1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF ALABAMA
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6 FRANK M. JOHNSON JR. CENTENNIAL CELEBRATION
7
8 *WHEN AN EAGLE SHIELDS THE DOVE*
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16 Frank M. Johnson Jr. Courthouse and Federal Building
17 Historic Courtroom
18 U.S. District Court
19 Middle District of Alabama
20 One Court Street
21 Montgomery, Alabama
22 Thursday, January 24, 2019
23 1:06 p.m.
24
25

PARTICIPANTS

The Honorable W. Keith Watkins, Chief District Judge
United States District Court
for the Middle District of Alabama

Congresswoman Terri Sewell
United States Representative for
Alabama's Seventh Congressional District

Mr. Jeffrey Daniels, American Actor
Known for the portrayal of Atticus Finch, To Kill a Mockingbird,
Shubert Theatre, Broadway

Mr. Robert F. Kennedy Jr.
Attorney at Law
Author of Judge Frank M. Johnson Jr.: A Biography

The Honorable Emily C. Marks, District Judge
United States District Court
for the Middle District of Alabama

Dr. Wayne Flynt
Alabama Author
Professor Emeritus, Auburn University Department of History

Mr. Peter C. Canfield
Attorney at Law
Jones Day, Atlanta, Georgia

Ambassador Andrew Young
Former U.S. Congressman from Georgia
Former U.S. Ambassador to the United Nations
Former Mayor of Atlanta, Georgia

Mr. Howell Raines
American Journalist and Author
Former Executive Editor, The New York Times
Pulitzer Prize Winner

The Honorable Myron H. Thompson, Senior District Judge
United States District Court
for the Middle District of Alabama

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1 (Call to Order of the Court)
2 JUDGE WATKINS: Well, good afternoon.
3 PARTICIPANTS IN UNISON: Good afternoon.
4 JUDGE WATKINS: My name is Keith Watkins, and I'm the
5 chief district judge for the Middle District of Alabama. To my
6 right and your left is Senior -- sorry -- District Judge Myron
7 Thompson --
8 JUDGE THOMPSON: I've never been called a sorry judge
9 before.
10 JUDGE WATKINS: A chief just can do that.
11 -- who's been with us 38 years. This is his courtroom
12 now. This was Judge Frank Johnson's courtroom.
13 And to my left is our newest, our baby district judge,
14 Emily Marks.
15 So we want to welcome you this afternoon. And we have
16 other special guests who are appearing in person and, of late,
17 by video. We're on a rather tight schedule. You-all know that
18 this symposium is a part of a longer event, which will conclude
19 tomorrow in Tuscaloosa with more of an academic. We do have a
20 couple of academics speaking today, but I can assure you that my
21 talk will not be academic, but it will be relevant if I get to
22 make it.
23 So without further ado and without announcing other
24 guests at the moment, I believe we have, by video, some guests.
25 And I believe the first is Representative Terri Sewell.

1 All right. Representative Terri Sewell from Selma. I
2 believe (inaudible) if you-all would look and see the monitors.
3 (Video presentation, as follows:)
4 REPRESENTATIVE SEWELL: Hi. This is Congresswoman
5 Terri Sewell. Due to the government shutdown, Congress is in
6 session, and I can't be with you today. I know that I speak for
7 myself and Congressman John Lewis. We both wish we could be
8 with you during this centennial symposium honoring the life and
9 extraordinary contributions of Judge Frank Johnson Jr.
10 Perhaps no other jurist leaves a larger imprint on the
11 20th Century Civil Rights Movement than Judge Frank Johnson.
12 Here in Alabama, we are blessed to have uniquely experienced his
13 work to advance civil rights for all Americans. He dedicated
14 his life to ensure every American, regardless of their race,
15 creed, or color, received justice under the Constitution.
16 Judge Frank Johnson was appointed as the nation's
17 youngest federal judge days before his thirty-seventh birthday
18 in 1955 by President Dwight Eisenhower. In his 24 years as a
19 federal district judge in Montgomery, Alabama, he faced death
20 threats, cross burnings, the bombing of his mother's home, and
21 he was called some of the worst names imaginable, all because he
22 had the audacity to follow the law and administer it fairly,
23 irrespective of color, class, or gender.
24 Reverend Dr. Martin Luther King once said, "Judge Frank
25 Johnson gave true meaning to the word 'justice.'" Well, let me

1 count the ways. In 1956, it was Judge Frank Johnson who ruled
2 in favor of Rosa Parks, striking down Montgomery's law requiring
3 Blacks to sit in the back of the bus as unconstitutional. In
4 1961 and in 1962, it was Judge Frank Johnson who ordered the
5 desegregation of the bus depot and the Montgomery Airport. He
6 also ordered the Ku Klux Klan and Montgomery Police to stop
7 beating and harassing Freedom Riders attempting to integrate
8 interstate bus travel. In 1963, when school boards continued to
9 delay federal mandated school integration, it was Judge Frank
10 Johnson who issued the first statewide desegregation order. And
11 in 1965, it was Judge Frank Johnson who ruled that the foot
12 soldiers of the movement and activists could march from Selma to
13 Montgomery.
14 As Judge Frank Johnson's decisions were affirmed by
15 higher courts, they became the basis of modern-day civil rights
16 law and helped to transform American society in a way that
17 seemed unthinkable just years before.
18 (Video concluded)
19 JUDGE WATKINS: I hope you in the back could hear; but
20 if you couldn't, she said hello. We weren't expecting some of
21 these videos, so we'll do the best we can. Okay?
22 Now, I believe we have an appearance of Atticus Finch.
23 (Video presentation, as follows:)
24 MR. DANIELS: That's Atticus Finch, at least as I
25 portray him. I'm Jeff Daniels. I'm here in my dressing room

1 backstage at the Shubert Theater. I play Atticus Finch on
2 Broadway in Aaron Sokin's *To Kill a Mockingbird*. And I've been
3 asked to send a video to help celebrate Frank Johnson, who was
4 instrumental in my approach to figuring out how to play Atticus
5 Finch. I've often said that I thought that Judge Johnson was
6 who Atticus Finch might have grown up to be.
7 Frank Johnson stood for decency and fairness and
8 justice even when it was very, very difficult, as those of you
9 know better -- far better than I. I listened to recordings of
10 Frank, saw interviews of Frank, even had his accent for a while:
11 "Registered." "Court of law." That's Frank. We've softened it
12 a little bit for Atticus. And he was -- he was very helpful,
13 very instrumental in what I had to do in order to get ready to
14 try to figure out how to play one of the greatest iconic
15 fictional American heroes there is.
16 Shout out to Trey Granger and Judge Watkins, who put
17 this thing together. And I'm glad to be able to send a video to
18 celebrate someone who was so instrumental and so helpful to me.
19 Thank you very much.
20 (Video concluded)
21 JUDGE WATKINS: Atticus says hello too.
22 Finally, I believe we have Robert Kennedy Jr. -- is
23 that right? -- who wrote a book about Frank Johnson, a thesis at
24 Harvard.
25 (Video presentation, as follows:)

1 MR. KENNEDY: Frank Johnson grew up at a time when
2 Alabama was covered by a system of apartheid. Every
3 consideration of human life was colored by race. If you were
4 Black, you were identified as such in your person. You were
5 raised in a segregated neighborhood. You attended segregated
6 schools, parks, playgrounds. Prisons and hospitals were
7 segregated. You could not marry legally outside of your race.
8 When you died, you were identified as Black on your death
9 certificate and you were buried in a segregated cemetery. This
10 imposition of second-class citizenship on an entire race of
11 American citizens was held together by official laws and
12 unofficial intimidation designed to deprive Blacks of the
13 constitutional right to vote.
14 Frank Johnson played the critical role in allowing this
15 country to transition into a true constitutional democracy for
16 the first time in its history. And he suffered. He was
17 isolated. He was attacked. In those senses, he's as much an
18 American hero as any of the heroes of the American Revolution.
19 (Video concluded)
20 JUDGE WATKINS: I practiced law for 30 years. And when
21 I became a judge, I had to learn to speak sitting down. And
22 I've never quite gotten comfortable with it, so I'm going to
23 take the privilege to join you down here on the floor.
24 I'm called upon, first of all, to welcome you-all here
25 and to thank you for participating. We have people here, I

1 think, from Buffalo, New York, a former law clerk. We have a
2 professor from Massachusetts. And I didn't even hear other
3 places, but we have a great turnout. And this has been very
4 important because in celebrating the hundredth centennial --
5 hundredth anniversary of Judge Johnson's birth, we're called, I
6 believe, to place him where he belongs in the history of the
7 role of law in social change and in civic stability.
8 And so I've been asked -- we're developing --
9 organizing -- the Frank Johnson Institute. And I've been asked
10 to do a better introduction, a little bit more of an
11 introduction than I did yesterday. Then we'll get on to the
12 rest of the program. We are conscious of the time, and we will
13 be through by three o'clock.
14 I was doing -- well, let's talk about the need. I'm
15 going to play this video, and I hope the volume is here.
16 Play the video.
17 Oh, wait. Go back. Can you go back or not? Those are
18 my law clerks.
19 (A photograph is displayed of two farmers in old clothes.)
20 JUDGE WATKINS: And some of you may have been at my
21 investiture.
22 (A photograph is displayed of a large crowd at the U.S.
23 Capitol.)
24 JUDGE WATKINS: I can tell most of you missed it
25 (laughter).

1 Now if you'd play the video.
2 (Video presentation, as follows:)
3 COURTNEY PLUNK: Hello, everyone. I'm Courtney Plunk
4 with PoliTech. We're here on our home campus at Texas Tech to
5 see just how much our fellow students know about their country.
6 Let's find out if we're politically challenged.
7 What is your name and major?
8 LEON VEHILL: Leon Vehill, and psychology.
9 JONATHAN BARNES: Jonathan Barnes, and I'm a sports
10 management major.
11 ALLISON EDEN: Allison Eden, and I'm a pre-nursing
12 major.
13 MITCHELL JOHNSON: I'm Mitchell Johnson, and my major
14 is human sciences.
15 RYAN: Ryan, and clinical psychology.
16 MARISSA: I'm Marissa, and I'm a psychology major.
17 COURTNEY PLUNK: Who won the Civil War?
18 MITCHELL JOHNSON: Who won the Civil War? Um, the...
19 FEMALE #1: We did? The South?
20 FEMALE #2: Like the one in 1965 or -- what Civil War?
21 FEMALE #3: Who won it?
22 FEMALE #4: Who was even in it?
23 FEMALE #3: Who was in it? Just tell me who was in it.
24 FEMALE #5: Ooh, I don't know. Why you asking me that?
25 FEMALE #6: Who won the Civil War? Yeah. Oh, my God.

