if possible.

12 Q Have you been able to act on less notice than
13 two days?

14 A I don't specifically recall.

15 Q Now, what do you consider a parade?

16 A A parade is a formed group of people or vehicles
17 or a procession for the purpose of demonstrating a cause,
18 drawing attention or celebrating an occasion, are some
19 of the definitions.

20 Q What number of people do you include in that
21 definition?

22 A It could possibly go, I suppose, as 10 or 15
23 for the purposes formerly enumerated.

24 Q What do you call a demonstration?

25 A A demonstration would be a gathering or a group

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1 of persons to show a cause, celebrate an occasion or draw
2 attention.

3 Q How many persons would be involved in a
4 demonstration, according to your definition?

5 A Possibly the same number as for a parade.

6 Q Now, what do you call "public address on the
7 streets"?

8 A A public address would be very much in the
9 same order as the other occasions, except probably carried
10 on only by a single individual, desiring to use a part of
11 the public right of way.

12 Q Now, in your definition of public address, do
13 you include those who wish to speak to a designated group,
14 or do you also include those who wish to speak to the
15 public in general?

16 A Actually, I haven't had occasion to rule on
17 this matter and haven't formed a final opinion.

18 Q Would you consider one picket walking in front
19 of a department store a parade?

20 A I don't think so.

21 Q How about 10 pickets in front of a department
22 store, is that a parade?

23 A In essence, it would very closely approach one.

24 Q What about 12 pickets carrying signs in front
25 of the City Hall, is that a parade?

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1 A It could under some circumstances be such.

2 Q What circumstances?

3 MR. RAWLS: Now, if Your Honor pleases,
4 there's no evidence in this record that any such
5 situation has developed from the testimony in this
6 case, no evidence here that anybody has been arrested
7 under a pretext or arrested for violating any parade
8 ordinance in the City of Albany in the situation
9 elicited by counsel; and object to it as illegal,
10 irrelevant and immaterial, and has no bearing on the
11 issues before the Court in this case at this time.

12 THE COURT: I don't recall any evidence
13 that anybody was arrested under the parade ordinance
14 under the circumstances that counsel is relating.
15 I recall some either evidence or statements of some
16 kind that some parties were arrested for what was
17 contended to be illegal picketing. But I don't recall
18 any claim of any arrest for violation of the parade
19 ordinance in the circumstances related by counsel.

20 MRS. MOTLEY: That's right, but I was trying
21 to determine whether the Manager here was claiming
22 that that would be a violation of the parade ordinance.
23 You may recall yesterday the Mayor said that the
24 only pickets that he had seen were 12 people in front
25 of the City Hall; and I was trying to determine whether

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1 Mrs. Motley:

2 that constituted a violation of the ordinance or
3 required a permit for a parade or demonstration
4 or public address. And he said under some circum-
5 stances it would be a parade.

6 THE COURT: I will allow the question.

7 Q Mrs. Motley: Under what circumstances would
8 12 persons in front of the City Hall carrying signs con-
9 stitute a parade?

10 A If they had come over an extended route
11 through a large portion of possibly the downtown area.

12 Q You mean if they had walked down the middle
13 of the street?

14 A Or down the sidewalks.

15 Q On the sidewalk, to get to the City Hall?

16 A If they come in a formed body.

17 Q That would be a parade?

18 A Yes.

19 Q Suppose 12 people got together and decided they
20 were going down to the City Hall to register to vote and
21 they walked down in a group on the sidewalk, two-abreast,
22 is that a parade?

23 A If they weren't moving in such a manner as to
24 draw attention or show a cause, or openly demonstrate a
25 fact, I don't believe it would be.

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1 Q Suppose a group of women, 12 in number, decided
2 to go down together to a bargain sale and met at the home
3 of one for tea and then proceeded downtown in a group,
4 is that a parade?

5 A (No answer) . . .

6 Q Now, suppose this group of 12 who were going to
7 the City Hall to register and vote carried a sign to that
8 effect, would that be a parade, indicating what they intended
9 to do?

10 A If they were formed, it would either be a parade
11 or a demonstration under the connotation of the ordinance,
12 in my opinion.

13 Q Suppose a teacher decided to take her class of
14 30 pupils down to see the City Hall, and they walked in
15 an organized group on the sidewalk to the City Hall, would
16 that be a parade?

17 THE COURT: Now Mrs. Motley, before you go
18 any further, I can see that you can imagine a thousand
19 different questions like that. In all fairness to the
20 witness, the witness has stated that any procession
21 like that of the nature that you are talking about,
22 he would consider a parade only if they were doing it
23 in a manner to publicize a cause or demonstrate a
24 position, or in such manner as to attract attention;
25 and I think that that general application could be

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1 The Court:

2 made to any factual situation which you might imagine.
3 Now, you've propounded about a half dozen situations
4 to him and I don't see the necessity of imagining any
5 more.

6 MRS. MOTLEY: Well, this was going to be the
7 last one, Your Honor.

8 THE COURT: All right.

9 Q Mrs. Motley: What about a class that proceeds
10 in organized fashion down to the City Hall?

11 A I would consider that more a matter of means of
12 transportation, as opposed to a procession or parade.

13 Q Now, in granting permits for parades and
14 demonstrations, do you have a formal application blank
15 which must be filled out by the permit applicant?

16 A No, I don't.

17 Q Did you hear the Mayor testify yesterday
18 that there was such --

19 MR. RAWLS: Now Your Honor please, that's
20 an improper question and I object to it. It's not the
21 proper way to impeach the Mayor.

22 THE COURT: I don't know what the purpose
23 of the question. Let's hear the question and then
24 I will rule on the objection.

25 MRS. MOTLEY: I asked him if he heard the Mayor

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Mrs. Motley:

testify yesterday that he did have such a form of application.

THE COURT: I will allow that question.

A The Witness: Yes, I heard him.

Q Mrs. Motley: But you don't have any such?

A No.

Q Now, do you recall a moment ago I asked you how long it takes for you to act upon an application for a parade permit?

A Yes.

MR. RAWLS: Your Honor please, we think that would be illegal and irrelevant in this case, because it's conceded and admitted, I assume, that these Defendants have never filed an application with the City Manager for a permit to parade.

THE COURT: Yes, I don't recall it.

MR. RAWLS: And how long and how short a time he would take would be illegal, irrelevant and immaterial. That would be true unless the evidence showed in this case that they had actually filed an application for a permit.

THE COURT: Mrs. Motley, as I recall it, there has been no testimony that the Defendants in this case have ever made any application for a parade permit. Let me ask you this, so I will know how to

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CLAUDE JOINER REPORTING SERVICE

1 The Court:

2 rule on any objection: During the course of the
3 presentation of your case, is there going to be
4 evidence that they have made application?

5 MRS. MOTLEY: Yes sir, I'll ask him that first.

6 THE COURT: I overrule the objection; but
7 unless there is such evidence, I will exclude it at a
8 later time, and I ask counsel to call it to my attention
9 if it is not tied up in the case.

10 Q Mrs. Motley: Let me withdraw the question I
11 am now asking and go back to some previous testimony in
12 this case: Were you present at a meeting in the City Hall
13 on July 13, 1962?

14 A Yes.

15 Q Pardon?

16 A Yes.

17 Q Who was present?

18 A If my recollection serves, I was sitting in with
19 Chief Pritchett, Attorney Hollowell, King, Defendant King,
20 Slater King, Dr. Anderson and Rev. Gay, I believe.

21 Q Rev. Gay?

22 A Yes.

23 Q All right, what took place at that meeting?

24 A We had an extended academic discussion of several
25 matters.

1049

1 Q What was all the matters?

2 A It concerned certain persons presently in jail.
3 It concerned the matter of exchange of cash bonds for
4 security bonds. It concerned the matter of parade
5 permits, and then went into almost a philosophical area
6 of discussion before it ended.

7 Q Alright, what was the discussion concerning
8 parade permits?

9 A The discussion concerning parade permits came
10 in during another discussion. I happened to be listening
11 to some conversation that the Chief of Police was conduct-
12 ing, I believe, with either Attorney King or Slater King.
13 And Dr. Anderson propounded a question. I didn't hear the
14 full of it. But when I turned around to direct my atten-
15 tion in that direction it was fully phrased by Attorney
16 Hollowell, that if you had an application for a parade,
17 what would you do; and I said I doubted that I would grant
18 a permit under the particular tension in the City, but that
19 I would have to have an application to make a judgment.

20 Q Well, let's see now, let's make it clear:
21 What was Mr. Hollowell referring to? Was he referring
22 to a parade or a march or what was he referring to?

23 A I think it was if I had an application, would
24 I grant a parade permit. I believe that was the nature of
25 his query.

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1 Q And your answer was "no"?

2 A My answer was, "I doubted I would".

3 Q Why did you doubt that?

4 A Because of the tensions that were present in the
5 City at that given time which have continued.

6 Q What tensions?

7 A The tensions of the people in general on the
8 street.

9 Q Doyou want to be more specific? What tension
10 are you referring to?

11 A The feeling of many people that these demon-
12 strations should end and the feeling of those others who
13 felt that they should continue, creating a difference of
14 opinion and an area for conflict.

15 Q In other words, you're saying that you would
16 not have granted a permit for a demonstration or protest
17 against segregation because, in your judgment, the tensions
18 in the community would not permit it; isn't that what
19 you're saying?

20 A I said that I doubted that I would, but I didn't
21 have a case to rule on.

22 Q So that, when these persons left your office,
23 you would say that they had the definite conclusion or
24 they could draw the definite conclusion --

25 MR. RAWLS: Now, Your Honor please, it would

1057

1 Mr. Rawls:

2 be impossible for him to answer that question --

3 MRS. MOTLEY: I will withdraw that question.

4 May I have the complaint in this case? . . .

5 Q Now, following that meeting in your office on
6 July 13, you received this letter P-17 attached to your
7 complaint in this case from Dr. Anderson, didn't you?

8 A It was signed by Dr. Anderson. I didn't receive
9 it from him.

10 Q From whom did you receive it?

11 A I received it from man identified to me as
12 Rev. Grant and a colored woman not identified to me.

13 Q But this was following the meeting in the
14 City Hall on July 13, at which parade permits were
15 discussed, was it not?

16 A This was after.

17 Q And at which time you said you doubted that
18 you would issue a permit -

19 A That's correct.

20 Q - for a demonstration proposed, but if you got
21 an application or a request you would then consider it,
22 isn't that what you said?

23 A That's correct.

24 Q All right, you then got a letter from Dr.
25 Anderson, didn't you?

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1 A I got a letter, yes.

2 Q What's the date of that letter?

3 A A letter of proposal but no letter of request.

4 Q Now, what's the date of that letter?

5 A June 19.

6 Q That's 6 days after the meeting at the City Hall,
7 isn't it?

8 A That's right.

9 Q All right, now what does he talk about in that
10 letter?

11 A He talks about --

12 MR. RAWLS: Now, Your Honor please, the
13 letter speaks for itself.

14 THE COURT: Yes, I think it does but I
15 don't think it's objectionable. Go ahead.

16 A The Witness: It talks about manifesting a
17 peaceful protest, outlines the number, the route, what
18 they would do about traffic signals, where it would focus
19 and possible duration, and what it undertook to demonstrate
20 or show.

21 Q Mrs. Motley: When you get requests for parade
22 permits, since you don't have any formal application form,
23 doesn't the applicant usually write you a letter?

24 A There have been cases when people have assumed
25 that the Chief of Police was the officer and there have been

1053

1 occasions when they've called in. Sometimes they write to
2 the Chief of Police and sometimes they write to my office
3 for instructions.

4 Q But since you don't have a formal application
5 blank, the person must either call or write, is that right?

6 A We ask them to request a permit, yes.

7 Q Right, so that a permit may be orally requested
8 or may be requested in writing; isn't that right?

9 A We have informed the people that we did not
10 consider an application until it was written; this as
11 recently as, I believe, the 27th.

12 Q Of what?

13 A Of this month - excuse me - the 27th of July.

14 Q You informed the people?

15 A The person calling.

16 Q But you have granted permits on calls, haven't
17 you?

18 A We have clarified a point on two occasions
19 that came up, where the people did not desire to get in
20 conflict, where they didn't know whether they were creat-
21 ing transportation or having a parade; and we have granted
22 a few; but those have been the exception rather than the
23 rule.

24 Q So, you've granted a few permits which were
25 requested orally, is that right?

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1 A One that I can recall.

2 Q All right. Now, when these people write you
3 letters, what do they usually say?

4 A They request parade permit, discuss the time,
5 where they're going, sometimes the number of people and
6 what they're proposing a parade for.

7 Q What do you then do with the letter when you
8 get it?

9 A Because traffic is primarily involved, I
10 generally forward it to the Chief of Police for his
11 advice on the matter, because he is charged with the
12 maintenance of traffic.

13 Q And you sometimes do that in a day or less
14 time, don't you?

15 A We have done it in a short time when he was
16 immediately available and when the mails were expedient
17 carrying the request; but we would rather have time to
18 consider it.

19 Q You've acted on some the same day, haven't you?

20 A Yes.

21 MR. RAWLS: We renew our objection, Your
22 Honor please, to this line of testimony, because
23 it appears that the parties in this case have never
24 filed an application for a parade permit.

25 THE COURT: I make the same ruling now that I

1055

1 The Court:

2 did before and I trust that my ruling is clear.
3 I think your objection is good, unless there is
4 evidence that the Defendants or some of them did
5 at some time make an application. And counsel has
6 stated that she intends to offer such evidence.
7 Unless she does I will exclude it. That's my ruling
8 and that's why I've allowed the questions, on that
9 basis.

10 MRS. MOTLEY: Our contention is, Your Honor,
11 that the Defendant Anderson did request a permit at
12 the meeting on July 13 orally. He sent this letter
13 of July 19, in which he requested the cooperation of
14 the police and outlined his proposed demonstration,
15 the time, where it would take place, how long; and
16 he requested the cooperation of the police. And
17 that's a request for a permit, as there is no formal
18 application.

19 THE COURT: I've read that letter and I
20 think the letter is simply a letter from Dr. Anderson
21 to the City, telling them what he was going to do.
22 He doesn't ask them if he can do it. He just wrote
23 them a letter telling them "we're going to do this".
24 That's the way I interpret the letter. Of course, Dr.
25 Anderson may say - I don't remember whether he testified

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1 The Court:

2 about this when he was on the stand or not. He may
3 have and I don't recall. He may say that he asked
4 them for one at the time they had the meeting that
5 you're talking about. I don't remember whether he
6 did or not. But I have allowed the questions for the
7 time being. You may renew your motion later if you
8 care to do so.

9 Q Mrs. Motley: Now, on the day before you got
10 that letter from Dr. Anderson, didn't Rev. Gay and Rev.
11 Grant come to see you again about the permit?

12 A They came in and inquired what should be
13 entailed in a letter of request and I informed them.

14 Q You told them how many, that they should put in
15 the letter how many people would be in the parade, is
16 that right?

17 A I believe I asked them to put that in there.

18 Q Didn't you also tell them to list the streets
19 that they intended to use?

20 A The route.

21 Q The route?

22 A Yes.

23 Q Didn't you tell them to indicate where they would
24 be going? That's the route, I guess?

25 A Yes, part of the route.

1057

1 Q What they would do after arrival at the City
2 Hall, did you tell them to put that in there?

3 A I don't recall stating that. I think I
4 maintained about five points, which I repeatedly said
5 should be contained in the letter of request.

6 Q Allright, what were those five points you
7 gave them?

8 A The route, the time, the approximate number,
9 who was sponsoring and what their intention of the parade
10 generally was.

11 Q And then, the next day you got the letter,
12 didn't you?

13 A I didn't get a letter I asked for, a letter of
14 request.

15 Q Well, they gave you that letter, right?

16 A Yes. This is a letter of proposal.

17 Q After you set forth those five things, right?

18 A Yes.

19 Q You got a letter?

20 A I said those should be contained in a letter of
21 request.

22 Q That's right, and the next day you got a letter?

23 A I got a letter, yes.

24 Q You say you got a letter, you mean the letter
25 you've got in your hand, which is Exhibit "A" to your

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1 complaint, is that right?

2 A Yes, a letter of proposal.

3 Q Now, you say you've been City Manager for a
4 year?

5 A Yes.

6 Q And in all of the instances in which you have
7 granted permits the parade contemplated was one down the
8 center of the street, where the automobiles move; isn't
9 that right?

10 A Yes.

11 Q Now, you are a Plaintiff in this case, aren't you?

12 A That's correct.

13 Q Now, do you know the Defendants in this case?

14 A Yes. I don't know all of the Defendants.

15 I know the majority of them.

16 Q Do you know M. S. Page?

17 A Yes.

18 Q Who is he?

19 A He is, I understand, the secretary-treasurer
20 of the Movement, a retired postman.

21 Q Now, tell me what it is that you want this court
22 to enjoin Mr. Page from doing?

23 A From participating in or from encouraging
24 violations of the City ordinances.

25 Q All right, when did Mr. Page participate in a

1059

1 violation of a City ordinance?

2 A He has not to date, to my knowledge.

3 Q When did Mr. Page encourage violation of a
4 City ordinance?

5 A I don't know that he has been present but
6 other witness, I believe, have spoken regarding his
7 affiliation with the Albany Movement.

8 Q But you don't know of your own knowledge any
9 instance when Mr. Page has encouraged a violation of a
10 City ordinance, do you?

11 A No, I don't.

12 Q Do you know Dr. W. G. Anderson?

13 A Yes.

14 Q Well, who is he?

15 A He is sitting right there by the gate. He's
16 an osteopathic physician and surgeon in the community,
17 and I understand President of the Albany Movement.

18 Q All right, what do you want this Court to enjoin
19 Dr. Anderson from doing?

20 A From the same general areas that we would
21 request --

22 MR. RAWLS: Your Honor please, we take the
23 position that the pleadings in this case very distinct-
24 ly show what his application to this Court is, set
25 out in writing in petition addressed to this Court.

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1 THE COURT: Yes, I don't see any value in
2 the questioning, because the petition is before us
3 and it specifies what the prayers are. I don't see
4 any value in the questioning. It is just simply having
5 him repeat with regard to each one of them what the
6 prayers of the petition are, and the petition is before
7 us.

8 MRS. MOTLEY: No sir, that's not the objective
9 at all. We're on the trial of an action for an
10 injunction.

11 THE COURT: Well, what is it? Suppose you
12 simply hand the witness the petition then, so that he
13 can read from it and so he can specify exactly what
14 it is that he's praying for with regard to the complaint.

15 MRS. MOTLEY: Well, if that would be helpful,
16 but I was trying to get in laymen's language - I don't
17 understand this man to be a lawyer, Your Honor -
18 exactly what it is that he wants the Court to enjoin.
19 I don't think it's clear in the record of this trial.

20 THE COURT: It's set out in the last couple
21 of paragraphs of the petition, I think, to which he
22 is a party; and he may simply read that into the
23 record, if he cares. Of course, the petition itself
24 is a part of the record in the case.

25 MRS. MOTLEY: Your Honor, I think that before

1 Mrs. Motley:

2 this Court could grant an injunction, I think it must
3 be clear in the record exactly from the testimony,
4 not just the pleadings because many times the testi-
5 mony will vary from the pleadings, and the Federal
6 Rules do not prohibit this Court from issuing an
7 injunction simply because the proof varies somewhat
8 from the words of the complaint. The Court is to give
9 any relief under Rule 54(b) to which the Plaintiffs
10 may be entitled, whether they specifically prayed for
11 that or not. So that, this Court is not bound by the
12 words of the complaint as to what relief it will give.
13 This Court can give any relief which the testimony
14 justifies.

15 THE COURT: But your question is, what are
16 you asking that the Defendants be enjoined from
17 doing. And that is all set out in the petition.
18 So, that adds nothing or takes nothing away. It's
19 simply a repetition of what's already set out in the
20 petition. And the Defendants are named, the prayer of
21 the petition is that they be enjoined from certain
22 violations of certain specified state statutes and
23 ordinances; and I can see that it adds nothing to the
24 case at all, to ask him what he seeks to enjoin this
25 one from doing, and this one and this one, when it is

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1 The Court:

2 q all set out in the petition itself. I don't see that
3 it adds anything or takes away anything.

4 MRS. MOTLEY: Well, except that I say that
5 the proof here is certainly not set out verbatim in
6 the complaint. It couldn't be.

7 THE COURT: No, the proof isn't, but your
8 question is, "what do you seek to enjoin him from
9 doing".

10 MRS. MOTLEY: That's right.

11 THE COURT: And that's in the petition.

12 MRS. MOTLEY: But I'm trying to show by the
13 proof in this case, not by the petition, because this
14 is the trial. I'm trying to show by the proof what
15 he's trying to enjoin.

16 THE COURT: Well, I'll take judicial notice,
17 if it's necessary, that what he seeks to enjoin is
18 what is prayed for in the petition.

19 MRS. MOTLEY: Well, I don't mean to argue it --

20 THE COURT: That's what we have before us;
21 and to ask him with regard to each particular
22 Defendant what is sought to be enjoined is simply
23 asking him to quote from the petition. That's what
24 it amounts to. And I don't see that it's pertinent,
25 and it seems to be a useless consumption of time

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1 MRS. MOTLEY: Well, as I say, I don't mean
2 to argue with the Court, but I think this is very
3 important. I think that we are entitled to show by
4 the proof, quite apart from the allegations of any
5 complaint, we're entitled to show by the
6 testimony of the Plaintiffs what they seek to enjoin.

7 THE COURT: Yes.

8 MRS. MOTLEY: What they're complaining of.

9 THE COURT: Yes, and Mrs. Motley, you will
10 recall that yesterday it was for that very reason that
11 I allowed you to ask the witness, Mayor Kelley,
12 whether he sought to enjoin certain specified things,
13 because you said you needed to know what he sought to
14 enjoin. But to ask the question as you're now asking
15 this witness is simply to ask him to repeat the
16 language of the petition. It's an entirely different
17 approach that you make now to the approach that you
18 made with the previous witness.

19 I will allow you to ask this witness whether he
20 seeks to enjoin these Defendants from doing some
21 particular thing. But to simply ask him to quote from
22 the petition, that adds nothing.

23 MRS. MOTLEY: All right, I'll turn it around,
24 Your Honor, and ask him about specific acts. May I
25 have the list? (Pleadings handed to counsel).

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1 Q Mrs. Motley: Now, as to Dr. Anderson, do
2 you want this Court to enjoin him --

3 MR. RAWLS: Now, if Your Honor pleases,
4 the rule prevails in all courts that where one aids,
5 abets or procures another to do a specific act, that
6 that's tantamount to him doing it himself. And to ask
7 this witness about whether he's ever seen a particular
8 Defendant walking up and down the street in violation
9 of the City ordinance about parades or mass demonstra-
10 tions won't indicate a thing in the world in this
11 particular case, because if it is a fact, as we think
12 has been definitely established in this testimony,
13 that these Defendants, in connection with the opera-
14 tion of the Albany Movement, have aided, abetted,
15 counsel~~ed~~, commanded and procured others to do the
16 things --

17 THE COURT: If she wants to ask him whether
18 he has ever seen a particular Defendant do a certain
19 thing, I think that's a proper question and I will
20 allow it.

21 Q Mrs. Motley: Have you ever seen Dr. Anderson
22 picketing in front of a store?

23 A No, I haven't.

24 Q In front of the City Hall?

25 A No.

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1 Q Have you ever seen Dr. Anderson parading in
2 the middle of the street?

3 A Yes.

4 Q When was that?

5 A I couldn't be sure of the date. I could refer
6 to the Saturday at the end of the week in December, the
7 same Saturday in which Rev. Martin Luther King and Rev.
8 Abernathy were arrested and the same demonstration.

9 Q Where was this demonstration?

10 A I was in the neighborhood of the front of
11 Sears-Roebuck store, which is on the northeasterly corner
12 of Oglethorpe and Jackson, and I saw the procession coming
13 up. I believe Chief Pritchett was toward the center or
14 other side of Jackson Street and I saw him proceed south
15 to the general area of the northwest corner and make the
16 arrest.

17 Q In other words, these people were under arrest
18 at that time?

19 A No, I saw them before, when they were stopped.

20 Q Before they were arrested, were they in the
21 middle of the street?

22 A They were in the street moving north. I would
23 say they had gotten at least to the center when they were
24 stopped. I was watching, after I noted that this had taken
25 place, I then noticed the additional groups and the effect

1 on traffic; and I felt that the Chief of Police would take
2 care of his duties in the given area and I was only a
3 semi-official onlooker; and I was noticing other things.

4 Q Now, were these people crossing a street or
5 were they marching down the middle of the street?

6 A They were crossing a street.

7 Q Now, did you see them at any time in the
8 middle of the street?

9 A I saw them as they started into the street
10 and I saw the Chief approach them and I looked away at
11 another area. I think there was a vehicle moving at an
12 unusual rate that caught my attention to the east, and I
13 didn't see the actual meeting. By the time I looked around,
14 they had started under custody to the City Hall.

15 Q In other words, when you saw them, they had
16 crossed a street and the Chief of Police approached
17 them, right?

18 A They were crossing the southerly lanes in
19 Oglethorpe Avenue.

20 Q So, they were arrested before they actually
21 crossed the street, weren't they?

22 A Completely, yes.

23 Q All right, now have you ever seen Dr. Anderson
24 at any other time?

25 A On a number of occasions.

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1 Q And when else have you seen him?

2 A Quite often at the City Hall, at that meeting
3 discussed on the 13th of July and, of course, the several
4 days we've been in court.

5 Q No, I meant have you seen Dr. Anderson violating
6 any other ordinances of the City at any other time?

7 A No.

8 Q How about Slater King?

9 A Slater King is sitting by the other gate. He
10 is, I believe, an insurance man and realtor, and an
11 officer, I believe Vice-President of the Albany Movement.

12 Q And what did you see him doing?

13 A I haven't seen him - excuse me - I haven't seen
14 him prior to an arrest for violation, so I haven't seen
15 him violating an ordinance.

16 Q What about Charles Jones?

17 A He is sitting immediately beside Attorney Hollo-
18 well.

19 Q What did you see him doing?

20 A I have not seen him.

21 Q How about Rev. Martin Luther King, Jr.?

22 A I saw him in the area described with Defendant
23 Anderson. I did not know him at that time or was not
24 acquainted with his countenance; and I was later informed
25 that this was the party.

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CLAUDE JOINER REPORTING SERVICE

1 Q This was December 16, you're talking about?

2 A I believe that's the date.

3 Q When at any other time did you see Dr. King?

4 A I did see him in front of the City Hall, I
5 do not recall the date, earlier in the month of July, in
6 the neighborhood of the 23rd or 22nd.

7 Q What was he doing?

8 A Having a prayer demonstration.

9 Q How many people were there with him?

10 A Nine.

11 Q Who was praying?

12 A I don't recall specifically. I believe Reverend
13 Abernathy.

14 Q★ And there were nine people, you say?

15 A With Martin Luther King.

16 Q And you want this Court to enjoin that?

17 A They were tending to create a disturbance.

18 After having completed their prayer, they remained there
19 when asked to be dispersed. I could not see from my
20 office other than the things which were immediately in
21 front. There was a large gathering on private property
22 across the street, and there was congestion forming in the
23 streets.

24 Q All right, let's get back to the prayer in
25 front of the City Hall itself: Do you want this Court to

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1 enjoin that?

2 A No.

3 Q Allright, now let's get to the disturbance, you
4 say, that they created. Now, tell me the disturbance
5 that Dr. King and the nine others created?

6 A Their presence tended to draw a large crowd.

7 Q How many?

8 A I would say over on the Hotel property there
9 were in the neighborhood of 75 people and onlookers were
10 being moved, but large numbers of onlookers were on the
11 auditorium, I would say 15 to 25 back toward the auditorium;
12 there were several toward the courthouse; there were
13 several in the windows and adjacent to and on private
14 property across the street in the stores.

15 Q Well, what do you want the Court to enjoin,
16 the people who tend to look on?

17 A We had rather remove these demonstrations,
18 so that we can avoid the areas for possible conflict
19 of persons on central areas of our cities and streets,
20 of our City's streets.

21 Q Now, what about Rev. Abernathy, what have you
22 seen him do in violation of the City laws?

23 A I have seen him in the parade aforementioned.
24 I have seen him in front of the City Hall in the same
25 demonstration that Rev. King was in.

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1 Q Anything else?

2 A That's all.

3 Q How about Rev. Wyatt Tee Walker?

4 A I have seen him a number of times.

5 Q Where was he?

6 A In and out of City Hall and as recently as
7 this morning. I don't believe he's in court at this time.

8 Q What have you seen him doing in violation of the
9 City law?

10 A Nothing, but he was -

11 Q Pardon?

12 A But I understand he's in direct contact with
13 the other Defendants.

14 Q How do you understand that?

15 A I understand that he is their business manager,
16 and he has been present at the meetings, as reported in the
17 national press.

18 Q But you haven't seen him doing anything?

19 A No.

20 Q What about Mrs. Ruby Hurley?

21 A I don't know Mrs. Hurley.

22 Q Have you ever seen her do anything?

23 A No.

24 Q What about the Congress of Racial Equality?

25 A It is my understanding that several persons

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1 engaging in these demonstrations are agents of the Congress
2 of Racial Equality.

3 Q All right, which ones?

4 A Most singularly that I particularly recall,
5 I believe a William Hansen.

6 Q Who else?

7 A I don't specifically recall the other names.

8 Q What did you see Hansen doing?

9 A I have not seen him in the creation of a viola-
10 tion.

11 Q What about Southern Christian Leadership
12 Conference?

13 A I believe this is the organization represented
14 by Reverends King and Abernathy.

15 Q Have you seen anybody else connected with that
16 organization?

17 A Not to my knowledge.

18 Q What about Student Non-Violent Coordinating
19 Committee?

20 A They have several representatives who I under-
21 stand are living in our community.

22 Q Who are they?

23 A I believe the Defendant or Charlie Jones, as he
24 is known; Charlie Sherrod and others whose names escape
25 me, because these matters are adequately recorded in the

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1 offices of the City.

2 Q Now, what do you say they were doing in violation
3 of a City ordinance?

4 A They have partaken in several violations for
5 which they have been arrested in these various demonstra-
6 tions. I could not be specific.

7 Q But you don't know anything specifically about
8 them, is that right?

9 A I don't know it as a fact. I have understood
10 and have seen the records of the City, which indicate such.

11 Q Now, on these students, members of the Student
12 Non-Violent Coordinating Committee, I just wanted to clarify
13 what you've seen these students doing in violation of any
14 City ordinance?

15 A I think I stated that I had not specifically
16 seen the ones that I know, but have an understanding of
17 their activities.

18 Q Pardon?

19 A But I had an understanding from a hearsay basis
20 of their activities.

21 Q What about the National Association for the
22 Advancement of Colored People, what did you see them doing
23 in violation of a City ordinance?

24 A I have not specifically seen the organization
25 but I have seen persons that I understand were officers of

1 the organization, either locally or local, in violation,
2 as previously testified. I believe Slater King is an
3 officer of that organization.

4 Q And you saw him doing what again?

5 A I believe I testified that he was, as I recall
6 it - it may be that I didn't - but I recall that he was
7 in one demonstration in front of the City Hall now.

8 Q Did he carry a sign or something indicating
9 that he was secretary of the NAACP?

10 A I was otherwise informed, not by his sign or
11 by a sign.

12 Q Now, I see written on your complaint here the
13 following: "the Albany Movement and other persons whose
14 names are unknown and who are acting in concert with them",
15 meaning the Defendants, I suppose. Now, who among that
16 group do you want the Court to enjoin?

17 MR. RAWLS: Now, if Your Honor please,
18 the very statement itself shows that the Plaintiffs
19 didn't know who they were. She's asking him to name
20 somebody that the complaint says that they don't
21 know who they are, just people acting in concert.

22 THE COURT: Well, now that we are having
23 a hearing on it, she can ask him to name them, if he
24 knows their names. If he doesn't know their names,
25 he can simply so state.

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1 A The Witness: I don't have any specific names.

2 Q Mrs. Motley: Do you have anything to do with
3 any other City ordinance, other than the parade permit
4 ordinance?

5 A I don't recall any specific area where I
6 directly grant permits, but I have a great deal to do
7 with the majority of the ordinances of the City.

8 Q What do you have to do with the ordinances of
9 the City?

10 A A great deal to do with their enforcement
11 and their execution in line with the policies of the City
12 Commission.

13 MRS. MOTLEY: I think those are all the
14 questions for this witness.

15 MR. RAWLS: Your Honor, Mr. Leverett will
16 conduct the cross-examination.

17 CROSS EXAMINATION

18 BY MR. LEVERETT:

19 Q Mr. Roos, in granting or denying an application
20 for one of these permits, do you consider whether or not
21 you agree or disagree with the ideas which the applicant
22 seeks to express?

23 A No.

24 Q Similarly, in granting or denying such permits,
25 do you consider whether the majority of the people in the

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1 community agree or disagree with the ideas that are sought
2 to be expressed?

3 A No, I don't.

4 Q Now, in considering these applications, do you
5 consider the race of the applicants?

6 A No, I don't.

7 Q Now, to clarify it, has any representative of the
8 Albany Movement or any one to your knowledge connected with
9 it ever made an application to you for a permit?

10 MR. HOLLOWELL: Now, if it please the Court,
11 I submit that what he can give would be only an
12 opinion because it becomes a matter of construction,
13 insofar as the testimony has gone; and I would submit
14 that any answer that he would in the light of the
15 testimony would be only his opinion, and not to be
16 considered as necessarily the law. If this is what
17 he is asking him, I am going to object -- I won't
18 object. But if it isn't what he is asking, then I
19 do object.

20 THE COURT: Well, he's just asking him if
21 they have ever made an application for a permit, and
22 I think, since he's the man to whom the application is
23 supposed to be made, I think it's a proper question;
24 and not only may be but should be answered.

25 MR. HOLLOWELL: What I am getting at --

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1 THE COURT: Of course, I anticipate from the
2 line of questioning that has gone on this morning that
3 you as counsel for the Defendants are probably going
4 to contend that this letter that was written on July
5 19, that you're probably going to contend that that
6 was an application. This witness has already testified
7 that he did not so consider it, and it's difficult for
8 me to see how it could be so considered, because
9 nowhere in it does it say that "we ask for permission
10 to do anything". The letter simply says "We are going
11 to do it." That's what the letter says.

12 MR. HOLLOWELL: The letter says, I think to be
13 exact, "we propose".

14 THE COURT: Well, it doesn't ask for any
15 permission. But at the proper time you can argue
16 your position, but certainly this witness has a right
17 to testify whether he ever received an application for
18 a permit, and then you can ask him whether he considered
19 that as an application.

20 Q Mr. Leverett: Let me modify that question:
21 Did you ever at any time receive from any representative
22 of the Albany Movement or any one to your knowledge
23 connected with it a written request for a permit?

24 A No.

25 Q What about any oral request for a permit?

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1 A Not as such, no.

2 Q Now, on these occasions that you testified to,
3 when you have had, on one or two instances, oral requests
4 for permits, I ask you whether or not those oral requests
5 were always followed up by written request or written
6 acknowledgment of it?

7 A It has been acknowledged in writing when the
8 permit was granted.

9 Q Now, if such a permit or request had been made
10 at any time by any of these Defendants or any one acting
11 with them, what would you have done? Would you have
12 treated it the same as all other applications? Would
13 you have given it the same consideration that you do all
14 other applications?

15 A Yes.

16 Q Now, while you don't have a formal application
17 blank, I ask you whether or not you do require that a
18 written application be made, setting forth certain facts?

19 A We have made this an administrative policy.

20 Q Does the Mayor have anything to do with the
21 enforcement or with the granting or denying of permits?

22 A No.

23 Q I think you have already testified but I just
24 want to clarify it, who are the persons that do process
25 these applications?

