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# DAVIS ATTORNEYS ACCEPT THE PANEL

## But Prosecution Declines, and Jury Search Goes On

By EARL CALDWELL

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SAN JOSE, Calif., March 9—

A jury was nearly seated today for the trial of Angela Davis.

In a stunning surprise, attorney's for Miss Davis abruptly announced that they would accept for the trial the panel of prospective jurors that had undergone exhaustive questioning throughout the week.

Leo Branton Jr., speaking for the defense, offered to seat the panel after the prosecution had exercised the first of its preemptory challenges.

Mr. Branton's announcement stunned the courtroom. Albert Harris Jr., the prosecutor, said that he had been caught off guard.

Long before the trial here began, the defense had repeatedly expressed doubt that it could get a jury here in Santa Clara County. And when jury selection began two weeks ago, the defense thought that it would take months to select a panel.

Late this morning, the *voir dire* examination of the panel was completed, and Judge Richard E. Arnason asked for preemptory challenges. Mr. Harris rose but was interrupted by Mr. Branton, who asked again that one of the panelists be excused for cause.

Mr. Branton did not specify in the open court which member of the panel the defense wanted dismissed. Instead, he asked to make his arguments

in chambers, and Judge Arnason agreed.

Apparently his request was denied, because after the noon recess, the judge again asked for preemptory challenge, and this time Mr. Harris rose and announced that the "people excuse Juror Number 1."

That took from the temporary panel Mrs. Ruth A. Ruth, a young secretary who in *voir dire* examination said that she had never heard of Angela Davis until after she had been called for jury duty.

Then the defense had its turn to exercise the first of its preemptory challenges. Mr. Branton had a surprise for the court.

"As presently constituted," he said, "the defense will accept the jury."

There were gasps, then silence. Mr. Harris rose. At that point, if he had accepted the jury, it would have been seated. But he declined.

"The people," he said, "ex-

cuse juror Number 2." That took from the panel Mrs. Alice F. Evarts, a clerk employed by Sears, whose husband is a graduate student at Stanford University.

Phillip A. Russel, a student at San Jose State College who left his studies a year ago to get married, replaced Mrs. Ruth on the temporary panel.

Nicholas Gaetani, a 45-year-old finance officer with Memorex, Inc., replaced Mrs. Evarts.

At a recess, Mr. Branton explained his action by saying, "I felt that Mr. Harris could not afford to accept the jury as constituted and I could."

He said that his action had forced the prosecutor to use two challenges, while the defense had still not used any.

"What this means," Mr. Branton said, "is that if we get down to exercising all the challenges, I can control who the last two jurors are, and he can't."