1 I am drawing a blank. It's one of those things. I feel like
2 I'm on the Jimmy Kimmel Show.
3 FEMALE #7: America? I don't know.
4 MALE #1: That's the Confederates; right?
5 MITCHELL JOHNSON: Man. (Chuckles)
6 LEON VEHILL: I have no clue.
7 ALLISON EDEN: The Union. The North.
8 INTERVIEWER: Yes.
9 ALLISON EDEN: Okay. Okay.
10 INTERVIEWER: So who is our vice president?
11 FEMALE #3: (Giggling) Don't know.
12 FEMALE #8: I have no idea.
13 FEMALE #9: Of -- right now? I don't know.
14 MARISSA: Um, what's his name? Oh, my gosh. I have
15 his name in my -- I mean, I have his face in my head.
16 MALE #2: Who is the vice president?
17 INTERVIEWER: Uh-huh.
18 MALE #2: Is that like a trick question?
19 INTERVIEWER: Nope.
20 MALE #2: Okay. I don't know.
21 MALE #3: I have no idea.
22 MALE #4: I have no idea.
23 MITCHELL JOHNSON: Don't know.
24 MARISSA: John...
25 INTERVIEWER: Joe...

1 MARISSA: Joe Biden.
2 INTERVIEWER: Yes.
3 FEMALE #8: I don't know.
4 INTERVIEWER: You're not the only one. A lot of people
5 don't know.
6 FEMALE #8: I know, but I still feel stupid.
7 INTERVIEWER: Okay. Who did we gain our independence
8 from?
9 FEMALE #8: These are horrible.
10 FEMALE #1: Um, I have no idea (chuckles).
11 INTERVIEWER: Do you know what year it happened?
12 FEMALE #1: Absolutely not.
13 MALE #5: I couldn't tell you.
14 FEMALE #3: Something like 197- no. Like 1677 or
15 something like that?
16 INTERVIEWER: And what show is Snookie on?
17 FEMALE #10: Jersey Shore.
18 INTERVIEWER: What show is Snookie on?
19 FEMALE #6: The Jersey Shore.
20 JONATHAN BARNES: Jersey Shore.
21 FEMALE #5: Jersey Shore.
22 MARISSA: The Jersey Shore.
23 LEON VEHILL: Jersey Shore.
24 INTERVIEWER: And then who is Brad Pitt married to?
25 FEMALE #8: Angelina Jolie.

1 MALE #6: Angelina Jolie.
2 FEMALE #2: Angelina Jolie.
3 MALE #1: Angelina Jolie.
4 FEMALE #1: Angelina Jolie.
5 FEMALE #9: Angelina Jolie.
6 FEMALE #11: Angelina Jolie.
7 INTERVIEWER: And who was he married to before that?
8 MALE #6: I think it was Jennifer Aniston.
9 MALE #7: Jennifer Aniston.
10 MALE #8: Jennifer Aniston.
11 FEMALE #9: Jennifer Aniston.
12 INTERVIEWER: Awesome. Thank you.
13 (Video concluded)
14 JUDGE WATKINS: The reality is that 70 percent of
15 Americans can't name the three branches of government. Forty
16 percent can only name one branch. Twenty-three percent cannot
17 name any branch of government. Twelve percent of Americans
18 think that Judge Judy is on the U.S. Supreme Court. Ten percent
19 of those are college educated.
20 The point is -- I made the statement yesterday, and
21 it's true. We're drowning in information and starving for
22 knowledge. And civics knowledge is at an abysmal, all-time low.
23 So part of what we're doing today is restoring knowledge about
24 Judge Johnson and putting it in historical context.
25 I was doing a naturalization ceremony at Auburn, and

1 Professor Nakhjavan -- whose wife is here today, Sid -- was
2 naturalized. He had been in this country -- he's an architect
3 professor at Auburn, been in this country for 30 years. And we
4 had junior high and high school students to see the
5 naturalization ceremony. We had a luncheon afterwards. And it
6 was suggested during the naturalization ceremony that he had
7 been here for 30 years and was -- he's actually -- a former
8 governor's niece is his wife, so he's pretty ensconced in our
9 culture, you know.
10 An eighth grader asked a very probing question. He
11 said, "Why did you wait 30 years to be naturalized if you're
12 going to marry here and stay here?" And he stood up and he
13 said, "You don't understand. When I took that oath" --
14 You see it up there? "I hereby declare under oath that
15 I absolutely and entirely renounce and abjure all allegiance and
16 fidelity to any foreign prince, potentate, state, or
17 sovereignty."
18 He said, "When I took" -- he quoted that from memory.
19 And he said, "When I took that oath" -- he's Iranian -- "I
20 turned my back on 5,000 years of Persian history. And you don't
21 do that lightly."
22 It occurred to me at that instant that those of us who
23 were born here are common-law married to this country. We
24 didn't have a ceremony. We didn't take an oath. We didn't take
25 a test. We didn't have a federal judge welcome us. We just

1 showed up. And sometimes we treat our citizenship that way.
2 I believe that -- well, let me -- just one -- I just
3 can't resist this one. A video on the pier at Venice Beach. A
4 man in his fifties. A guy walked up to him and said, "Did you
5 hear that Martin Luther King just died?" Recently. He said,
6 "Yeah, I heard that." And the guy said, "You know he was the
7 first Black astronaut." He said, "Yeah, he was quite famous.
8 He was the first Black astronaut." "And, you know, he just died
9 this week." This was like three years ago. "Yeah," he said, "I
10 heard about that." And he said, "Well, did you watch the
11 service on television?" He said, "No, I couldn't do that, but,"
12 he said, "he was a great man." He said, "Maybe they'll name a
13 day after him."
14 So what we have is a lack of civic knowledge and a lack
15 of civic engagement in this country. And I'm going to bring it
16 down to Alabama here in a minute. But we don't have any way to
17 judge a fact against a known and common civic principle. And we
18 illustrate that every day because we don't have -- we have fewer
19 known and concrete civic principles anymore. For instance, how
20 do we look at a police shooting; that is, a policeman shooting
21 someone? We're all divided about that. The reverse of that:
22 How do we look at it when a policeman is killed in a shooting?
23 Well, we don't have any way to process that as a people. We
24 process it this way and that way and the other way. And we have
25 plenty of partisanship, but we have a crisis in partnership. So

1 we have a crisis of information. We have a crisis of
2 leadership.
3 When was the last time that a president called us to do
4 something really great? I saw *First Man*. And Kennedy said that
5 we were going -- President Kennedy said, "We are going to the
6 moon" -- not popular with everyone, by the way, and the movie
7 demonstrated that -- "We're going to the moon not because it's
8 easy but because it's hard."
9 We have a crisis in leadership because no one in this
10 country is willing to lead us into the hard things. Congress is
11 not willing to make those hard decisions about immigration or
12 about other things. I won't get into other things, but you know
13 what I'm talking about. I don't want to start an argument right
14 here.
15 So basically, what we're interested here in the Johnson
16 Institute -- one of the facets of it is civic education and
17 civic engagement. So let's see the video, Trey. Is that next?
18 (Video presentation, as follows:)
19 NARRATOR: History has a way of challenging us, judging
20 us, compelling us. In the autumn of 1955, a newly appointed
21 Alabama federal judge joined a hard-working seamstress and a
22 minister of a small congregation on a path destined to change
23 the arc of history. Judge Frank M. Johnson's historic civil
24 rights decisions not only led to ostracism, cross burnings, and
25 death threats but helped to change the face of the

1 segregationist South and defiantly forge a new way forward. In
2 his courtroom, he called for social justice, civil rights, and
3 human decency.
4 During this turbulent era, the bravery of Rosa Parks,
5 the teachings of Dr. Martin Luther King, and the decisions of
6 Judge Frank M. Johnson challenged Americans to decide what kind
7 of people they wanted to be. From that point forward, equality
8 and civility have become paramount to our American experience.
9 Without one, we cannot experience the other.
10 Today, surveying the international landscape, it is
11 immediately apparent the need for a nonpolitical presentation of
12 the historic and ongoing struggle for judicial, civil, and human
13 rights is more necessary than ever. The Frank M. Johnson Jr.
14 Civil and Human Rights Institute will stand as a beacon for
15 human dignity, mutual respect, and equal justice under the law,
16 designed to build bridges from the past for a more enlightened
17 future, a place for learning and illumination, placed in the
18 fulcrum of the original Civil Rights Movement in Montgomery,
19 Alabama. The Johnson Institute will continue the efforts of the
20 civil rights pioneers to change the world, change that will
21 solidify the undeniable fact that justice and equality go hand
22 in hand.
23 (Video concluded)
24 JUDGE WATKINS: How better to honor this great man than
25 to dedicate ourselves to an institute and to the promotion of

1 civic engagement, knowledge about the way the courts operate,
2 how we organize ourselves politically as a country, what the
3 Constitution means, what is the history of all of that.
4 The Johnson Institute would be involved -- or is going
5 to be involved in civic education and civic engagement, but
6 that's not all of it. Because Judge Johnson was not just
7 involved in the Civil Rights Movement, as some of the clerks
8 were talking about last night, he was involved in prison reform,
9 mental health reform, and so many other areas where he just had
10 a clear vision. And I think we've lost that vision as a people,
11 not necessarily as the courts, but as a people. So the Johnson
12 Institute will be organized to have a holistic approach to the
13 rule of law and social change and civic stability. It will be a
14 global classroom with on-site learning and online learning.
15 And you think about it. And we have universities who
16 are interested in participating with us on this. Police chiefs,
17 probation officers, law clerks, magistrates. Every small town
18 in Alabama has a magistrate who issues warrants let's say on the
19 weekend. They're not lawyers. They're not judges. Many of
20 them don't have college educations. Wouldn't it be nice to have
21 a place for them to come to be trained and to understand why we
22 have a law that says you need to get an initial appearance
23 within 48 hours, not 48 days. I mean, there's a reason for
24 that. There are cases that talk about that.
25 I've been to the Montana Judicial Institute. Montana's

1 federal court has trained 90 percent of the civics teachers in
2 Montana over the last eight years by bringing them to the court
3 for a week. And they pay for all of it, and the teachers get
4 credit, get a medallion, get lots of things. And they've
5 trained them in civic engagement about the courts and about our
6 judicial system and about our system of government. Teachers,
7 civic leaders, chambers of commerce, HR professionals who deal
8 with claims of discrimination every day and other things. We
9 have great opportunities for education through this institute.
10 And finally, a physical presence. We envision a civil
11 rights class in Montgomery. This very building is going to be
12 the subject of an application for a World Heritage Site, and we
13 hope it makes it. It takes about ten years to get one. We
14 would like to have a brick-and-mortar structure eventually and a
15 program that ties the Civil Rights Trail all together, which
16 began -- I think should begin here in Montgomery, where the
17 Civil Rights Movement began. So that's just a little bit more
18 about the Johnson Institute. And you-all will be hearing more
19 about it in the days to come.
20 Now let me take my official position again.
21 This building was -- this courtroom has been redone a
22 couple of times in history, but the General Services
23 Administration has agreed to restore it to its historical
24 significance. And we have today a letter -- it turns out that
25 one of the -- I guess the chief lawyer of the General Services