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1 A Under our general procedure I call on the
2 advice of the Chief of Police, and then I countersign.

3 Q Now, with reference to this conversation, which
4 you testified to just a moment ago, that you had with Dr.
5 Anderson, what was the date of that? Some mention was made
6 of July and then June, and I'm not sure which?

7 A July 13, I believe was the date.

8 Q July 13?

9 AY Yes.

10 Q Now, would you state, Mr. Roos, what the conditions,
11 the circumstances were in Albany at that time?

12 A We had, of course, on the 10th of July the
13 sentencing of four Defendants from a parade charge,
14 including Rev. King and Abernathy, and we had after that
15 at least one demonstration, because we were discussing
16 among others some demonstrators who were under arrest.
17 And there had been a great deal of tension built up.
18 There were several large mass meetings, to my recollection,
19 on the days around the sentencing and following the
20 sentencing; and generally speaking, I felt there was a
21 tenseness in the community.

22 Q Let me ask you this, at that time did you,
23 in explaining the conversation, did you have any information
24 that any of these Defendants or people connected with the
25 Albany Movement had violated the laws of the City of Albany

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1 at that time?

2 A Any of the people with whom we were talking?

3 Q Yes?

4 A Yes, I did have knowledge.

5 Q Now, did you, in talking with Dr. Anderson,
6 did you make it clear to him that no final determination
7 could be made by you on an application until you had
8 received a formal application in writing?

9 A My recollection of the conversation was that,
10 in answering a question which was restated, the question
11 as originally stated, was re-stated question by Attorney
12 Hollowell. He asked if we had an application, what would
13 I do with it; and I told him that I doubted that I would
14 grant it, but that I would have to have an application in
15 hand to give it final consideration.

16 Q In view of the fact that the parties there
17 discussing with you had attorneys at law, if such an
18 application had been made, what procedure would you have
19 followed with respect to it?

20 A The normal procedure.

21 Q And what would that be?

22 A I would have reviewed the application and then
23 forward it to the Chief of Police for his consideration.

24 MR. HOLLOWELL: May it please the Court, I will
25 have to object to what he would do in a situation

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1 Mr. Hollowell:

2 which has already passed. We don't know what he would
3 have done. This then is a matter of speculation and
4 this, of course, would be objectionable, what he would
5 do. And I would even move that the previous question
6 dealing with this point, the question and answer,
7 when he asked what would he have done in a given
8 situation in the past, which is pure speculation
9 and a conclusion, be ruled out. All he can testify
10 to is as to what the procedure is.

11 MR. LEVERETT: May it please the Court,
12 they put this very matter in issue and are apparently
13 trying to contend that there has been an uneven
14 administration involved; and since they did not in
15 fact, as we contend the evidence shows, make an
16 application, I think it then becomes relevant to
17 determine what this witness would do. They asked
18 him about a great number of hypothetical situations,
19 and we think that we should be entitled to get his
20 statement as to how he would have handled this particular
21 one, if it had ever been formally and properly made.

22 MR. HOLLOWELL: I submit, Your Honor, that our
23 objection still holds.

24 THE COURT: I think the question as asked
25 is subject to objection, because it asks him to

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1 The Court:

2 speculate on what he would have done. And I suggested
3 instead -- I sustain the objection-- and I suggest
4 instead, in case it hasn't already been fully brought
5 out -- it seems to me it may have already been fully
6 covered -- that the witness might simply be asked what
7 is his normal procedure when he receives applications;
8 and whether there was any reason, whether this appli-
9 cation if he had received one from these parties,
10 whether there would have been any variation from
11 it, whether there existed any reason for any variation.

12 Q Mr. Leverett: All right, Mr. Roos, I will
13 rephrase the question: Would there have been any variation
14 from the normal procedure for such an application if it
15 had been made?

16 MR. HOLLOWELL: Now, if it please the Court,
17 here again --

18 THE COURT? There again, you're asking him
19 to state what he would have done. Suppose I ask him
20 the question: Mr. Witness, if you had received an
21 application from the Albany Movement for a parade
22 permit at the time referred to, was there any situation
23 at that time, any circumstances, which would have
24 caused you to give it any treatment other than the
25 treatment or any processing any different from the

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1 The Court:

2 processing normally given to parade applications;
3 and, if so, what was it?

4 A The Witness: I would say this, initially
5 there would have been no difference. However, upon
6 consulting with the Chief of Police and weighing the
7 particular situation in hand at that given moment, at
8 that time we might have felt it necessary to consult
9 further, due to the areas that we felt might have caused
10 conflict.

11 Q Mr. Leverett: Suppose you had received an
12 application from the Ku Klux Klan or someother group
13 seeking to demonstrate, were there any circumstances or
14 conditions that would have caused you to handle it the
15 same way that you just stated you would have probably
16 handled this one?

17 A I did not receive an application; I did receive
18 an inquiry concerning a parade permit from a man who
19 remained anonymous or remained anonymous during the
20 entire phone call on questioning regarding it; and I told
21 him at the given time --

22 MR. HOLLOWELL: Now, if it please the Court,
23 we would object to the statement that he told somebody
24 particularly since that individual is anonymous.

25 THE COURT: Well, you will recall that on

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1 The Court:

2 examination of this witness by counsel for the Defendants,
3 she propounded various hypothetical situations to him
4 as to whether he would or would not issue a permit;
5 and he also testified about particular instances
6 where he had had applications and had turned them
7 down and had other applications and granted them.
8 This is right along the same line; so, I will overrule
9 the objection.

10 MR. HOLLOWELL: If I might, I would like to
11 make the distinction there between what Your Honor
12 is saying and this particular situation. This witness
13 is about to testify concerning a particular conversa-
14 tion which he had with some anonymous person; and I
15 would submit that this situation is hearsay of the
16 rankest order and does not even come within the cate-
17 gory of the statements made on the cross by the
18 Defendants, plus the fact that we are not in the
19 position of being able to cross-examine whoever
20 this person is that he doesn't know and certainly we
21 don't.

22 THE COURT: He had an application from some-
23 body. It's a question of how he handled the application;
24 It's not a question of who the particular individual
25 was but it's a question of having an application at

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1 The Court:

2 this same time and how he handled it, and I will allow
3 the question.

4 MR. HOLLOWELL: But, sir, there was no testimony
5 that there was any application made by the particular
6 person that he's about to discuss. He said there was
7 some inquiry made.

8 THE COURT: Allright, we'll see what he says
9 about it. He hasn't had a chance to testify about it
10 yet.

11 MR. LEVERETT: May it please the Court, I was
12 not seeking to elicit any conversation. I was simply
13 endeavoring to ask the witness, in view of the tension
14 that had developed, if he had received such an appli-
15 c cation from the Ku Klux Klan or any other similar
16 group if he would have treated it the same way that
17 he treated this purported application, which, of course,
18 we contend was not an application.

19 MR. HOLLOWELL: Of course, this is not what he
20 asked, No. 1. And if he's about to propound that
21 one, then we would certainly object to it because
22 of the same speculative nature, that it is encumbered
23 with that we made in the other objection that we
24 addressed to the Court.

25 THE COURT: I think it is proper question.
He can ask him whether, if he received an application

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1 The Court:

2 from the Eastern Star or the Shrine or anybody else,
3 whether he would handle them all the same way; and if
4 he wants to specify Ku Klux Klan, he can specify that
5 just as Mrs. Motley specified some others in her
6 questioning. I overrule the objection.

7 MR. HOLLOWELL: Now, which one, Your Honor,
8 I'm afraid I don't know which one.

9 THE COURT: I overrule the objection to the
10 last question.

11 MR. HOLLOWELL: To the last question asked?

12 THE COURT: To the last question asked.

13 Q Mr. Leverett: Go ahead, Mr. Roos?

14 A What I was undertaking to say was that on
15 this particular inquiry concerning an application, I
16 made every effort to discourage the man and told him
17 that I doubted seriously that it would be granted; and I
18 would have so offered such consideration in most other
19 applications.

20 Q At the time you received Dr. Anderson's letter
21 which has been referred to that is attached to the complaint,
22 had Dr. Anderson already been apprised of the fact that he
23 must have a formal application?

24 A I believe this was discussed at the office on
25 the 13th.

1056

1 Q Now, by way of explaining your treatment of
2 this letter, did you interpret it as a request or an
3 application for a permit, or did you interpret it as
4 simply notice that he was going to parade regardless,
5 or rather without a permit?

6 A I interpreted it as a statement of proposal.

7 Q Not as an application?

8 A Not as a request.

9 Q Now, after receipt of this letter from Dr.
10 Anderson, did he or anyone representing him ever call
11 you back and inquire about it?

12 A I don't recall.

13 Q Do you recall whether or not he ever called to
14 ask if it had been acted on?

15 A No.

16 Q Now, Mr. Roos, are you a lawyer?

17 A No.

18 Q In bringing this action, I ask you whether or
19 not you had to depend on the lawyers to advise you as to
20 forming the allegations of the complaint and for whatever
21 relief that they thought you might be entitled to?

22 A That's quite correct. We in many things have
23 to rely on the City attorney and any who are assisting him.

24 Q In bringing this complaint, did you base your
25 directions to your attorneys on the basis solely of information

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1 that you had, first-hand information that you actually
2 saw or did you depend in part upon reports of things that
3 had been turned in to you as City Manager?

4 A I had relied on all the information mentioned,
5 both on first-hand knowledge and reports which I had
6 received.

7 Q That's all at this time.

8 RE-CROSS EXAMINATION

9 BY MRS. MOTLEY:

10 Q Now, Mr. Roos, what else do you contend the
11 Defendant Anderson should have done with respect to his
12 letter of July 19, in order to make it a permit request?

13 A He stated all the basis information we
14 generally desire in a parade request, but he did not
15 state a request.

16 Q In other words, he did not say "I hereby
17 request"?

18 A "I ask permission" or "would like permission"
19 or so on.

20 Q And for this reason you denied the request?

21 A We did not move to deny it. We did not act
22 on it because it happened simultaneously that we felt,
23 I felt that an answer was given by service - I don't recall
24 the legal terminology - I believe it was restraining order,
25 within the time that it would normally have been rendered.

1 Q In other words, when you got his letter which
2 failed to say "I hereby request", you just went to the
3 Court and got an injunction based on that letter, isn't
4 that right?

5 A This was additional information to the suit.
6 I believe the action was already underway.

7 MR. RAWLS: Your Honor please, we insist
8 again that the petition itself speaks for itself.
9 The allegations in the petition are a matter of record
10 in this case, and it has been pointed out on our
11 cross-examination that he's a layman and doesn't
12 understand legal technicalities.

13 THE COURT: She's simply trying to deter-
14 mine, as I take it, from this line of questioning
15 about exactly how he interpreted the letter and so
16 forth. I overrule the objection. Go ahead.

17 MRS. MOTLEY: Would the reporter read the
18 last question, please?

19 THE REPORTER: "Question: In other words, when
20 you got his letter which failed to say 'I hereby
21 request', you just went to the Court and got an
22 injunction based on that letter, isn't that right?"

23 Q Mrs. Motley: Do you have an answer to that?

24 THE REPORTER: I do. (Reading answer): This
25 was additional information to the suit. I believe the
action was already underway."

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1 MR. RAWLS: We make objection to that question
2 and the answer because the petition specifically states
3 reasons why he applied to the Court for relief; and the
4 reasons are multiple, they are many; and the letter is
5 simply incidental. The letter speaks for itself.

6 THE COURT: I think so too but the witness
7 then said this was additional information. Didn't the
8 witness say that the letter was simply additional
9 information?

10 THE REPORTER: Yes sir, "This was additional
11 information to the suit."

12 THE COURT: That's the way I interpreted it.
13 The witness may be asked if that's what he said. But
14 the way I interpreted it he's saying that when he got
15 this letter, this was simply in addition to everything
16 else, to all the other evidence that he's already
17 referred to and that all the other witnesses have
18 referred to; and that that is when they instituted the
19 action. That's the way I interpreted it but you can
20 clarify it.

21 Q Mrs. Motley: Let me clarify it this way:
22 What did you do when you got that letter from Dr. Anderson?

23 A When I got the letter, I first glanced at it
24 in the presence of those who had tendered it, and indicated
25 that I felt sure I could let them hear by the next day. And

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1 they left and about that time the telephone rang, I put
2 it on my desk; I had at least one phone conversation and
3 then I picked the letter up and read it in full. I scanned
4 it just to note that they had number, a route and the other
5 basic information as would normally be contained, but I didn't
6 check, read the wording word for word. I just scanned it
7 and it seemed to be fairly comprehensive.

8 Q Now, after you read it carefully, what did you do?

9 MR. RAWLS: Now, if Your Honor pleases,
10 we take the position that the letter speaks for itself
11 and that it could not be any reasonable construction
12 except a written statement from this man or these men,
13 stating that regardless of your parade ordinances or
14 otherwise, we intend to hold a parade along this line;
15 and I just can't conceive of going into all the little
16 molecules of things that might have been in this man's
17 mind, because it's a written document and it speaks
18 for itself. It cannot reasonably be construed as
19 anything except a defiant statement that was sent to
20 this man, this officer of the City of Albany, that
21 regardless of your ordinances and regardless of anything
22 else, we propose to march so and so.

23 THE COURT: I overrule the objection.

24 A The Witness: Would you repeat the question?

25 THE REPORTER: "Question: Now, after you read
it carefully, what did you do?"

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1 A The Witness: I first called the Chief of
2 Police and then very shortly thereafter called the City
3 Attorney to find out if in the Attorney's opinion it was
4 a request.

5 Q Mrs. Motley: Then, what did you do?

6 A I discussed the matter with the City Attorney,
7 and he felt that it wasn't as such a request.

8 Q Then, what did you do?

9 A I made photocopies of it available to the
10 Attorney.

11 Q You did what?

12 A Made photo-copies of it available to the City
13 Attorney.

14 Q Then, what did you do?

15 A Proceeded in the normal conduct of day to day
16 business.

17 Q Did you ever acknowledge the letter?

18 A I was handed it in person, so I presume they
19 knew I had received it.

20 Q Well, you told them they would hear from you
21 the next day, didn't you?

22 A Yes, and then the next day the suit was served.

23 Q I believe that during your examination by Mr.
24 Freeman you indicated that you did not consider race when
25 you get one of these applications?

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1 A That's correct.

2 Q But you considered race in this case, didn't you?

3 A I considered the Albany Movement, not necessarily
4 a race but a force in the community as opposed to a race.

5 Q I don't understand that?

6 A An action which was tending to create extreme
7 tension in the community. It could have come from any
8 source but it so happened to come from the Albany Movement.

9 Q You don't understand the Albany Movement to be
10 composed of white citizens, do you?

11 A I understand a great many have met with them.
12 I don't know what their affiliation is.

13 Q But you know it's primarily a Negro group,
14 don't you?

15 A Yes, primarily.

16 Q And you considered that this primarily Negro
17 group was intending to protest against segregation; didn't
18 you consider that?

19 A I considered that they desired to hold a parade
20 which had dire possibilities.

21 Q What dire possibilities?

22 A The possibility that outside or inside forces
23 within our community or without, might cause violence on
24 the streets.

25 Q What forces are these?

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1 A Any given numbers of individuals; some have
2 offered hip-pocket judgments and others have, I believe,
3 as the Chief of Police formerly testified, offered various
4 forms of assistance, and there are many people who have
5 extreme feelings in the matter who might get out of hand,
6 these persons unknown.

7 Q Do you have any specific group that you can
8 identify or individuals?

9 A If we had a specific group, it would be much
10 easier to tend to remove the cause for possible violence,
11 but it's a general area that we have unknown to us.

12 Q So, you don't have any specific organized
13 group that you can identify, is that it?

14 A That's right.

15 Q Now, what about individuals?

16 A I heard many reports off of the streets which
17 were hearsay.

18 Q How many?

19 A As often as I went to the street, people express-
20 ed great disturbance over what was going on.

21 Q And for this reason you say you have considered
22 this in weighing whether you would give a permit in this
23 instance?

24 A I would have considered that and the possibility
25 of whether or not and also where and when the demonstration

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1 might be routed and held.

2 Q Now, what I want to clarify is whether you would
3 take into consideration the fact that there were white
4 groups in the community hostile to the Albany Movement,
5 in deciding whether you would issue a permit for that
6 Movement?

7 A I would take into consideration the ingredients
8 of whatever was proposed and it's over all effect on the
9 community.

10 Q No, I'm asking you specifically whether you
11 would take into consideration the hostility of white groups
12 and individuals to the Albany Movement, in determining
13 whether you would issue a permit to that Movement?

14 A Not as such.

15 Q You wouldn't?

16 A No.

17 Q Then, what's this tension you say was involved?

18 A The ingredients of the tension that arise in
19 our community don't have any boundary lines of race or
20 color or creed. They are a general tension which is
21 present, a hostility which has been reported to me in
22 what seems to be more outward defiance to normal processes
23 of law and order and the actions that have been reported
24 at great length in former testimony.

25 Q So that, your answer is that you would take into

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1 consideration community hostility in determining whether
2 you would issue a permit in this instance, is that right?

3 A I would take into consideration community
4 hostility or any other element or ingredient which might
5 tend to cause a general disturbance or open conflict.

6 Q Now, in addition to these remarks passed by
7 unidentified individuals, was there anything else that
8 you considered that amounted to tension in the community?

9 A There were sometimes when, even without demonstra-
10 tions, the streets were almost bare at times, when there
11 would have been a good flow of commerce along them. That
12 is one evidence of tension.

13 Q What else?

14 A The statement even made to me by my own wife
15 that she felt like she didn't want to come downtown because
16 of what might happen. Neighbors' wives, a Mrs. Jack
17 Whiteside, Mrs. Donald Wilmot and many neighbors. These
18 are just immediate neighbors living closest who have had
19 occasion to discuss their feelings.

20 Q Anything else you say that amounts to tension?

21 A The groups that are unknown and somewhat
22 unseemly that sometimes are walking the streets in normal
23 process but which are highly unusual to the average down-
24 town group or crowds.

25 Q You are now talking about some individual group,

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1 is that right?

2 A No, I'm talking about persons unknown to me but
3 who are total strangers and who are not there during the
4 hours of commerce, and who are what I would consider a
5 rough looking group.

6 Q What were they doing?

7 A Walking the sidewalks, having various conversa-
8 tions, A "we ought to find some people to rough up" was
9 one stray word that came from one group I passed.

10 Q Were they arrested for inciting to riot?

11 A There was not a police officer handy.

12 Q But you heard that?

13 A Yes.

14 Q Did you report it to the police?

15 A I walked around and spoke to them and they were
16 gone by the time we got back. I was about a block from
17 the City Hall.

18 Q Have you had any other such instances?

19 A Not particular instances.

20 Q I think that's all.

21 RE CROSS EXAMINATION

22 BY MR. LEVERETT:

23 Q Mr. Roos, in stating that you considered the
24 forces in the Albany Movement that might cause violence, I
25 ask you whether or not you are including in that definition

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1 groups of colored spectatots who on occasions followed the
2 marchers on their march and engaged in throwing rocks,
3 hurling insults and making threatening remarks.and gestures?

4 A Yes sir.

5 Q You considered those?

6 A Yes.

7 MR. HOLLOWELL: May it please the Court, I would
8 object to that on the ground - I presume he's still
9 talking about this same letter - that there's no
10 evidence that there had been any such activity at
11 the time that this was taken into consideration.

12 THE COURT: I don't interpret the question
13 as simply relating to the letter. Maybe it was
14 intended that way. The question didn't say anything
15 about the letter.

16 MR. HOLLOWELL: It seems to be that in the
17 general connotation, it appears to be related to
18 the application to parade, or if there had been one
19 at or about the same time that the letter of the 19th
20 was submitted; and it appears that the question went
21 to that area; and, if so, then I am saying that there's
22 no testimony by this witness or any other witness
23 for that matter, to my knowledge, that there has been
24 any such acts as he is propounding in the question
25 which is now directed to the witness.



1 MR. LEVERETT: May it please the Court,
2 No. 1: there has been evidence by other witnesses
3 about incidents on the 11th, I believe; secondly,
4 counsel for the Defendants examined this witness
5 extensively on general things that he considered in
6 granting or denying permits; and I think on that basis
7 that I mentitled to go into it.

8 THE COURT: Well, I can't recall whether in
9 the testimony, whether in all of this mass of testimony
10 that we've had, whether there was anything in there
11 about July 11 or not; and certainly the answer to
12 the question is pertinent in the overall picture, and
13 I overrule the objection. Go ahead.

14 Q Mr. Leverett: Now Mr. Roos, you stated that
15 you would, in considering an application, consider the
16 question of community hostility: By that did you mean
17 to say that that was the only thing that you would consider
18 or that that was one of the many circumstances that you
19 would consider in granting or denying such a permit, along
20 with all the other circumstances?

21 A Well, as against normal conditions, we would
22 not have that type of consideration; but under the special
23 times, you adjust your consideration to the times that are
24 around you.

25 THE COURT: Allright, anything further?

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RECROSS EXAMINATION

BY MRS. MOTLEY:

Q Yes, Your Honor. At the time that you received this letter of July 19, what colored spectators had you seen throwing rocks and bottles?

A I had heard of an earlier incident in the south part of town.

Q What incident is this exactly?

A At the Teen Center.

Q At the Teen Center?

A At the Carver Teen Center.

Q What happened out there?

A It has been reported, I believe, in the record. I don't have specific knowledge.

MR. RAWLS: If Your Honor pleases --

THE COURT: He said he had simply heard of the incident about that.

Q Mrs. Motley: Was that sponsored by the Albany Movement?

A No.

THE COURT: All right, anything further from this witness?

MRS. MOTLEY: That's all, Your Honor.

THE COURT: If not, you may go down and we'll take a 10-minute recess at this time.

RECESS: 11:02 AM to 11:15 AM - AUGUST 8, 1962

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CLAUDE JOINER REPORTING SERVICE

1 MR. HOLLOWELL: The Defendants call Dr. Anderson.

2 DR. W. G. ANDERSON

3 witness called in behalf of Defendants,
4 being himself a party Defendant and
being first duly sworn, testified on

5 DIRECT EXAMINATION

6 BY MR. HOLLOWELL:

7 Q Doctor, I show you D-17 and ask you, do you
8 recognize it?

9 A Yes, I do.

10 Q Would you indicate what it is?

11 A This is a photograph of me walking in a
12 northerly direction in the 100 block of North Washington
13 Street, carrying a sign that reads, "Walk, live and spend
14 in dignity." I was at that time engaged in picketing.

15 Q What were you picketing for?

16 A I was picketing to put an end to the segregation
17 practices in the City of Albany.

18 Q I show you D-18 and see if you recollect the
19 scene that is depicted there and what the circumstances were?

20 A Yes, I do recognize it. This photograph was
21 made at a time when picketing had been interrupted by the
22 local police officers; and the two persons who are identified
23 as Emanuel Jackson and Elijah Harris in the photograph,
24 were engaged in picketing at the same time in the 100 block
25 of North Washington. This photograph was taken at the time

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1 they had been arrested and just before being taken into
2 custody by the police officers.

3 Q Had you been taken into custody also?

4 A That's right. This was done almost simultaneously.
5 There were four different officers that made the arrests
6 almost simultaneously.

7 Q What were you doing at the time of the arrest?

8 A I was merely walking back and forth in the 100
9 block of North Washington Street, bearing the sign as
10 indicated.

11 Q At the time that those two photographs which
12 you have identified were taken, what was the complexion
13 of the street in the area where you were walking as relates
14 to pedestrian traffic?

15 A Well, there were only two people in the half
16 block where I was at the time, and there is clearly adequate
17 space between where I'm standing or where I'm walking and
18 the stores for an additional 7 or 8 people. The pedestrian
19 traffic is very light.

20 Q Do you recollect what the officer told you
21 you were being arrested for?

22 A As a matter of fact, he did not tell me. He
23 said that "I will have to place you under arrest if you
24 continue to walk in front of these stores and picket with
25 these signs". And I asked him when he stopped me, "What
are you arresting me for?" And he says, "Well, I'll just
have to make a case against you if you continue. I asked

1 again, "What for?" And there again, he said "I'll just have
2 to make a case against you."

3 Q Do you remember who that was?

4 A Yes sir, that was Assistant Chief Summerford.

5 Q Now, I show you D-19 and ask you do you know
6 the persons who are shown there and whether or not it
7 reflects the situation as you saw it as of the time it
8 was taken?

9 A I know two of the persons by name and the
10 other one merely by identification from his uniform.
11 I know Assistant Chief Summerford and I know Slater King.
12 Of course, in the background I see another photograph of
13 myself. This does reflect the situation as it was at that
14 time. This also was taken at a period when we were
15 picketing in front of the downtown stores in the 100
16 block of North Washington.

17 Q Do all of those three photographs depict the
18 situation on a given day, that is the same day?

19 A Yes, these were all taken on the same day.

20 Q Now, Doctor, do you recollect that there was
21 some statement which was attributed to the person at the
22 head of the line, some person at the head of the line,
23 at the time that you were walking to the courthouse and
24 the City Hall on December 16: Do you have any recollection
25 of hearing Dr. King say anything in the vicinity of the

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1 store which is located on the corner of Highland and South
2 Jackson, pertaining to "Strike me first"?

3 A No, I heard Dr. King utter no such words.

4 Q I ask you whether or not at the corner of
5 Oglethorpe and South Jackson on this occasion there were
6 any such words said by him?

7 A No, I heard him utter no such words. The only
8 thing I heard him, the only time I heard him speak was
9 when he replied to Chief Pritchett.

10 Q In response to what statement or question
11 made to him by the Chief?

12 A Chief Pritchett asked him if he had a parade
13 to permit, I mean a permit to parade.

14 Q And his response was?

15 A His response was, "We are not parading, we are
16 merely going down to the City Hall to pray."

17 Q Do you have any recollection of the statement
18 being made at all by any one who was at the head of that
19 group?

20 A Yes, I made the statement in response to the
21 action of one of the police officers. As he approached
22 the line, as we came in a northerly direction, North
23 Jackson, he raised his night-stick and grasped it in both
24 hands and held it up before him; and I said, "If you hit
25 anybody, hit me first."

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1 Q Now, where were you walking in relationship to
2 Rev. King at that time?

3 A Immediately abreast.

4 Q Now, Doctor, calling your attention to the
5 conversation which was had on July 13 in Chief Pritchett's
6 office; you've been here all the morning, have you not?

7 A Yes.

8 Q You heard the testimony of Mr. Roos as relating
9 to statement which he said was directed to him, I believe
10 by you, relative to whether or not a permit would be granted,
11 and which he also indicates was subsequently clarified by
12 me, and the response which he gave, did you not?

13 A Yes.

14 Q Now, would you indicate what was said on that
15 occasion by you and what was the response by Mr. Roos as
16 you heard it?

17 A We were discussing generally the manifestations
18 of protests, wherein I asked Mr. Roos if I could secure a
19 permit to have a prayer meeting in front of the City Hall;
20 wherein Mr. Roos replied, "No, I couldn't do that."

21 MR. HOLLOWELL: I might state, Your Honor, if
22 I might in my place as a lawyer, I will take the
23 stand, if necessary, that this was the statement asked
24 or the question asked and that was the statement made
25 under those circumstances.

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1 Q Now, Doctor, I ask you whether or not there
2 have been any meetings, mass meetings as they are generally
3 called, at any of the churches in the last 7 days or 8 days?

4 A Yes.

5 Q Could you indicate about what number were
6 present on those occasions?

7 A Well now, there was a mass meeting on Saturday
8 evening at 6 o'clock, at which time there were some 200
9 persons present. On Monday evening some 12- to 1500 people
10 present at Mt. Zion Baptist Church.

11 Q Now, when you say Monday evening, is that of this
12 week?

13 A Of this week.

14 Q That was day before yesterday?

15 A Day before yesterday. Do you want to go back
16 further than that?

17 Q Yes, last week, were there some; I believe you
18 said Saturday?

19 A Yes.

20 Q Were there any Monday through Friday of last
21 week? That would have been the week beginning July 30?

22 A Yes, there have been mass meetings each night
23 in the past 10 days with the except of Thursday night of
24 last week.

25 Q Were the churches on those occasions quite full?

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1 A On most of the occasions they were quite full.

2 Q Were there persons even on the exterior of the
3 church?

4 A Yes, on most occasions.

5 Q Were there police present or did you have any
6 occasion to notice whether there were police present in
7 the general vicinity?

8 A There were police present in the general vicinity
9 on each and every occasion.

10 Q At what distance from the church, insofar as
11 you can recollect?

12 A Approximately a quarter of a block from the
13 intersection where the church is located; that is, Mt.
14 Zion and Shiloh.

15 Q Did you get any report - I'm sorry, would you
16 strike that, Mr. Reporter -- Did you get any reports of
17 there being any violence of any sort in connection with
18 any of those meetings that have been held in the last 10
19 days?

20 A None at all.

21 Q Did you see any?

22 A None at all.

23 Q I ask you whether or not you had the occasion
24 within the last four days to take a group from that church,
25 that is Mt. Zion or Shiloh, to Bethel and indicate in what

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1 numbers, when it was and what the occasion was?

2 A Well, on Saturday afternoon at approximately
3 7:15 a group of some 200 persons left Mt. Zion Church,
4 walking 2-abreast in an easterly direction down Whitney
5 to the intersection of Washington and Whitney, then in a
6 northerly direction up Washington to the corner of
7 Highland and Washington, whereupon they went into Bethel
8 Church.

9 Q Were they in the street or on the sidewalk area?

10 A They were on the sidewalk area. They did stop
11 at each of the stop signs and a few of the persons would go
12 across, and then they would stop again, and then the others
13 would stop so that traffic would not be interfered with;
14 they obeyed the traffic light at the corner of Jackson and
15 Whitney.

16 Q Were you stopped at any time by any of the police
17 officers?

18 A No, we were not stopped. This was quite surprising.
19 There was a police car that followed us from the time we
20 left Mt. Zion Church until the time we stopped at Bethel
21 Church; but at no time did the policemen stop the persons
22 walking in that direction.

23 Q When they got to the church, what did they do,
24 that is the church to which you were going?

25 A We went into the church and had a prayer meeting.

1108

1 Q I ask you, Doctor, whether or not the procedure
2 which was followed on this occasion was generally the same
3 as the procedure that is usually followed, except that you
4 did not go beyond Highland on that occasion to the north?

5 A It was identical. There was no difference in
6 this and what we have been doing since December 12.

7 Q December 12 what?

8 A December 12 was the first time we had persons
9 to be walking in columns of 2's through the streets of
10 downtown Albany.

11 Q When you say through the streets - that was
12 December '61?

13 A December, '61, that's right.

14 Q When you say through the streets, do you mean
15 out in the streets that are normally used by vehicular
16 traffic, or do you mean some place else?

17 A On the sidewalk.

18 Q In the sidewalk area?

19 A Yes.

20 Q As a matter of fact, isn't it true, Doctor,
21 that in many of the areas between that church, that is
22 Shiloh and Mt. Zion area and Oglethorpe or even going to
23 Washington, that there are no sidewalks as such; that is,
24 concrete sidewalks?

25 A In some places there is a concrete sidewalk and

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1 in some places there is not. Now, on Whitney down to
2 Jackson, we do have concrete sidewalks; but then, there's
3 a span in the 300 block of South Jackson where there is
4 no sidewalk; and then again in the 200 block of South
5 Jackson we have sidewalks again. Now, on Whitney from
6 Jackson down to Washington there is no concrete sidewalk,
7 and from Whitney up to Highland there is no concrete side-
8 walk.

9 Q What would you suggest is the amount of area
10 between the curb and the houses or buildings in those areas
11 where there are no sidewalks that people normally walk on;
12 what width would you suggest that to be?

13 A Oh my!= This is quite a distance; as far as
14 from here to the back of the courtroom.

15 Q In some places?

16 A Yes, on Whitney there in the 200 block.

17 MR. HOLLOWELL: The witness is with you.

18 CROSS EXAMINATION

19 BY MR. LEVERETT:

20 Q Dr. Anderson, I call your attention once again
21 to Defendants' Exhibit 17, would you read the inscription
22 on that placard, please?

23 A "Walk, live and ~~work~~^{spend} in dignity."

24 Q Now, you stated that that related to the City
25 of Albany; now, that reference to "spend", that doesn't

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1 have reference to the City as such, does it?

2 A Well, if we consider the stores as being a part
3 of the City of Albany, yes.

4 Q I see. Now, the truth of the matter is, that
5 reference to "spend in dignity" was in effect an encourage-
6 ment to the public not to trade with these merchants?

7 A Not to trade where they are not treated with
8 dignity, that's correct.

9 Q And by not treated with dignity, you had
10 reference to the fact that your contention was that if
11 a merchant had 30 per cent. colored trade, that he should
12 employ colored clerks 30 per cent.?

13 A No, it should not be construed in that manner,
14 no.

15 Q How did you intend for it to be construed?

16 A Now, when I say "dignity", I merely mean that
17 an individual is afforded all of the services, he is
18 afforded equal job opportunities in the business establish-
19 ments in the city.

20 Q Is it your testimony that you have never advo-
21 cated either at a meeting or in discussion with any
22 merchants your demands or your insistence that he should
23 employ Negroes on a quota basis?

24 MR. HOLLOWELL: Now, if it please the Court,
25 there hasn't been any such testimony by this witness.

1 Mr. Hollowell:

2 He asked him a specific and direct question as to
3 what it meant and he explained what it meant, and
4 there was no testimony along the line that this
5 particular lawyer is seeking. He has just asked
6 the question and he answered it.

7 MR. LEVERETT: May it please the Court, they
8 have opened this up by putting in this picture which
9 shows the placard, and I think that I'm entitled to
10 elicit from this witness any information that I can
11 as to what was meant by this placard on this particular
12 occasion.

13 MR. HOLLOWELL: Well, I mean he can ask him
14 that and he did ask him and he did answer it. All
15 I'm objecting to, is it your testimony that you have
16 never at any meeting or this, that or the other,
17 pertaining to proportionate hiring policy on the
18 part of anybody; and there has been no testimony
19 to this effect; and so, I object to it.

20 THE COURT: I sustain the objection to the
21 question as phrased. I think it would be all right
22 for the witness to be asked whether one of the
23 meanings of that sign was the theory which you
24 propounded and he can say that it was or that it
25 wasn't; but I think the question as phrased is
objectionable.

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1 Q Mr. Leverett: Doctor, I will ask it this way:
2 Didn't you intend by that sign to convey the idea that a
3 merchant who had colored trade should employ colored people
4 proportionately to that trade?

5 A No, that was not the intent of the sign.

6 Q Now, will you identify this party right here in
7 Defendants' Exhibit 19? Who did you identify him as?

8 A That's Slater King.

9 Q Slater King?

10 A Yes.

11 Q And, of course, that picture only purports to
12 be a picture just of the immediate communication being
13 made between the police officer and Slater King, is that
14 not true?

15 A Well, I'm also here shown in the background.

16 Q Away in the background?

17 A Yes, so I could observe the situation from where
18 I was standing.

19 Q But that photograph itself only is primarily
20 concerned with these two parties right there in the fore-
21 ground, is that right?

22 A That's correct.

23 Q Now, Dr. Anderson, you state that you did not
24 hear Rev. King, Rev. Martin Luther King, say "Hit me";
25 you can't testify that he didn't say that, can you?

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CLAUDE JOINER REPORTING SERVICE

1 A I can testify that if it was said loud enough
2 for any one to hear it, I would have heard it; therefore,
3 I can say with all assurance that he did not say it.

4 Q But you don't know that though; that's just an
5 assumption on your part?

6 A I know it with as much intelligence as can be
7 secured.

8 Q Of course, it is possible that he made that
9 statement, is it not?

10 A Possible but highly improbable.

11 Q Now, who was this officer that you claim held
12 up his night stick?

13 A I have no idea of his identity by name. I
14 merely recognized him as being a police officer by his
15 uniform.

16 Q He was in a uniform?

17 A He was in a uniform, yes.

18 Q Did he have any insignia, indicating his rank?

19 A As I recall, there was nothing except, of course,
20 the badge. Now, I have been, of course, in contact with
21 police officers quite a bit in recent months and I can**
22 identify those of rank by some insignia. He had no insignia
23 which suggests that he had a rank above patrolman.

