

SFCronicle

# Angela Trial Snags On 4th Alternate

By Carolyn Anspacher

Completion of the jury to hear the Angela Davis murder - kidnap - conspiracy trial in San Jose was snagged late yesterday on selection of a fourth alternate juror.

Before the court day began, attorneys for both prosecution and defense expressed belief the session would end shortly after the noon recess and the trial itself would open a week from Monday.

But the surprising luck that enabled opposing counsel to find a satisfactory jury proper in nine court days didn't hold.

Before the court day was over, nine prospective alternates had been excused for various reasons; four had been challenged for cause; the defense had exercised three peremptory challenges, and the prosecution, one.

## SESSION

Superior Court Judge Richard E. Arnason broke precedent and ordered a court session for today, hopeful the panel would be completed before the weekend.

As the day started, it was obvious that Assistant Attorney General Albert Harris Jr. had been unsettled by Wednesday's appearance of Miss Davis in the role of interrogative co-counsel.

He spent better than half an hour with prospective alternate Juror Jackson W. Rush, 39, a United Air Lines tool engineer, trying to clarify Miss Davis' dual position as defendant and counsellor.

What Harris sought to explain was that as counsel, Miss Davis could make un-

gela Davis says as a co-counsel, and those things she may testify to if she takes the stand as a defendant?"

Rush said he believed he could make the distinction.

It was during his conversation with Rush that Harris touched on repeated defense suggestions that Superior Court Judge Harold Haley, the Marin county jurist slain during the August, 1970 courthouse escape attempt had been shot by a gun fired by a deputy. It is the State's contention that Haley was killed by a gun provided for the abortive breakout by Miss Davis.

"If it (Judge Haley's death) becomes a contested issue, we may have to produce photographs to show you things that will cast light on that situation," he said. Then he asked Rush: "Have you ever seen a sawed-off shotgun?" Rush said he had. "Have you ever seen one fired?" Rush said no.

## TEST

"If I should ask permission to go into a field to fire off a sawed-off shotgun, would you think that improper?" Harris asked.

"No," said Rush.

"Would you hold that

against us?"

"No," replied Rush.

The rest of the morning and the early part of the afternoon were devoted to a theological duel between defense attorney Leo Branton Jr. and 24-year-old Christine Warren, a dedicated Mormon who spent 18 months as a missionary for her church in New Zealand.

A check-auditor with Philco Ford, Miss Warren was forced by Branton to explain why blacks are not accepted as priests in the Church of Latter Day Saints.

When Branton's challenge of Miss Warren for cause was denied, he removed her by peremptory challenge.

## CHALLENGES

All told, Branton has removed three prospective alternates by peremptory challenge; two young men and Miss Warren. During selection of the jury proper he used only two.

Harris, on the other hand, used only one of his eight peremptories, and that on Eunice R. Hewitt, born on an Indian reservation and the mother of nine children.

Mrs. Hewitt, a member of the San Jose Drug Commission and a worker at the city's Indian Center, fairly overflowed with love and tenderness for all minorities.

Demonstrating, she said, was "not her bag," but she said she has no objection to militants.

"To each his own," she said.

A former Roman Catholic, she said she prefers the early Indian church where they have sun dances and contemplation.

She said she heard her elder children discuss the Davis case, and comment on the expense to the county but Harris had trouble pinning her down on any other exposure she may have had to publicity that has attended Miss Davis various problems.

A whisper eddied through the courtroom when Harris thanked Mrs. Hewitt and excused her from service.

sworn statements in court not subject to challenge, give expositions on her political views, and present her case in its most favorable light.

## QUESTION

"When you retire to the jury room," Harris asked, "will you be able to distinguish between the things An-