1 Administration is Finis St. John's son, and we have a letter
2 here today that Judge Marks is going to read for us.
3 JUDGE MARKS: Dear Chief Judge Watkins and Mr. Granger.
4 Thank you for the kind invitation to represent the United States
5 General Services Administration, GSA, at the Judge Frank M.
6 Johnson Jr. Centennial Celebration and Symposium. As an Alabama
7 native and fellow graduate of the University of Alabama School
8 of Law, I certainly appreciate the significance of this
9 wonderful event and deeply regret being unable to attend due to
10 the ongoing lapse in federal appropriations. I hope you will
11 pass along this letter in my absence.
12 The Frank M. Johnson Jr. Federal Building and U.S.
13 Courthouse is a crown jewel in GSA's real estate portfolio.
14 Built in 1933, the five-story Classical Revival style building
15 is a masterpiece in courthouse architecture. The district
16 courtroom rendered in the Italian Renaissance Revival style is
17 two stories, with a spectacular cantilevered balcony.
18 Variegated limestone arches surround 17-foot-high windows on
19 either side of the room. A similar limestone archway divided
20 into progressively recessed patterned segments is centrally
21 located behind the judge's bench. Set within this arched
22 opening is a tapestry of stars and an original circular
23 limestone clock. And while the room is filled with original
24 finishes, the ceiling, with its seemingly infinite floral and
25 geometric motifs is, by far, the most impressive. It

1 exemplifies the art concept *horror vacui*, the fear of empty
2 space.
3 Though the Frank Johnson Courthouse is noteworthy for
4 its architecture, it is most significant for its history.
5 Designed by Frank Lockwood of Montgomery, Alabama, it was known
6 throughout most of its history as the United States Post Office
7 and Courthouse. It housed not only the U.S. District Court for
8 the Middle District of Alabama but also the Fifth Circuit Court
9 of Appeals, which, until 1981, had jurisdiction over six states
10 in the Deep South: Alabama, Florida, Georgia, Louisiana,
11 Mississippi, and Texas.
12 Following the U.S. Supreme Court's historic *Brown*
13 *versus Board of Education* decisions in 1954 and 1955, the lower
14 courts, especially those in the Fifth Circuit, bore the burden
15 of enforcing the newly mandated task of desegregation. Due to
16 massive resistance from state and local governments, the Frank
17 Johnson Courthouse, along with its sister courthouses in Atlanta
18 and New Orleans, became the setting for some of the most
19 significant civil rights litigation in American history.
20 In particular, at least nine cases heard in the Frank
21 Johnson Courthouse between 1956 and 1967 proved pivotal in the
22 modern American Civil Rights Movement. In *Browder versus Gayle*,
23 decided in 1956, Judge Johnson and Fifth Circuit Judge Richard
24 Rives made history when they extended *Brown* to public
25 transportation following the Montgomery Bus Boycott.

1 In 1961, Judge Johnson enjoined the Ku Klux Klan from
2 violence against the Freedom Riders in *U.S. versus U.S. Klans*.
3 In *Lee versus Macon County Board of Education,* decided
4 in 1967, Judges Johnson, Rives, and Harlan Grooms issued a
5 blanket statewide desegregation order. *Time Magazine* described
6 that ruling as, "The first such statewide ruling in the nation
7 and perhaps the most important school order since the Supreme
8 Court's *Brown* decision of 1954."
9 In two voting rights cases, *U.S. versus Alabama*, 1961,
10 and *U.S. versus Wood,* 1961, Judge Johnson and his colleagues
11 crafted innovative rulings to combat Jim Crow voting
12 restrictions and expand the enfranchisement of African
13 Americans.
14 Two Fifth Circuit cases, *U.S. Ex Rel Goldsby versus*
15 *Harpole* in 1959 and *U.S. Ex Rel Seals versus Wiman* in 1962,
16 established the constitutional right to a trial by a jury of
17 one's peers selected without racial discrimination.
18 In *Williams versus Wallace*, 1965, Judge Johnson
19 employed the principle of proportionality in allowing the march
20 led by Martin Luther King Jr. from Selma to Montgomery to
21 proceed, famously holding, "It seems basic to our constitutional
22 principles that the extent of the right to assemble,
23 demonstrate, and march peaceably along the highways and streets
24 in an orderly manner should be commensurate with the enormity of
25 the wrongs that are being petitioned and protested against. In

1 this case, the wrongs are enormous. The extent of the right to
2 demonstrate against these wrongs should be determined
3 accordingly."
4 GSA is extremely proud of its stewardship of the Frank
5 Johnson Courthouse, its architectural pedigree, and its
6 exceptional national significance in the modern American Civil
7 Rights Movement legacy. It was designed as a National Historic
8 Landmark by the Secretary of the Interior on July 21st, 2015,
9 and is listed in the National Register of Historic Places.
10 History and law were made within the walls of the Frank M.
11 Johnson Federal Building and U.S. Courthouse. And I can think
12 of no place more deserving of the title America's Courtroom.
13 Very truly yours, Jack St. John, General Counsel, U.S.
14 General Services Administration.
15 JUDGE WATKINS: Thank you, Judge Marks.
16 Our first speaker today is Dr. Wayne Flynt. Dr. Flynt
17 taught history for a combined 40 years at Samford University and
18 Auburn University. He was department chair of history at Auburn
19 for the first eight years I think he was there. He was also the
20 distinguished university professor. He is the author or
21 coauthor of 14 books, most of them about Alabama and Alabama
22 history. He -- among his many honors include the C. Vann
23 Woodward-John Hope Franklin Prize from the Fellowship of
24 Southern Writers and membership in the Alabama Academy of Honor.
25 So please join me in welcoming Dr. Wayne Flynt.

1 (Applause)
2 DR. FLYNT: Thank you, Judge Watkins. It's always
3 comforting to be introduced by an Auburn alum, so I feel much
4 more comfortable.
5 Were you the largest graduate seminar in the history of
6 the South that I have ever taught, I would have started off with
7 a handout in the first session. I hope you received it or you
8 are receiving it. And I would have asked you to look at the
9 handout; and from the handout, I would have asked you, how would
10 you describe poor white Alabama. And if you had had a chance to
11 look at this -- and I hope you will as you receive it -- on the
12 upper left-hand corner, based upon three years of looking at
13 every head of family in every county in Alabama and deciding
14 who, by my judgment, would be a poor white, this is the way in
15 which I determined that rubric.
16 Value of farm products. Of the ten counties -- three
17 across the northeastern segment of Alabama, Jackson County,
18 Cherokee County, and then a group down toward where I grew up in
19 middle Appalachian Alabama on the eastern side of the state,
20 Calhoun County, Clay County, Randolph County, and then the
21 legendary Alabama Wiregrass in southeastern Alabama, these ten
22 poor white counties -- by value of farm products, the poorest of
23 the counties was Winston County. They're all poor white
24 counties, but the poorest of the poor was Winston County.
25 Under the second rubric below that, the number of

1 horses and mules. Forget whatever image you have of cotton
2 growing, Tennessee Valley, or Black Belt counties and, instead,
3 consider a world of agriculture, of subsistence farmers, where
4 there was one definition of a successful farmer: Do you own a
5 mule or a horse? And by that designation, of the families I
6 looked at, 115 had neither horse nor mule but farmed. Who
7 pulled the plow? A human pulled the plow. 181 had one horse or
8 one mule. And that was the status of a successful farmer in
9 most of these counties, one horse, one mule, not the ownership
10 of one person.
11 Top right-hand corner, average improved acres. If you
12 notice, Winston County is next to last.
13 Under value of farms, land, fences, and buildings,
14 Winston County was third from the bottom.
15 I tell you that not to tell you about the Johnson
16 family because they were not poor whites, but to tell you about
17 the world of the Johnson family, for their world was the world
18 of poor whites.
19 Novelist Lee Smith, who was born in Grundy, Virginia,
20 in the southwestern Virginia coal mine country of tall mountains
21 and deep pits and sudden death, wrote in her novel *Oral History*
22 about her people, "Nothing is ever forgotten, nothing ever ends,
23 and worlds open up within the worlds we know."
24 Four biographers of Judge Frank M. Johnson have all
25 mentioned, to one degree or another, the significance of his

1 origins, the origins in the remote, mountainous Winston County.
2 The first of them, from whom you heard a minute ago in the
3 video, Robert F. Kennedy Jr., spent, curiously enough, most time
4 studying the relationship of family, community, and culture. I
5 think that is because the world from which Robert Kennedy Jr.
6 came was so entirely different from the other three biographers
7 of Judge Johnson. It was as if he had found himself on Mars
8 trying to understand a federal judge of such extraordinary
9 vision. He wrote in his 1978 biography, "Johnson's personality
10 and constitutional philosophy are, to a large extent, the
11 product of his hill country background and his Winston County
12 childhood. To understand Johnson, we must first understand
13 those roots." And that's my function.
14 Winston County in Northwest Alabama is the domain of
15 poor soil; rugged, heavily forested mountains; deep ravines
16 protected by huge boulders; and sheer cliffs bisected by swiftly
17 moving creeks, small rivers, and the magnificent Kinlock Falls.
18 For many years I had the great privilege of taking young boys
19 from a teenage church group called Royal Ambassadors in the
20 Baptist churches where I worshipped to the Bankhead National
21 Forest and Sipsey Wilderness, where it required ten of my boys,
22 locking their arms, to reach around one remaining virgin tulip
23 poplar in the deep darkness of the night matched only by the
24 silence. The boys realized immediately they were entering a
25 world quite different from Birmingham and Auburn, from whence we

1 came.
2 Nature predestined most of the county to subsistence
3 agriculture and economic self-sufficiency. Alabama's vast
4 antebellum cotton kingdom that, by the 1850s, accounted for
5 one-quarter of all the cotton grown in America, which, in turn,
6 accounted for one-half the total global exports of the United
7 States of America, which, in turn, produced one-fifth of the
8 gross domestic product of this nation, and which gave birth to
9 New Orleans, the second-largest port in the United States to New
10 York, which drained the Tennessee River Valley of North Alabama
11 and gave rise to Mobile, the third-largest port in America,
12 which drained the rich Alabama Black Belt south of the
13 Appalachian Mountains. But Winston County was as remote from
14 that fantastical, affluent world that I just described as if it
15 had been located on Mars.
16 The farmers of Winston County produced no commercial
17 agricultural crops. Their small farms fed livestock and their
18 own families with a bit of grain left over for making untaxed
19 mash in hollows beyond the reach and too dangerous for revenue
20 agents. Only 1,542 people lived in that mountainous county in
21 the 1850 census. And of those, only 62 were Black, and 50 of
22 them were slaves on a single plantation in the northern end of
23 Winston County nearest the Tennessee River.
24 Given what I have just described to you, you will
25 understand that when human bondage and the maintenance of the