24 Q How tall, do you have any idea approximately how
25 tall he was?

1114

1 A Oh, he was approximately 5 feet 10.

2 Q What about his weight?

3 A Approximately 170.

4 Q What about the color of his hair or his eyes or
5 both?

6 A He had on a hat. I didn't look in his eyes.

7 Q Is it your testimony that you had never seen
8 that officer before?

9 A I said I did not recognize him by name. I prob-
10 ably had seen him before on occasions.

11 Q Can you recall whether you had in fact seen
12 him before on any other occasion?

13 A No, I could not specify ~~x~~having seen him at
14 any time before then.

15 Q What about subsequent to that occasion?

16 A Well, I haven't had the occasion to identify him.
17 I don't know whether I have seen him or not. I haven't had
18 the occasion to identify him since then. It was not signifi-
19 cant to me.

20 Q Oh, it was not significant; by that, do you mean
21 you're not certain whether he was holding up his stick in
22 a threatening manner or just what interpretation did you
23 put on his action?

24 A Well, I certainly thought for at least a fleeting
25 moment that he was raising the stick to strike someone. But

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1 now, of course, I cannot testify as to what his intentions
2 were.

3 Q I see; so, you don't know whether in fact he
4 was making a threatening gesture then?

5 A No, I don't know that.

6 Q And, of course, you did not at any time take
7 this up with Chief of Police Pritchett, did you?

8 A No, as a matter of fact, when he, of course, did
9 not strike, I had no complaint with the officer or with the
10 Police Chief.

11 Q Now, Dr. Anderson, will you state in as nearly
12 the exact language as you can recall precisely what you
13 stated to Mr. Roos on this occasion on the 13th and what
14 he stated to you in reply, as nearly a verbatim quote as
15 you can?

16 A Well, of course, I cannot recall the entire
17 conversation as relates to the general manifestations of
18 the protest, but it had boiled down to the point where I
19 asked him specifically, "Mr. Roos, can we get a permit
20 to have a prayer meeting before City Hall?" And his
21 reply was, "No, I can't do that."

22 Q Now, is it your statement that the letter that
23 you sent on the 19th of July subsequent to that was a
24 request for such a permit?

25 A Well now, you would have, of course, to be

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1 advised as to the things that transpired in the interim.

2 Q No, I'm just asking you as to your interpreta-
3 tion of that letter that you sent him on the 19th, whether
4 you intended that, whether you considered that to be in fact
5 a request for a permit?

6 A This was in compliance with what he had set
7 forth as being necessary to secure a permit.

8 Q In other words, Doctor, you're saying that you
9 had already been turned down orally and notwithstanding
10 that you then applied in writing?

11 A He said "We couldn't do that" and at the same
12 time he had said that there is a procedure that has to be
13 followed in securing a permit to parade; so that, I sent
14 a delegation of 2 or 3 persons to see Mr. Roos in person
15 to make a formal request; and at that time Mr. Roos
16 specified what would have to be, what information he
17 would have to have that is, before he could act on such
18 a request; wherein, I then submitted him a letter fulfilling
19 the requirements as he had stipulated to the delegation
20 that I sent.

21 Q I see; in other words, you're now saying that
22 you did not interpret the conversation with Mr. Roos on
23 the 13th as being a determination by him that such a
24 permit would not be granted?

25 A Well, it has been my experience that the City

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1 has not been consistent in the statements that they make;
2 that is, for example, if you want an example, today we
3 are permitted to picket for as long as an hour and a half;
4 tomorrow we can only picket for 10 minutes; the next day,
5 none. That is, the City has not been consistent in its
6 application of laws.

7 MR. LEVERETT: Now, just a moment, Your Honor,
8 I move to strike that on the ground that the answer
9 is not responsive.

10 THE COURT: Yes, at no time have you answered
11 the question.

12 A The Witness: Well, I said I could not inter-
13 pret this as being a final statement, based on my past
14 experience.

15 Q Mr. Leverett: But apparently, from the fact
16 that you say you sent a subsequent written communication,
17 that does indicate that you did not consider this oral
18 conversation to have constituted a final determination,
19 is that true?

20 A That's right, I did not consider it as being a
21 final determination.

22 Q Now, you just mentioned the fact that there
23 were some police at the church on several occasions in
24 the last few days: do you object to having police protection
25 out there?

1118

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1 A Not at all. I'm most happy to have them.

2 Q Now, didn't you in fact - haven't you people
3 anticipated violence in connection with your activities
4 of the Albany Movement?

5 MR. HOLLOWELL: If it please the Court, "haven't
6 you people" --

7 MR. LEVERETT: I will clarify that question
8 for the benefit of counsel and the witness.

9 Q Didn't you and other leaders of the Albany Move-
10 ment anticipate violence in connection with your activities?

11 A Anticipate to the extent that it has been our
12 experience in non-violent resistance movements, violence
13 has come to the people who are engaged in these non-violent
14 peaceful resistance movements.

15 Q And that is the reason that you have these
16 clinics, at which your members and the people who partici-
17 pate in these demonstrations are given lessons in how
18 to receive physical abuse without retaliating, is that
19 right?

20 A That is correct; that's the purpose of those
21 clinics.

22 Q Now, you testified about a march to Bethel
23 Church: what night was that conducted on?

24 A Well, of course, it wasn't a march. That was
25 just a group of people that decided they wanted to walk

11/19

1 from Mt. Zion over to Bethel; and this was on Saturday
2 evening about 7:15.

3 Q Were they marching in a procession of any sort
4 or just sort of a loose group walking down the street?

5 A They were walking two-abreast.

6 Q Did they have any placards or anything?

7 A No placards.

8 Q And they marched from the Mt. Zion and Shiloh
9 churches down Whitney?

10 A You keep using the word "march" and, of course,
11 I don't know what your interpretation of "march" is.
12 They walked from Mt. Zion.

13 Q Walked?

14 A They walked from Mt. Zion down ~~to~~ Whitney to
15 Washington, then north on Washington to Highland and,
16 of course, the church is situated at the corner of
17 Highland and Washington.

18 Q Washington is further out - let me see if I get
19 my bearings straight - which way is Washington with respect
20 to Jefferson Street?

21 A It is east of Jefferson.

22 Q Does it run parallel with it?

23 A It runs parallel to Jefferson.

24 Q So, that would be walking out towards Slappey Drive?

25 A No, no, east.

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1 Q Up this way (pointing)?

2 A Toward the River.

3 Q I see; and you walked up from the corner of
4 Jefferson and Whitney up to Washington, to the corner of
5 Washington --

6 A The corner of Washington and Highland.

7 Q And then marched from there to the Bethel Church?

8 A Yes.

9 Q Now, where is the Bethel Church situated?

10 A Well, the Bethel Church is situated on the
11 corner of Highland and Washington. We walked from Mt. Zion
12 at the corner of Jefferson and Whitney, east on Whitney,
13 across Jackson down to Washington; then, north up Washing-
14 ton to the corner of Highland and Washington.

15 Q Now, all up and down Whitney from the corner of
16 Whitney and Jefferson, that is predominantly residential
17 area, isn't it?

18 A From where?

19 Q From the corner of Whitney and Jefferson, where
20 the churches are situated, down to Washington; isn't that
21 area predominantly residential?

22 A As a matter of fact, it is all business the first
23 half of the block on Whitney, all business; and the last
24 half of the block on Whitney up approaching Jackson is all
25 business.

1121

1 Q How many businesses are located in there, do you
2 know?

3 A 1, 2, 3, 4, 5, 6, 7,8, 9, 10, 11 (counting) . . .
4 About 15.

5 Q Do these businesses front on Whitney?

6 A Front on Whitney.

7 Q And how many residences are in there, do you
8 know that?

9 A There are quite a few residences in there.
10 I would say as many as 50 residences in there.

11 Q 50 residences; in fact, that street is not,
12 you would not consider that one of the main thoroughfares
13 in the business section, would you?

14 A Jackson Street certainly is one of the main
15 thoroughfares.

16 Q And you went across Jackson?

17 A We went across Jackson Street.

18 Q In fact, the load of traffic on that street is
19 nothing to compare with the traffic on Oglethorpe or the
20 traffic on Jackson further up toward Oglethorpe into town,
21 is it?

22 A I would have to agree with that; it's not
23 anything like as heavy as downtown.

24 Q Now, when this group of people walked, as you
25 say, to Bethel Church, how many people were in that group

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1 that were actually in the procession?

2 A How many people were walking from Mt. Zion over
3 to South - I mean over to - in the column?

4 Q In the column of 2's?

5 A I estimate it as approximately 200.

6 Q Were there any others following along behind or
7 by the side of them?

8 A Yes, quite a few.

9 Q Approximately how many?

10 A Oh, probably an additional 150 or 200.

11 Q Now, in this group of spectators following along
12 as you mentioned, was there any cursing?

13 A No.

14 Q Were there any rocks being thrown?

15 A Not as I know of.

16 Q What about any threats being made?

17 A Not as I know of.

18 Q Were there any white people along the path of the
19 walk?

20 A Yes sir.

21 Q In other words, this occasion was not the same
22 as some of the othersthen?

23 A It was identical so far as I can see.

24 Q Well, you've heard all of this testimony about
25 the throwing of rocks and cursing on these other occasions

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1 when they came up Jackson, and yet, you just testified that
2 those same circumstances didn't exist on this occasion?

3 MR. HOLLOWELL: Now, if it please the Court, I
4 object to that because there has not been any
5 testimony that there have been any rocks being
6 thrown on these other occasions. There has been
7 testimony to the effect that on the occasion of
8 this night, I believe it was the night of the 24th,
9 that there had been some rocks thrown, as I recall
10 it. But when he says "on all of these other occasions",
11 there has been no such testimony.

12 MR. LEVERETT: May it please the Court, I think
13 the record speaks for itself; and I specifically
14 recall July 21, July 24 and, if I'm not mistaken -
15 my fellow associates can correct me on this - there
16 was also some testimony about some boisterousness
17 on some of these nights or rather some of these
18 occasions in December.

19 THE COURT: Well, on the occasions whenever
20 it occurred, let's let it go like that; on the occasion
21 or occasions whenever it did occur. Certainly that
22 would be all right.

23 A The Witness: I'm afraid I've forgotten the
24 question.

25 MR. LEVERETT: Read the question back, Mr.
Reporter.

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1 THE REPORTER: (Question): "Well, you've heard
2 all of this testimony about the throwing of rocks and
3 cursing on these other occasions when they came up
4 Jackson and yet you just testified that those same
5 circumstances didn't exist on this occasion?"

6 THE COURT: So, you interpret that question,
7 Mr. Witness, as being on the occasion or occasions
8 when it did occur.

9 A The Witness: I don't, I still don't know
10 quite how to answer that, with a yes or no, if that's
11 what you're asking. I can give you my interpretation.

12 Q Mr. Leverett: Answer it yes or no, if you can,
13 and then you can explain your answer?

14 A Would you rephrase the question? It's a little
15 difficult to get a yes or no out of it.

16 MR. LEVERETT: Read the question back once
17 more then, Mr. Reporter.

18 THE REPORTER: "Question: Well, you've heard
19 all of this testimony about the throwing of rocks
20 and cursing on these other occasions when they came
21 up Jackson, and yet, you just testified that those
22 same circumstances didn't exist on this occasion?"

23 A The Witness: That is correct. And to explain
24 further, I have no knowledge at any time of any of the
25 persons who were participating in any protest having thrown

1 any rocks or any bottles at any time. I have heard that
2 on one occasion, specifically July 1, that there were
3 some rocks and bottles thrown by persons other than those
4 who were engaged in the protest.

5 Q Mr. Leverett: Now, Doctor, doesn't this indicate
6 to you that your marches and the spectators that follow
7 along from the churches and up the streets, that if these
8 marches are conducted peaceably and orderly that you will
9 not have any difficulty?

10 A It cannot suggest that at all, sir, because there
11 have been many instances whereby there was not even any
12 allegation of rocks being thrown or bottles being thrown,
13 and yet, these peaceful protests resulted in arrests.

14 Q But the fact of the matter is, as you've just
15 testified, that on this occasion a few days ago, that there
16 was none of this cursing or rocks being thrown or any threats,
17 and that your procession moved along all right; now, is that
18 correct?

19 A That is correct, and also on December 12, December
20 13, December 14, December 16, when protests were going on
21 in the same manner there were no rocks being thrown and no
22 bottles being thrown, but these persons were arrested.

23 Q It is your testimony that you know of your own
24 knowledge that there were no rocks thrown or no cursing or
25 no threats made on any of those occasions?

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1 A I know that no reports have come to me; there
2 were no allegations; there was nothing to suggest it, by
3 newspaper reports or reports from the Police Department,
4 and so forth.

5 Q You were not participating in any of those
6 marches, were you?

7 A Yes sir, I was.

8 Q On which of those occasions did you participate
9 in them?

10 A I was walking down the street to the City Hall
11 on December 16.

12 Q And at that time you had not obtained a permit,
13 had you?

14 A A permit for what, sir?

15 Q For a parade or demonstration or procession?

16 A Well, I wasn't parading and I wasn't in a
17 procession.

18 Q How many people were with you?

19 A Some 700.

20 Q Some 700?

21 A Yes sir.

22 Q Walking down South Jackson up toward Oglethorpe?

23 A Yes sir.

24 MR. LEVERETT: That's all.

 THE COURT: Anything further?

25 MR. HOLLOWELL: Yes, Your Honor.

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REDIRECT EXAMINATION

1 BY MR. HOLLOWELL:

2 Q Now, Doctor, in response to one question asked
3 by Mr. Leverett, pertaining to this one occasion that you
4 had received reports of some rock throwing, you said July 1?

5 A The 21st.

6 Q Which - Did you mean that?

7 A 21st.

8 Q The 21st or 24th?

9 A The 24th, I beg your pardon. That was July 24,
10 on a Tuesday, Tuesday night.

11 Q Now, when you answered Mr. Leverett at the time
12 he propounded the question, did you consider the statement
13 by Mr. Roos on the 13th in the Chief's office, to the effect
14 that he could not do that as a final determination, or that
15 you did not consider it as a final determination, did you
16 mean to import that you did not consider it a final determi-
17 nation as of the request made at that time? Do you
18 understand the question?

19 A Oh yes, that's right. This was merely, I inter-
20 preted his response as being responsive to the question put
21 at that time; that is, the request was made at that time
22 and his response related to that specific time only.

23 I don't think --

24 Q You considered it final as to that occasion?

25 A As to that time, that's right, not for any future

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time or any past time, just for that time.

MR. LEVERETT: May it please the Court, I think this witness has already testified directly to the contrary and now he's changing his story and I think counsel is trying to pull him out.

THE COURT: I don't know about whether he's contradicted himself or not. I will decide that when I review all of this record; but I do suggest that counsel not lead him.

MR. HOLLOWELL: That's right. I thought this was what he was saying and I was trying to determine whether this was in fact what he had said.

Q Mr. Hollowell: Now, I believe you indicated further that you have been in certain of these groups when they have moved from the church in the direction of City Hall, prior to the 16th of December, is that correct?

MR. RAWLS: I object to that on the ground that it is leading.

THE COURT: Yes.

MR. HOLLOWELL: It's not leading at all Your Honor. I'm asking him a question as to something which I believe he has already testified to. I can rephrase it, sir.

THE COURT: Then, why go over it again.

MR. HOLLOWELL: Well, I wanted to be sure that

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1 Mr. Hollowell:

2 this was it because I was using that as the basis for
3 another question I wanted to ask.

4 THE COURT: Suppose you rephrase it.

5 I think it's leading in the form in which you asked it.

6 Q Mr. Hollowell: I will just ask directly. Doctor,
7 did you have the occasion to participate with groups who
8 were going from churches in the vicinity of Whitney and
9 Jackson or Whitney and Jefferson, namely Mt. Zion and Shiloh,
10 as they walked in the direction of the city hall, at any
11 time prior to the 16th of December?

12 A Yes, I did. As a matter of fact, on December,
13 of course, this group did not originate from these churches
14 but we were walking around the downtown area in the blocks
15 of Pine, Washington, Washington to Broad, and Broad down
16 to Jackson again in protest.

17 Q Now, were there other occasions prior to the 16th
18 where there were groups that walked similarly?

19 A There were other occasions when I was not there,
20 but to my personal knowledge, I have observed it.

21 Q Let me ask you this, as the President of the
22 Albany Movement, do you have the occasion to review the
23 charges which are made against any of the persons who may
24 have been arrested in connection with one of these groups
25 which have been walking and protesting?

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A Absolutely. I make it my business to ascertain what charges have been brought by the Police Department immediately after the arrest.

Q Then, prior to December 16, had you at any time been asked for a parade permit by any police officer or were any other persons to your knowledge who were leading such a group ever asked for a parade permit by anybody from the police department?

A No, and, as a matter of fact, there had not been any arrests made prior to December 16 for parading without a permit, by any of these persons.

MR. HOLLOWELL: We have no further questions.

MR. LEVERETT: Come down.

THE COURT: You may go down.

MR. MARION S. PAGE

a party Defendant, and called in behalf of Defendants, being first duly sworn, testified on

DIRECT EXAMINATION

BY MR. HOLLOWELL:

Q Would you give your name for the record, sir?

A Marion S. Page, 605 Mercer.

Q What, if any, office do you hold in the Albany Movement, sir?

A I am --

Q You'll have to speak, up sir.

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1 A I am the Executive Secretary and Financial
2 Secretary to the Treasurer.

3 Q Now Mr. Page, I show you D-28 and ask whether
4 or not you had the occasion to either send or be a part
5 of the group sending or have any knowledge at all concern-
6 ing that letter?

7 A Yes, I did.

8 Q Were you here at the time that the Mayor was on
9 the stand?

10 A I believe that I was.

11 Q Would you indicate whether or not there have
12 ever been any reports which came to you pursuant to the
13 matters contained in that letter, which indicate that the
14 rock throwing in the vicinity of Albany State College was
15 being done by persons of Negro extraction?

16 A No, I haven't had any reply of any type.

17 Q Was that the reason for the letter being sent?

18 A That was one of the reasons for it, rock throwing
19 and breaking out of windows of ministers, and rock throwing,
20 bottle throwing, cutting girls' legs over at Albany State.

21 Q By whom?

22 A Those were white youths. They were apprehended.

23 Q They were apprehended?

24 A They were apprehended.

25 Q By whom?

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1 A By some of the police or either the night watch-
2 man or one of the heads of the dormitories over there.

3 Q Were they prosecuted?

4 A They were taken to court and the charges were
5 dropped.

6 Q Do you know who they were dropped by?

7 A At the instance of someone at the College.

8 Q Now Mr. Page, you were also here, I believe,
9 at the time that Mr. Sweeting was on the stand?

10 A That's correct.

11 Q And he mentioned the fact, I believe, that there
12 had been some conference, I believe at your house?

13 A That's true, two.

14 Q Two?

15 A Yes.

16 Q Would you relate - strike that please - did you
17 hear him indicate that he knew of no reason why the persons
18 of color in the City were failing to use the busses?

19 A I guess that needs a little explanation.

20 Q I mean you heard it?

21 A I heard the conversation, all of it.

22 Q I'll ask you if you know why?

23 A He attempted to explain that the Negroes were
24 responsible. That was at the first meeting.

25 Q You say were or weren't?

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1 A Were. He attempted to make them responsible,
2 Sweeting did.

3 Q Oh, I see; you say he attempted to?

4 A Yes, he attempted to do so.

5 MR. LEVERETT: May it please the Court, I think
6 he ought to specify what he's talking about. I don't
7 even know what he's talking about, responsible for
8 what.

9 THE COURT: I'm not clear on it either yet;
10 maybe it will develop.

11 Q Mr. Hollowell: Well, let me just ask the
12 specific question, if I might: Was there or was there
13 not an incident on the bus which was related to Mr.
14 Sweeting, which gave rise to Negroes refusing to further
15 ride the busses under those circumstances?

16 A There was.

17 Q Now, what was that situation?

18 A A young lady was taken off of the bus and
19 placed under arrest for failure to sit in the proper
20 place. That's what it was.

21 Q Was she Negro or white?

22 A ^o _s he was Negro.

23 MR. LEVERETT: May it please the Court, we object
24 to that on the ground that it's hearsay, it's not shown
25 that this witness has first-hand knowledge of it; and

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1 Mr. Leverett:

2 that the police records would be the highest and best
3 evidence of what any arrest was made for.

4 MR. HOLLOWELL: May it please the Court, we are
5 merely seeking to relate the information which was
6 presented by Mr. Page to Mr. Sweeting at the meetings
7 that have already been testified to; not that he is
8 seeking to relate what the actual situation was, but
9 this goes to the meeting which was had and what the
10 report was which was related to Mr. Sweeting at the
11 time of the meeting which has already been discussed
12 in the hearing.

13 THE COURT: Well without going into any
14 details of the incident, obviously this witness
15 could only have information of it by hearsay about
16 the specifics of any incident, I will allow you
17 to ask him if he related to Mr. Sweeting that the
18 people in the colored community in the City did have
19 a complaint, but without going into any specifics of
20 any particular case.

21 Q Mr. Hollowell: Do you understand the question
22 as it has been indicated by the Judge? In other words, did
23 the Negroes have a complaint concerning the use of the
24 busses and were those complaints propounded to Mr. Sweeting?

25 A They were propounded to Mr. Sweeting and they had

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1 complaints.

2 Q Did they pertain to the treatment of Negroes in
3 the use of the busses?

4 A Correct, they did.

5 Q You've had the occasion to be on or to be with
6 persons who had meetings with the Chief of Police?

7 A Yes, I have.

8 Q Do you remember any specific meetings at which
9 you were discussing matters pertaining to the segregation
10 policies and the matters pertaining to the arrests, and
11 matters pertaining to the getting of Negroes out of jail,
12 those who had been arrested in connection with the Movement;
13 have you had any such discussions?

14 A That's correct.

15 Q I will ask you whether or not on one of those
16 occasions the Chief at the particular time, I believe this
17 was meeting on or about June 10, indicated that "this is
18 a matter of mind over matter, and you don't mind or you
19 don't matter and I don't mind". Do you remember what
20 provoked that statement? Or maybe I had better ask him
21 first, do you recall any such statement?

22 MR. LEVERETT: May it please the Court, this
23 is his witness and counsel is astute counsel and he
24 knows he can't lead this witness.

25 MR. HOLLOWELL: I'm asking him whether or not he

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Mr. Hollowell:

ever heard any such statement.

THE COURT: All right.

-----Q Mr. Hollowell: Who made it?

A It was made by Chief Pritchett.

Q Do you remember the occasion?

A He was talking to Searles, A. C. Searles.

Q Searles, S-e-a-r-l-e-s (spelling)?

A Cofrect.

Q Do you remember what it was said in response to?

A It was something about Moultrie having put some Negro policemen on down there and the proposal was made by Searles --

Q You'll have to speak up, sir?

A There was some statement by Searles that Moultrie had put policemen on in an attempt to solve their differences and why didn't Albany do it; and it seemed to have irked the Chief somewhat. And that's what provoked the statement.

MR. LEVERETT: May it please the Court, I object to what appeared to provoke the Chief as a conclusion of the witness and not responsive to the question.

THE COURT: Well, I'll allow it.

____Q Mr. Hollowell: And you say this statement seemed to irk him and this was when he said "that's a matter of mind

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CLAUDE JOINER REPORTING SERVICE

1 and matter, and I don't mind and you don't matter"?

2 A I think the statement was, "it's a case of mind
3 and matter, I don't mind and you don't matter", something
4 like that. That's about it.

5 Q Do you know what Mr. Searles does?

6 A He's newspaper publisher.

7 Q What paper does he publish?

8 A The Southwest Georgian.

9 BY THE COURT:

10 Q In other words, that was a statement you say was
11 made to a Mr. Searles?

12 A That's correct.

13 Q It was not made to you?

14 A No sir, it wasn't to me.

15 BY MR. HOLLOWELL:

16 Q Was it made in your presence?

17 A Yes sir.

18 Q Who else was present?

19 A Oh, Slater King, C. B. King; and let's see who
20 else there was. There was a minister there. I think it was --

21 Q A little louder, sir?

22 A Wells, not Wells - I'm sorry, that's incorrect -
23 Rev. Gay.

24 Q What is the racial complexion of Mr. Searles?

25 A He's Negro.

1138

1 Q Were there any other persons, other than the
2 Chief, who fell into a bracket other than Negro?

3 A The Chief was the only white person present,
4 if that's what you're saying.

5 MR. HOLLOWELL: I don't believe there are any
6 other questions for this witness at this time.

7 BY THE COURT:

8 Q What is Mr. Searles' connection with the Albany
9 Movement?

10 A He's editor of the paper and publishes the news
11 releases in his own manner. That's all I see. He's been
12 over there taking notes every day until today.

13 Q I mean, is he an official of the Albany Movement?

14 A No.

15 Q So, this statement was not made to any official
16 of the Albany Movement but it was made to Mr. Searles, is
17 that right?

18 A It was made - we were - I think, to explain that,
19 Your Honor, we was trying to arrive at some sort of negotia-
20 tions possibility in the Chief's office. Searles was appoint-
21 ed to go along there to cover the news.

22 Q As a news man?

23 A As a news man.

24 Q All right, he was a news man and the statement
25 was made to him?

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1 A Yes sir.

2 THE COURT: Anything further?

3 MR. HOLLOWELL: Go ahead and examine him.

4 CROSS EXAMINATION

5 BY MR. LEVERETT:

6 Q Now, this meeting you said that you had with Mr.
7 Sweeting?

8 A I said there were two meetings.

9 Q Two meetings?

10 A Yes.

11 Q At either one of those meetings did you or your
12 group take the position that the Bus Company should employ
13 Negro drivers?

14 A After some discussion, yes.

15 Q And also, you took the position that it should
16 be on a proportionate basis, proportionate to the volume
17 of Negro trade, didn't you?

18 A Not necessarily.

19 Q What do you mean by "not necessarily"? Was it
20 brought up at all?

21 A It was brought up, yes.

22 Q Who brought it up?

23 A Who brought it up?

24 Q That's right?

25 A One of us present brought up the question about

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1 that. To say that I remember exactly which one, I wouldn't
2 be correct. I participated in the deliberations along
3 with others.

4 Q And what was said about that?

5 A There was an offer made, not by Mr. Sweeting
6 at the first meeting but by Mr. Carter, who is the President
7 of the City Transit Company at the second meeting, that they
8 would hire two Negro operators.

9 THE COURT: Now, since nobody is objecting
10 on behalf of the Defendants, I'll take it upon myself
11 to call counsel's attention to the fact that I do not
12 intend to go into these side issues, which will be
13 pertinent in other litigation to come. We are now
14 getting into that, into these conversations about
15 particular complaints and so on; and I don't desire
16 to go into and it is not appropriate to go into any
17 of these complaints, particular complaints or demands
18 that were made, which will have pertinence in the
19 other litigation.

20 Q Mr. Leverett: At these two meetings that you
21 say you attended, did you or any of the people representing
22 the Albany Movement with you indicate to Mr. Sweeting or
23 anyone else with the Bus Company, that you would withhold
24 your patronage, if he did not accede to your demands?

25 A I don't know that I can answer that with a yes or no,

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1 because there are some other factors involved. In negotia-
2 tions everything isn't answered or asked questions as the
3 attorneys put it. You've put the onus on me of trying to
4 answer a question which wasn't asked and puts me in the
5 wrong position. If you ask me what was said, then I'll tell
6 you, because then I can answer.

7 Q Well, let me re-state it: Didn't you or someone
8 with you make a demand that they employ Negro drivers and
9 that if they did not, that you would encourage others not to
10 patronize them?

11 A There were no demands made.

12 Q Then, you don't deny that, in fact, the Albany Move
13 ment did call a boycott of the Bus Company, do you?

14 A We didn't call it. The people called it them-
15 selves. If you want the circumstances, I will relate them.

16 Q The people called it themselves?

17 A The people themselves.

18 Q But that had been discussed at some of the meetings
19 at the Church, hadn't it?

20 A What had been? The boycott?

21 Q The matter of boycotting the busses, yes?

22 A Not until they themselves decided they weren't
23 going to patronize them.

24 Q Who decided they were not going to patronize them?

25 A The people from the floor, definitely.

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Q From the floor of the church?

A From the floor at the church; yes sir, at Shiloh Church.

Q After speeches had been made?

A Not necessarily relating to that.

Q But speeches had been made?

A Some speeches.

Q These meetings were sponsored by the Albany Movement?

A The movement to which you refer was sponsored by the Albany Movement.

MR. LEVERETT: He's with you.

THE COURT: Anything further from this witness?

MR. HOLLOWELL: I don't think so, Your Honor.

THE COURT: You may go down.

MR. SLATER KING

a party Defendant, called in behalf of Defendants and duly sworn, testified

DIRECT EXAMINATION

BY MR. C. B. KING:

Q For the record state your name, please?

A My name is Slater King.

Q Mr. King, I call your attention to the month of December and ask you whether or not you had an occasion

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CLAUDE JOINER REPORTING SERVICE

1 to be arrested, this is December, 1961?

2 A Yes, I did.

3 Q Would you relate what, if anything, happened
4 surrounding your arrest?

5 A You mean, why was I arrested or what motivation
6 made me be arrested?

7 Q What were you doing at the time of your arrest?

8 A I went down to the courthouse or the city hall
9 with a group of people who had like commitments. I had
10 been shocked beyond belief to see that the City had so much
11 contempt for its black citizenry.

12 MR. LEVERETT: Now, May it please the Court, I
13 object to this witness making a speech on the stand.
14 He's made enough already, we think.

15 A The Witness: Thank you, sir.

16 MR. HOLLOWELL: Now, I object to the statement
17 made by counsel to the effect that he's already made
18 enough speeches as not being appropriate.

19 THE COURT: Let's resolve the situation this
20 way. I don't think that there's any occasion for the
21 use of the language of the type which was just used.
22 He may state the facts, what the facts were.

23 Q Mr. C. B. King: What specific reason --

24 A ^D_b But I object to this because I'm proud of being
25 a black man and I don't wish to say Negro, Your Honor.

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1 I mean, is this contemptuous to the Court.

2 THE COURT: Well, I'm not sure that I under-
3 stand the witness' question.

4 A The Witness: I refer to "colored people" as
5 "black citizens" and this is the way that I prefer to do it.
6 Is this contemptuous to the Court?

7 THE COURT: Oh no, no. My admonition to you
8 was to refrain from using language which is indicative
9 of simply an opinion on your part or some interpretation
10 you are placing on some action. You can use the term
11 that you have used or you can use any other term you
12 want to use but refrain from expressing your opinion.
13 Counsel, maybe you can help him.

14 Q Mr. C. B. King: Simply state what you were
15 doing at the time of your arrest?

16 A I was quite shocked by the action that had been
17 taken by the City --

18 MR. LEVERETT: May it please the Court --

19 Q Mr. C. B. King: Just what were you doing at the
20 time of your arrest?

21 A I was standing --

22 Q Were you standing, were you kneeling?

23 A I was kneeling in prayer.

24 Q And what happened?

25 A They don't allow you to pray in front of the City
Hall.

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CLAUDE JOINER REPORTING SERVICE

1 Q Might I indicate, would you respond to the question;
2 What happened as you prayed?

3 A I believe that the Chief came out and said, "who's
4 the leader down here?" And I said, "Well, no one is the
5 leader but I'm the spokesman, myself and Mrs. Wright."
6 And so, he said, "The Judge wants to see you upstairs" and
7 we were summarily called upstairs and the Judge was called
8 to begin court immediately. I think he was called from
9 his office. And so, I guess the decision was to be made
10 then, but we demanded that we have counsel to represent us.
11 So, they allowed us. I was sentenced, I was the only one
12 who was sentence out of the people to five days for con-
13 tempt of court, I believe.

14 Q What happened pursuant to your sentence?

15 A Pursuant? You mean before?

16 Q This is to say, were you then put in jail?

17 A Yes, I was then put in jail.

18 Q Then, what happened?

19 A After I was put in jail, I was put in a very
20 filthy place, they call it a bull-pen where they put City
21 work prisoners. It has three tiers where you sleep.
22 There's only one little place where air can come in and
23 another vent you can look out of.

24 THE COURT: Counsel, before the witness goes
25 further, we've had occasion previously now to point out

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1 The Court:

2 the rule on this same type of evidence. Of course, I
3 don't know whether that's what we're getting into here
4 again or not. In other words, if counsel is seeking
5 to bring out or if the witness is about to testify
6 without counsel seeking to do it, some treatment,
7 about some mistreatment or something of that nature
8 after an arrest and so on; that, of course, I am sure,
9 counsel will agree would not be pertinent in this case.
10 It would be in another suit of another type but not in
11 this suit.

12 MR. C. B. KING: If Your Honor pleases, counsel
13 takes the position that, as the Judge anticipates,
14 that counsel is interested in eliciting information
15 from this witness which relates to brutality which he
16 received at the hands of those who in this instance
17 seek relief based on alleged violence, created and
18 otherwise emanating from activities of the Defendants
19 in this particular case.

20 I would submit, further, Your Honor, that
21 admittedly this same testimony would be relevant in
22 another forum or as relates to a complaint which has
23 already been filed; but I would submit that at the
24 same time this is only incidental and this would not
25 in any way exclude the response of these Plaintiffs

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1 Mr. C. B. King:

2 showing to this Court that they have entered into this
3 suit with clean hands.

4 THE COURT: Mr. King, I want to make myself
5 clear because I don't see any point in going over
6 this time and again. I have heretofore ruled and
7 I now rule that evidence about particular incidents
8 which might be the subject-matter of other suits,
9 which might be pertinent in connection with suits already
10 filed and which might be pertinent in connection with
11 suits which might yet be filed, have no bearing on the
12 issue before me here; and whether a prisoner, after
13 his arrest or after his being placed in jail, either
14 before or after sentence doesn't make any difference,
15 whether he receives some mis-treatment at the hands
16 of some police officer - and I am not indicating
17 whether he did or not but I am saying whether he did
18 or not - would not be material in the trial of the
19 issues in this case which is before me.

20 And let's pass on to something else other than that.

21 MR. C. B. KING: If Your Honor pleases, then
22 counsel takes the position of requesting of this Court
23 permission to proffer the witness as regarding this
24 treatment, and not only as relates to this particular
25 witness but others.

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1 THE COURT: Now, my ruling on that is this:
2 that in the judgment of the Court the evidence will be
3 clearly inadmissible and, therefore, I decline your
4 request to proffer. In the judgment of this Court
5 the evidence would be clearly inadmissible. Now, let's
6 go on to some other evidence of some other type.

7 MR. KING: Then, responding to the determi-
8 nation of the Court, Your Honor, counsel would like
9 to make it clear for the record that we would like to
10 get into the record the names of those persons whose
11 testimony would have been elicited, had the Court's
12 ruling been otherwise.

13 THE COURT: Simply the names of the persons?

14 MR. KING: The names of the persons.

15 THE COURT: I will allow you to do that.

16 MR. KING: Pertaining to brutality by the
17 police officers of the City of Albany.

18 THE COURT: I will allow you to put their
19 names in the record, so that you can identify them.

20 MR. KING: And indicate further those who
21 have been arrested by them in this connection.

22 THE COURT: I will allow you to supplement
23 the record to that extent.

24 MR. KING: The present witness, who is
25 Slater King;

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Mr. C. B. King:

Donna Greenlee;

Veronica L. Brooks;

Robert Calvin Price,

Annie Lou Herring,

Charles Joseph Jones, a defendant in this particular matter;

LeRoy Tobbie;

Leo Williams;

Bobby Holloway;

Ulysses Cauley;

Williamx Hansen, Jr.

