

Thank you.

BY MR. BROUILLETTE:

Ladies and gentlemen of the jury, my name is Harold Brouillette. My associate is Mr. Michael Kelly. We were the attorneys appointed by the court to represent Vincent Simmons in this case. And ^{law} at this stage of the proceeding, the/requires that the District Attorney give an opening statement to the Jury; and it's the option to the defense to give an opening statement or not. The State is required to foretell what it hopes to prove; the defense may make remarks at that time, if it wants to. We choose to say very little at this time, [emphasizing that what I say, like what the District Attorney says, is not the evidence in the case.] The evidence will be documents and physical evidence and the testimony of the witnesses which will be presented. The defense will choose to review the evidence carefully, after it has been presented.] At that time, we will talk a little bit more, about what the evidence will say. I will say, only at this time, that the evidence will not provide the proof that the District Attorney says that it would. And, that there will not be evidence to prove the guilt of the defendant. Please remember that the statements made by the State in the opening statement, are not evidence. It is very, very essential that you remember that. You must make your own determination based upon the evidence. Not accept someone else's determination. I suppose that some of you may feel that it is unfair to have to sit here, on a very hot July day to serve on a jury. Why are you doing it? Why does it have to be you? Of course the lawyers, we revolve in this type thing all the time, and it is our job, perhaps we

can't see it the way jurors do; but I would like to point out maybe one of you, at some time or another, might be charged with a crime, or might be in trouble. Maybe you would want to be assured that you would have a fair and intelligent jury of people who want to do right to sit in judgment for your case. Try to bear that in mind, and not feel that you are being imposed upon, by sitting in here as jurors in this case. When the trial is over, I'm sure -- I feel very sure that you will realize the importance of the roles you have served, and realize that you have fulfilled a very vital function of our governmental system. As you know, our constitution and laws call for and provide for jury trials. Specifically, the Louisiana Constitution of 1974, which, probably, most of you voted on; maybe for, maybe against. Even if you voted against it, there's a prior constitution provided for a jury trial. It is our law that we have, it needs to be met by a jury of voters. The Jury refers to a jury of your peers. People who are in society; not lawyers and policemen, and judges. But, the average American citizen partaking in government. There are a few things about the trial, which need to be emphasized. Some of which were told to you by the Judge, already. Our constitution and laws provide rules and regulations for the conduct of criminals. The constitution, the basic frame work; the outline, so to speak; specific guarantees, adopted by the people. And, then, the follow-up legislation, the acts of the legislature, I'm sure you've been reading the last 80 days of the legislature has been in session, adopting laws. The Legislature adopts specific laws which follow the mandate of the constitution, and some of these laws provide the specific rules and regulations

for the conduct of criminal trials. Including specific rules relating to evidence in criminal trials. Now, off hand, you might think, that since the Legislature does this, that it ought to be very, very clear and emphatic what kind of evidence is admissible; what kind of questions can be asked. Well, sorry to say, that that's not necessarily correct. Lawyers and Judges disagree. Many times, very sincerely and honestly disagree on how a particular situation should be handled in a trial. And, that is why we have objections; and that is why you will hear objections. You must not think that anyone is objecting to keep secrets from you; or to seal any information. This is an attempt by the court, by the State, by the defense attorneys, to follow up the rules and regulations of the -- that are prescribed by all the laws. And, as I said, we disagree in many situations, at the trial court level. The Judge sits as referee. Judges make mistakes, too. We have the right to object to the ruling of the court, put that into the record, so that in the event of an appeal, if the Supreme Court of Louisiana finds that a mistake was made at the trial level, it can so rule. That is the purpose of objecting to the ruling of the court. It should not be considered as being insulting, or as questioning the integrity of any body. This is the way our rules work, we have a right to object if we disagree with the ruling of the court. And, this is a routine thing in criminal trials. I just ask that you understand it. If the District Attorney disagrees with evidence that the defense is presenting, he has a right to object. And, if the defense objects with evidence of the District Attorney is presenting, he has a right to object. And, indeed, more than

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a right, a duty to object, in order to fulfill his duty to his client. If I say something, or do something, which you don't like, I apologize for it, in advance. I don't plan to do that. I don't think this will happen. But, in the event that it would, I ask only, that you do not hold this against my client, Vincent Simmons. He's not the lawyer. I'm the lawyer. If I do something that you don't like, it will not be his fault, and I ask that you do not let that enter into your decisions, into your deliberations. Try to understand that the attorney's role is sometimes very difficult in attempting to get to the proper manner, in which evidence should be presented. The Judge's role is difficult. Many decisions have to be made, and they have to be made fast. We can't be closing up the court and going to the books continuously during the course of a trial. And, for that reason, there are many closed issues which may be decided, and which may be disagreed upon. And, I ask that you understand that. Most particularly and most important, I ask that you keep an open mind, and that you enter this trial without any pre-dispositions, or premature decisions as to what took place. You will recall, that during the course of selecting jurors, which as you saw, was rather elaborate, and took a lot of time. One of the things that I asked each of you, was whether or not, the fact that a man has been charged with a crime, means that he is guilty of it. And, all of you said that you understood, that it did not mean that. Based upon that, and based upon our constitutional provision of presumption of innocence, I ask you to remember, that he sits there innocent, right now, innocent of any crime -- the trial is going to start; the evidence is going to start now, and he starts

out with a presumption of innocence. The things that you have heard, up until this time, are not evidence. They should not be weighed as to whether, in your deliberations...the evidence is yet to come, and we ask that -- I ask on behalf of the defendant that you keep an open mind, and you listen very carefully, and that you reach your own conclusions, and your own determinations. I know that you will take your duty seriously. [Certainly, each of you realizes the seriousness of this. When the evidence is in, I respectfully submit, that there will not be proof beyond a reasonable doubt of the guilt of the defendant.] At the time, the defense will be talking to you further at the close of the evidence, to review this evidence, emphasize presumption of innocence, and requesting it on the basis of the evidence, that he be found not guilty. We will now go on into the trial, and ask that you give this matter your very careful consideration. Listen carefully to everything that's said; draw your own conclusions. Again, we thank you for the service that you're rendering to the State, to the Parish and to the Country. Hope that it will not inconvenience you too greatly. And, we'll try not to unduly delay this. But, if it does, and you do get tired, we ask that you listen, nevertheless. Thank you very much for your kind attention.

BY THE COURT:

Ladies and Gentlemen, I'll give you a five minute break for your coffee. Go to the Jury Room.

(MID-MORNING RECESS AT THIS POINT)