1 cotton kingdom became the major issues of American politics in
2 the 1850s, most white residents of Winston County believed they
3 had no dog in that fight.
4 So on Independence Day, July 4th, 1861, after Alabama's
5 secession and after the declaration of war and after the Battle
6 of First Manassas, 3,000 people gathered at Looney's Tavern in a
7 county that had only 1500 residents. 3,000 people, and that's
8 not even to vote. We know how to do that in voting in Alabama,
9 but not in gathering for a resolution. And so the 3,000 people,
10 twice the population of Winston County, gathered at the tavern
11 to draft a resolution, arguing that their favorite U.S.
12 president, the favorite president in all those counties on my
13 handout, because that was the Alabama of Jacksonian democracy
14 where a Whig was considered to be an eccentric and vaguely
15 contradictory of the common man. And so they gathered there,
16 only a hundred miles from Nashville, the home of their favorite
17 president, which was no further away than Montgomery, the
18 capital of the Confederacy. And they correctly argued that
19 Jackson had said that no state could lawfully withdraw from the
20 Union. But they resolved that if, in its arrogance, Alabama
21 withdrew from the Union illegally, then any county within
22 Alabama might use that same logic to secede from the state of
23 Alabama, not that hill county white folk that day declared war
24 on the newly established Confederacy, whose new capital was only
25 a hundred miles from where they gathered, but, rather, that this

1 was an issue of simple local autonomy. They just wanted to be
2 left alone. They would take up arms for neither side in this
3 impending crisis. And so, they wrote, "Therefore, we ask the
4 Confederacy on the one hand and the Union on the other to leave
5 us alone, unmolested, that we may work out our own political and
6 financial destiny here in these hills and mountains of North
7 Alabama." Thus began the fabled legend of the Free State of
8 Winston.
9 Of course, the Confederacy had other notions of
10 national sovereignty, and recruitment officers soon appeared in
11 the mountains following passage of the Confederate Conscription
12 Act, making the Looney's Tavern resolution a fanciful illusion.
13 And predictably, when Confederate raiders came, which is what
14 the mountain folk called them, they arrived to requisition
15 mules, horses, corn, teenage boys, and their elders. And when
16 they came, neutrality became a wisp and guerrilla warfare a
17 reality.
18 A personal family narrative: My grandmother was one of
19 18 children. Can you -- she was one of 18 children. She was
20 born to a sharecropper living in mountainous St. Clair County.
21 She crossed the Coosa River to marry an illiterate farm boy, my
22 grandfather, who was an iron foundry worker at Cane Creek in
23 Calhoun County. Her oldest daughter and my favorite aunt and
24 the family storyteller, when she came of age, married a man
25 named Beeson from St. Clair County back across the river in the

1 other direction. Their ancestors lived due east of Winston
2 County but held similar views with their hill country neighbors.
3 And when Confederate recruiters arrived in St. Clair County, the
4 Beesons, who had no dog in this fight, dispatched a 15-year-old
5 boy with all their mules and horses to hide them up on Horse
6 Pens 40, on the mountain, a lunar landscape of boulders and
7 limestone caves. But a Confederate sympathizer in St. Clair
8 County who was no friend of the Beesons revealed the hiding
9 place. And so the 15-year-old boy was confronted by armed,
10 gray-clad cavalrymen, he foolishly resisted, and he was
11 murdered.
12 As word spread of the murder in the ensuing days, more
13 than a dozen Beeson relatives between the ages of 15 and 60
14 conferred and then walked across the mountains to the Tennessee
15 Valley, then occupied by federal troops, where they boarded a
16 train for Memphis and enlisted en masse in the 1st Alabama
17 Cavalry, United States Volunteers. Many Civil War draft
18 dodgers, deserters, and ne'er-do-wells, certainly hundreds and
19 perhaps thousands, found refuge in places like St. Clair County
20 and Winston County, in its ravines and hollows and mountains.
21 And when Confederate forces or their irregular sympathizers
22 invaded these sanctuaries, proud, independent hill people bent
23 on revenge for such atrocities as befell my Beeson relatives,
24 joined in this resistance, fueling one civil war within another
25 Civil War.

1 Another piece of brilliant Appalachian fiction, Charles
2 Frazier's novel *Cold Mountain,* tells this story majestically
3 about western North Carolina. But although set in the high
4 mountains of Alabama and not North Carolina, this could just as
5 easily have been my family's story or Judge Frank M. Johnson's
6 family's story. It was the kind of story that drove one mother,
7 or Grannywoman, as they called her in Winston County, mad when
8 Confederate sympathizers bushwhacked her sons and where she
9 waited until long after the Civil War to fulfill the one great
10 vow she had made in her life, which was to wash her hands in the
11 skull of her sons' assassin.
12 When Alabamians voted to secede on Christmas Eve 1860,
13 Winston County recorded not one single vote for secession.
14 Statewide, 44 percent of Alabamians chose some alternative to
15 outright immediate secession. Forty-four percent voted no. One
16 consequence of this closely divided plebiscite and the ensuing
17 domestic violence was that many hill county whites joined the
18 Beesons, some 5,000 of them in all, traveling to places like
19 Memphis, where the Beesons went, or to Huntsville, occupied by
20 the Union Army at the time, to join the Union Army.
21 The 1st Calvary U.S. Volunteers, the regiment of my
22 ancestors, was mustered into service in Corinth, Mississippi, in
23 December 1862 as part of the 16th Corps Union Army of Tennessee.
24 It was one of six Union regiments from Alabama. It was the only
25 cavalry regiment and the only biracial regiment, where both

1 blacks and whites served in the regiment. The other five
2 regiments were all infantry or artillery regiments and were of
3 African descent. Some 2,000 white Alabamians served in the 1st
4 Alabama during the Civil War. They came from 35 Alabama
5 counties, mainly in the hill country, from the border states of
6 Kentucky and Missouri, from seven northern states, and from
7 eight foreign countries. Interesting regiment.
8 The regiment's combat flag bore the names of the
9 battles: Streight's Raid across Northeast Alabama, the Battle
10 of Dalton, the Battle of Resaca, the Battle of Kennesaw
11 Mountain, where, curiously -- my two sons married two sisters
12 from Morris, Alabama. It's a southern thing. Don't even try to
13 understand it. But when my daughter-in-law, at Wake Forest, did
14 her master's thesis on her great-grandfather, who was killed at
15 the Battle of Kennesaw Mountain, I couldn't help but think that
16 he fought for the Confederate Army and was killed by a mortar
17 round which could have been fired by whites in the 1st Alabama
18 Cavalry Division, which, in fact, was fighting on the other side
19 in that same battle. The 1st Alabama Cavalry took part in the
20 Battle of Atlanta and then on the March to the Sea, to Savannah.
21 By then, the regiment had become famous. One general
22 called it invaluable. Major General John Logan, who commanded
23 William T. Sherman's 15th Army Corps, said, "The 1st Alabama had
24 the best scouts I ever saw, who knew the country from here to
25 Montgomery better than anyone alive." General Sherman agreed,

1 selecting the 1st Alabama Cavalry as his headquarters company on
2 the March to the Sea.
3 And James McDonough, the finest historian of the armies
4 of the Tennessee, Union and Confederate, and my best friend in
5 graduate school, in his epic biography of William Tecumseh
6 Sherman wrote about one interesting episode just north of
7 Savannah. "The general rode forward with his adjutants to
8 discover why the army advance had suddenly halted. He
9 discovered an officer in the 1st Alabama missing a leg blown,
10 off by a mine planted in the road. Sherman asked the 1st
11 Alabama if they had taken any Confederate prisoners nearby.
12 Upon learning that they had, he instructed the officers of the
13 1st Alabama to place the Confederate POWs on the road ahead of
14 the 1st Alabama on its advance toward Savannah. And he assured
15 them that they, the POWs, would determine where the other mines
16 had been placed."
17 On March 10th, 1865, the 1st was surprised by a
18 Confederate cavalry attack under the command of General Joseph
19 Wheeler, himself a resident of a plantation only miles north of
20 Winston County, in the Tennessee Valley. In fact, perhaps the
21 proximity of so many Alabama troops on opposite sides of the
22 battle explained the bloody hand-to-hand combat that followed
23 for three hours as one Alabamian fought another. At battle's
24 end, the 800 Union soldiers had defeated a Confederate force of
25 5,000 with 103 Confederates killed to only 18 federals. A few

1 weeks later, following Robert E. Lee's surrender at Appomattox,
2 the remaining 397 troops of the 1st Alabama were mustered out of
3 service. In three years of fighting, 345 of them, many from
4 Winston County, had died for the Union.
5 Steve Ross, a corporal in the 1st and its unofficial
6 historian, left one handwritten account of that regiment. And
7 this is the way he ended it. "Bitterness between secessionists
8 and loyalists in Alabama remained after the war. It soured
9 state politics for over a century. And traces of it can be seen
10 still. Many old troopers suffered for their loyalty to the
11 Union legally, politically, and socially; but they're remembered
12 and honored by their ancestors in Winston County to this day."
13 Under Lee Smith's fictional rubric, "Nothing is
14 forgotten. Nothing ever ends. And worlds open up within the
15 worlds we know." I would suggest that the historical grievances
16 of Winston County Unionists lingered for one hell of a long
17 time. Frank M. Johnson's world was touched by that lingering,
18 profoundly. Winston County voted Republican in every
19 presidential election from 1860 to the end of the 20th century
20 except two, 1932, when FDR bested Herbert Hoover by one vote,
21 1,006 to 1,005, and in 1976, when a Georgia peanut farmer and
22 Baptist, Jimmy Carter, beat Gerald Ford. Only those two times.
23 Not much had changed in historical memory or physical
24 reality when Frank Johnson was born in 1918 in Haleyville, the
25 county's largest town, which boasted one blacksmith shop, one