Rosa Lee Guilford;

Samuel Guilford;

Charles Sherrrod; and

C. B. King, attorney in this case.

No further questions.

THE COURT: Any questions from this witness?

MR. LEVERETT: Come down.

THE COURT: You may go down.

MR. HOLLOWELL: If it pleases the Court, I don't know what the lunch time is going to be but, if I might suggest to the Court respectfully, that if we might be permitted to take the luncheon break now, it might be that while we are talking and having lunch,

1150

1 Mr. Hollowell:

2 we may be able to see wherein we may be able to
3 bircumscribe manythings which might be put in evidence
4 and might shorten the trial.

5 THE COURT: I appreciate you making that
6 suggestion. We will now take a recess until 2 o'clock.

7 LUNCH RECESS: 12:30 PM to 2:00 PM - 8-8-62

8 MR. HOLLOWELL: Call Chief Pritchett for
9 cross examination.

10 MR. LEVERETT: The Chief is not here right now.

11 THE COURT: Can you proceed with anybody
12 else?

13 MR. RAWLS: Your Honor please, I would like
14 to call the Court's attention to the fact that the
15 Chief has already been subjected to a right sifting
16 cross-examination.

17 MR. HOLLOWELL: May it please the Court, we
18 would like a moment to see the exhibits for the
19 Plaintiffs in the case, those that are in evidence.

20 MR. LEVERETT: May it please the Court, I am
21 informed that the Chief is on his way.

22 DEPUTY MARSHAL: Here he is now.

23 THE COURT: Now, before you get into your
24 cross examination of this witness, this witness was
25 on the stand about a day and a half, as I recallit, and

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1 The Court:

2 has already been cross-examined rather extensively, and
3 I trust we won't do any repeating in connection with the
4 cross examination.

5 MR. HOLLOWELL: That is correct, Your Honor.

6 CHIEF OF POLICE, LAURIE PRITCHETT

7 1st witness called in behalf of Plaintiffs,
8 duly sworn, being recalled by Defendants,
9 testified further on

10 RE-CROSS EXAMINATION

11 BY MR. HOLLOWELL:

12 Q Chief Pritchett, would you indicate for the
13 record what, if anything, the Defendant, M. S. Page, has
14 done or is doing that you desire to have enjoined?

15 A Marion Page is working in concert with Dr.
16 Anderson, Dr. Martin Luther King and Abernathy, Charlie
17 Jones, attorney C. B. King, who is a member of the Albany
18 Movement on the strategy committee and parliamentary
19 committee, and others to violate the City ordinances of
20 the City of Albany, to violate State laws, and through
21 their activity to incite and arouse the Negro people and
22 other people in this County to the tension spot we are in
23 today.

24 Q Now, you covered a lot of ground, Chief; let me
25 see if I can narrow it down in order to get it specific:
you say that he is working in conjunction with the other

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1 named Defendants?

2 A That's what I said.

3 Q Doing what now?

4 A Encouraging.

5 Q Encouraging what?

6 A Encouraging the masses of Negro people who
7 attend these Albany movements.

8 Q Who attend what?

9 A Who attend the Albany Movement meetings, mass
10 meetings.

11 Q All right, now hold it right there a moment.
12 Now, are you seeking to have this Court enjoin the Defendant
13 Page from encouraging Negroes to attend mass meetings?

14 A We have never --

15 Q Could you answer yes or no and then explain?

16 A I would like to answer that, Your Honor -

17 THE COURT: Just give him a chance to,
18 Mr. Hollowell.

19 MR. HOLLOWELL: Well if it please the Court,
20 I want to get it clear in the record--

21 THE COURT: Just a minute, I'll attend to
22 that. You give him a chance to answer and if his
23 answer is not full, we'll straighten it out.

24 MR. HOLLOWELL: Maybe I need to get the record
25 clear for myself --

THE COURT: Just a minute! Mr. Pritchett,

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1 The Court:

2 answer the question yes or no and then you can explain
3 your answer anyway you want to.

4 A The Witness: I would answer it no, that we're
5 not attempting to stop their mass meetings that they hold
6 in these churches. As a matter of fact, we have encouraged
7 and facilitated police protection at these mass meetings,
8 to see that they held them without interruption from anybody.

9 But what we do seek relief from is the masses
10 that leave these churches after inciting, after these people
11 being incited by the speakers there in order to violate our
12 laws, to violate our statutes, state statutes and incite
13 them to create the disturbances which we have here now;
14 and them leaving those churches and inciting to violate
15 our ordinances and State laws, coming up town in mass
16 demonstrations and in mass defiance of City ordinances,
17 has caused us the strife that we are in today.

18 Q Mr. Hollowell:^{So} That, No. 1, as I understand it,
19 you would seek to enjoin - you would not seek to enjoin the
20 mass meetings, and anything that this Defendant Page would
21 have to do with encouraging mass meetings - this is your
22 testimony, is that correct?

23 A That's my testimony.

24 Q Now, what is the next thing that you want to -
25 you say that one you don't want to enjoin; now, give me

1 the next one thing, so that I can have it clear, that you
2 want to enjoin?

3 A I would like to have the paper, the injunction
4 which we are seeking to have signed, if I may?

5 Q (Pleadings in suit on trial handed to witness) . .

6 A We are in hopes and pray to this Court that we
7 have some relief here to stop these people from inciting --

8 Q Well, excuse me just a moment, sir; we're not
9 talking about "these people", we're talking about the
10 Defendant Page?

11 A I'm talking about M. S. Page myself.

12 Q Allright.

13 A -- from sponsoring or financing or inciting or
14 encouraging unlawful picketing, parading and marching in
15 the City of Albany, from engaging or participating in
16 any other unlawful congregation or marching in the streets
17 or other public ways of the City of Albany; or from doing
18 any other act designed to provoke breaches of the peace
19 or from doing any act in violation of the ordinances and
20 laws therein.

21 Q Now, which of these did the Defendant Page do?
22 Name one, one by one; name them one by one?

23 A I don't think he has violated an ordinance
24 by his own speech to me and his own statement to me,
25 that he has not participated in any of them, but he has

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1 directed participation in it from other people.

2 Q Who did he direct?

3 A The masses.

4 Q When?

5 A In his statement to me he stated that he did not
6 participate because he had to stay in the background, but
7 he instructed other people as executive officer or the
8 Secretary of the Albany Movement, along with Dr. Anderson,
9 Slater King and other members of the executive committee,
10 to incite these people to defiantly violate the laws of the
11 City of Albany or any other law which is unjust in their
12 minds or which in their own conscience is unjustly applied
13 to them.

14 Q Do you say that this man has done that?

15 A I say he has.

16 Q When did he do that? When did he make any state-
17 ment calculated to incite the doing of any of the things
18 that you have just enumerated?

19 A I would say he has done it any time ^{he} has appeared
20 before the people.

21 Q I want to know when has he appeared or you are
22 charging him with specific acts; I want to know when did he
23 do the acts to which you relate here?

24 A On numerous occasions. I don't know the exact
25 times. He in his own person to person contact with me in

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1 my office, with him and with others, has never denied it.

2 Q Well, I'm asking you, since you are the one
3 making the charge, to indicate any statement that he has
4 made and any time that he has made any such statement
5 calculated to do the things that you have just mentioned
6 in your testimony?

7 A What has been told to me has been told to me
8 from mouth to ear back to me by other people who are
9 connected with the Albany Movement, him and other people.

10 Q So that, at no time have you ever heard this
11 Defendant make any statement calculated to have the effect
12 which you have testified to since you have been on the
13 stand this afternoon?

14 MR. LEVERETT: May it please the Court, I wish
15 to interpose objection. The witness has answered the
16 question. Counsel asks the question in one sense and
17 then turns around and asks another question in a
18 different sense and he hasn't made it clear to the
19 witness in which sense he is referring to now. The
20 Witness testified that Page talked to him and told him
21 that he had been engaged in some of the activities of
22 the Albany Movement; and the Chief, as I understand,
23 didn't testify that he had been there and seen him;
24 but he testified that he told him, the Chief, that he
25 had done these things; and I think counsel should make
it clear.

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THE COURT: That's the way I understand the testimony too; but the question is now, when has the Witness seen the Defendant Page do any of these things. Of course, if the Witness hasn't ever actually seen him or if he has seen him, the Witness can so state. Have you seen him, Mr. Witness?

A The Witness: I've never been in the Church but once and he wasn't there at the time I was there.

THE COURT: All right, then you've never actually seen him?

The Witness: That's correct.

Q Mr. Hollowell: When has this witness said to you that he has engaged in conduct which was calculated to do the things which you have testified to and charged him with having said or done?

A Marion has talked to me on a number of occasions personally and with other people, that he is not going to participate, that he directs the activities of the Albany Movement; that he does not actually take part in these demonstrations, marches or any other act which has taken place, but he sits in the background and directs and advises. He's done it on numbers of occasions. I don't know the exact date.

Q But he hasn't told you that he has advised or directed any person to do any of these things about which

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CLAUDE JOINER REPORTING SERVICE

1 you're talking, has he?

2 A He has.

3 Q When?

4 A On occasions; I don't know the exact date.

5 Q Do you remember what he said?

6 A Just what I've just told you.

7 Q And that's all?

8 A Yes.

9 Q Now, let's take the Defendant, Jones: what action
10 or activity has he engaged in specifically that you are
11 calling upon this Court to enjoin?

12 A Charles Jones or Charlie Jones has taken the
13 same active part in all of this happening here. He's been
14 arrested on numerous occasions for violations of our City
15 ordinances; he has made it specifically clear to me and
16 plain that he intends to do anything that he feels in his
17 mind and in his own conscience is the thing to do; that he
18 will do it regardless of whether it illegal or legal or
19 any way you want to look at it.

20 Q Did he suggest to you that he would rob?

21 A I would imagine he would if it would help the cause.

22 Q That wasn't the question, sir?

23 A I'm answering it.

24 Q Did he suggest to you that he would rob?

25 A No, you're the one that mentioned it. I just said

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1 if it helped the cause, he probably would.

2 MR. HOLLOWELL: If it please the Court, we
3 would ask that the answer be stricken as not respon-
4 sive.

5 THE COURT: Yes, that wasn't a responsive
6 answer. The question was, has he ever indicated to
7 you that he would do what?

8 MR. HOLLOWELL: Rob, r-o-b (spelling)?

9 THE COURT: R-o-b, A(spelling) rob?

10 MR. HOLLOWELL: Yes sir.

11 A The Witness: No, he's never mentioned to me
12 using that word.

13 Q Has he ever suggested to you that he would steal?

14 A No.

15 Q Have you seen him throw any rocks?

16 A No, I don't believe I have.

17 Q You said he had been engaged in all of these
18 activities about which you've testified along the line or
19 during the course of this trial; have you seen him throw
20 any bottles?

21 A Not to my knowledge, no.

22 Q Have you heard him use any abusive language
23 toward an officer?

24 A I don't believe I have.

25 Q So, as a matter of fact then, he has not been

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1 engaged in all of these activities about which you have
2 testified, as he?

3 A As long as he's here in Albany, he has encouraged,
4 he has incited, he has participated in all of the activities,
5 such as marching; he has incited other people to demonstrate;
6 he has encouraged other people to picket, he has encouraged
7 the youth, as the television showed the other day, in the
8 instruction of how to react to sit-ins; he has encouraged
9 them and led them in all of the activities which we are
10 seeking to be relieved from.

11 Q Allright, now I believe you mentioned demonstra-
12 tions and you mentioned the clinics and you mentioned
13 picketing, and you mentioned in sitting-ins: was there
14 another?

15 A If there's any other violation, I would say
16 he was connected with it.

17 Q Do you seek to have him enjoined from holding
18 a clinic, such as the one that you mentioned that you saw
19 on the program "EYE-WITNESS", is this the one that you had
20 reference to?

21 A Anything which would incite and encourage
22 people to violate the ordinances and state laws of the
23 State of Georgia.

24 Q Was there anything in that particular TV Program,
25 about which you make reference as relates to the Defendant

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1 Jones, the matter of the clinic, which is a violation of the
2 law as you understand it?

3 A They didn't go into the clinics which he was
4 going to perform. He was just telling them how to act and
5 not to chew chewing gum and do all of this other business
6 while they were engaged in the activities.

7 Q Well, I believe you mentioned the program; was
8 there any other activity that you saw him performing on the
9 program to which you make reference?

10 A No.

11 Q So then, I presume that you're talking about the
12 only one that he was in and that was the clinic? Correct, sir?

13 A I didn't see him in the clinic. All I heard
14 him do was addressing the young people there in the church.

15 Q I see. Now, do you want him enjoined from
16 doing that?

17 A I want him enjoined from inciting or encouraging
18 anybody to violate our ordinances or state laws of the
19 State of Georgia.

20 MR. HOLLOWELL: We ask that that answer be
21 stricken, Your Honor, as not responsive. The question
22 was, does he want him enjoined from the conduct which
23 he himself made reference to.

24 THE COURT: Well, I think he's answered that,
25 answered it the only way he intelligently can, with

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1 The Court:

2 the general statement that he just made, that he wants
3 him enjoined from any of these activities which he
4 has just described generally. Obviously, as he has
5 already stated in response to a previous question
6 which you propounded to him,, he does not seek to have
7 him enjoined from addressing anybody in the church
8 but he only seeks to have him enjoined if it is a part
9 of a plan to incite and encourage people to violate
10 the city ordinances and state laws. I think he's
11 made that clear in his testimony.

12 MR. LEVERETT: May it please the Court, I also
13 would like to interject an objection at this time to
14 this whole line of testimony. It's entirely argumenta-
15 tive and it's calling upon a lay witness, who obviously
16 is not familiar with the legal principles upon which
17 this case is predicated, and I think the Court recog-
18 nizes that what is involved here is the principle of
19 the Milk Wagon Drivers' case; and this witness is not
20 familiar with these legal principles. He comes to
21 his lawyers and tells them, this has happened, what
22 relief can I have; and the complaint is drawn on that
23 basis. And for counsel to take a lay witness and
24 start off examining him as to what in effect are
25 legal conclusions and legal principles, I think is
entirely inappropriate.

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1 THE COURT: Well, he's on cross examination
2 and I'm going to allow him to question him. I do
3 think though that, since the witness has said and made
4 t the general answer that he has now two or three times,
5 the specific acts referred to, that he doesn't seek
6 that act to be enjoined unless it constitutes at the
7 time and under the circumstances in which it was done
8 one of these things complained of; that is, simply
9 addressing somebody in the church, he doesn't seek to
10 enjoin any one; but if in doing that, if the person is
11 intending and does encourage his listeners to a violation
12 of a city ordinance or state law, then he does seek to
13 enjoin him. I don't think the witness can do any
14 better than that. I don't think he can be any more
15 specific than that.

16 MR. HOLLOWELL: Now, if it please the Court, he
17 has these delineations and, therefore, inasmuch as he
18 has made them, I would submit that on cross-examination
19 we would be in a position to have him to indicate
20 exactly which one. For instance, some of the same
21 ones that he is now saying that he did not seek an
22 injunction, to have enjoined, are those which he
23 mentioned in his sweeping general statement; and that's
24 the reason why it becomes necessary for me to direct
25 his attention to a specific activity, being one of those

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1 Mr. Hollowell:

2 that he mentions in his sweeping general statement;
3 but I will certainly try to keep it as pointed as
4 possible.

5 THE COURT: All right. You'll probably wind
6 up with the same answer to each one but go ahead.

7 Q Mr. Hollowell: Now, you mentioned sit-ins
8 among the things that I understood you to say, do you seek
9 to have this Court to enjoin the Defendant Jones from seeking
10 to protest segregation in segregated lunch-rooms by going and
11 taking a seat in such lunch-room and seeking service?

12 A We seek to enjoin them from -

13 Q Now, excuse me, sir; would you give me a yes or
14 no answer, and then explain as long as you want to?

15 A I would say no and I would like to explain it,
16 Your Honor?

17 Q Was your answer "no"?

18 A That's correct. We are seeking to seek relief
19 from these people infringing on the private business of
20 people of the City of Albany, discontinuing the continuation
21 of the interruption of their business, where they can't
22 continue their business as they see fit as private owners
23 and individuals who operate businesses in the City of Albany,
24 when these people take it upon themselves, not because they
25 want to be served food in there, but because they want to show

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1 that they can go in there and disrupt the people, cause
2 the disruption of business, seek to keep people away from
3 this business by their presence there; and their unlawful
4 obedience of not leaving when told to by the owners and
5 in defiance of the police also, where we have to put police
6 around these establishments to protect, not only them but
7 other people and to keep the crowds away. And all we are
8 seeking is an injunction to relieve us of this activity;
9 and if they have any complaint about segregation or inte-
10 gration or whatever they seek, then I think, as I've told
11 you and as I've told Attorney King, Dr. Martin Luther King,
12 Marion Page, Dr. Anderson and all members that I've talked
13 to or come in contact with the Albany Movement, if they
14 have any legal or any complaint about illegal action,
15 they have it to do in this court here or any other court,
16 and not in the street and not in the mob action which they
17 are attempting to cause here.

18 Q Has this man ever told you - and when I say "this
19 man", I am referring to the Defendant Jones - that he went
20 into a private restaurant for the purpose of creating a
21 disturbance; has he ever told you that?

22 A Charlie has told me so many things that I don't
23 know whether he has or not; not to my recollection.

24 Q To your recollection, he has not; so, when
25 you say that he has gone into places for this purpose, this

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1 is some conclusion that you have come to, is that not right?

2 A I think it's through my own knowledge. I know
3 that his continuation of going to the same places and being
4 asked to leave that he's not there for service but just to
5 disrupt this man's business.

6 Q Have you ever seen him served?

7 A No, I haven't.

8 Q Have you ever looked in his pocket at the time he
9 was there and determined whether he had the where-with-all
10 to pay for that which he was seeking to obtain?

11 A No, I haven't.

12 Q So that, really this is again some figment of
13 your imagination?

14 A No, I don't think it's a figment of my imagina-
15 tion. It's through my own personal contacts and knowledge
16 of this individual since he come here in October or November
17 of last year, of what his intentions were.

18 Q Now, Chief, you mentioned picketing in connection
19 with this witness, I'll ask you when, if ever, you have seen
20 him picketing?

21 A I don't remember ever seeing Charlie picketing
22 but I've seen him close in the area encouraging picketing.

23 Q So, one of the things that you would have this
24 Court to do then is to enjoin him and others from picketing?

25 A That's correct.

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1 Q Have you ever seen him in a demonstration? Have
2 you ever seen him, the Defendant Jones, in one of these so-
3 called demonstrations, and I refer specifically to the
4 occasions when there have been a group of folk who have
5 sought to walk, never having been able to get here except
6 on one occasion, but sought to walk from one of the churches
7 to the City Hall; have you ever seen him in one of those
8 lines?

9 A I think the record will show, the arrest record
10 will show that he was arrested on occasion for one of these
11 demonstrations.

12 Q Would you indicate or have any recollection as to
13 which one that was?

14 A No, I don't, Attorney; I can't right off-hand
15 because we've had so many of them.

16 Q Would it be that the time to which you are
17 referring was the time when he was with a group of some
18 10 or 12 in front of the City Hall praying?

19 A As I've stated before, Attorney, he's been
20 arrested probably as many or more times than anybody
21 connected with the Albany Movement, the number I don't know
22 but I think the record will show at the Police Station how
23 many times. He was arrested in front of the City Hall for
24 a demonstration there and I think the record will show
25 that he was arrested in a march.

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1 Q You think that the record will show?

2 A I'm positive, pretty sure it will. I think the
3 record will speak for itself.

4 Q But you have no concrete recollection of any such
5 occasion?

6 A I do.

7 Q Well, indicate it?

8 A I've said, Your Honor, as far as my mind can
9 remember, that he was arrested in a demonstration or a march.
10 Now, the date I don't know and the time I don't know and I
11 don't remember how many was in it, but I think the record
12 will show.

13 Q You say you think the record will show and then
14 you say you are definitive in your thinking on this matter.
15 Now, are you or are you not definite in your mind that this
16 man has been arrested for being in such a so-called demon-
17 stration as those walking from the church to the City Hall
18 at the time of arrest?

19 A As far as my memory serves me, as I say, he's
20 been in so many that it's hard to distinguish one from
21 another, but I would have to say that he was in a demonstra-
22 tion.

23 Q This is your recollection?

24 A That's correct.

25 Q But you don't know it as a matter of fact?

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1 A The best that I can remember.

2 Q He was, I believe according to the testimony of
3 one of your agents, arrested for loitering in the bus
4 station, I believe, on an occasion; you remember that?

5 A I think you showed me a document back in November
6 or December or somewhere back in there where he was on trial
7 in Recorder's Court, and I do recall some instance where he
8 was arrested.

9 Q However, that was subsequently removed, is that
10 correct?

11 A I think the Recorder dismissed the case and swore
12 to a warrant himself as a Justice of the Peace and charged
13 him with a State offense rather than a City ordinance.

14 Q That was the occasion when Mr. Rawls indicated
15 to you that "we can't try him under this but we've got to
16 get the nigger for something", that was the occasion?

17 A That's your statement, not mine. I don't recall
18 any such statement, no.

19 Q You don't deny that it was said?

20 A I deny it because anything that I don't know,
21 I'll have to deny it.

22 Q Now then, let's take Rev. Abernathy, who is one
23 of the Defendants in this case, I believe, and ask you
24 whether or not you have had the occasion to see him at one
25 of these clinics to which you made reference?

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1 A I would like to answer that and explain it,
2 Your Honor?

3 THE COURT: Yes.

4 Q Mr. Hollowell: Excuse me, Chief; may I say to
5 you, any question that we ask, you certainly are at liberty
6 and I don't want at any time to keep you from explaining
7 your answer. So, right on?

8 A I haven't personally seen Dr. Abernathy at the
9 Shiloh or Mt. Zion churches. I have had occasion to hear
10 his voice on recordings which came from the church, that
11 I've heard here and I've heard on television, where he's
12 incited the people to march and that "Chief Pritchett is
13 not going to turn you around and the State Troopers are
14 not going to turn you around, Tom Crowe or Uncle Tom,
15 or whatever it is, is not going to turn you around."

16 I've also heard him say that he served in the
17 Service, that along with other people "we served in the
18 Pacific, we've served in the European theater, we've died
19 in the European theater, we've died in the Pacific, and I
20 can't understand why in the hell we can't die here in the
21 City of Albany, if we have to."

22 Q Was that bad?

23 A I think it's bad when people of his intelligence
24 are talking to people of lesser intelligence and inciting
25 them, not only to violate the laws but to die on the streets,

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1 if necessary, in the City of Albany. And I think that is
2 very bad. I think it's very bad to incite people who are
3 not of his equal intelligence but in inciting and encourag-
4 ing them, not only to disobey laws but, if need be, to die
5 in the Streets of Albany to accomplish what they want to get.

6 Q Can you think of any greater resolve that one
7 can have than to be willing to die for the cause of human
8 rights, if it became necessary?

9 A I can think of no greater cause for anybody than
10 to stand for what they think is right. I think that's what
11 America is based on, is ideals; but I think that when people
12 of the Albany Movement or anybody of any race, color or
13 creed has an argument or some belief that they're being
14 mistreated, that they have legal ways in which to gain
15 the attention of the public and of the world, other than
16 through mass demonstrations, through mass hysteria and
17 inciting people to violence, the way they have here in
18 Albany and Dougherty County. I think it's very indignant
19 of their position as preachers, of the leaders of their
20 people. I've talked to Dr. King on numerous occasions
21 and I've told him that I don't disapprove with him in
22 his principles to encourage the betterment of the Negro
23 people, but I disagree with him in his methods of coming
24 into Albany, stating he's going to turn it upside down;
25 that he's going to make the Commissioners, when he gets

1 through with them, where they'll be glad to talk to him;
2 and other ways, rather than taking it through the legal
3 ways in which we're sitting here as civilized people doing
4 today.

5 Q Is it not true that the statement was made in
6 your presence pertaining to these things, these grievances,
7 that the Negro people of Albany had, that the statement
8 was made, "There is no area of agreement between the City
9 Council and any of the segregation practices which have been
10 addressed to the committee== "

11 MR. LEVERETT: May it please the Court, that
12 is immaterial to this case; and he is also going over
13 matters which have been gone over thoroughly previously
14 with this witness; and if we're going back all over
15 that ground, we'll be here until next week.

16 MR. HOLLOWELL: May it please the Court, I didn't
17 hear counsel objecting to this very long statement which
18 was made, part of which was responsive and part of which
19 was not responsive; and it's because of the statement
20 which he made that it is incumbent upon us to have
21 clearly coming from this same witness the fact that
22 those that he represents have made this kind of statement.

23 MR. LEVERETT: May it please the Court, I don't
24 think counsel can ask the witness a question and then
25 get an answer, part of which is responsive to his question

1 Mr. Leverett:

2 and part of which is not, and then claim that that lays
3 the foundation for him to go into further irrelevant
4 matters.

5 THE COURT: I think all the matters we're
6 talking about are already in the record from the
7 testimony of Mayor Kelley; and I don't know that it
8 adds anything to it to put in the record again. Does
9 counsel insist on the question?

10 MR. HOLLOWELL: I don't -- I believe that perhaps
11 the Mayor, as I recollect, Your Honor, corroborated
12 the fact that this statement was made, and I won't
13 insist on it, Your Honor.

14 Q Now, Chief, you've never seen the Defendant,
15 Abernathy, picketing, have you?

16 A No, I haven't.

17 Q Have you ever heard him encouraging people to
18 picket?

19 A No, I haven't. In his statement there, they
20 have been broad and I don't remember anything about picketing.

21 Q You haven't heard him encouraging folk to sit
22 in as a matter of fact, have you?

23 A I couldn't testify as to whether I have or not.
24 I haven't heard him say it but I don't know whether he
25 has or not.

1 Q And you've never heard him suggest to any one
2 that he or she or they should at any time do any act which
3 could be construed as violent, have you?

4 A As violent?

5 Q Yes sir?

6 A No, the only statements I've ever heard him say
7 have always been on on the non-violent vein, but the encourage-
8 ment of the people to die in the streets is not a non-violent
9 statement.

10 Q And that would be true of the Defendant Anderson
11 and the Defendant Martin King and the Defendant Slaughter King
12 and the Defendant Page and all of the other Defendants; isn't
13 that true?

14 A What were you referring to in all of these people?

15 Q The matter of statements being made in which
16 they have suggested or directed that those persons them-
17 selves individually or those who were in the hearing audience
18 or any other persons should resort to violence; you have
19 never heard any one of these Defendants make any such
20 statement, have you?

21 A No, and I would like to explain myself; that
22 I've never heard them advocate violence. I have heard
23 them through my own contact with them state that they were
24 responsible for part of the violence that has occurred here,
25 because they were encouraging the people and inciting the

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1 people and they would have to take the responsibility of
2 it; and that was the reason that Dr. Martin Luther King
3 and Dr. Abernathy called a day of penitence, and went
4 through the streets of Albany in the south of town trying
5 to pray for the people, to encourage them to continue to
6 use un-violent methods and not to get out here and do as
7 they had been doing.

8 Q Did he explain to you what he meant by assuming
9 a part of the responsibility?

10 A No, he didn't.

11 Q For certain violence which had been allegedly
12 engaged in by persons other than those who were actually a
13 part of the Movement?

14 A No.

15 Q Did he explain that to you?

16 A No, he didn't explain that to me.

17 Q He didn't explain that to you?

18 A No.

19 Q You don't believe that he has encouraged any
20 violence on the part of anybody, do you, he being the
21 Rev. Martin Luther King, do you?

22 A Do I believe that he would encourage violence
23 to be used? =

24 Q No, not that he would but that he did encourage,
25 that he has encouraged any one to be or resort to violence?

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A No, I don't believe he has.

Q I don't believe I have any further questions,
Chief.

THE COURT: All right, anything further ffrom
this witness?

MR. LEVERETT: Come down.

MR. HOLLOWELL: May we have just a moment, Your
Honor? The Defendants call the Rev. Martin
Luther King.

REV. MARTIN LUTHER KING, JR.

a party Defendant, and called in behalf of
Defendants, being first duly sworn, testified

DIRECT EXAMINATION

BY MR. HOLLOWELL:

Q You haven't been on the stand before during this
trial, have you?

A No sir.

Q Would you give your full name for the record?

A Martin Luther King, Jr.

Q Rev. King, I believe you are the President of
the Southern Christian Leadership Conference, is that
correct?

A Yes sir, that's correct.

Q In connection with your official capacity, did
you have the occasion to be in Albany, Georgia, during the

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1 month of December, 1961?

2 A Yes sir, I did.

3 Q How did you happen to come?

4 A Well, I came at the invitation of the Albany
5 Movement. I received a telephone call as well as a telegram
6 from leaders of the Albany Movement, inviting me to come
7 in an advisory capacity on the whole question of non-violence
8 and also to join the movement. I think the telegram stated
9 in specific language that they were desirous of having me
10 to join the non-violent movement in Albany.

11 Q When did you arrive, sir?

12 A As I rec all, I arrived on the 15th of December,
13 the afternoon of the 15th.

14 Q Now, on the day of the 16th of December, '61,
15 between the hours of noon and 6 o'clock in the evening,
16 did you have the occasion to be at the Shiloh Baptist
17 Church in this City?

18 A Yes sir, I was there.

19 Q What were you there for?

20 A Well, in the morning we had a prayer meeting and
21 then around noon we had a regular worship service, and Dr.
22 Abernathy preeched at that service; and we had a regular
23 worship service and mass meeting.

24 Q Did you hear Rev. Abernathy or did you yourself
25 make any suggestion as to the use of violence on the part

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1 of yourself or anybody in the sound of your voice or
2 anybody in the community?

3 A No, all of our statements were centered in the
4 whole philosophy of non-violence. Every time I spoke to the
5 group I stressed the importance of adhering absolutely to
6 the principles of non-violence.

7 Q Did you at any time have the occasion to address
8 the City Commission of the City of Albany; that is,
9 individually or in conference with any other persons?

10 A Yes sir, I did have an opportunity, I think at
11 that period. It was through a letter or through a telegram
12 urging them to negotiate.

13 Q But face to face; did you ever have any face to
14 face contact?

15 A No sir, I did not have any face to face contact.

16 Q Do you know whether any was sought?

17 A Whether I sought this?

18 Q Or the Albany Movement itself or the leaders of
19 the Movement?

20 A Oh yes sir, over and over again, this request
21 was made.

22 Q Now, you've heard the testimony concerning the
23 group that left the church on that day and moved on toward
24 the City Hall; you were a part of that group, were you not?

25 A Yes sir.

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1 Q You were at the head of the line of walking
2 and walking with whom?

3 A Dr. Anderson.

4 Q Now, I will ask you whether or not you at any
5 time made any statement to anybody from the time that you
6 left the church until the time that you were arrested, to
7 the effect "Strike me first"?

8 A No sir, absolutely not. I have made no such
9 statement in Albany or anywhere else concerning "strike me
10 first".

11 Q Did you hear such a statement made?

12 A Yes sir, I did hear the statement made.

13 Q Who made it?

14 A Dr. Anderson.

15 Q How long were you in Albany on that occasion?

16 A Well, I came in on Friday afternoon and I was
17 arrested Saturday, and I was here until Monday; through
18 Monday, the following Monday.

19 Q Of the succeeding week?

20 A That's right.

21 Q After you got out, did you have occasion to
22 remain in the City?

23 A Yes, I remained through the evening meeting.
24 There was a mass meeting that Monday night, as I recall;
25 and I believe I remained for that mass meeting.

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1 Q Would you indicate whether or not during the
2 process of your walking with this group from the church
3 in the direction of the City Hall by way of Whitney and
4 then Jackson Street, you noticed any violence in any way
5 whatsoever on the part of anybody?

6 A No sir, I didn't notice any violence at all.

7 Q Would you indicate what your reactions were at
8 the time that you arrived at the corner of ~~xxx~~ Highland and South
9 Jackson, insofar as whether you moved directly across the
10 street or whether you stopped?

11 A As I recall, I guess it was Highland and Jackson,
12 we stopped for the red light. There was a light there and we
13 stopped and after that, we went right on.

14 Q Now, do you agree that the testimony which you
15 have heard, indicating that the group proceed on up South
16 Jackson to Oglethorpe and at that point you were stopped;
17 now, would you indicate by whom and what the occasion was?

18 A We were stopped at that corner of Oglethorpe, I
19 think, and we were stopped by Chief Pritchett. He came up
20 to the front of the group, along with several policemen
21 and maybe some State Troopers, I don't recall; and his
22 question to me was, "Do you have a permit to parade?"

23 Q Was this the first time that you had the occasion
24 to be addressed by any officer along the line of walking?

25 A Yes sir, that was the first time.

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1 Q Was this the first time that you had made any
2 statement other than in conversation perhaps with Dr.
3 Anderson?

4 A Yes sir, that's correct, the first time that I
5 made any statement.

6 Q Now, when you left, you say the following day
7 after your arrest or the following Monday, you made a
8 speech that night and then you left the City?

9 A Yes, that's right.

10 Q When, if ever, did you return?

11 A I did not return to Albany until the date of the
12 trial, I don't recall the exact date, but it was in July,
13 on a Tuesday. It was about the 13th or 14th, I guess.
14 No, excuse me --

15 Q Was that the trial or was that the sentence?

16 A No, I'm sorry. I did return for the trial in
17 February, February I believe.

18 Q How long were you here on that occasion?

19 A Just a few hours. I came in that morning and
20 went right out in the afternoon.

21 Q And then, the next time you returned to the City?

22 A Was for the sentencing in July.

23 Q That was about the 10th of July or thereabout?

24 A That's correct, about that time.

25 Q And after you were sentenced what, if anything,

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1 happened to you?

2 A Well, after I was sentenced, I decided on the
3 basis of conscience to serve the time, which turned out
4 to be 45 days instead of paying the fine of \$178.

5 Q Now, did you serve the time?

6 A Well, I served about two days of the time.

7 Q And then, what happened?

8 A Well, we were called in Chief Pritchett's office
9 on Thursday of that same week; again, I don't remember the
10 date.

11 Q Now, who is "we"?

12 A Rev. Abernathy was with me.

13 Q Two of you?

14 A The two of us. And we felt, in fact, they told
15 us about 7 o'clock in the morning to get dressed, that
16 the Chief wanted to see us; and we just assumed that we
17 were being transferred to another jail. But when we got
18 to Chief Pritchett's office, he talked with us a while and
19 finally said that our fines had been paid and that we were
20 now to leave.

21 Q Did you inquire as to who paid them?

22 A Yes, we did. We asked over and over again and
23 Chief Pritchett said that he didn't know who paid the fines.

24 Q Do you know now who paid them?

25 A No, I don't. We still have no knowledge of who

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1 paid the fines.

2 Q Was it paid at your behest?

3 A No sir, I made it very clear to my family and
4 to the leaders of the Albany Movement and anybody else
5 that I had any close connections with that I did not want
6 the fine paid, and Dr. Abernathy did the same.

7 Q Allright, now after you got out, did you leave
8 the City on that occasion?

9 A No sir, I didn't leave until, oh 4 or 5 days later.

10 Q Now, during that period of time, you had the
11 occasion to make some speeches, did you not?

12 A Yes sir, that's correct, in mass meetings.

13 Q Did you attend 'most all of the mass meetings
14 during the time you were here?

15 A Yes sir, I think I made all of the mass meetings
16 during that period.

17 Q Did you yourself or did you hear any one who
18 had the occasion to speak on the rostrum address themselves
19 to the matter of violence?

20 A Yes, over and over again.

21 Q Did you - I'm sorry?

22 A Yes, I said over and over again speakers addressed
23 themselves to the question of violence and always discouraged
24 it in the most vigorous and forthright terms.

25 Q Now, there has been statement - excuse me just one

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1 moment - you heard the Chief's testimony a moment ago, did
2 you not?

3 A Yes sir, I did.

4 Q Would you indicate what you did say in connection
5 with any assumption of responsibility for some alleged
6 violence that, I believe, is supposed to have occurred
7 either on the 21st or the 24th of July; the 24th, I guess
8 it was?

9 A Yes, I made the statement that I was sure that
10 none of the persons involved in the pilgrimage or in the
11 line participated in any act of violence on that evening,
12 and that I was also sure that no one connected with the
13 Albany Movement participated in any violence; but that in
14 this non-violent movement, we abhor violence so much that
15 we felt a spiritual need of accepting some responsibility
16 for the violence that occurred. This was the substance of
17 my statement.

18 Q What did you mean by "spiritual"? I believe you
19 said "a spiritual need to accept"; wasn't that your language,
20 sir?

21 A That's right.

22 Q What did you mean by that?

23 A Well, I meant that as long as there is any
24 violence, as I have said on many occasions, taking place
25 in a non-violent movement, even though the persons involved

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1 are not in any^{way} connected with the movement, in order to make
2 it a pure and spiritually rooted movement, it is necessary
3 for the leaders of that movement always to take some step
4 in the direction of making it clear that they are absolutely
5 opposed to violence in any form.

6 Q Did you mean to exclude any other part of the
7 Albany community?

8 A I'm sorry, I don't think I quite understand.

9 Q In your statement about assuming of some spiritual
10 responsibility, I asked you did you mean to exclude any
11 other portion of the community from having some responsi-
12 bility in connection with it?

13 A Oh no, not at all.

14 Q I'll ask you whether or not you feel that there
15 is some responsibility on the part of the full community
16 for anything that happened?

17 A Yes sir, I do. I think the presence of injustice
18 insociety is always the presence in a potential sense of
19 violence; and I think the long night of injustices,
20 indignities and brutality, and all of the things that have
21 been inflicted --

22 MR. LEVERETT: May it please the Court, I
23 object again to this going into a speech and harangue.

24 MR. HOLLOWELL: May it please the Court --

25 THE COURT: Let's let him complete his
statement and ask him to abbreviate it as much as
possible.

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1 A The Witness: Yes sir, I was about to say that
2 all of these accumulated injustices and indignities and the
3 many brutal and inhuman things that have been inflicted
4 upon many Negroes, have naturally brought about deep-seated
5 resentment, which can develop in violent responses at times.

6 Q Mr. Hollowell: Do you think that this responsi-
7 bility that you are mentioning is a responsibility to be
8 shared only by the spiritual association that you made with
9 those who were the actual perpetrators or do you feel that
10 there are broader connotations as relate to other people?

11 A Yes sir, I definitely feel that there are
12 broad connotations. I think it would have been a marvelous
13 act of spiritual discipline and commitment for the whole
14 community to take some part of the responsibility; but I
15 felt that I could not and the leaders of the Albany Movement
16 could not afford to wait for others to do this, feeling that
17 they wouldn't do it. And so, we were willing to take this
18 spiritual plunge, so to speak, and assume the responsibility,
19 even though we knew we had nothing to do with it.

20 Q I think, Doctor, you will recall on earlier
21 testimony that there has been some considerable time spent
22 upon your approach to unjust laws; I believe you heard the
23 Chief's statement: I would like for you to indicate for the
24 Court what you mean by an unwillingness to adhere to unjust
25 laws?

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1 A Well, this could be a very long philosophical
2 discussion, but in terms of this context, I would say that
3 we are dealing or referring mainly to laws upholding the
4 system of segregation.

5 MR. HOLLOWELL: I think we have no further
6 questions for this witness.

7 THE COURT: Any questions for this witness?

8 MR. LEVERETT: Yes sir.

9 CROSS EXAMINATION

10 BY MR. LEVERETT:

11 Q Dr. King, when did you say was the first
12 occasion that you came into Albany since the formation
13 of the Albany Movement? What was the date on that?

14 A December 14, I believe.

15 Q Now, prior to the time that you received a
16 telegram, had you been in communication with Dr. Anderson
17 or any other leads of the Albany Movement?

18 A Yes sir, I think I had talked with Dr. Anderson
19 several times. In fact, I have known Dr. Anderson for a
20 number of years and almost every time he came to Atlanta, he
21 stopped by the office or called.

22 Q You aren't saying, are you Doctor King, that the
23 first occasion in which you discussed with any member of
24 the Albany Movement the possibility of your participation
25 was just the incident that you referred to as having occurred

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1 a day or two before you came down?

2 A Yes sir, that was the first time that an invita-
3 tion was extended and the first time that I ever considered
4 coming to Albany.

5 Q Assuming that was the first time an invitation
6 had ever been extended, had you on any prior occasion
7 volunteered your services?

8 A No sir, I had not on any prior occasion, as I
9 recall, volunteered my services.

10 Q I believe you said that you arrived here on the
11 afternoon of December 15?

12 A I think it was the 14th, I believe. It was on
13 a Friday. It may have been the 15th.

14 Q And that you stayed over through Monday? What
15 was the following Monday, what was the date, do you recall?

16 A It was the 18th, I believe.

17 Q Now, did you speak at the Shiloh Church on the
18 night of the 16th?

19 A On the night of the 16th? No sir, I think that
20 was the night I was in jail, the 16th.

21 Q Excuse me, go ahead?

22 A That was the night I was in jail.

23 Q Dr. King, do you know how many times you have
24 actually spoken either at Shiloh or Mt. Zion Baptist Church?
25 Shiloh Methodist, I believe and Mt. Zion Baptist?

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1 A Baptist. No sir, I don't recall the exact number
2 of times. I've spoken there many times since the Movement
3 started, especially this last period that I've been back.

4 Q In fact, in your speeches you haven't encouraged
5 the people to march and to protest, haven't you?

6 A Yes sir, I have encouraged the people to protest,
7 as I have done over and over again all over the South and
8 the Nation.

9 Q Also, Dr. King, did you on one, at least one
10 occasion, I don't know the exact date, address the crowd
11 and tell them to come and bring their walking shoes?

12 A I may have. I don't recall this particular
13 statement. It's altogether possible.

14 Q Now, is it your testimony that you were here
15 only on this occasion in December for a period of several
16 days and that the next occasion that you returned to Albany
17 was in February, when the trial was held; is that right?

18 A Yes sir, I think it was February or early March.
19 I don't recall the date.

20 Q You were tried in February?

21 A That's correct.

22 Q And you commenced serving your sentence when?

23 A In July.

24 Q You did not commence serving it in February when
25 the trial was held?

1 A No sir, at that time the Judge ruled or stated
2 that, since there were several legal questions involved
3 and since several motions were made that he had not had a
4 chance to study, he would have both sides to file briefs
5 and then he would render his decision after that period;
6 and I think he said that would be a 60-day period.

7 Q Was there any appeal ever instituted by way of
8 certiorari or any other legal proceedings that are available
9 to review decisions of Recorder's Court?

10 A No sir, I don't recall. I don't know of any.

11 Q Did you request that your attorneys appeal it?

12 A Appeal, you mean --?

13 Q Of your conviction?

14 A In July?

15 Q Whenever you were convicted; I believe you stated
16 that you had the trial in February and the determination
17 of the Court was made in July, is that right?

18 A That's right, that's right, yes.

19 Q The question was, did you ever request that your
20 attorneys appeal?

21 A No sir, I didn't make a request for them to
22 appeal. I knew that one case was being appealed, which
23 would test the legality of the arrests themselves; and I
24 didn't make a request for an appeal to be made on my behalf.

25 Q Now, Dr. King, a few minutes ago you drew some

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1 distinction between the people who were the actual marchers
2 and the other groups who followed along behind or who were
3 engaged in some of this violent activity: Did you hear -
4 were you hear when the witness, Slater King, testified
5 that the Albany Movement represented all of the Negroes in
6 Albany?

7 A I didn't hear, I don't recall this particular
8 statement, but I'm sure that it does represent all of the
9 Negroes of Albany, in the sense that it is seeking to achieve
10 justice and first-class citizenship for all of the citizens
11 of Albany.

12 Q Also, Dr. King, do you know whether or not Dr.
13 Anderson has stated on occasions that he estimated that the
14 Albany Movement represented approximately 10,000 people in
15 the Albany area: are you familiar with his statement to
16 that effect?

17 A No sir, I don't know about that particular state-
18 ment. In fact, I don't know the actual membership of the
19 Albany Movement. I don't think there is a membership
20 list, in the sense that you would have in some incorporated
21 bodies.

22 Q Now Dr. King, you stated on direct that in
23 referring to your right to violate unjust laws, you had
24 reference mainly to segregation laws, is that right?

25 A In this particular context, yes sir.

1 Q By the use of the word "mainly", I presume you
2 meant you were not necessarily limiting it to segregation
3 laws, is that right?

4 A Well, in this particular situation, yes.

5 Q Would that include court decrees as well as laws,
6 if you felt a court decree was unjust, do you think that
7 you would have a right to violate it or to advocate violating
8 it?

9 A Well, it's difficult to give a yes or no answer
10 to that. I think it is so general and it involves so many
11 philosophical complexities that it would take me a few
12 minutes to really explain this.

13 Q Now, in making this statement about violating
14 the laws, have you ever made that statement at any of these
15 meetings that you had at Shiloh or Mt. Zion churches?

16 A No sir, I don't think I have gone into a
17 discussion of unjust laws or the whole question of civil
18 disobedience at any of the mass meetings.

19 Q Now Dr. King, when you made these statements,
20 I believe before the Press Club on one occasion, is that
21 correct, about the unjust law situation?

22 A Yes sir. Well, that was in a question that came
23 up when I was addressing the National Press Club.

24 Q Now, of course, when you made those statements,
25 you didn't undertake to elaborate upon any of these

1 philosophical or metaphysical insights or reservations
2 that you now have just expressed, did you?

3 A Yes sir, I took at least eight minutes to explain
4 that.

5 Q Now Dr. King, do you think that the masses
6 of people that have been involved in the Albany Movement
7 are capable of comprehending and appreciating all of this
8 philosophical insight that you've referred to?

9 A Many would. I think it can be broken down to
10 the point that it can be understood by almost anybody.
11 I have in the past tried to explain the meaning of civil
12 disobedience and just and unjust laws to people who may
13 not have had a great deal of formal training, but who had
14 intelligence; and this can't be measured by the number of
15 years that an individual has been to school; and I think
16 it can be broken down to the point that people who are
17 not well trained in the formal sense can understand it.

18 Q In fact, Dr. King, isn't it true that such
19 a statement as that could very easily be interpreted by
20 some people as an open invitation to go out and violate
21 the law generally?

22 A No sir, I have never said it when I did not
23 explain exactly what I meant because I have always argued
24 that anarchy is much worse in the final analysis than some
25 other things; and what we seek is to create a society where

1 men will live together as brothers and to correct and point
2 out the deficiencies of the law and not to develop a situa-
3 tion where people will disobey the law generally when it
4 is a just law.

5 Q Now, Dr. King, let me ask you this question:

6 A lot of people, conscientious people, disagree with
7 certain Supreme Court decisions, do you think those people
8 are justified, if their conscience tells them, do you
9 think they are justified in going out and violating those
10 decrees and advocating to others that they violate them?

11 A I think - yes sir, I think that they have that
12 right if they will do it openly, if they will willingly
13 accept the penalty, if they will do it in loving, non-
14 violent spirit and not curse and use terms that deal with
15 Negroes as if they are dogs; if they are willing to accept
16 the penalty, if they do it openly, fine; but if they seek
17 to subvert, if they seek to evade the law, I think that's
18 wrong; and I think that this is what they've done.

19 Q In other words, you think that an open defiance
20 of the law is all right but that if a person tries to, as
21 you say, evade or circumvent, that that's wrong?

22 A No sir, I don't think an open - I would not like
23 to see them defy, evade or seek to circumvent the law.
24 I would say that it becomes right when conscience tells
25 them it is unjust and they openly, non-violently, lovingly

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1 break that law and willingly accept the penalty by staying
2 in jail, if necessary, to point out the deficiencies of the
3 law and arouse the conscience of the community so that it
4 will see that it is wrong.

5 Q In other words, you're saying that it's a state
6 of mind and motivation of the individual that's the deter-
7 mining factor?

8 A I'm sorry, I don't think I understand your
9 question.

10 Q As I understand what you're saying, you are
11 saying that it's in effect a subjective question, that
12 it's a state of mind, whether it is lovingly, as you say,
13 violation; is that the determining factor, the mental
14 attitude of the person doing it, is that what you're
15 saying?

16 A Well, no sir, I don't think it's the state of
17 mind only, but only if that state of mind is coupled with
18 a deep-seated moral conviction and that moral conviction
19 takes one to the point of seeking to secure the moral end
20 which is in the mind through moral means. Now, what
21 often happens is that people seek to secure what they
22 think are moral ends through immoral means, and I think
23 this is wrong because the end is pre-existent in the means.

24 Q Right there, who is going to determine whether
25 it is a moral or immoral end, Dr. King? Are you going to

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1 make that determination or is somebody else going to make it
2 and, if so, who would it be?

3 A Well, I would hope that the community and the
4 Nation and the people of good will would make ^{it} as a result
5 of the self-inflicted suffering that people who move out on
6 a moral principle are willing to undertake. I'm not saying
7 that they take the law in their hands, but they believe so
8 much in the sacredness of the law when it is a right law that
9 they are willing to suffer in order to see that those laws
10 which are not right are somehow made or re-made to square
11 with that which is morally right.

12 Q I follow your explanation, I understand your
13 explanation, but I am still not certain who you are saying
14 is to make this determination as to whether it's right or
15 wrong?

16 A Well, the individuals involved are the ones,
17 the individual conscience is the issue at that point.

18 Q The individual is to decide in his own conscience
19 whether or not he will violate the law, is that right?

20 A The individual is to decide in his own conscience
21 whether the law is right; and, if he violates it, he must
22 accept the penalty. He must not try to run from it, he
23 must not seek to evade it, he must not seek to violate it
24 in some sense of subverting the law. He must do it openly
25 and in a non-violent spirit; and this becomes civil

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1 disobedience and not uncivil disobedience which we too often
2 see by those who seek to take the law in their hands.

3 Q Now, Dr. King, you stated that your method was
4 method of non-violence?

5 A Yes sir.

6 Q The fact of the matter is though that you
7 anticipated violence, didn't you?

8 A Well, I had rather put it another way. I hoped
9 and I still hope that there will be no violence in our
10 struggle for first-class citizenship. I came to Albany
11 when I came and joined the Movement, hoping that there
12 would be no violence; and when I say that I mean violence
13 from either side.

14 However, in a non-violent movement, the one
15 thing that you say is that you as a person committed to
16 non-violence will never inflict violence upon another,
17 but you will willingly accept it upon yourself. And it
18 may be that before freedom is achieved in some places in
19 the South some blood will flow, but I've always insisted
20 that it must be our blood and not the blood of our white
21 brothers.

22 Q Back in that connection, Doctor, you are familiar
23 with these clinics that have been held, are you not, in
24 Albany, at which the participants in the Albany Movement
25 are given instruction in how to receive acts of violence
 against them?

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1 A In the clinics here in Albany?

2 Q Right?

3 A I haven't attended; no, I haven't had a chance
4 to attend any of them.

5 Q You have had instructions along those lines
6 yourself, have you not?

7 A Yes sir, I have been in clinics.

8 Q In fact, you have attended clinics at the
9 Highland Folk School in Tennessee, have you not?

10 A No sir, I never attended a clinic there.

11 Q Have you ever attended any meetings there?

12 A Yes, I addressed the 25th - I gave one of the
13 addresses at the 25th Anniversary of the Highlander Folk
14 School.

15 Q Was Mr. Miles Horton there?

16 A Yes sir, he was a director.

17 Q Did you go there at his invitation?

18 A As I recall, the invitation came from - I really
19 don't remember. I don't know if Mr. Horton extended it
20 or somebody else on the Board.

21 Q Did you address the group there on the subject
22 of non-violent protests?

23 A I'm sure in the course of my lecture, as I always
24 do in all of my speeches, I dealt a great deal with non-
25 violent protests; but I don't recall the subject and how

1 much time I spent on it.

2 MR. HOLLOWELL: May it please the Court, I
3 cannot see where some speech that has been made
4 in some years previous at some place outside of
5 Albany, which has nothing to do and had nothing to
6 do with any of the activities which are here, could
7 have in any way have any relevancy or materiality to
8 this particular issue, unless counsel is seeking to
9 show that this particular witness, Defendant and party,
10 has at some time made a speech in which he recommended
11 violence or something other than this which he is
12 submitting here now. I would submit it would have
13 absolutely no materiality.

14 MR. LEVERETT: May it please the Court, this
15 witness has testified of his advocacy of non-violent
16 protests, and I am going into the question of what
17 preparation which he and other members of his group
18 may have had for violence.

19 MR. HOLLOWELL: I would submit that it wouldn't
20 matter what his preparation was, as long as this has
21 been the advocacy that has been made here in this
22 suit pertaining to all matters which are related to
23 the subject case, this and this only. What preparation,
24 I think unless he was going to the original preparation
25 from the standpoint of his background, study and so

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1 Mr. Hollowell:

2 forth, I think would be of no moment and would have
3 no materiality.

4 THE COURT: I think that's what, as I under-
5 stood counsel's statement, that's what he intends to
6 do, is to show what training he's had in connection
7 with the very thing we're talking about. That's what
8 I understood counsel to say.

9 MR. LEVERETT: Yes sir.

10 MR. HOLLOWELL: Training, if this is what it
11 relates to, that's one thing; if it merely relates
12 to a matter of some speech which has been made at
13 some prior time and did not relate to this, then I
14 don't think it is relevant.

15 THE COURT: Then, that would only go to
16 possible impeachment to contradict some other testi-
17 mony which he has given; but, as I understood counsel,
18 he said he was going into the matter of training.

19 So, I will allow the question.

20 Q Mr. Leverett: Dr. King, the matter of these
21 protests and the procedures to be utilized and the anticipa-
22 tion of violence, all of these things were in fact discussed
23 or there was instruction given at this Highlander Folk
24 School, isn't that true?

25 A I really couldn't say. I was only at the

1 Highland Folk School one time and that was the time that
2 I went in for that address, and I was there only 3 or 4
3 hours; I had to go right out; so, I don't know too many of
4 the details. I do know that Highland Folk School has
5 worked in the area of race relations across the years,
6 but how much emphasis they place on training non-violent
7 leaders, I don't know.

8 Q Is it your testimony that you went there to
9 speak or to attend other addresses that were made?

10 A My testimony is that I went thereto speak.
11 I didn't hear any of the other addresses. I went in and
12 made my speech and left, oh an hour or two after that.

13 Q Dr. King, I hand you a document --

14 MR. HOLLOWELL: May we see that?

15 MR. LEVERETT: I want to present him with
16 the pictures ^{not} ~~with~~ with the writing in the paper, but
17 the pictures.

18 (Document tendered to counsel for Defendants)

19 MR. HOLLOWELL: May it please the Court, I will
20 object to this particular document, which is P-22, on
21 the ground that there is nothing in it which would show
22 the source from which it came, or the name of the
23 editors or publishers of it. There is no certificate
24 of any kind attached to it. There is nothing to indi-
25 cate that these photographs which are even on it were

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1 Mr. Hollowell:

2 actually taken of the particular scene which they
3 purport to have been taken of; or that any of the
4 identifications that are attributed here are in
5 fact true; and on the further ground that there is
6 nothing here which would suggest anything dealing with
7 the Albany Movement or with any preparation which this
8 witness has at any time made, which would go to the
9 development of a theory of non-violence and a philoso-
10 phy dealing with the matter of unjust laws.

11 MR. LEVERETT: May it please the Court, I wanted
12 to show the witness the paper, there are some pictures
13 on here, and I wanted to ask him about if this is his
14 picture there and this is his picture here; and he
15 appears to be sitting here, and he just testified
16 that he didn't hear any speeches but that he went
17 there and spoke only. And I wanted to question
18 him about these pictures.

19 MR. HOLLOWELL: The wording under it, Your Honor,
20 I mean the wording itself, I think that again is
21 objectionable as no evidence has been offered about
22 the authenticity of it.

23 THE COURT: Mr. Hollowell, he hasn't offered
24 it in evidence, the document hasn't been offered in
25 evidence; and I'm going to proceed the same way that

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1 The Court:

2 I did on a previous occasion when counsel was question-
3 ing the witness about a newspaper article, whether
4 that was correctly represented, and the same rule
5 would apply here. I will allow counsel to ask him
6 questions about the pictures on cross-examination.
7 Now, if it comes to the question of introduction of
8 the document, then I will rule when we get to that.

9 MR. HOLLOWELL: Allright.

10 Q Mr. Leveett: Dr. King, I ask you whether
11 this picture in the top left-hand corner, is that your
12 picture there?

13 A Yes sir, that's my picture.

14 Q Is that a true representation of you as you
15 appeared at the Highlander Folk School?

16 A Yes sir, that's correct.

17 Q Now, I call your attention to the picture over
18 here in the top right-hand corner and ask you if that is
19 you sitting ~~in~~ the second from the right in that picture?

20 A Yes sir.

21 Q And you're sitting down there, are you not?

22 A That's correct.

23 Q Who was speaking at the time that you were sitting
24 there?

25 A I don't recall. As I recall, and this is vague in

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1 my memory, someone was leading a devotional period, and I think
2 it was Dr. Thompson of the University of Chicago, because he
3 was up when I came in; and I spoke immediately after him.

4 Q Is this picture on the right, the one where
5 you're sitting down, is that a true representation of you
6 as you sat there on the occasion in question?

7 A On the - ?

8 Q Is this a true picture?

9 A Yes, that's my picture.

10 Q Who is this party right here sitting, looking
11 at the picture, to the right?

12 A I don't know him.

13 Q What about this party?

14 A That's Mr. Aubrey Williams.

15 Q And what about this gentleman here?

16 A I don't believe I know him; no, I don't know him.

17 THE COURT: Is that Aubrey Williams from
18 Alabama?

19 The Witness: From Montgomery, Alabama; that's
20 right.

21 Q Mr. Leverett: Dr. King, I ask you whether or not
22 a Miss or Mrs. Grace Lorch was also at that meeting?

23 A I don't know her, so I couldn't say.

24 Q Now, getting back to the question that I asked
25 you a few minutes ago, it is true, is it not Dr. King, that

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1 in this movement that you have engaged in, that you did
2 anticipate that violence might be committed?

3 A In Albany or the over-all?

4 Q In Albany specifically?

5 MR. HOLLOWELL: May it please the Court, I think
6 this is now about the third time that he has asked
7 that and the witness has already answered the question.

8 THE COURT: I think so. I think we've been
9 over that and I don't see any use in going over that
10 again. Let's move on to something else.

11 Q Mr. Leverett: Dr. King, are you a member of CORE?

12 A I'm a member of the advisory board, the
13 National Advistory Board.

14 Q Are you affiliated with the Student Non-Violent
15 Coordinating Committee?

16 A Yes sir, I am.

17 Q In what capacity?

18 A Adviser.

19 Q As an adviser or are you on some board or com-
20 mittee?

21 A Yes sir, it is called, I think, advisory board.

22 Q Advisory board?

23 A Yes sir.

24 Q Is that the governing body of that group?

25 A No sir, the governing body is another body
a ltogether.

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1 MR. LEVERETTS: That's all at this time.

2 MR. HOLLOWELL: Now, if it please the Court, I
3 would respectfully request the Court to rule on our
4 motion now pertaining to all of his testimony relative
5 to this Highlander School, insofar as it is not relevant
6 and it is immaterial and there is no way that it has
7 been in any wise associated with anything that is
8 the subject-matter of this particular case; and,
9 therefore, I again move that it be stricken. It was not
10 tied ~~it~~ in any way whatsoever.

11 THE COURT: I think your motion is too broad.
12 Certainly the fact that he attended and so and testi-
13 fied that these matters were discussed there, I think
14 that would be pertinent. Now, the question of whether
15 the testimony given about these particular pictures,
16 I don't see how that adds anything to the case; and
17 I sustain the motion insofar as it relates to these
18 pictures in question.

19 MR. HOLLOWELL: Thank you, sir.

20 MR. LEVERETT: May it please the Court, before
21 the Court rules, my point on the pictures was that the
22 witness testified that he went there only to make a
23 speech, that he was not present when any other speeches
24 were made; and I believe this picture shows him sitting
25 down listening to some sort of speech, certainly something

1 Mr. Leverett:
2 was going on.

3 THE COURT: I'm going to sustain the motion
4 and exclude the reference to the pictures. I admit
5 all of the other testimony about the Highlander
6 School.

7 Anything further from this witness?

8 REDIRECT EXAMINATION

9 BY MR. HOLLOWELL:

10 Q One question, did you or did you not know who
11 was to be present at the meeting just referred to?

12 MR. LEVERETT: May it please the Court, now
13 if I can't go into it, I think that counsel certainly
14 has no right to go into it.

15 THE COURT: I think his question only relates
16 to the general meeting.

17 MR. HOLLOWELL: That is correct.

18 THE COURT: Go ahead.

19 Q Mr. Hollowell: Did you or did you not know who
20 was to be present?

21 A No sir, I did not know who was to be present,
22 only some of the people. I would say 4 or 5; but the
23 vast majority I didn't know.

24 Q No further questions.
25

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CLAUDE JOINER REPORTING SERVICE

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RECROSS EXAMINATION

BY MR. LEVERETT:

Q Dr. King, in fact, several people there were acknowledged Communists, isn't that true?

A I did not know any. In fact, all of the people I came in contact with and the people that I know who were there are not Communists and never have been. Now, if there were communists there, I knew nothing about it.

Q You are disclaiming though any knowing association with those people now?

A Any knowing association with the people at the Conference?

Q Right?

A I don't quite understand. You mean all of the people there?

Q You've just stated that you did not know who was going to be there, which I presume was by means of ameliorating or explaining the fact that some people were there who apparently you were little unconcerned about?

MR. HOLLOWELL: May it please the Court, that's a matter, I think, of testimony and conclusion made by counsel and I would submit that it would be improper and ought to be stricken as a conclusion on his part.

THE COURT: Yes, that's simply a statement made by counsel and not a question. I strike that.

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THE COURT: Now, do you want to ask the question over?

MR. LEVERETT: No further questions.

MR. HOLLOWELL: Come down.

THE COURT: We'll take a recess at this time for 10 minutes.

RECESS: 3:30 PM to 3:42 PM - AUGUST 8, 1962

REV. RALPH DAVID ABERNATHY

a party Defendant, and called and sworn as witness in behalf of the Defendants, testified on

DIRECT EXAMINATION

BY MR. HOLLOWELL:

Q For the record, sir, will you give your name and the city from which you come?

A My name is Ralph David Abernathy and I'm from Atlanta, Georgia.

Q What is your employment, if any?

A I am a Baptist minister of the gospel.

Q Now, Reverend, you've been here throughout this trial, haven't you?

A Yes, I have.

Q And without trying to lead you, I'll try to direct your attention as rapidly as possible to particular areas in order to conserve time: Reverend, you were in the

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CLAUDE JOINER REPORTING SERVICE

1 City of Albany on or about the 16th of December of '61, is
2 that right?

3 A That's correct.

4 Q And on that day I believe you had the occasion to
5 be a part of the group that was walking from Shiloh Church
6 down to the City Hall?

7 A That's correct.

8 Q Where were you among - say from front to rear in
9 the group, where were you located in that group?

10 A I was the second person in line.

11 Q Who was in front of you?

12 A Dr. King and Dr. Anderson.

13 Q Who were you walking immediately behind?

14 A I was walking with Mrs. William Anderson.

15 Q Who were you walking immediately behind, you
16 personally?

17 A I was walking immediately behind Dr. King.

18 Q Were you close enough to hear any statements
19 which were made by the two of them, that is Drs. King and
20 Anderson?

21 A Yes, I heard the conversation that existed
22 between Dr. King and Dr. Anderson and we shared in the
23 conversation.

24 Q Did you hear the conversation or any statements
25 rather made by Dr. King addressed to any one other than the

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1 three persons that you have just named; that is, yourself,
2 Dr. King and Dr. Anderson; did you hear any other - I'm
3 sorry, strike that, will you please? -- Did you hear any
4 statement addressed by Dr. King in the process of your
5 walking, addressed to anyone other than those three that
6 you have just mentioned?

7 A Only after we were stopped by the Chief of Police.

8 Q Now, did you hear the statement which was
9 attributed to Rev. King by some officer concerning "strike
10 me first", did you hear any such statement?

11 A I heard that statement but it definitely did
12 not come from Dr. King.

13 Q I see. From whom did it come?

14 A It came from Dr. Anderson.

15 Q Now, I believe you were placed under arrest,
16 were you not?

17 A Yes, I was.

18 Q And were led in the street along with the
19 others after you were stopped at Oglethorpe and Jackson?

20 A That's correct.

21 Q Now, did you come out at the same that Dr. King
22 came out?

23 A Came out of jail?

24 Q Out of jail, yes?

25 A No, I came out before Dr. King.

1 Q When did you have the occasion to return to the
2 City?

3 A I returned to the City in late February.

4 Q Was this the same time when Dr. King came down
5 for trial?

6 A That's correct.

7 Q Did you leave immediately thereafter?

8 A That is correct.

9 Q And then you returned again when?

10 A I returned again on July 10, I believe.

11 Q This was for the sentencing?

12 A That is correct.

13 Q And have you been here ever since?

14 A No, I went out for a few days.

15 Q Was this the occasion when your fine was paid,
16 along with Rev. King's by someone?

17 A That is correct. Shortly after our fines were
18 paid by some unknown person or persons, we left the jail and
19 went over to the residence of Dr. Anderson; and after
20 staying there a couple of days, I returned to Atlanta to
21 fulfill some speaking engagements, and then I came back to
22 Albany.

23 Q Now, you were subsequently arrested, I believe,
24 and you are now the recipient of such courtesies as the City
25 fathers make available for those who are incarcerated, is

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1 that correct?

2 A Yes, my temporary address in Albany is the City
3 jail.

4 Q Now, I believe you have been here and you have
5 heard certain statements that were attributed to you in
6 connection with some meeting at which you spoke?

7 A Yes, I have.

8 Q Now, without going through the total speech,
9 Reverend, would you address yourself just specifically
10 to the statements which were attributed to you, the one
11 pertaining to dying if necessary, and the one concerning
12 the matter of not being turned around? What did you mean?

13 A Well, first, I am a citizen of the United States
14 of America and I love this Country as my home and as my
15 land, and I know that this is a dream, expressed first
16 by Thomas Jefferson, and this dream --

17 MR. LEVERETT: May it please the Court, I object
18 to this speech. It's not responsive to the question
19 and it's irrelevant and immaterial.

20 MR. HOLLOWELL: May it please the Court, there
21 has been a great amount of discussion by the Plaintiffs
22 pertaining to these statements, and I submit that the
23 Defendant has the right to give his expression or
24 his interpretation of what he meant by the statements
25 which they have attributed to him. There has been a long

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1 Mr. Hollowell:

2 tirade about what effect this had upon others and
3 the incitation as it affects others; and certainly I
4 say this witness has the right to indicate what his
5 meaning was.

6 THE COURT: Yes, he has a right to answer your
7 question but the question was really a very simple
8 one, what did he mean when he said that. And then
9 he started with Thomas Jefferson and it would take
10 quite a while to come up to date from that point.
11 But I wonder if your question simply can't be answered,
12 what did he mean when he said what he said. At least,
13 let's start along about, say William Jennings Bryan
14 or somewhere like that.

15 MR. HOLLOWELL: Well, if I understood it, Your
16 Honor please, as I understand where perhaps the
17 witness is trying to go, this is the inception of
18 that which the persons that he was talking to as
19 well as himself actually began. This is the inception
20 of it. I can't see how he could do other than address
21 himself to that, as long as he doesn't get strayed
22 along somewhere between there and 1962.

23 THE COURT: Personally, I don't mind him
24 explaining. It's a proper question and he has a right
25 to explain it; but, Mr. Witness, let's limit it simply
to an answer to the question.

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A The Witness: Well, as I was saying, Your Honor, the dream of Thomas Jefferson and our forefathers has not been fully realized. Just as they rose up and broke loose from Colonial tyranny, our Nation today will survive only if minorities will rise up and break loose from segregation and the evil system of discrimination. And I meant that I seek to follow in the footsteps of Thomas Jefferson and our noble forefathers, in that just as nothing turned them around, then nothing will turn me around.

Q Mr. Hollowell: Now, there has also been some statement - What is your office in the SCLC?

A I'm Financial Secretary-Treasurer.

Q There are some questions or some statements rather attributed to you dealing with the matter of unjust laws and your breaking of them: would you want to indicate for the record what you mean by this?

A Well, by unjust laws, I mean those laws that have been declared unconstitutional by the Supreme Court, the major court of this Land.

Q As relatesto any given thing?

A As relates to segregation.

Q Now, what does, in your opinion, the matter of these - say an ordinance concerning the blocking of a sidewalk, have to do with that?

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CLAUDE JOINER REPORTING SERVICE

1 A Well, you don't need the Supreme Court to tell
2 you not to block the sidewalks. Anybody with common sense
3 knows not to block the sidewalks. And never have I
4 participated in any demonstrations in Albany where the
5 sidewalks were blocked.

6 MR. HOLLOWELL: The witness is with you.

7 CROSS EXAMINATION

8 BY MR. LEVERETT:

9 Q Rev. Abernathy, you aren't saying that Dr. King
10 did not in fact make this statement that you referred to,
11 are you?

12 A Yes, I am.

13 Q Are you swearing positively that he did not make
14 that statement?

15 A Yes, I am.

16 Q You were right behind him, you say?

17 A That's correct.

18 Q Were there any people on the sidewalk as you
19 were going down the street there? Were there any spectators
20 on either side of the march?

21 A There were some people indoors, the doors of
22 their homes and businesses.

23 Q There were none on the street - excuse me, go
24 ahead?

25 A And businesses. There were the normal people who

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1 were engaged in conversations on the sidewalks.

2 Q On the sidewalks?

3 A That's right.

4 Q In fact, that was coming up South Jackson Street,
5 was it not, up toward Oglethorpe?

6 A Well, I'm not familiar with the streets in
7 Albany. I assume it was South Jackson Street.

8 Q South Jackson Street is the one that intersects
9 Oglethorpe right there at the bus station and comes up this
10 way toward the City Hall; that is the street that you were
11 marching on, is that right?

12 A That's the street we were stopped on by the
13 Chief, yes.

14 Q In fact, that is one of the main streets below
15 Oglethorpe in the colored section of Albany, isn't it?

16 A I really don't have any knowledge concerning
17 the geography and the populational distribution of Albany.

18 Q Now, are you saying that you heard every statement
19 that Rev. Dr. King made from the time that march began until
20 the time it ended?

21 A Yes, because his statements were made to Dr.
22 Anderson and to me, and to the Chief of Police.

23 Q In other words, you were paying sole attention
24 to what Dr. King was doing; you were not paying any attention
25 at all to the police coming, to the spectators or anything

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1 else; but you were making it your business to listen to
2 what he was saying and nothing else, is that right?

3 A Well, we are associates and we work together
4 and we've been together and we still are together; so, we
5 were engaged in conversation as we faced this particular
6 assignment, as we sought to pray.

7 Q Were you talking - Were you the only person that
8 he talked to on the march?

9 A Dr. Anderson and myself.

10 Q And every conversation he had with anybody from
11 the time he left the church until the time he was taken in
12 the jail you were in on the conversation?

13 A That is correct.

14 Q You never said anything to anybody that he didn't
15 hear and he never said anything to anybody that you didn't
16 hear?

17 A Well, I don't know, I can't say whether he heard
18 every word I uttered, but I can say that I was in on every
19 conversation that he engaged in from the time we left the
20 Shiloh Baptist Church until we were taken into the City jail
21 in Albany.