1 general store, one cotton gin, and two grist mills. Largest
2 town. His father had worked with Blacks in railroad gangs,
3 laboring side by side, drinking water from the same bucket and
4 using the same dipper as Blacks. Johnson described his father
5 as never believing there were two classes of people based on the
6 color of their skin.
7 And he told stories about Johnson family lore, about
8 his great-grandmother, Bessie Treadway, wife of Winston County
9 sheriff, defending their homestead with a shotgun against a
10 marauding band of Ku Klux Klansmen. Her sheriff husband, Judge
11 Johnson's grandfather, took his revenge by hanging one of the
12 Klansmen by his feet down a 75-foot well, occasionally baptizing
13 him Baptist style, by total immersion, in the cold, dark water
14 beneath until the terrified Klansman finally revealed the names
15 of his fellow terrorists.
16 Judge Johnson's father became a delegate to the 1908
17 Republican Convention where he opposed the presidential
18 nomination of conservative William Howard Taft. President
19 Franklin Roosevelt and triumphant Democrats punished Johnson by
20 denying him his federal job in 1934, and local citizens
21 retaliated against the President and the Democrats by electing
22 him probate judge and to the Alabama Legislature, where he
23 served as the only Republican in the State Legislature. In
24 later years, he supported internationalist Wendell Willkie for
25 president in 1940 and Thomas Dewey in 1944. Ironic. Unintended

1 twists of history, which confound us.
2 And so it was for Frank Johnson in Winston County. Due
3 partly to Alabama's white resistance to the modern Civil Rights
4 Movement, whose origins owe so much to the Black leaders of
5 Montgomery, Alabama, and Selma and Birmingham; due in part also
6 to Judge Johnson's courageous rulings and many legal challenges
7 to apartheid; due partly to protracted legal battles with his
8 University of Alabama classmate, George C. Wallace; and perhaps
9 due most of all to the recent, but very subtle, pledge of the
10 current president of the United States to make America great
11 again by making America white again; due to all these twists of
12 histories, the forlorn and eccentric Republican preference of
13 Winston County from the Civil War to the 21st century has now
14 become the overwhelming preference of the white people of
15 Alabama living in every part of the state.
16 Personal postscript. In 1960, as a 20-year-old senior
17 ministerial student at Baptist-affiliated Howard College in
18 Birmingham, I became the first openly -- I know you think this
19 is going to be a revelation that I'm giving, but I assure you
20 it's worse than that. I became the first openly Republican in
21 an extended family when I agreed to become chair of the Alabama
22 College Students for Nixon-Lodge. I did so because I was an
23 Eisenhower Republican, a great fan of the President's decision
24 to send the 101st Airborne Division to enforce racial
25 integration at Central High School in Little Rock, Arkansas,

1 because I believed only the force of a bayonet from a Black man
2 in the 101st would ever convince the South that the President
3 meant business. And as a Christian who had slipped the bonds of
4 race mandated by my culture, I decided to listen to the wisdom
5 of Frank M. Johnson, the Winston County prophet of justice,
6 rather than to my own democratic father born the year before
7 Johnson was born, also into a sharecropper family in the North
8 Alabama Hill Country, two worlds apart.
9 New and different worlds sometimes really do open up
10 worlds we did not know.
11 (Applause)
12 JUDGE WATKINS: Thank you, Dr. Flynt.
13 Our next guest is a special guest, and I'm going to ask
14 Peter Canfield to introduce him. Peter is a former Johnson
15 clerk who practices law with Jones Day in Atlanta. So, Peter,
16 take us away.
17 MR. CANFIELD: Thank you, Judge Watkins.
18 Most people, when they think of Andy Young, think of
19 Atlanta, where he was mayor and where he represented Congress
20 and to which he was instrumental in bringing to that city the
21 Olympic Games. They also think of his connection to President
22 Carter, who made him the ambassador of the United States to the
23 UN. But he has very deep connections with Alabama.
24 Ambassador Young was born in New Orleans. I think he
25 would have described himself then as a city boy. He told -- he

1 went to Howard in D.C., where he got a predentistry degree. And
2 he told Robert Penn Warren, when he was interviewed by him in
3 1964, that his first experience in the rural South was when,
4 after graduating from Howard, he came to a small town in
5 Alabama, Marion, to pastor a little church. And there he met
6 his wife, Jean Childs, who was not interested in staying in
7 Marion. So he then went to Hartford, Connecticut, to seminary.
8 And from there, he went to -- he left there about the same time
9 that Judge Johnson took the bench here in 1955, and he went and
10 he led a church briefly in Thomasville, Georgia, before going
11 back to the city, to New York City, where he was with the
12 National Council of Churches.
13 But it was then Martin Luther King who drew him back to
14 the South and Atlanta to work on voter registration. He was
15 very active in Albany, Georgia, and the efforts there, and he
16 developed, actually, a relationship with the sheriff, notorious
17 sheriff there in Albany. But after Albany did not yield what
18 the movement hoped it would yield, he was sent to Birmingham.
19 And he came to Birmingham and he helped -- did nonviolent
20 organizing in Birmingham by day, by morning, and then he'd take
21 off those clothes in which he would protest and he'd go meet
22 with the business leaders of Birmingham in the afternoon. And
23 he was -- and I'll come back to that.
24 He was also instrumental in the Selma-to-Montgomery
25 March, both in dealing with the turmoil of -- after that march

1 had ended in Bloody Sunday and the court hearings began, there
2 was a time when the marchers were anxious to march; and Judge
3 Johnson said, "No, there will be no march." And Andy Young was
4 who had to go talk to the thousands of college students and
5 demonstrators who were there and ready to march and convince
6 them to follow the lead of Martin Luther King and, yes, march a
7 little bit but turn back until Judge Johnson had a chance to
8 take his evidence and issue his orders.
9 I'm going to ask Ambassador Young to talk generally
10 about what he saw as the influence and the effect that it had on
11 people like him, in the front lines of the movement, of the
12 rulings of Frank Johnson and judges like him. But before he
13 even does that, we were talking beforehand, and in light of
14 the -- yesterday's discussion of the bombing at the 16th Street
15 Baptist Church, Ambassador Young was there prior to the bombing.
16 That was where he was -- he was training demonstrators,
17 including, I think, some of the children, in how to do
18 nonviolent demonstrations. And again, he'd do that during the
19 day and then meet with business leaders in the afternoon.
20 And if you would address that as well, that would be
21 great. Thank you.
22 AMBASSADOR YOUNG: This is really a privilege, because
23 it probably gives me my first opportunity to say thank you to
24 Judge Johnson and all of his friends -- not all of them, but
25 many of them.

1 We could not have made it in the South were it not for
2 men like Frank Johnson and, in Atlanta -- I can't think of his
3 name.
4 MR. CANFIELD: (Inaudible)
5 AMBASSADOR YOUNG: No. Wrote 11,000 columns.
6 FROM THE AUDIENCE: Ralph McGill.
7 AMBASSADOR YOUNG: Ralph McGill.
8 JUDGE THOMPSON: Ralph McGill. Right.
9 AMBASSADOR YOUNG: But I was privileged to always know
10 these kind of people in the South. I had very few bad
11 experiences growing up in New Orleans even though I grew up in
12 New Orleans in the middle of a block with an Irish grocery store
13 on one corner and an Italian bar on another, the headquarters of
14 the Nazi party on the third corner, and I'm right in the middle.
15 But it meant that from four years old on -- and I remember four
16 because that was 1936, when the way my father explained to me
17 about Nazism and white supremacy was to take me to the movies to
18 see Jesse Owens in the 1936 Olympics. And his one thing over
19 and over again was white supremacy is a sickness. These people
20 don't know any better. They are not responsible. And you know
21 better, and you should never be afraid, and you should never let
22 them get you upset. And I grew up with the mantra, "Don't get
23 mad; get smart." If you ever lose your temper, no matter what
24 you're doing, the blood rushes from your brain.
25 My daddy was five four. He said, "You probably won't

1 get beyond five seven or eight," he said, "so you're never going
2 to be able to beat up everybody. And if you lose your temper,
3 you're cutting off the most valuable asset you have, and that's
4 your mind. And don't get mad; get smart. Think your way
5 through anything. And you can think your way through almost
6 anything, because most people get angry and don't think." He
7 said, "Start with your wife, your mother, your brother. It's
8 life."
9 And I think that kind of lesson -- I was introduced to
10 the courts of this country in sixth grade when my sixth grade
11 teacher took me to see Thurgood Marshall argue the case for the
12 equalization of teachers' salary. And so I had an appreciation
13 of the best of this nation from early childhood.
14 And so I don't expect any special credit. I was born
15 blessed, as was Martin Luther King. And one of the things I
16 think we both learned and we both shared, we never blamed
17 anybody for anything. They didn't have the chance to know what
18 we knew. And so he would say -- and when we met with
19 businessmen in Birmingham, "Look, they're rich. They've been to
20 great colleges. But they are not responsible for segregation.
21 They were born into this. They really don't know any better.
22 We know we were born Black, and it's nothing to be ashamed of.
23 We had nothing to do with this, just as they had nothing to do
24 with this. But we know we were born in an unjust situation, and
25 we can do something about that. But we can do something about

1 being born in an unjust situation only if each of us refuses to
2 blame the other for our condition."
3 And I think that that's the thing that I get so upset
4 about with kids nowadays. They think it's -- it's cool and
5 militant to be angry. And I -- I'm -- it's cruel to tell them
6 this, but I'm saying, look, what happened to all of the Black
7 militants? What happened to all of the Panthers? What happened
8 to the angry young men? They didn't make it to 60. The people
9 who -- anger eats you up. It will give you ulcers. It will
10 give you heart trouble. It will mess with you worse than racism
11 will. So be cool and be calm and think your way through the
12 difficulties.
13 And we look around now, and we're embarrassed because
14 Joe Lowery is 96, C. T. Vivian is 95, I'm 87 -- 86 still. One
15 more month. John Lewis is still cool and calm, and nobody's
16 been through any more than John, and he's in his seventies and
17 he's still not angry about anything, doesn't blame anybody for
18 anything.
19 But one of the things we -- one of the reasons we can
20 live this way is judges like Frank Johnson. I want to just tell
21 you a couple of incidents. I could go on for days. But the
22 march from Selma to Montgomery was a march to get to Frank
23 Johnson's court. Well, let me start back when I went to
24 Thomasville in 1954 and John Wesley Dobbs, the head of the
25 Black-and-Tan Republican Party, said, "Now, son, we need you to

1 help us register voters." I said, "Oh, I don't mind doing
2 that." "It's going to be more difficult down here than it was
3 in New Orleans or Connecticut." I said, "That's all right. I
4 can handle that." He said, "But you've got to vote Republican."
5 I said, "Why?" And he said, "Because if Stevenson is elected,
6 Richard Russell and Bilbo will nominate the federal judges.
7 There are very few Republicans in the South. They're usually
8 pretty decent people. And we have this Black-and-Tan Republican
9 Party. They will either -- even ask our opinion." So almost
10 every judge that decided any civil rights case in the South was
11 a Republican appointee.
12 Frank Simpson, who led the liberation of Florida and
13 uncovered the fact that the sheriff in St. Augustine had
14 deputized the Ku Klux Klan to beat us up, Eisenhower appointed
15 him. Frank Johnson. Just all across the country, everywhere
16 there was a victory where we could rely on the courts to be
17 fair, they were Republicans. And I love to tell my Republican
18 friends that now. I said, "You know, if it hadn't been for some
19 really courageous" -- and we cannot underestimate the courage.
20 I can't think of anything worse than the pressures that were
21 borne by the wives and the children of these judges. They were
22 ostracized in school. They were put out of their country clubs.
23 They were not invited to their bridge and poker parties. There
24 was the suffering.
25 We were part of a majority, and we were heroes for