22 Q Rev. Abernathy, isn't it true that in the normal
23 course there's a good deal of noise along Jackson Street
24 there in the colored section, at the stores on both sides
25 of the street and traffic coming up?

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1 A Well, I will answer that and then explain. There
2 may be a great deal of noise but when you're engaged in
3 something that is very dear to you and meaningful, then
4 you don't hear the other noise because you have centered
5 your attention on an objective.

6 Q In other words, you were tuned to his frequency
7 and nobody else's?

8 A I wouldn't say his "frequency", not to him, but
9 to the cause which we were seeking to champion at that time.

10 Q Now, are you saying that your attention was
11 tuned to the cause or was it tuned to what he was saying?

12 A It was tuned to the cause as expressed through
13 and by him, myself and Dr. Anderson.

14 Q When the police officers came, did they say
15 anything to you?

16 A N,o, he spoke directly to Dr. King.

17 Q Going further, Rev, Abernathy, you stated by way
18 of explaining your statement about dying on the streets
19 that you meant that in the sense of Thomas Jefferson, more
20 or less in a philosophical sense; you didn't make that
21 explanation to that crowd though when you were speaking
22 to them, did you?

23 A Well, I didn't give possibly that illustration
24 but I did give some illustrations. I sought to make clear
25 to them that the time had come for us to seek to defend our

1 Nation right here at home.

2 Q You didn't even mention Thomas Jefferson when you
3 made that speech in such place as you made it, did you?

4 A Well, in the Baptist tradition it was a pretty
5 long speech; so, I can't remember every word I uttered.

6 Q Now, you spoke of the traditions of Thomas
7 Jefferson; the truth of the matter is, Thomas Jefferson
8 was the author of the Declaration of Independence, which
9 advocated armed revolution, isn't that true?

10 A That is correct.

11 Q Is that the sense in which you meant this
12 statement to be?

13 A No, I did not mean that we were going to take
14 up physical arms. I meant that we had at our disposal
15 spiritual arms; and just as our Nation took up physical
16 arms to break loose from Colonialism and Great Brittain,
17 that we as Negroes must arm ourselves with the spiritual
18 resources and break loose from the system of segregation
19 and discrimination.

20 Q The truth of the matter is, Dr. Abernathy, you
21 didn't so state on this occasion, did you?

22 A Oh yes, in essence; I expressed that in essence.

23 Q Now, Dr. Abernathy, what education have you had?

24 A I am a graduate of high school, of college and
25 graduate school.

Q

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1 Q What sort of degrees do you hold?

2 A That's B. S., M. A.

3 Q Now, isn't it true, Rev. Abernathy, isn't it
4 quite possible that some of the people that heard you make
5 that statement didn't put the same connotation on it that
6 you now place and say that you intended for it to have?

7 MR. HOLLOWELL: May it please the Court, this
8 is a matter of speculation, isn't it quite possible.
9 I submit that it's argumentative as well as speculative.
10 It certainly would be a conclusion, isn't it possible
11 that. I mean anything is possible that.

12 THE COURT: Well, he was addressing an
13 audience and I think that's a proper question, as a
14 public speaker, which he is, to ask him to express an
15 opinion as to how his audience might interpret what
16 he's saying. I think that's a proper question. Now,
17 just as you say, I don't see how he can answer it but
18 one way because it is possible, I'm sure; and I'm sure
19 that's the way he'll answer. Go ahead.

20 A The Witness: As a minister of the gospel, I
21 have developed a feeling that you can sense whenever your
22 message is getting across to the congregation; and I had
23 that feeling, that they had captured exactly what I was
24 seeking to say to them.

25 Q Mr. Leverett: What were they doing to cause you

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1 to get this impression?

2 A Well, they - from the expressions on their faces,
3 and from their overt responses.

4 Q In fact, the truth of the matter is they all
5 got very excited when you made this statement, didn't they?

6 A Well, I don't know whether it was after that
7 statement or not, but I do know that in the course of the
8 speech they became very solemn, and I got the feeling that
9 they were dedicated.

10 Q In fact, you built up more or less to a climax
11 on this very point about dying in the streets, and when
12 you had concluded, wasn't there a rousing ovation?

13 A No, I don't think - in fact, I'm sure that that
14 was not my climax. My climax dealt with the fact that the
15 Negro is not going back to Africa or any other place, but
16 that we're going to stay here, for we are not citizens of
17 Africa but we are citizens of the United States of America.
18 That was my climax.

19 Q Rev. Abernathy, you mentioned just a few moments
20 ago about your making some statement about unjust laws:
21 Have you made such statements while speaking or addressing
22 any of the groups at Shiloh or Mt. Zion or this other church
23 that you held mass meetings in?

24 A I don't recall whether I made them in Mt. Zion
25 or Shiloh.

1 Q You made them in one or the other?

2 A Well, I have made it clear that I felt my loyalty
3 to the major law of this land as interpreted by the Supreme
4 Court of the land.

5 Q In other words, you disagree with Dr. King on
6 this particular matter?

7 A Well, I don't know if we disagree or not, but this
8 is my - this is my philosophy.

9 Q Is it your testimony then that you have on
10 occasions stated that people who in their conscience felt
11 the urge should not abide by unjust laws?

12 A Yes, I have made that statement.

13 Q To a group?

14 A Yes, I've made it.

15 Q In Albany, Georgia?

16 A Yes, I've made it in Albany, Georgia.

17 Q On how many occasions?

18 A Well, I don't remember. I made a lot of speeches
19 and I made a lot of statements.

20 Q Is it also your testimony that on every such
21 occasion that you made that statement you specifically and
22 particularly limited it to so-called segregation laws?

23 A No, I'm not saying that. I am giving you now,
24 I'm explaining now what I mean about my --

25 Q Excuse me, I didn't get the last part of your

127.4

1 answer?

2 A I said I am explaining now to you and to the
3 Court what I mean when I say that I do not feel that I
4 should obey an unjust law; and those laws are the segrega-
5 tion laws which have been declared unconstitutional by the
6 Supreme Court, and that's what I mean.

7 Q Excuse me, go ahead?

8 A That's what I mean.

9 Q But you have not - it is your testimony that on
10 these occasions that you've referred to when you've dis-
11 cussed this matter, you have not specifically added what
12 you are now saying, the explanation which you are now giving;
13 is that true?

14 A Well, I have, in essence. I have never
15 advocated in Albany that the citizens would violate any
16 law that has been upheld by the Supreme Court of the Land.

17 Q Suppose the Supreme Court has upheld a law
18 but you consider it unjust; would you include such a law
19 in your statement?

20 A Well, I have faith enough in the judicial system
21 of my Country and upon the vision of those who sit in
22 judgment upon that high Court, that they will take into
23 consideration the welfare of all of the people, with liberty
24 and justice for them.

25 Q In other words, if the Supreme Court has upheld

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1 the law, that that does it as far as you are concerned,
2 and that ipso factor renders that law just? Is that right?

3 A I don't understand your question.

4 Q You have stated that your statement about
5 disobeying unjust laws, that by that you had reference to
6 laws that the Supreme Court of the United States has held
7 unconstitutional; I am now asking you whether or not or
8 rather I have asked you whether or not that that would also
9 extend to a law which the Supreme Court has upheld as far
10 as constitutionality was concerned but which appeared
11 unjust, and you then stated that you had faith in the
12 Supreme Court: Now, I'm asking you, is it your testimony
13 that if the Supreme Court upholds the constitutionality
14 of a law, then that ends it as far as you are concerned
15 and that law would be considered by you to be just?

16 MR. HOLLOWELL: May it please the Court, I
17 would submit here that this is calling upon this
18 lay witness for an interpretation of some other law
19 which law is not at issue in this particular case
20 anyway; and, therefore, I think it would be irrelevant.
21 He has answered the question going to the subject
22 matter of this suit; and that is where he considers
23 the law of the Land as laid down by the Supreme Court
24 in segregation matters as being superior to any
25 ordinance dealing with that; and, therefore, the

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1 Mr. Hollowell:

2 ordinance would be an unjust law. I submit that when
3 we get outside of the scope, we could go on and on
4 and on, but the case has not been expressed in that
5 which is out in the periphery, and indeed he has
6 already answered the question which has ~~been~~ propounded.

7 THE COURT: What I get out of his testimony,
8 maybe I'm not getting the right thing, I don't know,
9 but the philosophy and what I can get out of it is,
10 anything that he thinks is not just, he has a right to
11 violate. That's what I get out of it.

12 MR. HOLLOWELL: I don't believe he has so testi-
13 fied, Your Honor. I think he limited it to the
14 segregation laws or laws which are applied in a
15 discriminatory fashion and which, therefore, would
16 have the effect, the perpetuation of the matter of
17 segregation.

18 THE COURT: Yes, anything within that area,
19 then anything that he thinks is not just, he's got
20 a right to violate it, is what I get out of his testi-
21 mony, anything in that area.

22 MR. LEVERETT: I don't think this witness has
23 testified about unjust administration. Counsel is
24 putting words in his mouth, and I object to counsel
25 doing that, if it please the Court.

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1 THE COURT: I don't know what counsel just
2 said about it. I was trying to interpret my under-
3 standing of what the witness said. Go ahead.

4 Q Mr. Leverett: Rev. Abernathy, did you answer
5 the question that was asked you just before the objection
6 was made, about whether the Supreme Court to your mind
7 decides whether a law is just or unjust?

8 THE COURT: In other words, you're asking
9 him if that is the final determination as far as he's
10 concerned?

11 MR. LEVERETT: That's correct.

12 A The Witness: Well, at this point, I rest my
13 case under the interpretation of laws by the Supreme Court
14 of the Land, being a citizen of the United States; and I've
15 never tried to cross bridges before I get to them; and if
16 the Supreme Court upheld a law that I felt was unjust, then
17 I would have to make that decision when I got to that point.
18 But up to this point I do not feel the impulsion to violate
19 any laws except those segregation laws that have been
20 declared unconstitutional by the Supreme Court of the
21 United States of America, and those laws which are unjustly
22 applied.

23 Q In that respect, Rev. Abernathy, if the Supreme
24 Court of the United States were in its October 1962 term
25 to reverse its decisions in the segregation cases and hold

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1 that segregation laws are valid, would you then comply with
2 them?

3 MR. HOLLOWELL: May it please the Court, this
4 is speculation, it is a hypothetical which is not in
5 issue and I would submit --

6 THE COURT: I think the witness has already
7 made it clear. He says that he's going to withhold
8 his decision about whether he would abide by a law
9 which the Supreme Court said was a valid one until
10 he sees what it is. He says he's going to withhold
11 his judgment on what the Supreme Court does until the
12 Supreme Court passes on it. That's his attitude.

13 MR. LEVERETT: All right sir.

14 Q Well, looking retroactively or rather prospective-
15 ly, Rev. Abernathy, if I tell you that the United States
16 Supreme Court in the Dred Scott decision held that a Negro
17 was not a citizen and that the United States, the Federal
18 Government, could not confer citizenship on him, I ask you
19 whether you would think that was an unjust decision?

20 MR. HOLLOWELL: May it please the Court --

21 THE COURT: Now, right there, I think we've
22 gone far enough with the hypothetical questions. I think
23 the attitude of the witness is clear and his philosophy
24 is -- well, I don't know whether it's clear or not, but
25 it's in the record; and I think further hypothetical

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1 The Court:
2 situations would not contribute anything to the trial.

3 A MR. LEVERETT: All right, sir, I withdraw the
4 question.

5 Q I would like one more question and I don't
6 think ~~that~~ this transcends the Court's ruling, and I ask
7 the indulgence of the Court because I don't think it is
8 hypothetical: Rev. Abernathy, do you consider a law which
9 requires persons to obtain a permit before parading or
10 demonstrating, do you consider that an unjust law?

11 A Well, I would like --

12 Q Will you please answer the question yes or no
13 and then you can explain it like the other witnesses have
14 done?

15 A If it is applied in a discriminatory fashion,
16 then I would think that it is an unjust law.

17 Q Have you ever applied for such a permit?

18 A No, I never applied for one.

19 Q I see; that's all.

20 THE COURT: All right, anything further?

21 MR. HOLLOWELL: You may come down.

22 May it please the Court, we tender DEFENDANTS' EXHIBIT
23 No. 1, being a photograph of a group crossing the
24 street.

25 MR. RAWLS: No objection to Exhibit #1, Your
Honor.

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1 THE COURT: It is admitted. (D-1)

2 MR. HOLLOWELL: DEFENDANTS' EXHIBIT No. 2,
3 which is another photograph --

4 MR. RAWLS: No objection to #2, Your Honor
5 please.

6 THE COURT: It is admitted. (D-2)

7 MR. RAWLS: No objection to #3, I presume
8 this is.

9 THE COURT: It is admitted. (D-3)

10 MR. RAWLSA: No objection to D-4 and no
11 objection to D-5.

12 THE COURT: They are admitted (D-4 & D-5)

13 MR. HOLLOWELL: I might say that we have one
14 other witness, Your Honor, who would be only for the
15 purpose of identifying 2 or 3 articles. It may be
16 that inasmuch as the by-line is on them, showing
17 Vick Smith, whom I'm sure is in the acquaintance
18 and probably the association of all in these proceedings,
19 it might not be necessary to take the time to have it
20 identified.

21 MR. RAWLSA: Your Honor, we have no objection
22 to either of these.

23 THE COURT: What are those?

24 MR. HOLLOWELL: DEFENDANTS' EXHIBITS 6, 7 and 8.

25 THE COURT: Newspaper articles?

1 MR. HOLLOWELL: Yes sir, out of the Herald.

2 MR. RAWLS: They are articles written by
3 Vick Smith, local reporter.

4 THE COURT: You have no objection.

5 MR. RAWLS: None except to one which is by
6 the Associated Press. We have an objection to it.
7 If counsel for the other side concedes that they haven't
8 been properly proved, we won't take the time to do that.

9 MR. HOLLOWELL: That is 6, 7 and 8, sir.

10 THE COURT: Alright, without objection,
11 they are admitted (D-6, D-7, D-8)

12 MR. RAWLS: We have no objection to D-9,
13 Your Honor, D-10, D-11, D-12, D-13, D-14, D-15.

14 THE COURT: All of those are photographs,
15 are they?

16 MR. HOLLOWELL: Those are photographs, yes sir.

17 THE COURT: Alright, they are admitted.
18 (D-10 through D-15)

19 MR. RAWLS: We have no objection to D-16,
20 Your Honor, which is a communication of the Albany
21 Movement, copy of letter written to me and copy to
22 Chief Pritchett.

23 THE COURT: It is admitted (D-16).

24 MR. RAWLS: We have no objection to D-17
25 and 18, 19 and 20, all of the last mentioned being
photographs.

1232

1 THE COURT: They are admitted. (D-17, 18-19020)

2 MR. HOLLOWELL: D-21 through 26 are groups of
3 photographs which are in envelopes or otherwise
4 collated in such a way as to be in a group, 21 through
5 26. These are the photographs that were produced by
6 the City.

7 MR. LEVERETT: Counsel, are all of those photo-
8 graphs within that group the ones that we produced?

9 MR. HOLLOWELL: Yes.

10 MR. RAWLS: We certainly, if Your Honor please
11 have no objection to the introduction of our photo-
12 graphs.

13 THE COURT: Allright, they are admitted.
14 (D-21 through D-26)

15 MR. HOLLOWELL: D-23, D-22, D-24, D-25.

16 THE CLERK: How about 21 and 22?

17 MR. RAWLS: D-22, 23, 24, 25, 26.

18 THE CLERK: How about D-21?

19 MR. RAWLS: Here it is right here, D-21,
20 22, 23, 24, 25, 26.

21 THE COURT: All right, they are admitted.

22 MR. RAWLS: We have no objection to D-27,
23 Your Honor; that's a photograph.

24 THE COURT: It is admitted (D-27).

25 MR. RAWLS: We have no objection to copy of

1 Mr. Rawls:

2 letter dated February 6, 1961, addressed to Mayor Kelley,
3 signed by a group, designated as D-28; we have no
4 objection.

5 THE COURT: All right, it is admitted (D-28)

6 MR. HOLLOWELL: Let me see if there is anything
7 else, Your Honor. . .

8 May it please the Court, we were going to submit
9 certified copies or read from the Code, the Albany Code,
10 but my associate tells me that he has spoken with
11 c counsel, the City counsel or rather the City Attorney,
12 Mr. Rawls, and that he will agree that this particular
13 Code is an accurate code of the City of Albany; and we
14 wanted to submit and read into the record the particu-
15 lar segregation laws that we addressed ourselves to,
16 unless the Court would indicate that it would take
17 judicial notice of them; or if the Court would not
18 wish to take judicial knowledge of them, that they
19 be submitted as tendered, with permission to submit
20 them to the attorney before ~~we~~ we turn them over to the
21 Clerk.

22 MR. RAWLS: Your Honor please, I simply
23 conceded that the book that counsel has is the
24 official Code of the City of Albany; but I certainly
25 have not agreed to the admissibility of any ordinances

1234

1 Mr. Rawls:

2 that he expects to introduce in this case. Counsel
3 understands that my statement is that we concede
4 that is the official Code of the City of Albany and
5 that was the extent of my agreement.

6 THE COURT: In other words, what you're
7 saying is that you are agreeing that what he has
8 there --

9 MR. RAWLS: Is the official code.

10 THE COURT: -- is the official Code of the
11 City of Albany. But you are not agreeing to the
12 admissibility of any portion of it?

13 MR. RAWLS: No sir, and I think I have
14 objection to what he's fixing to offer.

15 MR. HOLLOWELL: May it please the Court, what
16 I wanted to, in the light of that, was to ask the
17 Court to reserve his ruling on that one item until
18 the Clerk has finished typing up the certified copies.
19 In that way I think we might curtail some time
20 because we would rest otherwise.

21 I would say that I know that under the law
22 generally that this Court does not take judicial
23 notice of municipal ordinances. I mean we all know
24 that. But we did want to submit them and they're in
25 the process of being prepared; and I will submit them

1235

1 Mr. Hollowell:

2 to Mr. Rawls before such time as I brought them in;
3 but I did not want to rest without that stipulation.

4 MR. RAWLS: We concede that he's in the
5 same status in offering to read from the official
6 Code as he would be if he were presenting certified
7 copies by the Clerk of the City of Albany.

8 MR. HOLLOWELL: That being true, then, sir, I
9 would like to read into the record Chapter 21 or
10 Rather Chapter 22, Section 1 of the City Code of
11 Albany, which reads, as follows:

12 "All passenger busses operated in the City and
13 its police jurisdiction shall provide separate
14 accommodations for white people and Negroes on such
15 busses. All conductors, drivers or other employees
16 in charge of busses shall assign all passengers to
17 their respective seats, so as to separate the white
18 and Negro races as much as practicable, except that
19 Negro nurses having in charge white children or sick
20 or infirm white persons, may be assigned seats among
21 white people."

22 MR. RAWLS: We object to that ordinance and
23 section of the City Code, if Your Honor please,
24 because it has no relevancy to the issues made in
25 t this case, and is illegal and immaterial.

1236

1 MR. HOLLOWELL: I submit, Your Honor, that there
2 has been a great deal of testimony pertaining to the
3 matter of the use of the busses and that one of the
4 witnesses which was called by the Plaintiffs was a
5 Mr. Sweeting, who, as I recollect, was the manager
6 of the bus line; and that there was discussion as to
7 the cause for some alleged boycott; and it would be
8 most appropriate; and I think that it should be in
9 the record, the fact that there is a City Code dealing
10 with the ordinances of the City.

11 Now, this in addition to the fact that the Chief
12 of Police has testified that he would enforce all of
13 the segregation ordinances of the City of Albany; and,
14 therefore, I submit that it would be most appropriate
15 and germane to this case.

16 THE COURT: Have you got some others?

17 MR. HOLLOWELL: I have some others.

18 THE COURT: I anticipate the same objection
19 will be made to them?

20 MR. RAWLSA: The same objection.

21 THE COURT: Then, go ahead and complete your
22 tender and I'll rule on them all.

23 MR. HOLLOWELL: Thank you, sir. Chapter 22,
24 Section 2: "It shall be unlawful for any person to
25 remain in a seat or compartment of a bus, other than

1237

1 Mr. Hollowell:

2 "that to which he has been assigned"; the sub-section
3 title thereon being "persons to remain in seats to
4 which assigned".

5 Also, Section 3 of the same chapter, the topic
6 being "Taxicabs. White and colored persons shall not
7 be carried at the same time in any taxicab for hire in
8 the City, provided that this section shall not be" =
9 I'm sorry - "this section shall not apply to colored
10 nurses or other servants, where accompanied by white
11 children in their charge."

12 Section 4 of Chapter 22, the caption being
13 "Separate places for sale of tickets; separate
14 lines." It reads thusly:

15 "All persons who sell or otherwise dispose of
16 tickets, coupons or cards for admission to any theater
17 or place of amusement in the City shall have separate
18 places for the sale of such tickets, coupons or cards
19 to white and Negro persons, and shall require white and
20 Negro persons to form separate lines or groups when
21 assembled for the purpose of procuring said tickets,
22 coupons or cards."

23 Continuing in a new paragtaph:

24 "It shall be unlawful for any white person to
25 stand, be or remain in any line or group formed of
colored persons, or for any colored person to stand,

1238

1 Mr. Hollowell:

2 "be or remain in any line or group formed of white
3 persons, when assembled for the purpose of procuring
4 such tickets, coupons or cards."

5 The last would be Chapter 26, Section 12, the
6 caption being "Separate designation of cabs for white
7 and colored persons. Each and every vehicle licensed
8 to carry white passengers shall have a sign plainly
9 painted on each side and on the rear the words"
10 in upper case letters, quote "'WHITE'", end quote;
11 "and each and every vehicle licensed to carry colored
12 passengers shall have a sign plainly printed on each
13 side and on the rear the words", quote, in upper case
14 letters 'FOR COLORED'", end quote, end of article.

15 Those, Your Honor, constitute the particular
16 Code sections that we would tender.

17 MR. RAWLS: Your Honor please, we object to
18 all of the offered City Code sections, on the grounds
19 and for the reason that the contents of those Code
20 sections are illegal, irrelevant and immaterial in
21 this case; and for the further reason, it has not
22 been charged or shown in this case that any prosecution
23 has been instituted or pursued relative to either one
24 of the sections presented.
25

1 THE COURT: My ruling on the matter is that
2 the evidence offered in the form of code sections
3 referred to would be pertinent evidence in another
4 action which is now pending in this Court and
5 will be tried in due course; but that it is not material
6 and not admissible in this action before me at this time.
7 And I sustain the objection and exclude the evidence
8 tendered.

9 Anything else? Any other documentary evidence?

10 MR. HOLLOWELL: The Defendants rest, Your Honor.

11 THE COURT: Allright, anything further
12 for the Plaintiffs?

13 MR. LEVERETT: May it please the Court, we
14 have nothing further.

15 THE COURT: All right, both sides have rested
16 then. Do you wish to argue the case at this time?

17 MR. HOLLOWELL: May it please the Court we would
18 like, of course, first to renew the motion that was
19 made initially, which was a motion to dismiss on the
20 ground of jurisdiction, and the motion which was made
21 as of the condusion of the Plaintiffs' case. I think,
22 without the necessity of argument on them, if we could
23 consider them as renewed, then it will not be necessary
24 for us to present them further.

25 THE COURT: All right, the record will so
indicate.

1240

1 The Court:

2 Do you wish to proceed to argue the case?

3 MR. LEVERETT: May it please the Court, we
4 don't particularly care to present any oral argument,
5 unless the other side does. If the Court wishes
6 argument, I think it probably would be more productive
7 to be inwriting.

8 THE COURT: What is the attitude of Defendants'
9 counsel, do you wish to argue the case at this time?

10 MRS. MOTLEY: No sir, we do not wish to argue
11 the case.

12 THE COURT: Allright, then this is the
13 situation: I note that counsel for Plaintiffs has
14 indicated some possible desire to file some written
15 argument, and counsel for Defendants may or may not
16 wish to do the same thing.

17 At this moment I am not sure exactly when I will
18 decide this case. I'm not sure whether it might
19 be within a couple of days or within a week or within
20 a month; I'm not sure. But I do want to keep the case
21 in such a situation as it is in the breast of the Court
22 as it is for a decision at such time as I can getto it.

23 Now, in the meantime, both parties have rested,
24 but I am going to keep the record open in this case
25 until I announce my decision in it; and I am according

1241

1 The Court:

2 to Plaintiffs and I am according to Defendants the
3 right to petition the Court for the privilege of
4 supplementing the record, if there should be any
5 event or events or any evidence of any kind which
6 develops between this moment and such time as I
7 announce my decision in this case, which the parties
8 might deem pertinent in the Court's consideration of
9 its decision in the case.

10 In other words, until the time I announce my
11 decision, if the Defendants wish to supplement the
12 record with regard to anything which transpires
13 between this moment and such time as I decide the
14 case, they may petition me for the right to do so.
15 The Plaintiffs may do likewise. In other words, the
16 case remains open to that extent until I have decided
17 the case.

18 Now, in the meantime if counsel for either side
19 wish to file anything in the way of argument or brief
20 with the Court in writing, they may do so, but I leave
21 the situation that way. I may decide it at any time
22 or I may decide it somewhat later. That is the situation.

23 MRS. MOTLEY: May it please the Court, if we
24 have concluded this case, can we at this time try to
25 arrive at a time when the Plaintiffs' motion for

1242

1 Mrs. Motley:

2 preliminary injunction will be heard in case No. 730
3 and case No.731?

4 THE COURT: This is the situation that the
5 Court finds itself in with regard to the other pending
6 matters. As is well known, we have been involved in
7 this matter now for several days. It has resulted in
8 quite a disruption of the schedule of certain other
9 hearings which the Court had already set for last week
10 and for this week, in other divisions of the Middle
11 District. It is going to be necessary for me to
12 re-evaluate the Court's position with regard to the
13 obligations that I have in connection with other
14 matters. Doubtless, counsel are going to find that they
15 are in somewhat the same situation; that is, that they
16 have had to put aside other things, which they now
17 find that they have to attend to.

18 The only thing I can say, I can't say anything
19 with any definiteness at the moment, all I can say is
20 that, after I've had an opportunity to reset and re-
21 evaluate the time that is going to be required of me for
22 other matters, which I have had to put off and displace,
23 I will advise counsel at that time of what I consider
24 to be an appropriate time of setting for trial the
25 other cases. That is all I can say at this moment.

1243

1 MRS. MOTLEY: The only thing I would like
2 to point out, Your Honor, is that we have filed a
3 suit in which we seek to desegregate all of the public
4 facilities set forth in that complaint. Now, as
5 Your Honor knows, this case before the Court today
6 arises out of that situation, and it seems to me that
7 in view of that the Court should give utmost priority
8 to the hearing and disposition of that case. I think
9 that - well, the Court can almost take judicial notice
10 of the fact that all public facilities are segregated
11 here. A lot of that is already in evidence in this
12 case and it shouldn;t take over a half a day to really
13 try that case, if that long. Certainly the law is
14 settled, if there is any dispute that public facilities
15 should not be segregated.

16 So that, we would urge the Court to hear that
17 matter as promptly as possible, because that case is
18 the crux of the controversy in this case; and with
19 a settlement of that, it seems to me that this case
20 is settled. So that, we would urge and strongly urge
21 the Court to hear that at the earliest possible moment.

22 THE COURT: What counsel has just said is
23 what was in my mind yesterday when I urged the consoli-
24 dation of these matters; and down the road it still may
25 be appropriate. I don't know yet.

1 The Court:

2 But at this point all I can say is what I have
3 said. I realize that counsel would like as early a
4 hearing as possible. Plaintiffs always want as early
5 a hearing as possible. I'm aware of that. The only
6 problem is that I have obligations otherwise at other
7 places. I had to greatly inconvenience a half dozen
8 lawyers last week in matters that had been set, which
9 have now got to be reset; and I am in such a situation
10 that at this moment I cannot suggest a date, but I will
11 do so at such time as I can reevaluate the situation
12 and can do it with more intelligence than I can at
13 this time.

14 Is there anything further?

15 MR. RAWLS: If Your Honor pleases, in view
16 of the fact that counsel representing the City of
17 Albany have been tied up in this particular litigation,
18 we are compelled to request the Court for an additional
19 ten days from next Tuesday, I believe it is, when the
20 time expires for the filing of an answer in the general
21 desegregation case. I would like to make that fact
22 known now in order to save me a trip to Columbus.

23 THE COURT: Well, I see no objection to
24 granting your request for an additional 10 days. I
25 realize that you have been tied up here, just like I

1245

2 Have and everybody has; and I see no objection to the
3 granting of the extension of time.

4 MR. RAWLS: I do not have a formal order
5 prepared at this time, Your Honor, but I will prepare
6 it and send it to you tomorrow.

7 THE COURT: All right.

8 MRS. MOTLEY: Your Honor, we don't have any
9 objection to that extension, if it doesn't interfere
10 with our hearing on our motion for preliminary injunc-
11 tion. Now, as I pointed out yesterday, we have a
12 right to a hearing on our motion for a preliminary
13 injunction whether an answer has been filed or not.
14 And if we have that hearing promptly as Rule 65
15 requires, then I won't object if they want two years
16 to file their answer; but we insist upon an early,
17 as early a hearing on our motion for preliminary
18 injunction as possible.

19 THE COURT: Well, as I have said, I will
20 grant the hearing and set it down at such time as I
21 can get to it, consistent with the other obligations
22 which I have; and that is all I can say at the moment.
23 You may mail me the order and I'll grant you the addi-
24 tional time for filing your answer. There being
25 nothing further, we now stand ~~ADJOURNED~~.

HEARING ADJOURNED: 4:45 PM AUGUST 8, 1962.

1246

Albany, Ga.,
July 23, 1962.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Kelley vs. Page, et al,
Civil Action No. 727

Inclosed herewith find Cashier's check in the sum of \$250.00, to be deposited in the Registry of the Court, as Cost Bond in the above styled case, which was filed with me.

Yours very truly,

David C. Campbell, Jr., Deputy

Albany, Ga.,
July 27, 1962.

Mrs. Anna Ingram,
Vanderbilt Law School,
Nashville, Tennessee.

Dear Mrs. Ingram:

Re: Kelley vs. Page, et. al.,
Civil Action No. 727

As requested in your telephoned conversation this morning, I am inclosing herewith a certified copy of the Order of Injunction in the above styled case, which was signed by Judge J. Robert Elliott on July 20, 1962.

Please send me your check for \$1.30.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk, U. S. District Court.

DCC:kc

United States District Court

NORTHERN DISTRICT OF GEORGIA

OFFICE OF THE CLERK

ATLANTA 1, GEORGIA

C. B. MEADOWS
CLERK

July 24, 1962

Honorable John P. Cowart, Clerk,
U. S. District Court for the
Middle District of Georgia,
Macon, Georgia.

Dear Sir:

Re: Asa D. Kelley, Jr., et al vs. M. S. Page, et al
Civil Action 727

Transmitted herewith are the rough minutes of
proceedings before Hon. Elbert Tuttle in the above styled
case and the original order entered by Chief Judge Tuttle
this day.

Yours very truly,

C. B. MEADOWS, Clerk

By:

Fred L. Beers, Jr.
Deputy Clerk

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Columbus, Georgia
P. O. Box 124
November 5, 1962

Dear Cull:

Please send me, for Judge Elliott, all the transcript
in the "Albany Movement" cases, immediately.

Calude Joiner says that D.L. Hollowell told him he had filed
3 original volumes with you.

Sincerely,

Okay
Okay

UNITED STATES GOVERNMENT

Memorandum

TO H. Okay Parker, Columbus

DATE: Nov. 6, 1962

FROM David C. Campbell, Jr., Albany -

SUBJECT: Kelley, et al., v. Page, et al., C. A. No. 727

Dear Okay:

As requested in your note of Nov. 5, I am forwarding to you in two packages, the transcript in the above stated case. This transcript consists of three volumes.

Sincerely,

David C. Campbell, Jr.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CHAMBERS OF
J. ROBERT ELLIOTT, JUDGE
COLUMBUS, GEORGIA

June 27, 1963

Mr. D. C. Campbell, Jr.
Deputy Clerk, U. S. District Court
Albany, Georgia

Dear Mr. Campbell:

I enclose herewith my opinion in Civil Action No. 727 and Civil Action No. 731. Please indicate the filing and place the signed original in the file on Civil Action No. 727, and the signed copy in the file on Civil Action No. 731. Indicate the filing information on all other copies and mail one copy to each of the following:

Mr. H. G. Rawls,
P. O. Box 1496,
Albany, Georgia.

Mr. Hilliard Burt,
P. O. Box 1347,
Albany, Georgia.

Mr. E. Freeman Leverett,
Deputy Assistant Attorney General,
Elberton, Georgia.

Mr. C. B. King,
P. O. Box 1024,
Albany, Georgia.

Mrs. Constance Baker Motley,
10 Columbus Circle,
New York 19, N. Y.

Mr. Donald L. Hollowell,
859-1/2 Hunter Street, N.W.,
Atlanta, Georgia.

I am also returning to you herewith the two files indicated.

Yours very truly,


J. Robert Elliott,
Judge.

JRE/js
Encls.

Albany, Ga.,
June 28, 1963.

Mr. H. G. Rawls,
P. O. Box 1496,
Albany, Ga.

Mr. Hilliard Burt,
P. O. Box 1347
Albany, Ga.

Mr. E. Freeman Leverett,
Deputy Assistant Attorney General,
Elberton, Georgia.

Mr. C. B. King,
P. O. Box 1024,
Albany, Ga.

Mrs. Constance Baker Motley,
10 Columbus Circle,
New York 19, New York.

Mr. Donald L. Hollowell,
859-1/2 Hunter Street, N. W.,
Atlanta, Ga.

Gentlemen:

Re: Kelley, et al., vs. Page, et al ,
Civil No. 727
Anderson, et al., vs. City of Albany, et al
Civil No. 731

Inclosed herewith find Opinion of Judge J. Robert Elliott, in each of the two cases listed above, which was filed with me this date.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
July 16, 1963.

Honorable John P. Cowart, Clerk,
U. S. District Court,
Macon, Georgia.

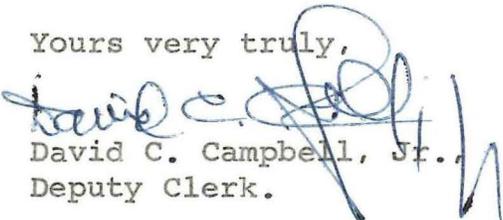
Dear John:

Re: Kelley, et al., vs. Page, et al.,
Civil Action No. 727
Anderson, et al., vs. City of Albany,
et al, Civil Action No. 731

Inclosed herewith find Notice of Appeal, together with Designation of Contents of Record on Appeal, in Civil Action No. 727. Am also inclosing a copy of the original docket sheet in said case, as well as the complete file. The \$5.00 filing fee has been paid for the filing of the Notice of Appeal.

Also inclosed herewith find Notice of Appeal, together with Designation of Contents of Record on Appeal, in Civil Action 731, which was filed with me this date by H. G. Rawls and H. P. Burt, Attorneys for Defendants. The \$5.00 filing fee has also been paid in this matter.

Yours very truly,


David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Macon, Georgia
July 17, 1963

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Mr. Edward W. Wadsworth, Clerk
United States Court Of Appeals
Fifth Circuit
Room 408 - 400 Royal Street
New Orleans 16, Louisiana

Dear Mr. Wadsworth:

RE: W. G. Anderson et al Vs. City of Albany, et al.
Civil Action No. 731 - Albany.

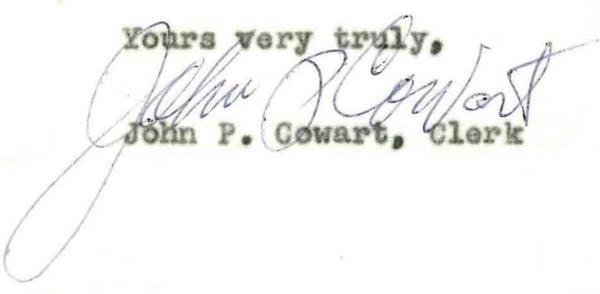
I enclose herewith the complete original record on appeal
in the above stated case.

The names and addresses of Counsel of record are set out on
the caption page.

You will notice that there is no transcript of evidence in
this appeal. The transcript of evidence is already in your Court
in our Civil Action No. 730 and your No. 20,501 and therefore
was not designated again in this appeal.

Since this record consists of my original papers, it is
requested that they be returned to me after you have finished
with them.

Yours very truly,


John P. Cowart, Clerk

CC: Mr. C. B. King
221 South Jackson St.
Albany, Georgia
Mr. Donald L. Hollowell
859 1/2 Hunter St., N.W.
Atlanta, Georgia

Mr. H. G. Rawls
Mr. Hilliard P. Burt
Attorneys at law
Albany, Georgia

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

ROOM 408 - 400 ROYAL ST.
NEW ORLEANS 16, LA.

July 30, 1963

Clerk
U. S. District Court
Macon, Ga.

Re: No. 20501 - W. G. Anderson, Et Al vs.
City of Albany, Et Al
(D.C. No. 730-Civil)

Dear Sir:

I am returning to you today, under separate cover, the three volumes of the original record on appeal in the referenced cause.

Please acknowledge receipt.

Yours very truly,

EDWARD W. WADSWORTH, CLERK

By

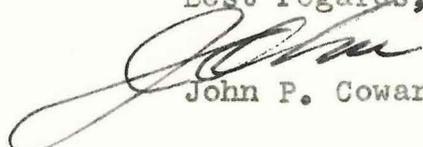

Deputy Clerk

cc:
Clerk
U. S. District Court
Albany, Ga.

Macon, Ga.
Aug. 1, 1963

Dear Cull: Under separate cover I am enclosing the above mentioned original papers that go back in your C.A. 730. They have not returned the exhibits as yet. I acknowledged receipt.

Best regards,


John P. Cowart, Clerk

United States Court of Appeals

FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

POST OFFICE BOX 23
NEW ORLEANS 6, LA.

July 26, 1963

Clerk
United States District Court
Macon, Ga.

Re: No. 20501 - W. G. Anderson, Et Al vs.
City of Albany, Et Al
(D.C. No. 730-Civil)

Dear Sir:

Enclosed is a certified copy of the judgment of this Court in the above case, issued as and for the mandate, together with a copy of its opinion.

Incorporated on the judgment is a detailed statement of the costs in this Court, as follows:

Docketing cause, etc. \$ 25.00

recoverable by appellants from appellees upon a settlement of all costs in your Court.

Please acknowledge receipt.

Very truly yours,

EDWARD W. WADSWORTH, CLERK

By

Chief Deputy Clerk

encs.

cc: (Letter only)
Mr. D. L. Hollowell
Mr. C. B. King
Mrs. Constance Baker Motley
Mr. H. G. Rawls
Mr. H. P. Burt
Clerk, U. S. District Court,
Albany, Ga.

Macon, Georgia
July 17, 1963

Mr. Edward W. Wadsworth, Clerk
United States Court Of Appeals
Fifth Circuit
Room 408 - ~~409~~ Royal Street
New Orleans 16, Louisiana

Dear Mr. Wadsworth:

RE: Asa D. Kelley, Jr. et al VS. M. S. Page,
et al., Civil Action No. 727 - Albany.

I enclose herewith the complete original record on appeal
in the above stated matter.

The names and addresses of Counsel of record are set out
on the caption page.

You will notice that there is no transcript of evidence
in this appeal. The transcript of evidence is already in
your Court in our Civil Action No. 730 and your No. 20,501
and therefore was not designated again in this Appeal.

Since this record consists of my original papers, it is
requested that they be returned to me after you have finished
with them.

Yours very truly,

John P. Cowart, Clerk

CC: Mr. H. G. Rawls
Mr. H. P. Burt
Attorneys at law
Albany, Georgia

Mr. C. B. King
221 South Jackson St
Albany, Ga.
Mr. Donald L. Hollowell
859 1/2 Hunter St., N.W.
Atlanta, Georgia

Dear Grady: My charges to you for
preparing this record on appeal is
3 pages at .65¢ - \$1.95
Cert. & Seal - .50
Total ----- \$2.40
Please pay this amount to D. C.
Campbell, Jr there in Albany.

Best regards,

John P. Cowart, Clerk

UNITED STATES GOVERNMENT

Memorandum

TO : John -

DATE: July 12, 1963.

FROM : Cull -

SUBJECT: W. G. ANDERSON, ET AL., V. THE CITY OF ALBANY, GA., ET AL
Civil Action No. 731

Dear John:

I am inclosing herewith the complete file in the above stated case. You will note that Notice of Appeal, and Designation of Contents of the Record of Appeal was filed this date. Filing fee of \$5.00 has been paid.

Sincerely,

David C. Campbell, Jr., Deputy Clerk.

Albany, Ga.,
July 26, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: C. A. 727 & 731 - On Appeal

This is to advise that Grady Rawls has paid the \$2.40 due this office for preparing the record in C. A. 727, however, I have not as yet received the \$2.40 due by C. B. King in C. A. No. 731.

Please advise me just how I should go about attempting to collect this money.

Sincerely,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Macon, Georgia
July 17, 1963

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Dear Cull:

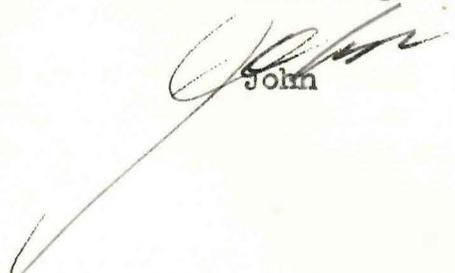
RE: C.A. 727 and 731

I return both of these files and you should make an entry in each that the Record forwarded to CCA 5 today.

Please note that in C.A. 727 you are to collect \$2.40 from Grady Rawls for preparing this record.

In C.A. 731 collect \$2.40 from C. B. King, for preparing that record.

Best regards,



John

Albany, Ga.,
Aug. 31, 1962.

Mrs. Savage,
C/o Honorable J. Robert Elliott,
Federal Building,
Columbus, Georgia.

Dear Mrs. Savage:

I return herewith Plaintiff's Exhibits Nos. 6 and 7,
in Civil Action No. 727, Kelley et al., vs. Page et al.,
which you so kindly mailed to me yesterday. Please
place these exhibits in their proper file.

Sincerely,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

UNITED STATES GOVERNMENT

Memorandum

TO : John P. Cowart, Clerk, Macon, Ga. DATE: Feb. 28, 1968.

FROM : Kathryn T. Campbell, Dep. Clerk, Albany, Ga.

SUBJECT: Kelley, et al., v. Page, et al., C. A. No. 727

Inclosed herewith is the complete file in the above stated case, which is sent at the request of Walter. Judge Bootle has asked for a copy of Judge Elliott's Order in this case, back in July, 1962.

Sincerely,

Albany, Ga.,
July 25, 1962.

Mr. G. G. Ezell,
United States Marshal,
Macon, Georgia.

Dear Mr. Ezell:

Re: W. G. Anderson, et al.,
City of Albany, et al., C. A. 730
W. G. Anderson, et al., vs.
City of Albany, et al., C. A. 731

Inclosed herewith find original summons, together with 16 copies of complaint, with copy of summons affixed thereto, in Civil Action No. 730.

Inclosed in a separate envelope, you will find original summons, together with ten copies of complaint, with copy of summons affixed thereto, in Civil Action No. 731.

Please serve the copies on the various defendants named in these two suits. The attorney that filed these suits gave me a list of the defendants and their addresses where they can be served, which I am inclosing herewith. Please advise your deputy that where the City of Albany is named as a defendant in each of these suits, Mr. H. G. Rawls, the City Attorney, is to be served.

Please make your return on each of the original summons, and return to me for my files.

Yours very truly,

David C. Campbell, Jr., Deputy Clerk

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
July 25, 1962.

Honorable J. Robert Elliott,
United States District Judge,
Columbus, Georgia.

Dear Judge Elliott:

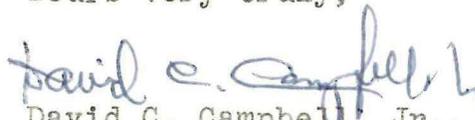
Re: Anderson, et al., vs.
City of Albany, et al.,
Civil Action No. 730

Anderson, et al., vs.
City of Albany, et al.,
Civil Action No. 731

Inclosed herewith find all of the original papers that were filed this date in the two cases listed above. I note that they have filed certain motions in each of said cases, and requested a hearing before you on August 1, 1962, which is the reason I am sending these papers to you for your review.

After you have reviewed these papers, you may return same to me by mail, or if you care to, you of course may bring same with you when you come to Albany Monday, July 30, for the hearing in the other case filed concerning this matter.

Yours very truly,


David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc



CITY ATTORNEY

City of Albany Georgia

August 9, 1962

Honorable J. Robert Elliott
United States Judge
Columbus, Georgia

Re: W. G. Anderson, Et Als, vs.
City of Albany, a body corporate,
Et Als, Civil No. 730
Albany Division

Dear Judge Elliott:

Enclosed herewith is the order extending for a period of ten (10) days the time for filing defensive pleadings in behalf of the defendants in the above stated case in conformity with the oral motion which was made before you in open court here in Albany yesterday.

Very sincerely yours,


H. G. Rawls
City Attorney

cc:
C. B. King, Attorney
Albany, Georgia

Hon. Eugene Cook
Attorney General
State Judicial Building
Atlanta, Georgia

HGR/lj
Enc.

8/10/62 - Order signed by Judge
and returned to Mr. Rawls.
J.S.

OFFICE OF THE CLERK
U. S. COURT OF APPEALS
FIFTH CIRCUIT

Date: April 19, 19

Re: Anderson -vs- City of
Albany, Et Al
(Your No. 730-Civil Action)

Receipt is acknowledged of your letter of April 17th
together with the record on appeal and the original
exhibits in the above case.

Cull-
John W. Wadsworth
[Signature]

Very Truly Yours,
EDWARD W. WADSWORTH
Clerk

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
Aug. 14, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: Anderson v. City of Albany,
C. A. No. 730
Anderson vs. City of Albany,
C. A. No. 731

Inclosed herewith find Authorities in Support of Plaintiff's Motion for Preliminary Injunction, in each of the above styled cases, which was filed with me this date. You have both of these files in Columbus.

Yours very truly,

David C. Campbell, Jr.

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

August 17, 1962

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

Mr. Clarence B. Jones
500 Fifth Avenue
New York, New York

Mr. Donald L. Hollowell
659-1/2 Hunter Street, N.W.
Atlanta, Georgia

Mr. H. G. Rawls
P. O. Box 1496
Albany, Georgia

Mr. Jack Greenberg
10 Columbus Circle
New York, New York

Mr. Eugene Cook
Judicial Building
40 Capitol Square
Atlanta, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York, New York

Mr. E. Freeman Leverett
Elberton, Georgia

Mr. William M. Kunstler
156 Fifth Avenue
New York, New York

Mr. Jesse W. Walters
Ferry, Walters & Langstaff
Albany, Georgia

Re: W. G. Anderson, et al, v. City of Albany,
et al, Civil Action No. 730, Albany Division.

W. G. Anderson, et al, v. City of Albany,
et al, Civil Action No. 731, Albany Division.

Gentlemen:

I now wish to inform counsel concerning the earliest time at which the above identified matters can be heard.

Next week, that is, the week of August 20, is out of the question because the court is otherwise obligated.

For the first 3-1/2 days of the week of August 27 we will be engaged in disposing of the criminal arraignment calendar and holding pre-trial conferences in connection

with the civil cases to be tried at the regular term for the Columbus Division of this court. The last pre-trial conference is set for 10:00 a.m., on Thursday, August 30. That matter will be concluded in time for me to be in Albany by 2:00 p.m. on that date, August 30, and it would be possible for us to begin the hearing on these matters at that time and we could devote the remainder of that day and all day Friday, August 31, to them.

The regular term of the Columbus Division of this court convenes on Tuesday, September 4. Monday, September 3, is Labor Day. It is anticipated that the Columbus term of court will require three weeks. This means that if we were unable to complete the trial of these matters on August 30 and 31 as above mentioned, it would be necessary that we recess the hearing until sometime during the week of September 24 and resume it at that time. The court will be in Albany the first part of that week for the purpose of conducting pre-trial conferences in connection with civil cases to be tried at the regular Albany term of court which convenes on Monday, October 1. These pre-trial conferences in Albany will probably not require more than 1 or 1-1/2 days, and that means that we would have about 3-1/2 or 4 days available for the trial of these matters at that time and could doubtless conclude them before it became necessary for us to convene the regular term of the court at Albany on Monday of the following week.

An answer has not yet been filed in Civil Action No. 730, but I anticipate that when an answer is filed it will be apparent that Civil Action No. 730 and Civil Action No. 731 should be consolidated and tried together and it is my intention that this shall be done. I mention this now because this will certainly affect the time required for the trial of the cases. Counsel for the parties in the respective cases know better than the court does how many witnesses will be used and how much evidence will be presented, and you, therefore, probably have a better idea about the time which will be required to try these cases than does the court.

What I suggest and request is that counsel for Plaintiffs and Defendants confer among yourselves and

decide whether you think it best to begin the trial of these matters at 2:00 p.m., on August 30 and go as far as we can with the hope of being able to conclude them, or whether it would be better to take them up during the week of September 14 when we could conclude them with knowledge that it would not be necessary to recess the hearing. I wish to make it clear that I have no objection to beginning the hearing on August 30 even though it does necessitate recessing it for completion on a later date. The court is willing to accommodate itself to the wishes of counsel insofar as possible. It may be that some of counsel have conflicts which will make it impossible to consider any of the dates which I have suggested. If that develops, then I suppose the only thing we can do is put the matters down for hearing during the regular course of the term for the Albany Division which convenes on October 1, and that is normally what I would do in a situation of this type, but I have in mind, as counsel for the parties doubtless have, that it is entirely possible that an earlier hearing on these matters might contribute something to calming the troubled waters which are known by all of us to exist. It is for this reason that I am suggesting the earliest possible dates instead of waiting until the regular Albany term.

After counsel have conferred please let me hear from you at your earliest convenience.

Yours very truly,

JRR/js

J. Robert Elliott,
Judge.

cc: Mr. John F. Court
Clerk, U. S. District Court
Macon, Georgia

Mr. Claude Joiner
P. O. Box 94
Macon, Georgia

C. B. KING
ATTORNEY-AT-LAW
POST OFFICE BOX 1024
ALBANY, GEORGIA
TELEPHONE HE 2-0879
August 18, 1962

Honorable J. Robert Elliott, Judge
United States District Court
For the Middle District of Georgia
Columbus, Georgia

Re: W. G. Anderson, et al v. City of Albany,
et al, Civil Action No. 730, Albany Division

W. G. Anderson, et al v. City of Albany,
et al, Civil Action No. 731, Albany Division

Dear Judge:

Thank you for your letter of August 17, 1962. Responsive to same, please know that counsel for plaintiffs acknowledge the obviously congested schedule under which your Honor is presently burdened. However, out of our concern for fulfilling what we believe to be an appropriate demand of the public interest, as well as the right of the plaintiffs to a speedy hearing and determination on their motion for a preliminary injunction, pursuant to Rule 65 of the Federal Rules of Civil Procedure, we are respectfully insisting upon a hearing and determination on the motion for a preliminary injunction in Civil Action No. 730, dealing with the desegregation of public facilities, at 2:00 P. M. on August 30, 1962.

As was previously indicated, counsel for plaintiffs would not, on the above date, be seeking a hearing on the motion for a preliminary injunction in the picketing complaint, Civil Action No. 731, but would seek a hearing, thereon, at a time subsequent.

If the Court's thinking in this matter is at variance with that of counsel, we respectfully request to be immediately advised in order that we may proceed to seek to secure the right of plaintiffs to a prompt hearing and determination on their motion for a preliminary injunction in Civil Action No. 730,

Honorable J. Robert Elliott

Page 2

August 18, 1962

by applying to the Chief Judge of the District or Chief Judge of the Circuit for the appointment of another Judge whose Court Calendar is less incumbered.

Respectfully yours,



C. B. King
Of Counsel

CBK:awb

cc: Honorable Elbert P. Tuttle
Honorable W. A. Bootle
Mr. H. G. Rawls, Attorney-At-Law
Mr. Donald L. Hollowell, Attorney-At-Law
Mrs. Constance Baker Motley, Attorney-At-Law



CITY ATTORNEY

City of Albany Georgia

August 21, 1962

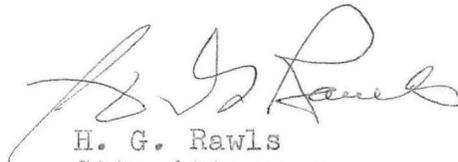
Honorable J. Robert Elliott
Judge United States District Court
Post Office Building
Columbus, Georgia

Re: Anderson, et al vs. City of Albany,
et al, Nos. 730 - 731, Albany Division

Dear Judge Elliott:

We acknowledge receipt of your letter of August 17th concerning the assignment of the two above numbered Civil Actions for hearing, and wish to advise that the afternoon of August 30th will be entirely agreeable to us.

Very truly yours,



H. G. Rawls
City Attorney

cc:
Mr. E. Freeman Leverett
Attorney at Law
Elberton, Georgia

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

HGR/lj

August 24, 1962

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

Mr. H. G. Rawls
P. O. Box 1496
Albany, Georgia

Mr. Donald L. Hollowell
859-1/2 Hunter Street, N.W.
Atlanta, Georgia

Mr. Eugene Cook
Judicial Building
40 Capitol Square
Atlanta, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York, New York

Mr. E. Freeman Leverett
Elberton, Georgia

Mr. William M. Kunstler
American Civil Liberties Union
156 Fifth Avenue
New York, New York

Mr. Jesse W. Walters
Perry, Walters & Langstaff
Albany, Georgia

Re: W. G. Anderson, et al, v. City of Albany, et al,
Civil Action No. 730, Albany Division.

W. G. Anderson, et al, v. City of Albany, et al,
Civil Action No. 731, Albany Division.

All counsel are hereby notified that the above identified cases are being set down for trial beginning at 2:00 P. M., Thursday, August 30, 1962, at Albany, Georgia.

As indicated in my letter to you dated August 17, 1962, these actions are being consolidated and the hearing will be a joint hearing, and the court at the time of the hearing will make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay, all as provided by Rule 42(a), Federal Rules of Civil Procedure.

Yours very truly,

JRE/js

cc: Mr. John P. Cowart, Clerk
Mr. Claude Joiner, Reporter
Mr. G. G. Ezell, Marshal
Mr. David C. Campbell, Jr., Clerk

J. Robert Elliott,
Judge.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
Aug. 24, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: W. G. Anderson, et al., vs.
City of Albany, et al.,
Civil No. 730 - Albany

Inclosed herewith find Motion to Dismiss and Notice of Motion, in the above styled case, which was filed with me this afternoon. These papers are sent to you, inasmuch as you have my complete file in this case.

Yours very truly,

David C. Campbell, Jr.

David C. Campbell, Jr., (D.C.)
Deputy Clerk.

DCC:kc

C. B. KING
ATTORNEY-AT-LAW
P. O. BOX 1024
ALBANY, GEORGIA



Honorable J. Robert Elliott
United States District Judge
For the Middle District of Georgia
Columbus, Georgia



CITY ATTORNEY

City of Albany
Georgia

September 10, 1962

Honorable J. Robert Elliott
United States Judge
Columbus, Georgia

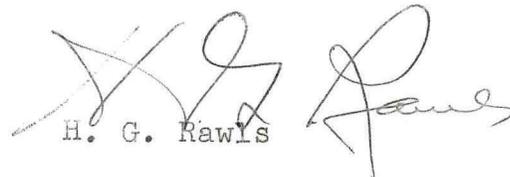
Re: Anderson vs. City of Albany,
et als, Civil Action No. 730

Dear Judge Elliott:

We have conducted some rather extensive legal research since the conclusion of the hearing the other day in the above stated case and desire to file an additional brief in support of our motion to dismiss and request that we be given ten (10) days in which to file said brief.

We plan also to dismiss our motion for a more specific statement and in addition file a motion for judgment in favor of the defendants in said case, on the basis of the insufficiency of the plaintiff's evidence to sustain their claim.

Very sincerely yours,


H. G. Rawls

cc:
Freeman Leverett, Esquire
Elberton, Georgia

HGR/lj

September 12, 1962

Mr. H. G. Rawls
City Attorney
Albany, Georgia

Re: Anderson v. City of Albany,
et als, Civil Action No. 730.

Dear Mr. Rawls:

Receipt is acknowledged of your letter of September 10 indicating that you desire to file an additional brief in support of your motion to dismiss. You are granted the ten days requested in which this may be done.

Yours very truly,

J. Robert Elliott,
Judge

JRE/js

cc: Mr. Freeman Leverett
Elberton, Georgia

September 17, 1962

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

Mr. Donald L. Hollowell
859-1/2 Hunter Street, N.W.
Atlanta, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York, New York

Mr. H. G. Rawls
P. O. Box 1496
Albany, Georgia

Mr. Eugene Cook
Judicial Building
40 Capitol Square
Atlanta, Georgia

Mr. E. Freeman Leverett
Elberton, Georgia

Mr. H. P. Burt
C & S Bank Building
Albany, Georgia

Re: W. G. Anderson, et al, v. City of
Albany, et al., Civil Action No. 730,
Albany Division, and companion cases.

Gentlemen:

All counsel are hereby notified that the hearing in connection with the above identified matters which was recessed on August 31, 1962 will be resumed at 9:30 A.M., on Wednesday, September 26, 1962, at Albany, Georgia.

Yours very truly,

JRE/js

cc: Mr. John P. Cowart
Clerk, U. S. District Court
Macon, Georgia

Mr. G. G. Ezell
United States Marshal
Macon, Georgia

Mr. David C. Campbell, Jr.
Deputy Clerk, U. S. District Court
Albany, Georgia

J. Robert Elliott,
Judge.

August 24, 1962

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

Mr. H. C. Rawls
P. O. Box 1496
Albany, Georgia

Mr. Donald L. Hollowell
639-1/2 Hunter Street, N.W.
Atlanta, Georgia

Mr. Eugene Cook
Judicial Building
40 Capitol Square
Atlanta, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York, New York

Mr. E. Freeman Laverett
Elberton, Georgia

Mr. William M. Kunstler
American Civil Liberties Union
156 Fifth Avenue
New York, New York

Mr. Jesse W. Walters
Ferry, Walters & Langstaff
Albany, Georgia

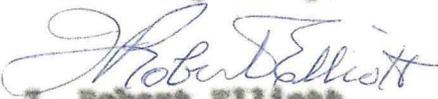
Re: W. G. Anderson, et al, v. City of Albany, et al,
Civil Action No. 730, Albany Division.

W. G. Anderson, et al, v. City of Albany, et al,
Civil Action No. 731, Albany Division.

All counsel are hereby notified that the above identified cases are being set down for trial beginning at 2:00 P. M., Thursday, August 30, 1962, at Albany, Georgia.

As indicated in my letter to you dated August 17, 1962, these actions are being consolidated and the hearing will be a joint hearing, and the court at the time of the hearing will make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay, all as provided by Rule 42(a), Federal Rules of Civil Procedure.

Yours very truly,


J. Robert Elliott,
Judge.

JRE/jm

cc: Mr. John F. Cowart, Clerk
Mr. Claude Joiner, Reporter
Mr. G. G. Ezell, Marshal
Mr. David C. Campbell, Jr., Clerk

Albany, Ga.,
Aug. 27, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: W. G. Anderson, et al., vs.
City of Albany, et al.
Civil Action No. 730

Inclosed herewith find Memorandum Brief in Support of
Defendant's Motion to Dismiss and Motion for More
Definite Statement, in the above styled case, which
was filed with me this date.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk

DCC:kc

Albany, Ga.,
Aug. 14, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: Anderson v. City of Albany,
C. A. No. 730
Anderson vs. City of Albany,
C. A. No. 731

Inclosed herewith find Authorities in Support of Plaintiff's Motion for Preliminary Injunction, in each of the above styled cases, which was filed with me this date. You have both of these files in Columbus.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:ke

Albany, Ga.,
Aug. 24, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: W. G. Anderson, et al., vs.
City of Albany, et al.,
Civil No. 730 - Albany

Inclosed herewith find Motion to Dismiss and Notice of Motion, in the above styled case, which was filed with me this afternoon. These papers are sent to you, inasmuch as you have my complete file in this case.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

Ausley, Ausley, McMullen, O'Bryan, Michaels & McGehee
Attorneys at Law
Washington Square Building
Tallahassee, Florida

Charles S. Ausley
John C. Ausley
D. Fred McMullen
William A. O'Bryan
Harry Lewis Michaels
E. Martin McGehee

February 15, 1963

Telephone
224-9115
Area Code
305
P. O. Box
391

Clerk of U. S. District Court
Northern District of Georgia
Federal Building
Albany, Georgia

Dear Sir:

A newspaper story states that Judge Robert Elliott has entered an order dismissing an action to integrate the library, auditorium, parks and playgrounds, and other public facilities of the City of Albany. I do not know the style of the case, but I believe it might be W. G. Anderson, et al. v. City of Albany.

I believe this order was entered on February 14. Can you kindly send me a certified or attested copy of the order, including any memorandum decision if any memorandum decision was entered separate from the order.

I am enclosing our check payable to you in the sum of \$4.00 to cover the cost of such an order. If this is not sufficient, I will be happy to send any additional amount required.

I would like to get this order as promptly as is convenient for you.

Very truly yours,

Wm A. O'Bryan
William A. O'Bryan

WAO:cm

Enclosure

Mailed 2/18/63

Copies to: Mailed Feb. 14, 1963.

Mr. C. B. King
221 S. Jackson Street
Albany, Georgia

Mr. Donald L. Hollowell
859-1/2 Hunter Street, NW
Atlanta, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York, N. Y.

Mr. H. G. Rawls
Box 1496
Albany, Georgia

Mr. Eugene Cook
Judicial Building
40 Capitol Square
Atlanta, Georgia

Mr. E. Freeman Leverett
Elberton, Georgia

Mr. Hilliard P. Burt, Jr.
Box 1347
Albany, Georgia

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Macon, Georgia
Oct. 20, 1962

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Dear Cull:

RE: C. A. 730 - Anderson vs. City of Albany

Please make the following docket entry in the above.

Oct. 20, 1962 - Filed Plaintiff's Proposed Findings of Fact and
conclusions of Law.

I am mailing this paper on to Judge Elliott.

Best regards,


John

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
March 18, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson, et al, vs. City of Albany,
et al, Civil Action No. 730

I am inclosing herewith a Judgment that was signed by Judge Elliott on March 15, 1963, concerning the above case.

Wish to advise that I closed this case officially on my docket, and made a card report showing said case was closed on February 14, 1963, the date that Judge Elliott sustained the City's Motion to Dismiss.

It now seems that I was premature in closing this case, so please advise whether or not this case should be re-opened and closed again, and if so, just how do I go about doing it. Please return the inclosed Judgment with your comments, as I have not made a docket entry concerning same.

Sincerely,

David C. Campbell, Jr.
David C. Campbell, Jr.,
Deputy Clerk

DCC:kc

Dear Cull:

*Since the card report would be the same,
just make a docket entry of this order and do not
make any additional card.*

Walter

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CHAMBERS OF
J. ROBERT ELLIOTT, JUDGE
COLUMBUS, GEORGIA

March 15, 1963

closed Feb. 14

Mr. H. G. Rawls
P. O. Box 1496
Albany, Georgia

Mr. H. P. Burt
P. O. Box 1347
Albany, Georgia

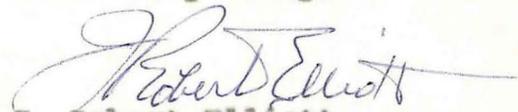
Mr. C. B. King
P. O. Box 1024
Albany, Georgia

Re: W. G. Anderson, et al v. City
of Albany, et al,
Civil Action No. 730,
Albany Division.

Gentlemen:

I have on this date signed the Judgment as forwarded to me by Mr. Rawls earlier this week and the Judgment has been forwarded to the Clerk for filing.

Yours very truly,


J. Robert Elliott,
Judge.

JRE/js

cc: Mr. D. C. Campbell, Jr.
Deputy Clerk, U. S. District Court
P. O. Box 1196
Albany, Georgia
(Enclosure: Judgment)

UNITED STATES GOVERNMENT

Memorandum

TO : John -

DATE: Mar. 13, 1963

FROM : Cull -

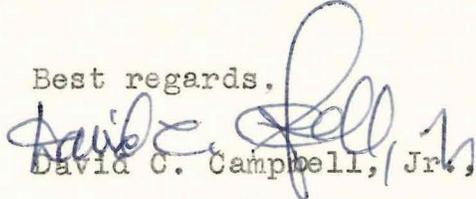
SUBJECT: Anderson et al., vs. Kelley, et al., C. A. No. 730

Dear John:

Notice of Appeal was filed this morning in the above styled case. Filing fee of \$5.00 was paid. Certified copy of said Notice was this date mailed to H. P. Burt, H. G. Rawls, Albany, Ga., and E. F. Leverette, Elberton, Ga., attorneys for defendants, by me.

I am inclosing herewith the entire file in this matter, in the event Appeal is made.

Best regards,


David C. Campbell, Jr., Deputy

Macon, Georgia
February 19, 1963

Mr. George D. Mentz
Assistant Attorney General
State of Alabama
Montgomery 4, Alabama

Re: W. G. Anderson, et al vs. Asa D. Kelly, et al
Civil Action No. 730 - Albany Division
Middle District of Georgia.

Dear Sir:

In compliance with the request in your letter of February 15th there is enclosed here- with a copy of the decision of Judge J. Robert Elliott in the above-stated case. The charge for this copy is \$3.00. Please make your check payable to John P. Cowart, Clerk.

Yours very truly,

Deputy Clerk.

Encls.



STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL
MONTGOMERY 4, ALABAMA

February 15, 1963

RICHMOND M. FLOWERS
ATTORNEY GENERAL

DENNIS M. LASSETER
EXECUTIVE ASSISTANT

Clerk
United States District Court
Middle District of Georgia
Albany Division
Federal Building
Macon, Georgia

Dear Sir:

Today's newspaper reports that on February 14, 1963 U. S. District Judge J. Robert Elliott of Columbus sustained a dismissal motion in a desegregation suit filed by four negroes seeking to remove racial barriers in the city's public facilities at Albany, Georgia.

Inasmuch as this office is very much interested in this decision, you are requested to send to the undersigned a copy of Judge Elliott's opinion or other written ruling wherein he spells out the reasons for his action, together with a bill for same.

Since we are presently faced with a similar situation, your prompt attention will be greatly appreciated.

Very truly yours,

RICHMOND M. FLOWERS
Attorney General
By:

GEORGE D. MENTZ
Assistant Attorney General

GDM: hm

UNITED STATES GOVERNMENT

Memorandum

TO : John -

DATE: Mar. 13, 1963

FROM : Cull -

SUBJECT: Anderson et al., vs. Kelley, et al., C. A. No. 730

Dear John:

Notice of Appeal was filed this morning in the above styled case. Filing fee of \$5.00 was paid. Certified copy of said Notice was this date mailed to H. P. Burt, H. G. Rawls, Albany, Ga., and E. F. Leverette, Elberton, Ga., attorneys for defendants, by me.

I am inclosing herewith the entire file in this matter, in the event Appeal is made.

Best regards,

David C. Campbell, Jr., Deputy

Albany, Ga.,
March 18, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson, et al, vs. City of Albany,
et al, Civil Action No. 730

I am inclosing herewith a Judgment that was signed by Judge Elliott on March 15, 1963, concerning the above case.

Wish to advise that I closed this case officially on my docket, and made a card report showing said case was closed on February 14, 1963, the date that Judge Elliott sustained the City's Motion to Dismiss.

It now seems that I was premature in closing this case, so please advise whether or not this case should be re-opened and closed again, and if so, just how do I go about doing it. Please return the inclosed Judgment with your comments, as I have not made a docket entry concerning same.

Sincerely,

David C. Campbell, Jr.,
Deputy Clerk

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
March 20, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson, et al., vs. City of Albany,
et al., Civil Action No. 730

Inasmuch as you have the complete file in the above stated case, I am returning to you herewith the Judgment of the Court, dated 3/18/63, which I have docketed, together with another Notice of Appeal which was filed with me yesterday afternoon. C. B. King stated that this second Notice of Appeal was filed due to the fact that he filed the first Notice prior to Judge Elliott signing the Judgment. I did not demand the \$5.00 filing fee, as I had previously collected said \$5.00 fee. Is this correct?

Yours very truly,

David C. Campbell Jr. (D.C.)
David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

*Call:
you are correct. No
fee should be collected.
John*

Albany, Ga.,
March 20, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson, et al., vs. City of Albany,
et al., Civil Action No. 730

Inasmuch as you have the complete file in the above stated case, I am returning to you herewith the Judgment of the Court, dated 3/18/63, which I have docketed, together with another Notice of Appeal which was filed with me yesterday afternoon. C. B. King stated that this second Notice of Appeal was filed due to the fact that he filed the first Notice prior to Judge Elliott signing the Judgment. I did not demand the \$5.00 filing fee, as I had previously collected said \$5.00 fee. Is this correct?

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

Albany, Ga.,
March 27, 1963.

C. B. King,
Attorney at Law,
221 S. Jackson Street,
Albany, Ga.

Dear C. B.:

Re: Anderson vs. City of Albany,
Civil Action No. 730

Please advise me whether or not you are going to file the transcript of evidence in the above styled case, and also the designation of the contents of the record that is to be on appeal.

Very truly yours,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:ke

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Macon, Georgia
March 26, 1963

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Dear Cull:

RE: C.A. 675 - U.S. vs. 109. 91 Acres.

I return this file to you. It should have gone back some time ago but was overlooked.

Was there ever a transcript of evidence filed with you in the Anderson vs. City of Albany. C.A. 730 that is now on appeal? I have the file here but don't have the transcript. You might get ahold to C.B. King and find out if he is going to file a designation of the contents of the record and ask him about a transcript of the evidence.

N

Will see you next week.

Best regards,


John

April 4, 1963

Clerk, United States District Court
Eastern District of Georgia
United States Court House
Albany, Georgia

Re: W. G. Anderson, et al. v. The City of Albany,
Georgia, Civil Action No. 730.

Dear Sir:

Enclosed please find one (1) copy of plaintiffs' designation of the record on appeal and request for the record to be printed by plaintiffs in the above-entitled action. Also, please find enclosed one (1) copy of plaintiffs' motion for transmittal of the original exhibits to the United States Court of Appeals for the Fifth Circuit.

Please note my request for a certified copy of the original record in this cause to be forwarded to me for the purpose of transmitting the same to the Court of Appeals.

I would appreciate it if you will forward the record to me as quickly as possible so that I can expedite the appeal well within the time limit for taking such an appeal under the applicable rules.

Thank you.

Very truly yours,


Constance Baker Motley
Attorney for Plaintiffs

CBM/gr

cc: C. B. King, Esq.
H. G. Rawls, Esq.
Hon. Eugene Cook
D. L. Hollowell, Esq.

Albany, Ga.,
April 8, 1963

Mrs. Constance Baker Motley,
10 Columbus Circle,
New York 19, New York.