1 doing stupid things. They were ostracized for doing smart
2 things, brilliant things, statesmanly like things. And so I
3 think we should never forget what we're talking about here, and
4 we should talk about it a lot more. And as we get to know each
5 other, we should be able to talk more intimately.
6 Martin Luther King had three children. Thank God they
7 all finished college. They all are fairly stable. But those
8 kids caught hell. And they still catch hell -- because Bernice
9 was four, Dexter was eight, Martin was ten -- Yolanda would have
10 been 14, but she's already dead -- from the pressures just of
11 being born in Martin Luther King's family. Mrs. King, their
12 grandmother, was shot at the organ, playing *The Lord's Prayer*,
13 by a crazy Black man. And two of their cousins -- why, I don't
14 know -- but in their college ages, the pressures on them were
15 such that two of their cousins did not live to 25. I mean,
16 there was a tremendous amount of suffering and pressure that
17 went into this struggle for freedom that we celebrate and take
18 for granted.
19 But Judge Johnson was amongst those that suffered as
20 much, if not more. And you'll remember the jokes and you'll
21 remember his sense of humor. You'll remember -- I didn't get to
22 know him, but everything I heard about him was good. But I also
23 knew the anguish and the suffering that his family was bearing.
24 Even my family tended to -- I'd shut them up, but -- my son
25 said, "The trouble with you is you made us famous. We got the

1 worst of both worlds. You made us famous and then left us
2 poor." He said, "Everybody thinks when you're famous, you're
3 rich. They don't know like I know." And so he -- but I'm
4 saying that these are the things that social change requires.
5 And we are fortunate to have known people who lived up to it.
6 And believe it or not, we are better off right here in
7 Montgomery, in Selma, in Birmingham, in Atlanta especially, than
8 people anywhere else in the world. And it's our Judeo-Christian
9 tradition, which I am always reminded was awakened in me by
10 Ghandi. Because I couldn't go along with some of the white
11 interpretations of Jesus, but Ghandi kind of got Jesus right.
12 And when I started reading about Jesus and the power of Jesus to
13 set India, a billion people, free from England, nobody in the
14 South, Black or white, ever told me of the spiritual power of
15 Jesus of Nazareth operating in today's world. But Martin Luther
16 King understood that.
17 And when you think about Martin Luther King and when
18 you think about Frank Johnson and you think about all of the
19 heroes of our time, these were spiritual victories. God knows
20 none of us knew what we were doing. We didn't have any money.
21 We didn't -- I mean, it was stupid. And Dr. King used to say
22 all the time, "You know, you've got to be certifiably insane to
23 do what we're trying to do," and then he'd make a joke about the
24 fact that who was going to die next and how he was going to
25 preach their funeral. So a combination of spirituality and

1 humor were the assets that I think kept us going.
2 Coming out of Lyndon Johnson's office right after --
3 after his Nobel Prize speech, President Johnson was really worse
4 than I'd ever seen him. But we were supposed to meet at four,
5 and we didn't get in to see him till seven. And what we didn't
6 realize then was that McGeorge Bundy and McNamara and all of the
7 generals had been beating up on him about sending more troops to
8 Vietnam, and he didn't want to. Ironically, the only one that
9 was on our side in that instance was Richard Russell. Richard
10 Russell said, "Stay the hell out of Vietnam, Lyndon. Don't let
11 these people talk to you into this." But I'm saying that none
12 of us was right about everything, but none of us was wrong about
13 everything. And we reasoned our way through life as best we
14 could.
15 But on leaving President Johnson's office, I said to
16 Martin, "What are you going to do?" He said, "We're going to
17 get the President some power." I said, "Come on. You Morehouse
18 men, I've never seen any more arrogant little bunch of guys in
19 all my life. You're going to get the President some power?"
20 And he was serious. He walked a little further, and he kept
21 mumbling to himself, "We've got to find a way to get the
22 President some power." We had no money. We had no -- 40 of
23 us -- Martin Luther King never had more than $600,000 a year to
24 do everything he did in life.
25 And yet two days after we got back, a lady by the name

1 of Amelia Boynton from Selma drove over with two preachers and
2 told us the stories of Jim Clark in Selma and invited us to come
3 to Selma for the Emancipation Proclamation program of the NAACP.
4 And we went with no plan, not knowing what we were going to do.
5 But that was about the 2nd of January. By the middle of March,
6 thanks to Judge Johnson -- and one of the reasons -- well, this
7 you really need to know, how good some people were and how bad
8 some people were. Jimmie Lee Jackson was not killed by a state
9 trooper. Jimmie Lee Jackson was shot by a state trooper. But a
10 Black intern removed the bullet and sewed him up and left him
11 sitting up in the bed with a box of fried chicken, and he was
12 feeling good. In the middle of the night, two white doctors
13 came in, rolled him back into the living -- into the waiting --
14 I mean operating room; and when he came out, he was dead. I
15 don't know that he was cut up. But when the young Black intern
16 came and said, "You've given this boy too much ether. He's all
17 right. He doesn't need to be operated on again," they said,
18 "Nigger, get out of here; you're going to be next."
19 I say that because we who are educated like to blame
20 all of the problems of race and creed and class on the poorest
21 of the poor. And I was always taught that education is the
22 difference. It's not. There's a kind of insecurity and evil
23 that exists among us that we have seen reactivated now in this
24 lifetime and in our government, and we're seeing it spread --
25 spread into the governments of France and England and Germany

1 and throughout the -- throughout the world. People are terribly
2 insecure with the way the world is going.
3 But we are -- by being here and by knowing Frank
4 Johnson and also knowing God, knowing the god of the prophets,
5 knowing the god of Jesus of Nazareth, knowing Buddah, knowing
6 Hindus, we know that there's a spiritual reality to this life
7 that is probably more an answer to all of our problems than
8 anything we can imagine.
9 And so I simply say that I wish I had known Judge Frank
10 Johnson. But he was a man of tremendous courage and tremendous
11 faith or he would not have been able to do any of the things
12 that he did. And so we're privileged and blessed just to know
13 that these kind of men exist. God has blessed us. Thank you
14 very much.
15 (Applause and standing ovation)
16 AMBASSADOR YOUNG: I forgot to say one thing, that by
17 the 31st of March that same year, Lyndon Johnson was standing
18 before a joint session of Congress and ended his speech with,
19 "We shall overcome."
20 (Applause)
21 JUDGE WATKINS: Thank you, Ambassador Young, for those
22 personal remarks. Thank you for coming. I know this was not an
23 easy trip for you, and we just loved having you here.
24 Our next speaker is Howell Raines, who began his
25 journalism career in Alabama in 1964 working for *The Birmingham*

1 *Post-Herald*, a television station, the *Tuscaloosa News,* and *The*
2 *Birmingham News*. He joined the Atlanta bureau of *The New York*
3 *Times* in 1978 and, in his 25 years with *The Times,* held multiple
4 positions, including Washington editor, editorial page editor,
5 and executive editor. In 1993, he won the Pulitzer Prize for
6 feature writing for "Grady's Gift," a *New York Times Magazine*
7 article describing his friendship with a Black housekeeper
8 employed by the Raines family during the era of segregation.
9 He's also a fisherman, which is probably what he's best known in
10 my house for is writing *Fly Fishing Through Life*.
11 So I want to welcome Howell Raines.
12 (Applause)
13 MR. RAINES: Excuse me just a moment. I'm trying to
14 turn on my tape recorder because I don't know what I'm going to
15 say, because I've got to make a few responses.
16 (Brief pause)
17 MR. RAINES: There we go.
18 Before I turn to Judge Johnson's career and his roots,
19 I wanted to say to this group you've just had an insight into a
20 powerful part of my education. In 1971, *The Birmingham News*
21 starved me out of Alabama. And I went to *The Atlanta*
22 *Constitution* as a young reporter, and I met this man. And he
23 began to tutor me in the intricacies of what Dr. King and he and
24 the SCLC preachers that he just named accomplished in Alabama.
25 And, Ambassador Young, you've seen Alabama at its

1 worst. And today you see the diverse face of the new Alabama
2 that you and that group of men created. Thank you for that.
3 I had always wanted to meet Frank Johnson, even though
4 I knew that, like many wise men, the greatest civil rights judge
5 of our era was wary of journalists. I didn't feel discriminated
6 against. I knew he was also wary of high-priced Birmingham
7 lawyers and certain governors of Alabama.
8 I didn't even want to interview him. I just wanted to
9 introduce myself. And being a fisherman, I knew I had the right
10 bait. So when my work with *The New York Times* brought me to
11 Montgomery, I called the Judge's office and said, "My mother was
12 born and raised in Winston County." And my grandfather had been
13 a Republican justice of the peace in Arley, Alabama, widely
14 regarded as the garden spot of Winston County.
15 In short order, I was in Judge Johnson's office going
16 over his fishing chart of Choctawhatchee Bay. Before long, I
17 was sitting in a boat with Judge Johnson and Pat Sims at the
18 mouth of the Suwannee River indulging in his noontime ritual, a
19 salute to the Constitution with George Dickel's sour mash
20 whisky.
21 One of the rewards of newspapering is that it provides
22 opportunities to meet great men and women. I never missed a
23 chance to be in Frank Johnson's presence, just as I always
24 seized the several chances I had to meet Nelson Mandela. I put
25 them in the same category as historic personages. Each helped

1 free his nation from the most deadly weapon in the arsenal of
2 ignorance: racism.
3 Today, having been accorded the great honor of joining
4 this tribute to Frank Johnson as we have reached his 100th
5 anniversary -- his 100th anniversary of his birth, I want to
6 speak broadly of his high place in constitutional law; but I
7 want to focus especially on the centrality of Winston County,
8 Alabama, to a full appreciation of his finely honed legal
9 intelligence and integrity as hard as the flint arrowheads that
10 I gathered on my grandfather's two-mule farm in Winston County.
11 I display those arrowheads in a frame on the wall of my
12 Pennsylvania home as a reminder of those noble Winston County
13 boys who, as Wayne just reminded us, fought to preserve the
14 Union as part of the 1st Alabama Cavalry, United States Army,
15 1862.
16 As all of Judge Johnson's clerks learned, the Free
17 State of Winston has a special place in Alabama history, which
18 has just been beautifully described by Professor Flynt. As he
19 said, it attempted to secede from Alabama when Alabama blundered
20 its way out of the Union. Part of the reason was economics.
21 Its hilly fields in 1860 produced fewer than 500 of Alabama's
22 half million bales of cotton.
23 More emphatically or more importantly, it and 12
24 adjoining mountain counties had a more principled political
25 heritage than did the slave-holding counties. The antebellum

1 heros of Montgomery and the Black Belt were the great
2 loud-mouths of secession, William Lowndes Yancey of Alabama and
3 John C. Calhoun of South Carolina.
4 The political idol of the hill country was indeed
5 Andrew Jackson, who led North Alabama Volunteers to victory at
6 Horseshoe Bend and the Battle of New Orleans. Old Hickory was a
7 familiar figure in the Alabama hills. He helped lay out the
8 town of Florence, Alabama. He owned a plantation nearby on the
9 Tennessee River.
10 In my childhood visits to my grandparents' farm in
11 Winston County, I learned of rumors that Jackson had left behind
12 a woods colt in Winston as a result of a dalliance with a farm
13 girl. And in the hills and hollows of Winston County, Frank
14 Johnson was introduced to politics by a family that believed in
15 the spirit of Andrew Jackson's retort to John Calhoun during the
16 Nullification Crisis of 1830 when Calhoun thought it was more
17 important to preserve slavery than our young nation's structural
18 integrity. Jackson's comment to Calhoun, "Our Union, it must be
19 preserved," was a stinging rebuke that would hold the states
20 together for another 30 years.
21 Frank Johnson's two great-uncles were among the 2,676
22 white Alabamians who volunteered for the Union Army. I'm proud
23 to say that my great-great-grandfather, James Howell Abbott of
24 Garrison Point, Alabama, in Walker County near Jasper, helped
25 ferry farm boys across the Sipsey River under cover of night to

1 enlist in the 1st Alabama Cavalry.
2 James Howell Abbott, as is typical in many families
3 with Unionist roots in Alabama, had disappeared from our family
4 lore. I finally discovered him in the National Archives. He
5 kept a canoe hidden in the underbrush on the south shore of the
6 Sipsey River. He would take local farm boys across the river by
7 night, and they would then travel through the hundred miles of
8 forest to Huntsville, Alabama, which fell to the Union Army in
9 1862 in an act from which the Confederacy never fully recovered.
10 And Wayne's beautiful exegesis of the history of the
11 1st Alabama is exactly right. It is not a story that is well
12 known by the lost-cause historians who have held sway at the
13 University of Alabama, of which I'm proud to be a graduate, but
14 the stories are there in the -- in the National Archives.
15 And I want to dilate on that a little since Wayne
16 covered -- and Jack Bass earlier covered some of the points I
17 was going to make about Judge Johnson. So let me tell you a
18 little about how I came to discover Howell Abbott, the
19 great-great-grandfather I never heard of until I was a grown
20 man, well-grown man, and without whom I would not be here, not
21 just in the normal sense, but the man for whom I'm named, Hiram
22 Raines, was his son-in-law. And he was hiding out in the woods
23 in Winston County to evade those conscription gangs sent up from
24 Montgomery as described by Wayne.
25 Now, based on genealogical work that's still underway,

1 I'm pretty sure one of my St. Clair County cousins helped shoe
2 the horses that Sherman's Army rode to Atlanta. How do we know
3 some of these elements of history? President Grant and the
4 Congress authorized an outfit, a federal agency, called the
5 Southern Claims Commission. And it was supposed to repay
6 southerners who had remained completely loyal to the Union
7 throughout the Civil War. And in 1872, they sent stenographers
8 throughout the South, including the courthouse in Jasper, and
9 they took down the testimony of Howell Abbott and his neighbors.
10 And the burden of that testimony, which I did not discover until
11 those records were published in the late seventies, was that he
12 went up and down as an old man, then about 60 -- up and down the
13 dirt roads in Walker County proclaiming his loyalty to Lincoln
14 and being threatened with hanging by his neighbors as a "damned
15 old Lincolnite." And it is from those same documents that I
16 learned the story of the canoe.
17 And when Wilson's Raiders came through Jasper on their
18 way to Tuscaloosa to burn the University, he gave them -- I'm
19 sure he had no choice, but he volunteered to give them fodder
20 from his barn and his one horse and I think maybe some hams or
21 something of that nature. And after the war, he submitted a
22 bill to the Southern Claims Commission, and they awarded him
23 $155.
24 As I said, like many of the families -- North Alabama
25 families in the Jasper area, mine had blood kin in both the

1 Union and Confederate Armies. On the fought-over soil of
2 Winston and Walker and St. Clair and Fayette and Madison and
3 Marshall and Blount, it truly was brother against brother,
4 cousin against cousin. And when the Jim Crow era came,
5 especially when the Wallace hysteria fanned the flames of white
6 supremacy, many North Alabama families praised their ancestors
7 who wore Confederate gray and dropped from their families' front
8 porch stories those relatives who wore Union blue.
9 Richard Nelson Current, the eminent Lincoln biographer,
10 says that all together, there were 100,000 white men from the
11 Confederate states who volunteered for the Union Army. Before
12 him, no major historian had bothered to count them. And he
13 calls those 100,000 white Union volunteers, like the 2,600 from
14 Alabama, the forgotten men of the Civil War.
15 They were not forgotten in the Johnson family. That
16 Unionist DNA persisted in Winston County. All of his life,
17 Frank Johnson knew, like my grandpappy, Howell Abbott, that he
18 was a Lincoln Republican. He must have been amused when he saw
19 so many Alabama Democrats become Goldwater Republicans when the
20 GOP nominee, Barry Goldwater, betrayed the heritage of his party
21 and opposed the 1964 Civil Rights Act.
22 It was a personal watershed for me too. I started my
23 newspaper career at the *Birmingham Post-Herald* in 1964 and
24 covered enough high school graduation speeches by George Wallace
25 to know that I'd never be his kind of Alabama Democrat. And

1 once Goldwater emerged as a George Wallace wanna-be, I wrote off
2 the Republicans as well. It fit perfectly, as it happened,
3 being a man without a party, into my new profession of
4 journalism and my continued view of the two national party
5 organizations as imperfect vessels for the precious lifeblood of
6 the Republic.
7 Not so with Judge Johnson. He loved and honored the
8 Republican Party and his World War II commander, Dwight
9 Eisenhower. For the Johnson family, loyalty to the Old Flag and
10 the Grand Old Party was a way of life in Winston. That county
11 sent over 200 volunteers to the Union Army and provided only 91
12 soldiers to the Confederacy. And in Frank Johnson's boyhood,
13 Unionism was still part of the oral tradition in the Alabama
14 hills. I know this from Judge Johnson's lifelong friend, Lecil
15 Gray. Together Judge Johnson and Lecil Gray may have been the
16 greatest storytelling tag team of all time.
17 Those high-stepping Montgomery society folks who
18 snubbed Frank and his wonderful wife, Ruth Johnson, lost
19 ring-side seats to a unique Alabama experience. Lecil told me
20 of attending a Fourth of July celebration in Jasper when he was
21 a small boy. Walker County provided even more soldiers to the
22 Union Army than did Winston, so it was appropriate that a
23 student orator was assigned to deliver the Gettysburg Address in
24 front of the Jasper Courthouse. I love that scene of the
25 Gettysburg Address being recited on the lawn of an Alabama

1 courthouse. The lad hammered away in a rhythmic sing-song,
2 "Four score and seven years ago, our forefathers brought forth,
3 on this continent, a new nation, conceived in liberty..."
4 According to Lecil, an old man in the audience called
5 the speaker over and said, "Son, you did a good job, but that's
6 not the way Lincoln did it. He didn't sing-song. He spoke very
7 smoothly just like he was having a conversation: 'Four score
8 and seven years ago, our fathers brought forth, on this
9 continent...'" Lecil, of course, wanted to know how the old
10 Alabamian knew what Lincoln had sounded like at Gettysburg.
11 Lee's Army had already left, so he could have only been there in
12 a blue uniform. And the man said, "Son, I was there." That
13 story sent chills up my spine when I heard it in this city. And
14 whenever I think of it, it still does.
15 Let me oversimplify what it tells us about Frank
16 Johnson's career. Winston County soldiers like his uncles and
17 the boys who crossed the river in Howell Abbott's canoe fought
18 to create the postbellum society in which the Fourteenth
19 Amendment could be ratified. Starting in 1956 with his historic
20 ruling in the Montgomery Bus Boycott, Frank Johnson and the
21 other Eisenhower judges did something that revolutionized civil
22 rights law. They applied the Fourteenth Amendment promises of
23 equal protection and due process under the law to every aspect
24 of segregation. They extended the principle of *Brown v. Board
25 of Education* that de jure segregation is inherently unequal to

1 public accommodations, transportation, education, health care,
2 prisons, and, most tellingly, voting rights.
3 Frank Johnson told us what that moment was like when
4 they reached that momentous decision in 1956 in his 1980
5 interview with Bill Moyers. And you've heard Jack Bass and
6 Judge Marks quote from that meeting of the three-judge panel,
7 Judge Johnson, Judge Rives of Montgomery, and Judge Seybourn
8 Lynne of Birmingham. They voted two to three to rule in favor
9 of Rosa Parks and the Montgomery boycotters.
10 And I want to read briefly, if somewhat repetitively,
11 from Judge Johnson's account. "So Judge Rives says, 'Frank,
12 what do you think about this case?' 'I don't think segregation
13 in any public facility is constitutional. Violates the
14 Fourteenth -- violates the Equal Protection Clause of the
15 Fourteenth Amendment, Judge.'" Judge Johnson continued, "That's
16 all I had to say. It didn't take me long to express myself.
17 The law was clear. The law will not tolerate discrimination on
18 the basis of race. When it came to Judge Rives' time to vote,
19 he says, 'I feel the same way.'"
20 Bill Moyers was taken aback at the starkness and
21 brevity of this account on this momentous case, and he pressed
22 Judge Johnson. "That was it?" And Johnson said, "Absolutely.
23 Sure. Sure. Well, I don't guess we deliberated over ten
24 minutes at the outside. There rarely are any dramatic moments
25 in a judge's conference room. It's a cold, calculated, legal