Dear Madam:

Re: W. G. Anderson vs. City of Albany,
Civil Action No. 730

I acknowledge receipt of your letter of April 4, together with your designation of the record on appeal in the above stated case. You are advised that you should immediately file with me a copy of the transcript of the record, so that I can proceed to prepare the record on appeal.

Judge Elliott has a copy of the transcript, but is holding it, since he has not as yet concluded Civil Actions 727 and 731, and as you know, under the rules of civil procedure, you are required to file a copy of the transcript upon the filing of your designation.

Judge Elliott has stated to me that he will release your original exhibits so that I can transmit them to the Fifth Circuit Court of Appeals.

Yours very truly,

JOHN P. COWART, Clerk.

JPC:ke

cc: C. B. King,
221 South Jackson Street,
Albany, Georgia.

D. L. Hollowell,
859-1/2 Hunter Street, N. E.,
Atlanta, Georgia.

63

Apr 22
Apr 27

UNITED STATES GOVERNMENT

Memorandum

TO : John -

DATE: April 12, 1963

FROM : Cull -

SUBJECT: Dear John:

Inclosed herewith find certain papers concerning C.A. 730, Anderson v. City of Albany, which is on appeal.

Under separate cover, I am forwarding to you the record in C.A. 730, consisting of two volumes, and also the record in C.A. 727, + 731, consisting of 4 volumes. These were turned over to you by C. B. King, this date.

Sincerely,

David C. Campbell, Jr., Deputy

Macon, Ga. April 17, 1963.

Mrs. Constance Baker Motley,
Attorney at Law,
10 Columbus Circle,
New York, N. Y.

Mr. Donald L. Hollowell,
Attorney at Law,
849½ Hunter Street,
Atlanta, Georgia.

Re: Civil Action No. 730 - Albany Division - MDofGA.
W. G. Anderson, et al vs. City of Albany, et al.

Dear Madam and Sir:

From the enclosed copy of my letter to the Circuit Court of Appeals, you will note that the record has gone forward in the captioned matter, to the Court of Appeals.

You are advised that our charges for preparing this record on appeal is as follows: 3 pages at 65¢ - \$1.95; 1 Certificate and Seal, 50¢; total, \$2.45. Please make your remittance payable to John P. Cowart, Clerk, and forward it to Mr. David C. Campbell, Jr., Deputy United States Clerk, Albany, Georgia.

Yours very truly,

JOHN P. COWART, CLERK.

Enclosure.

Macon, Ga. April 17, 1963.

Mr. Edward W. Wadsworth, Clerk
United States Court of Appeals, Fifth Circuit
Room 408 - 400 Royal Street,
New Orleans 16, Louisiana.

Re: Civil Action #730 - Albany Division - MDofGA.
Y. G. Anderson, et al. vs. City of Albany, et al.

Dear Mr. Wadsworth:

The complete original record together with the Docket Sheet in the above or separate cover I am forwarding exhibits introduced in Civil Actions

and the use of these original to this office. The names and order are set out on the captioned

Yours very truly,

JOHN P. COWART, CLERK.

Attorney

Attorney

Georgia.

Attorney, Albany, Georgia.

Dep. Asst. Atty. General,

Attorney.

REGISTERED NO. **5712**

Value \$ _____ Spec. del'y fee \$ _____
 Fee \$ _____ Ret. receipt fee \$ _____
 Surcharge \$ _____ Rest. del'y fee \$ _____
 Postage \$ _____ Airmail

Postmark: **MACON APR 17 1963**

Postmaster, By _____

From _____

To: *Ed Wadsworth Clerk
U.S. Court of Appeals
N.O. 16 La.*

POD Form 3806—Oct. 1960 c4S—16—70493-5

REGISTERED NO. **5713**

Value \$ _____ Spec. del'y fee \$ _____
 Fee \$ _____ Ret. receipt fee \$ _____
 Surcharge \$ _____ Rest. del'y fee \$ _____
 Postage \$ _____ Airmail

Postmark: **MACON APR 17 1963**

Postmaster, By _____

From _____

To: *Edward W. Wadsworth Clerk
U.S. Court of Appeals
400 Royal St.
N.O. 16 La.*

POD Form 3806—Oct. 1960 c4S—16—70493-5

Macon, Ga. April 17, 1963.

Mr. Edward W. Wadsworth, Clerk
United States Court of Appeals, Fifth Circuit
Room 408 - 400 Royal Street,
New Orleans 16, Louisiana.

Re: Civil Action #730 - Albany Division - MDofGA.
Y. G. Anderson, et al. vs. City of Albany, et al.

Dear Mr. Wadsworth:

I enclose herewith the complete original record together with certified copy of the Docket Sheet in the above stated case on appeal. Under separate cover I am forwarding you all of the original exhibits introduced in Civil Actions 727, 730 and 731.

When you have completed the use of these original papers, please return them to this office. The names and addresses of counsel of record are set out on the captioned papers.

Yours very truly,

Enclosure.

JOHN P. COWART, CLERK.

CC- Mrs. Constance Baker Motley, Attorney
New York, N. Y.
CC- Mr. Donald L. Hollowell, Attorney
Atlanta, Georgia.
CC- Mr. C. B. King, Albany, Georgia.
CC- Mr. H. Grady Rawls, City Attorney, Albany, Georgia.
CC- Mr. E. Freeman Leverett, Dep. Asst. Atty. General,
Elberton, Georgia.
CC- Mr. Hilliard Burt, Attorney,
Albany, Georgia.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Macon, Ga. April 17, 1963.

Mrs. Constance Baker Motley,
Attorney at Law,
10 Columbus Circle,
New York, N. Y.

Mr. Donald L. Hollowell,
Attorney at Law,
849½ Hunter Street,
Atlanta, Georgia.

Re: Civil Action No. 730 - Albany Division - MDofGA.
W. G. Anderson, et al vs. City of Albany, et al.

Dear Madam and Sir:

From the enclosed copy of my letter to the Circuit Court of Appeals, you will note that the record has gone forward in the captioned matter, to the Court of Appeals.

You are advised that our charges for preparing this record on appeal is as follows: 3 pages at 65¢ - \$1.95; 1 Certificate and Seal, 50¢; total, \$2.45. Please make your remittance payable to John P. Cowart, Clerk, and forward it to Mr. David C. Campbell, Jr., Deputy United States Clerk, Albany, Georgia.

Yours very truly,

JOHN P. COWART, CLERK.

Enclosure.

UNITED STATES GOVERNMENT

Memorandum

TO : Cull

DATE: 4-17-63

FROM : Betty

SUBJECT: Anderson, et al, v. City of Albany, et al, C. A. 730

Dear Cull:

Am returning herewith the above file. Please make the following docket entry~~s~~:

4-17-63-Record forwarded to CCA-5.

Please note letter to Mrs. Motley and Hollowell.

April 29, 1963

Mr. David C. Campbell, Jr.
Deputy United States Clerk
Albany, Georgia

Re: Civil Action No. 730
Anderson, et al v. City of
Albany, et al.

Dear Mr. Campbell:

Enclosed herewith is my check No. 139
in the amount of \$2.45, made payable, as
directed, to John P. Cowart, Clerk.

Yours truly,

Constance B Motley
Constance B. Motley

1 Enc.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CHAMBERS OF
J. ROBERT ELLIOTT, JUDGE
COLUMBUS, GEORGIA

July 31, 1963.

Mr. D. C. Campbell, Jr.,
Deputy Clerk, U. S. Court,
Albany, Georgia.

Dear Mr. Campbell: Re: W. G. Anderson, et. al. v.
Asa D. Kelley, Mayor, et. al.
Civil Action No. 730, Albany Division

As you probably have heard, the Fifth Circuit Court of Appeals reversed my decision in the above identified case. The mandate of the Court has been delivered to me, together with a statement of costs which are to be paid by the Defendants. The mandate requires that I issue an injunction and I have done so, enclosing herewith for filing the following papers:

Mandate, cost bill, copy of the opinion of the Circuit Court of Appeals and the injunction which I have issued pursuant to the mandate.

I also enclose six copies of the injunction and request that you mail one, with the filing information indicated thereon, to counsel of record, as follows:

Mrs. Constance Baker Motley,
Mr. D. L. Hollowell,
Mr. C. B. King
Mr. H. G. Rawls,
Mr. Hilliard P. Burt,
Mr. E. Freeman Leverett.

I believe you already have their addresses.

Yours very truly,



United States District Judge.

United States Court of Appeals
FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

POST OFFICE BOX 23
NEW ORLEANS 6, LA.

July 26, 1963

Clerk
United States District Court
Macon, Ga.

FILED AT 8:30 AM
AUG 1 1963
David E. Fells, Jr.
DEPUTY CLERK, U.S. DISTRICT COURT

Re: No. 20501 - W. G. Anderson, Et Al vs.
City of Albany, Et Al
(D.C. No. 730-Civil)

Dear Sir:

Enclosed is a certified copy of the judgment of this Court in the above case, issued as and for the mandate, together with a copy of its opinion.

Incorporated on the judgment is a detailed statement of the costs in this Court, as follows:

Docketing cause, etc. \$ 25.00

recoverable by appellants from appellees upon a settlement of all costs in your Court.

Please acknowledge receipt.

Very truly yours,

EDWARD W. WADSWORTH, CLERK

By

By Bennett

Chief Deputy Clerk

encs.

cc: (Letter only)
Mr. D. L. Hollowell
Mr. C. B. King
Mrs. Constance Baker Motley
Mr. H. G. Rawls
Mr. H. P. Burt
Clerk, U. S. District Court,
Albany, Ga.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
Sept. 9, 1963

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson v. Kelley, C. A. No. 730
Gaines vs. Dougherty County Board
of Education, C. A. No. 764

Inclosed herewith find two letters from Race Relations Reporter, Vanderbilt University, dated Sept. 6, 1963, which are self-explanatory.

You have the complete file in C. A. 764, and I will appreciate your handling their request in this instance.

Regarding C. A. No. 730, I am inclosing herewith the complete file in this case. I am unable to find the order referred to in their letter, however, the file does indicate that an order was signed by Judge Elliott, (a judgment, rather), on March 15, 1963, as you will note in going through the files. See if you can straighten them out. This case was appealed, as you will recall.

Please advise, with the return of the file. I never did even make a docket entry of the judgment.

Yours very truly,

David C. Campbell, Jr.
David C. Campbell, Jr.,
Deputy.

DCC:kc

I handled this Sept 10 & 11, 1963
John P. Cowart

Albany, Ga.,
Aug. 14, 1962.

Honorable J. Robert Elliott,
Judge, U. S. District Court,
Columbus, Georgia.

Dear Judge Elliott:

Re: Anderson v. City of Albany,
C. A. No. 730
Anderson vs. City of Albany,
C. A. No. 731

Inclosed herewith find Authorities in Support of Plaintiff's Motion for Preliminary Injunction, in each of the above styled cases, which was filed with me this date. You have both of these files in Columbus.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
June 28, 1963.

Mr. H. G. Rawls,
P. O. Box 1496,
Albany, Ga.

Mr. Hilliard Burt,
P. O. Box 1347
Albany, Ga.

Mr. E. Freeman Leverett,
Deputy Assistant Attorney General,
Elberton, Georgia.

Mr. C. B. King,
P. O. Box 1024,
Albany, Ga.

Mrs. Constance Baker Motley,
10 Columbus Circle,
New York 19, New York.

Mr. Donald L. Hollowell,
859-1/2 Hunter Street, N. W.,
Atlanta, Ga.

Gentlemen:

Re: Kelley, et al., vs. Page, et al ,
Civil No. 727
Anderson, et al., vs. City of Albany, et al
Civil No. 731

Inclosed herewith find Opinion of Judge J. Robert Elliott, in each of the two cases listed above, which was filed with me this date.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

Albany, Ga.m
July 12, 1963.

Mr. H. G. Rawls,
Attorney at Law,
Albany, Ga.

Mr. Hilliard P. Burt,
Attorney at Law,
Albany, Ga.

Gentlemen:

Re: W. G. Anderson v. City of Albany
Civil Action No. 731

Inclosed herewith find Certified Copy of Notice of Appeal in the above styled case, which was filed with me this date.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

UNITED STATES GOVERNMENT

Memorandum

TO : John -

DATE: July 12, 1963.

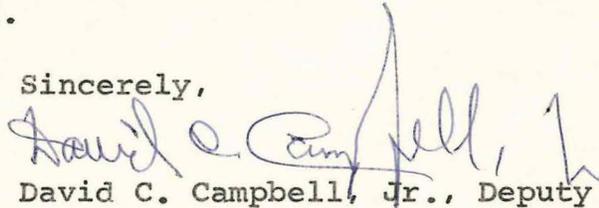
FROM : Cull -

SUBJECT: W. G. ANDERSON, ET AL., V. THE CITY OF ALBANY, GA., ET AL
Civil Action No. 731

Dear John:

I am inclosing herewith the complete file in the above stated case. You will note that Notice of Appeal, and Designation of Contents of the Record of Appeal was filed this date. Filing fee of \$5.00 has been paid.

Sincerely,


David C. Campbell, Jr., Deputy Clerk.

Albany, Ga.,
July 16, 1963.

Honorable John P. Cowart, Clerk,
U. S. District Court,
Macon, Georgia.

Dear John:

Re: Kelley, et al., vs. Page, et al.,
Civil Action No. 727
Anderson, et al., vs. City of Albany,
et al, Civil Action No. 731

Inclosed herewith find Notice of Appeal, together with Designation of Contents of Record on Appeal, in Civil Action No. 727. Am also inclosing a copy of the original docket sheet in said case, as well as the complete file. The \$5.00 filing fee has been paid for the filing of the Notice of Appeal.

Also inclosed herewith find Notice of Appeal, together with Designation of Contents of Record on Appeal, in Civil Action 731, which was filed with me this date by H. G. Rawls and H. P. Burt, Attorneys for Defendants. The \$5.00 filing fee has also been paid in this matter.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

C. B. KING
ATTORNEY-AT-LAW
POST OFFICE BOX 1024
ALBANY, GEORGIA
—
TELEPHONE HEMLOCK 2-0879

August 3, 1963

David C. Campbell, Jr.,
Deputy Clerk, U. S. District Court
Middle District of Georgia
Albany, Georgia

Dear D. C.:

Please find enclosed \$2.40 in cash, to comply with your letter of August 2, 1963, returning my personal check in that amount.

Responsive to the sum herewith tendered, please forward a receipt to this office.

Yours truly,

/s/ C. B. King
C. B. King

CBK:djr

cc: John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia

Albany, Ga.,
August 2, 1963.

C. B. King,
221 S. Jackson Street,
Albany, Georgia.

Dear C. B.:

Re: Anderson, et al., vs. City of
Albany, Et al.,
Civil Action 731

I am returning to you herewith your personal check in the amount of \$2.40, covering costs in the above styled case. I am sure that you are aware of the fact that this office will not honor your personal check. Therefore I respectfully request that you either bring me the cash money, or mail me a United States Post Office Money Order, or a Certified or Cashier's check in the amount of \$2.40.

Yours very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

cc: John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Albany, Ga.,
July 30, 1963.

C. B. King,
221 South Jackson Street,
Albany, Georgia.

Dear C. C.:

Re: Anderson et al v. City of Albany et al
Civil Action No. 731

In John P. Cowart's letter to you dated July 17, 1963,
he advised you that you were to pay to my office the sum
of \$2.40 covering costs in preparing record on appeal
in the above styled case.

I will appreciate your getting this \$2.40 to me promptly.

Very truly,

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

JOHN P. COWART
CLERK

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
July 26, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

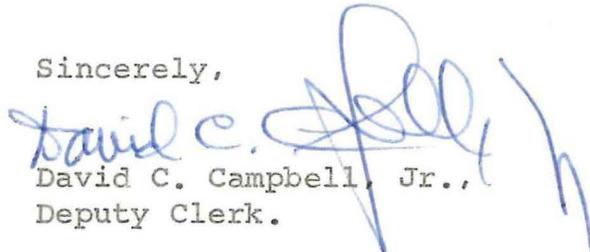
Dear John:

Re: C. A. 727 & 731 - On Appeal

This is to advise that Grady Rawls has paid the \$2.40 due this office for preparing the record in C. A. 727, however, I have not as yet received the \$2.40 due by C. B. King in C. A. No. 731.

Please advise me just how I should go about attempting to collect this money.

Sincerely,

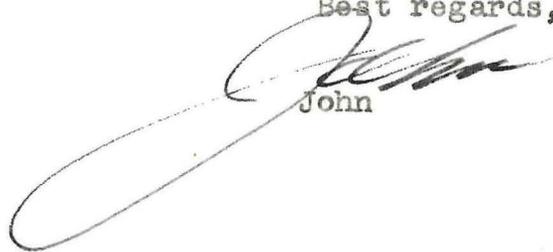

David C. Campbell, Jr.,
Deputy Clerk.

DCC:kc

7/29/63

Cull: All I know for you to do is to call King and ask him to send you the money. ~~if~~

Best regards,


John

Macon, Georgia
July 17, 1963

Mr. Edward W. Wadsworth, Clerk
United States Court Of Appeals
Fifth Circuit
Room 408 - 400 Royal Street
New Orleans 16, Louisiana

Dear Mr. Wadsworth:

RE: W. G. Anderson et al Vs. City of Albany, et al.
Civil Action No. 731 - Albany.

I enclose herewith the complete original record on appeal
in the above stated case.

The names and addresses of Counsel of record are set out on
the caption page.

You will notice that there is no transcript of evidence in
this appeal. The transcript of evidence is already in your Court
in our Civil Action No. 730 and your No. 20,501 and therefore
was not designated again in this appeal.

Since this record consists of my original papers, it is
requested that they be returned to me after you have finished
with them.

Yours very truly,

John P. Cowart, Clerk

CC: Mr. C. B. King
221 South Jackson St.
Albany, Georgia
Mr. Donald L. Hollowell
859½ Hunter St., N.W.
Atlanta, Georgia

Mr. H. G. Rawls
Mr. Hilliard P. Burt
Attorneys at law
Albany, Georgia

Dear Mr. King: From the within you will
note that the record has gone forward.
My charges for preparing the record are;
3 pages at .65¢ - \$1.95
Cert. & Seal - .50
Total \$2.40
Please pay Mr. D. C. Campbell, Jr my
Deputy there the above amount.

Yours very truly,

John P. Cowart, Clerk

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

JOHN P. COWART
CLERK

Albany, Ga.,
Aug. 19, 1964.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: W. G. Anderson, et al v. City of
Albany, et al, Civil Action 731.

Inclosed herewith find Judge Elliott's letter to me dated
Aug. 18, 1964, together with original copy of his Supple-
mental opinion in the above styled case.

Does this close this case? I know you think I am stupid
about these matters, but I would rather ask and be sure,
before I mess up everything. Please advise with the re-
turn on the inclosed. Thanking you and with kindest re-
gards, I am,

Sincerely,

Kathryn

Kathryn T. Campbell

8/20/64

Yes Kathryn this now closes
this case. The judge grants
a injunction against the Dept.

John
I'm glad you sent it up here so I
could read it. *John*

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CHAMBERS OF
J. ROBERT ELLIOTT, JUDGE
COLUMBUS, GEORGIA

August 18, 1964

Mrs. Kathryn T. Campbell
Deputy Clerk, U. S. District Court
Albany, Georgia

Re: W. G. Anderson, et al v. City of
Albany, et al, Civil Action 731

Dear Mrs. Campbell:

I enclose herewith the original and six copies of my supplemental opinion in the above identified case, which you will recall was recently remanded to this court for further consideration. Please file the original and mail one copy to each of counsel in the case, they being as follows, with the filing information indicated on each copy:

Mr. H. G. Rawls ✓
P. O. Box 1496
Albany, Georgia

Mr. C. B. King
P. O. Box 1024
Albany, Georgia

Mr. Hilliard Burt
P. O. Box 1347
Albany, Georgia

Mrs. Constance Baker Motley
10 Columbus Circle
New York 19, N. Y.

Mr. E. Freeman Leverett
Deputy Assistant
Attorney General
Elberton, Georgia

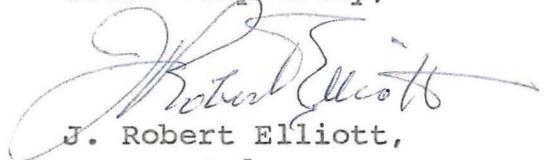
Mr. Donald L. Hollowell
859-1/2 Hunter Street, NW
Atlanta, Georgia

COPIES MAILED TO ABOVE ATTORNEYS ON
AUGUST 19th, 1964.

Kathryn T. Campbell,
Deputy Clerk.

JRE/js
encls.

Yours very truly,


J. Robert Elliott,
Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CHAMBERS OF
J. ROBERT ELLIOTT, JUDGE
COLUMBUS, GEORGIA

July 22, 1964

Mrs. Kathryn T. Campbell
Deputy Clerk, U. S. District Court
P. O. Box 1196
Albany, Georgia

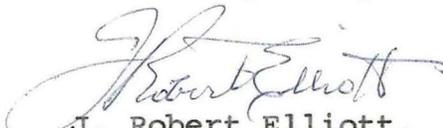
Re: Asa D. Kelley, Jr., et al, v.
M. S. Page, et al;
Civil Action No. 727, and

W. G. Anderson, et al, v.
City of Albany, Georgia, et al,
Civil Action No. 731

Dear Mrs. Campbell:

I enclose herewith the mandate of the Fifth
Circuit Court of Appeals received in connection with
the two above identified cases, together with my
order entered thereon. Please file.

Yours very truly,


J. Robert Elliott,
Judge

JRE/js
encl.

UNITED STATES GOVERNMENT

Memorandum

TO : John - Macon

DATE: Feb. 29, 1968

FROM : Kathryn - Albany

SUBJECT: Anderson, et al., v. City of Albany - CA 731

As requested by Walter over the phone this afternoon, I am inclosing herewith Judge Elliott's Opinion and Order in the above styled case, which was handed down after a Mandate from the Fifth Circuit Court of Appeals. Walter said that Judge Bootle wanted to see it. Kindest regards.

Sincerely,

JOHN P. COWART
CLERK

UNITED STATES DISTRICT COURT

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
Sept. 10, 1963.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Ga.

Dear John:

Re: Civil Actions No s. 727, 730 & 731

Pursuant to our telephone conversation this morning, I am inclosing herewith Volume 3 of the record in C. A. 731. I have a paper clip on the Judgment signed March 15, 1963, which is the one in question. You will note it was filed on March 18, 1963, and I did make a docket entry of same.

Inasmuch as all three of the above numbered cases were heard at the same time, I am also inclosing my complete files on 727 and 731. I will certainly appreciate your having someone in your office prepare the opening and closing cards on 730 and 731 that we discussed on the phone.

Thanking you for your kind assistance, and with best regards, I am,

Sincerely,

David C. Campbell, Jr., Deputy.

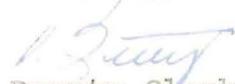
DCC:kc

9-12-63

Dear Cull:

I made up your cards and inclose them. Hope your father is getting along better by now.

Sincerely,


Deputy Clerk.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Albany, Ga.,
Nov. 2, 1964.

Mrs. Ann Ingram,
Race Relations Reporter,
Vanderbilt University,
Nashville, Tennessee.

Dear Mrs. Ingram:

Re: Civil Action No. 730

As per your request over the telephone this afternoon, I am inclosing herewith certified copy of an Order signed by Judge J. Robert Elliott, and filed with me on August 1, 1963, in the above case.

Please let me have your check for \$1.80 covering this service by return mail.

Yours very truly,

Kathryn T. Campbell

Kathryn T. Campbell,
Deputy Clerk

Miss Campbell- Today, November 9, I note your request for check by return mail. Therefore, I am enclosing \$2 cash - please accept this, and it will not be necessary to return receipt. I appreciate your kindness.

Ann Ingram

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Macon, Ga.
Sept 11, 1963

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Dear Cull:

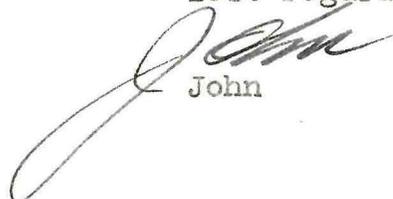
RE: C.A. 727 & 731 .

I am returning herewith the above to closed Civil Actions. They belong to be closed just as they are. They are still pending in the Fifth Circuit Court of Appeals.

I am also returning the Volume 3 of the record that came back to you from New Orleans. I have furnished the Relations Reporter all the copies requested and will collect for them here. This Volume and also the other two volumes belong in your C.A. 730 as that is the file it and all the papers came from. I know that it is confusing because the transcript of evidence is headed up in both C.A. 730 & 731 but it does belong to be placed in C.A. 730.

Betty will be here tomorrow and she will fix up those cards reopening C.A. 730 and reclosing it and I will return your C.A. 730 file to you at that time.

Best regards,



John

Albany, Ga.,
Aug. 4, 1965.

Mr. William E. Smith,
Attorney at Law,
P. O. Box 227,
Americus, Georgia.

Dear Mr. Smith:

Mr. Cowart called me today with reference to forwarding to you a copy of the order entered by Judge Elliott after the Fifth Circuit Court of Appeals had passed upon the case of W. G. Anderson, et al. v. The City of Albany, et al, Civil Action No. 731.

I am inclosing herewith the original of the only Order entered in these negro cases at Albany, and since it is 20 pages long, I have no way of copying it in order to get it to you by tomorrow. Mr. Cowart requested that I send you the original and that you would make a copy of same and immediately return to me for my files.

If I can be of any further assistance to you, please advise.

Yours very truly,

Kathryn T. Campbell,
Deputy Clerk.

Albany, Ga.,
Sept. 9, 1963

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: Anderson v. Kelley, C. A. No. 730
Gaines vs. Dougherty County Board
of Education, C. A. No. 764

Inclosed herewith find two letters from Race Relations Reporter, Vanderbilt University, dated Sept. 6, 1963, which are self-explanatory.

You have the complete file in C. A. 764, and I will appreciate your handling their request in this instance.

Regarding C. A. No. 730, I am inclosing herewith the complete file in this case. I am unable to find the order referred to in their letter, however, the file does indicate that an order was signed by Judge Elliott, (a judgment, rather), on March 15, 1963, as you will note in going through the files. See if you can straighten them out. This case was appealed, as you will recall.

Please advise, with the return of the file. I never did even make a docket entry of the judgment.

Yours very truly,

David C. Campbell, Jr.,
Deputy.

DCC:kc

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Albany, Ga.,
Oct. 13, 1964.

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Mrs. Anna Ingram,
Race Relations Reporter,
Vanderbilt University,
Nashville, Tennessee.

Dear Mr. Ingram:

On October 5, 1964, Mr. John P. Cowart, Clerk, Macon, Georgia, sent you copies of certain papers filed in our Civil Cases Nos. 727 and 731, which you recently requested. Mr. Cowart asked that you mail to me your check for \$15.50, payable to him, covering this service. To date I have not received this check.

I will appreciate your forwarding this check to me promptly, so that I can close my correspondence concerning same.

Yours very truly,



(Mrs.) Kathryn T. Campbell,
Deputy Clerk.

Mrs. Campbell-

My apologies - I had put the letter in case file, not noticing that a separate statement had not been included, which is customary for most clerks furnishing us material. Check is enclosed, and I regret the delay. Your staff helps me so promptly, that I am embarrassed when I do something like this.



UNITED STATES GOVERNMENT

Memorandum

TO : Kathryn

DATE: 10/5/64

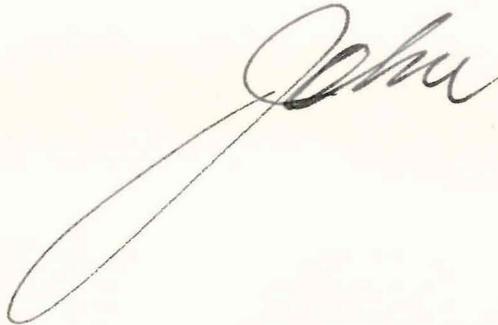
FROM : John

SUBJECT: Civil Action Nos. 727 and 731

Dear Kathryn:

I return herewith the two above-mentioned files. You will note from copy of my letter to Mrs. Ingram that I have asked her to send you a check for \$15.50, for this copy work. Please see that she pays this.

Sincerely,

A handwritten signature in cursive script, appearing to read "John", with a long, sweeping underline that extends to the left and then loops back under the signature.

Macon, Ga. October 5, 1964.

Mrs. Anna Ingram,
Race Relations Reporter,
Vanderbilt University,
Nashville, Tennessee.

Dear Mrs. Ingram:

We acknowledge receipt of your note in which you request copies of the papers that are marked in red on the docket sheets which we sent to you on September 28th. The order which you underlined in red on docket sheet 727 and 731 dated June 28, 1963, are one and the same. We enclose this order consisting of 10 pages. We also enclose the supplemental opinion of August 1964 consisting of 21 pages. We are also returning to you your docket sheets.

Please make your check in the amount of \$15.50 payable to John P. Cowart, Clerk, and forward the same to Mrs. Kathryn T. Campbell, Deputy United States Clerk, Albany, Georgia.

Yours very truly,

JOHN P. COWART, CLERK.

JPC/r

Enclosures.

Albany, Ga.,
Sept. 28, 1964.

Mrs. Anna Ingram,
Race Relations Reporter,
Vanderbilt University,
Nashville, Tennessee.

Dear Mrs. Ingram:

Pursuant to your telephoned request this morning,
I am attaching hereto copies of my docket sheets in
each of Civil Action No. 727, 730 and 731, as they
are all of a similar nature, and I was not sure ex-
actly which case you had reference to.

Please send me your check for \$3.00 covering this
service.

Yours very truly,

Kathryn T. Campbell,
Deputy Clerk

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

Albany, Ga.,
Oct. 3, 1964.

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Asa D. Kelley, et al, v. M. S. Page, et al,
Civil Action No. 727
W. G. Anderson, et al, v. City of Albany, et al,
Civil Action No. 731

Inclosed herewith find a note from Mrs. Ingram, Race Relations Reporter, Vanderbilt University, regarding copies of certain papers filed in the two cases listed above.

Inasmuch as these are quite lengthy items, I am inclosing the entire files in each of these cases, and respectfully request that you have these photostated and forward them to Mrs. Ingram, together with the two docket sheets attached hereto. I have attached paper clips to the items wanted copied.

Thanking you, and with kindest regards, I am,

Sincerely,

Kathryn T. Campbell,
Deputy Clerk.

UNITED STATES DISTRICT COURT

JOHN P. COWART
CLERK

OFFICE OF THE CLERK
MIDDLE DISTRICT OF GEORGIA

OFFICES:
ALBANY
AMERICUS
ATHENS
COLUMBUS
MACON
THOMASVILLE
VALDOSTA

Macon, Georgia
July 20, 1964

Hon. J. Robert Elliott
United States Judge
Middle District of Georgia
Columbus, Georgia

Dear Judge Elliott:

Re: Kelley, et al vs. Page et al. C. A. 727
Anderson vs. City of Albany C. A. 731

I enclose herewith the Mandates in the above two cases which I received from the Circuit Court today. Will you please sign the orders on the mandates and then forward them to Mrs. Campbell at Albany for filing.

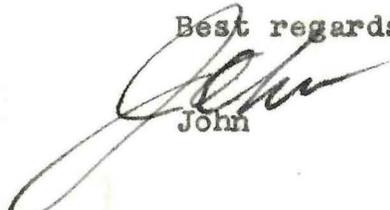
Yours very truly,

John P. Cowart, Clerk

Dear Kathryn:

I enclose herewith the records on appeal in the above two mentioned cases. You will have to reopen C. A. 731 as the Circuit Court reversed this case and Judge Elliott will have to make further findings and another order therein.

Best regards,


John

United States Court of Appeals
FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

POST OFFICE BOX 23
NEW ORLEANS 6, LA.

July 16, 1964

Clerk
United States District Court
Macon, Georgia

Re: No. 20711 - W. G. Anderson, Et Al vs. The City of
Albany, Ga., Et Al (Your No. 731 Civil)

Dear Sir:

Enclosed is a certified copy of the judgment of this Court in the above case, issued as and for the mandate, together with a copy of its opinion.

Incorporated on the judgment is a detailed statement of the costs in this Court, as follows:

Docketing cause, etc.	\$ 25.00
Costs of Printing Record.....	103.50
Total.....	\$128.50

recoverable by appellants-appellees from appellees-appellants upon a final settlement of all costs in your Court. Under separate cover, in one envelope, I am returning to you the record on appeal in this case.

Please acknowledge receipt.

Very truly yours,

EDWARD W. WADSWORTH, CLERK

By Clara R. James
Chief Deputy Clerk

encs.

cc: (Letter Only)
Clerk, U. S. District Court, Albany, Georgia
Mrs. Constance Baker Motley and Mr. Norman Amaker
Mr. Donald L. Hollowell
Mr. C. B. King
Mr. William M. Kunstler
Mr. H. G. Rawls
Mr. E. Freeman Leverett

United States Court of Appeals
FIFTH CIRCUIT

EDWARD W. WADSWORTH
CLERK

OFFICE OF THE CLERK

ROOM 408 - 400 ROYAL ST.
NEW ORLEANS, LA. 70130

July 16, 1964

Clerk
United States District Court
Macon, Georgia

Re: No. 20720 - Asa D. Kelley, Jr., Etc., Et Al vs.
M. S. Page, Et Al (Your No. 727 Civil)

Dear Sir:

Enclosed is a certified copy of the judgment of this Court
in the above case, issued as and for the mandate. **All costs have
been paid.**

Please acknowledge receipt.

Very truly yours,

EDWARD W. WADSWORTH, CLERK

By Clara R. James
Chief Deputy Clerk

encs.

cc: (Letter Only)
Clerk, U. S. District Court, Albany, Georgia
Mr. H. G. Rawls
Mr. E. Freeman Leverett
Mr. Donald L. Hollowell
Mr. C. B. King
Mrs. Constance Baker Motley and Mr. Norman Asaker

P. S. to Clerk: Under separate cover, in one envelope, I am returning
to you the record on appeal in this case.

Albany, Ga.,
Aug. 19, 1964.

Honorable John P. Cowart,
Clerk, U. S. District Court,
Macon, Georgia.

Dear John:

Re: W. G. Anderson, et al v. City of
Albany, et al, Civil Action 731.

Inclosed herewith find Judge Elliott's letter to me dated Aug. 18, 1964, together with original copy of his Supplemental opinion in the above styled case.

Does this close this case? I know you think I am stupid about these matters, but I would rather ask and be sure, before I mess up everything. Please advise with the return on the inclosed. Thanking you and with kindest regards, I am,

Sincerely,

Kathryn T. Campbell

UNITED STATES GOVERNMENT

Memorandum

TO John -

DATE: July 15, 1963

FROM Cull -

SUBJECT: Anderson, et al v. City of Albany, et al - C. A. No. 731

Dear John:

Inclosed herewith find copy of the original docket sheet in the above styled case, which you requested this morning. Grady stated to me that he and Hilliard Burt had already discussed this matter with you, and that they would file some papers with me tomorrow, which I will docket and forward to you.

Sincerely,

Cull, Jr (r.c.)
Cull, Jr.

7-23 64

Transcript of Record is in Closed File 730.

OFFICE OF THE CLERK
U. S. COURT OF APPEALS
FIFTH CIRCUIT

Date: July 19, 1963

Re: C.A. No. 727 - Asa D.
Kelley, et al -vs- M. S. Page, et al.

Receipt is acknowledged of record on appeal in the
above entitled and numbered cause.

Very Truly Yours,
EDWARD W. WADSWORTH
Clerk

OFFICE OF THE CLERK
U. S. COURT OF APPEALS
FIFTH CIRCUIT

Date: July 19, 1963

Re: C.A. No. 731 - W. G.
Anderson, et al -vs- The City of Albany, et al.

Receipt is acknowledged of the record on appeal in
the above entitled and numbered cause.

Very Truly Yours,
EDWARD W. WADSWORTH
Clerk