1 approach."
2 My friend Jack Bass, Judge Johnson's biographer,
3 captures the essence of that moment in his fine book, *Taming the*
4 *Storm*. And Jack also turned to the most authoritative
5 chronicler of this free state, Donald Dodd, who took his Ph.D.
6 in history at Auburn, to explain the Winston County-ness of this
7 moment. "Up in the hills," Dodd explained, "the outsider
8 mindset inherited from the Civil War experience enables folks to
9 see things whole and see them clear." It's part of what Dodd
10 calls Johnson's -- I'm quoting now -- "hillbilly
11 characteristics, fiery individualism, and a tremendous negative
12 reaction to any attempt to intimidate, a stubborn orneriness."
13 And Dodd continued, "I think Frank Johnson was proud of it."
14 So do I. Jack also put his finger on the central theme
15 of Judge Johnson's civil rights analysis, proportionality, which
16 Judge Marks was telling us about earlier. That came forward in
17 the ruling that allowed the Selma March to go forward when he
18 said that the enormity -- or that the right to protest had to be
19 proportional to the enormity of the grievances being protested.
20 At his best, Judge Johnson's legal prose had a
21 Lincolnesque quality, just as he was sometimes said to have a
22 Lincolnesque visage. This son of Winston County also knew how
23 to summon our better angels. The extent -- in this case, the
24 wrongs are enormous. The extent of the right to demonstrate
25 against those wrongs should be determined accordingly. I hear

1 Winston County echoes here too. Enormous cruelty marked the
2 treatment of free state Unionists by the Confederate government
3 in Montgomery and those freebooting terrorists disingenuously
4 legitimized as partisan rangers under Confederate military law.
5 Winston County's wartime probate judge, Tom Pink
6 Curtis, was tortured to death with a glowing fireplace poker on
7 the banks of Clear Creek where Judge Johnson swam as a boy.
8 Another man was strung up by his hands and skinned like a
9 squirrel, kept alive long enough for his genitals to be cut off
10 and stuffed in his mouth. Not even these examples equate with
11 the expansive systemic brutality of slavery, but the genius of
12 the proportionality standard is that it blows apart the net of
13 lies on which segregation depended in our time.
14 Ulrich B. Phillips, a leading lost cause historian,
15 argued that slavery was a beneficent welfare system marked by
16 master-slave friendships. Anyone who sat at the dinner tables
17 of white Alabama in the fifties and sixties remembers the
18 segregationist delusion that Black suffering had been
19 exaggerated by northern journalists. Our happy Negro citizens
20 had been stirred up by outside agitators. The brutality of
21 Birmingham's Klan-infested police department had been blown out
22 of proportion by Huntley and Brinkley and Cronkite.
23 We are here today to celebrate the brilliance of a
24 jurist who changed America with the gem-like clarity of his
25 thinking and his stoic forbearance in the face of obscene

1 insults from a foul-mouthed, mendacious, narcissistic governor
2 who reigned on Goat Hill. Somehow those adjectives about the
3 fighting judge bring to my mind the parlous state of our
4 Republic and the political party that Frank Johnson loved.
5 This being a gathering convened by lawyers who sat at
6 his elbow, I'd like to propose something all lawyers understand,
7 a hypothetical. Let us stipulate that a delegation of Alabama
8 citizens has taken the Jefferson Davis Bible from our Capitol to
9 Washington, D.C., and asked Donald Trump to place his hand on it
10 and swear to abide by a simple test to end the government
11 shutdown. If he passes the test, Nancy Pelosi will give him $5
12 billion to build his wall. All he has to do is describe a
13 single clause of the Fourteenth Amendment.
14 (Applause)
15 JUDGE WATKINS: Thank you, Mr. Raines. We were
16 wondering what you were thinking, so we now know.
17 All right. Judge Thompson, as you know from what I
18 said before, has been with us for 38 years, is going to ring us
19 up.
20 JUDGE THOMPSON: Okay. Thanks. I'm going to step down
21 from the bench because, first of all, I'd like to speak not as a
22 judge but as a person. And I'm not going to speak from notes,
23 but I'm going to speak from the heart. So if I fumble, you'll
24 just have to bear with me.
25 You know, Ambassador Young, I always saw you in *Jet*

1 *Magazine*, *Ebony*, places like that. And I think I even was in
2 the crowd when I was a small kid when you passed by. And I
3 always thought you were one of those people who never went to
4 the bathroom, you know, a movie star.
5 But anyway, when I was a kid, I was a sickly kid, and I
6 spent a lot of time reading. And I eventually got to the point
7 where I started reading books that were banned in Alabama. And
8 there was a person who ran a bookstore in Tuskegee, where I grew
9 up, and I got my books from him. And I finally came across a
10 few that were banned and -- you know, Ulysses, Joyce. One --
11 one of the authors who was banned also was -- I'm like you. I'm
12 forgetting something here -- James Baldwin. And he would always
13 give me these banned books in little brown paper, and I would --
14 he never told anyone about it when I'd go get them and I'd read
15 them. And I remember reading James Baldwin a lot. I read
16 everything by James Baldwin. In fact, I started reading
17 everything by D. H. Lawrence too only to discover they really
18 weren't as nasty as I thought they were.
19 But recently, Baldwin has been -- has sort of reemerged
20 as a person that people are looking to to talk about race
21 relations in this country. And I was reading a couple of
22 articles that summarized some of his earlier works. And I
23 remembered as a child reading something he had said back in the
24 early sixties. And the comment by Baldwin was, every Black
25 child, when he reaches the age of about seven, eight, nine, or

1 ten, after having learned the Pledge of Allegiance to the flag,
2 suddenly realizes that that flag pledges nothing to him.
3 And it was like Baldwin talking to me when I was a kid.
4 It just reached out to me and touched me and said, this is your
5 existence, you know. Your flag pledges an unequal school. It
6 does not pledge equality for you. It does not pledge the right
7 to eat where you want to eat. It does not pledge the right to
8 die where you want to die or be buried where you want to be
9 buried or go to the hospital where you want to go.
10 When I got to this Court, I suddenly found a flag that
11 would turn the pledge to me. It was a flag that said, I pledge
12 to all Black people the right to ride where you want to ride, to
13 eat where you want to eat, to be buried where you want to be
14 buried. I pledge the right to all women to be the best you can
15 be. I pledge to all prisoners in the state of Alabama the right
16 to the enforcement of the Eighth Amendment of the Constitution.
17 I pledge to the mentally ill, to those who are because of
18 reasons beyond their control, I pledge the right to habilitation
19 and rehabilitation, the promises that are endeared in our
20 Constitution. And he did those in *Wyatt*. He did it in *Newman*.
21 And in *Hardwick*, he said I pledge the right of all people,
22 whether they're gay or lesbian, the right to privacy and
23 dignity. Judge Johnson turned that flag around. He gave
24 meaning to the flag. He made me a flag-waving American. But my
25 flag has substance. My flag stands for the notion that our

1 country pledges to everyone, no matter who you are, the
2 privileges and the rights of being an American.
3 I don't know how many of you are going to go to the
4 Johnson Library in just a few minutes, but you'll notice that
5 almost -- on I'd say almost a third of -- no, maybe a fourth of
6 the library -- eighth of the library, Terry? -- is a flag that
7 Judge Johnson so loved. And it's a big flag. It's a huge flag.
8 And I always wondered why in the heck would he want such a huge
9 flag. And you know why that flag is so big? Because he had a
10 lot of pledging back to the people of America. It was not --
11 the flag was not a small thing to him. It was a huge thing.
12 And my remarks today to you is now that I stand in this
13 courtroom, wherever I pledge my allegiance to the flag, I pledge
14 my allegiance to a flag that Judge Johnson made real by
15 returning to the people of this country, to the minorities, to
16 the forgotten, the privileges that they are entitled to under
17 this flag. Thank you.
18 (Applause and standing ovation)
19 JUDGE THOMPSON: I want to say one other thing. You
20 may be seated. It's going to take two seconds. It's 3:05.
21 This is very important. I'd like to say thank you to our chief.
22 He put this together.
23 (Applause)
24 JUDGE WATKINS: Thank you.
25 JUDGE THOMPSON: This has been remarkable, Chief. It

1 truly has. And I just don't -- I just want you to know how
2 thankful I am that you took on this task and that you did it so
3 beautifully. And it's clear that you did it from the heart.
4 Trey.
5 And, of course, Debbie and Bobby.
6 However, there's one other thing here. At the end of
7 this month, our chief is stepping down as chief and he is
8 returning -- well, not returning to -- he is joining the
9 mythical state of senior status. So, Chief, I have so enjoyed
10 serving with you as a judge, and I have so enjoyed your being
11 our chief.
12 JUDGE WATKINS: Thank you.
13 JUDGE THOMPSON: And our new chief in a few days is
14 right here.
15 And I so look forward to serving with you, Emily.
16 JUDGE MARKS: Thank you.
17 JUDGE THOMPSON: Judge Marks.
18 (Applause)
19 JUDGE THOMPSON: So this is a sad and a happy occasion.
20 You know, I'm losing such a wonderful -- he's still going to be
21 here. You know, his caseload will remain the same. On January
22 31 -- I don't know who asked you.
23 JUDGE WATKINS: No one asked me.
24 JUDGE THOMPSON: Huh?
25 JUDGE WATKINS: No.

1 JUDGE THOMPSON: You can wake up happy just knowing
2 that you'll have the same caseload on February 1 as he had on
3 January -- right, Judge Marks?
4 JUDGE MARKS: Absolutely.
5 JUDGE THOMPSON: And finally, I really would like for
6 you to think about the Johnson Institute. How fitting it is
7 that Judge Johnson would have an institute. Just his name
8 itself carries so much meaning and that our chief is going to, I
9 assume, continue to pursue this. I think it needs your support
10 as well, and I hope you will give it that support. And after
11 this, I hope you'll go to the Johnson Library and you'll see
12 that flag that I described to you. And, of course, tomorrow
13 this celebration will continue at the University of Alabama, and
14 I hope many of you will come there as well.
15 Have I covered everything, Chief?
16 JUDGE WATKINS: I think you've covered everything.
17 JUDGE THOMPSON: Okay. Thank you.
18 JUDGE WATKINS: Thank you.
19 (Applause)
20 (Session concluded at 3:08 p.m.)
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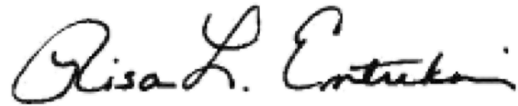
1 REPORTER'S CERTIFICATE

2 I, Risa L. Entrekin, Registered Diplomate Reporter and
3 Official Court Reporter for the United States District Court for
4 the Northern District of Alabama, do hereby certify that the
5 foregoing 66 pages contain a true and correct transcript of
6 "When an Eagle Shields the Dove" presented as part of the FMJ
7 100 Celebration held in the City of Montgomery, Alabama, on
8 January 24, 2019.

9 In testimony whereof, I hereunto set my hand this 5th
10 day of March, 2024.

11 

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RISA L. ENTREKIN, RDR, CRR
13 Official Court Reporter

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