

THE SELMA MARCH AND THE JUDGE WHO MADE IT HAPPEN

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During the violent storm that marked the Civil Rights Era that overturned the “Southern Way of Life” marked by racial segregation and the virtual removal of any participation by African-Americans in civil affairs such as voting and serving on juries that followed U.S. Supreme Court rulings at the end of the nineteenth century, no individual judge did more to restore such rights than Frank M. Johnson, Jr. on the Middle District of Alabama.

Those Supreme Court cases a half-century earlier of course included Plessy v. Ferguson in 1896, but also the almost unknown case of Williams v. Mississippi in 1898, and the two still little-known Giles cases from Alabama that soon followed. Essentially they gave constitutional approval for Southern states to all but eliminate African-Americans from voting. It is the historic background that provides the exceptional importance of Judge Johnson’s unprecedented order in restoring full voting rights for African-American Southerners.

At thirty-seven, the youngest federal judge in the nation, Johnson called for a three-judge District Court on which he voted first in the 1956 Montgomery Bus Boycott case. Fifth Circuit Judge Richard Rives of Montgomery joined Johnson in a 2–1 ruling that for the first time expanded the Supreme Court ruling in Brown v. Board of Education beyond the issue of segregated schools. And as is well known, the outcome of that case launched the civil rights career of Dr. Martin Luther King, Jr., who would later call Judge Johnson “the man who gave true meaning to the word ‘justice.’”

But no single ruling by Judge Johnson was as controversial or transformative in its impact as Williams v. Wallace, which allowed the Selma March that led directly to passage of the 1965 Voting Rights Act. As told in my book Taming the Storm: The Life and Times of Judge Frank M. Johnson, Jr. and the South’s Fight Over Civil Rights, here’s the story of what happened. The book, published by Doubleday in 1993, received the 1994 Robert F. Kennedy Book Award.

On the morning of Thursday, March 25, 1965, Frank Johnson received a telephone call in his second-floor chambers from Judge Rives, who occupied a fourth-floor suite on the opposite side of the federal courthouse.

The first wave of thousands of men and women had crossed the crest of a hill on Montgomery Street and begun passing within view of Rives's window. "You have ordered one of the largest parades in the nation's history," Rives told Johnson. "Now I want you to come up to my floor and view it. Because you ordered it, you ought to at least be able to see it."

Accompanied by law clerk Walter Turner and the ever-present federal marshals assigned to guard him, Johnson went upstairs and stood quietly alone beside Rives to watch. The march from Selma, fifty miles west of Montgomery, symbolized the end of seven frustrating years of struggle centered in the Fifth Circuit to make real the Fifteenth Amendment's promise of democratic rule of the governed without racial discrimination.

The 1965 Voting Rights Act that soon followed represented the combined effort of all three branches of government to uproot the entrenched obstacles to political equality in the South.

Despite Justice Department litigation and several years of effort by civil rights groups and local blacks, Dallas County and its seat of government in Selma had become symbols of entrenched opposition and brutal reaction led by Sheriff Jim Clark. Fewer than 400 of the 15,115 blacks of voting age were registered to vote, and in the three previous months, registrars had accepted only 48 of 221 blacks who had applied. With the county's record of blatant discrimination in voting already exposed, civil rights strategists believed that the short-fused Clark would respond violently to renewed demonstrations and attract national attention. "We are going to bring a voting bill into being in the streets of Selma," Martin Luther King, Jr., declared.

On Saturday, March 6, seventy white Alabamians, many of whom had moved to Alabama from other states, marched in Selma to support Negro equality and efforts "to protest injustice," including police excesses. As Roy Reed delicately reported in *The New York Times*, "They were not universally welcomed in Selma."¹

On Sunday, eighteen days before the march viewed from Judge Rives's window, the beginning of a similar march had ended in violence. State troopers and a mounted sheriff's posse waded into hundreds of unarmed black marchers, including women and children (and joined by some of Saturday's white marchers), who had crossed the Edmund Pettus Bridge that spans the Alabama River on Highway 80 toward Montgomery. The

[Editors' note: The following citations reflect the author's original notes and thus are not formatted to conform with the general format for legal citations.]

1. *The New York Times*, March 7, 1965, p. 46.

troopers prodded and flailed with clubs, and they fired canisters of tear gas and “nausea” gas, while possemen trampled with horses, brandished bullwhips, and used electric cattle prods to send battered marchers fleeing. More than 70 were treated for injuries and released, and 17 were admitted to hospitals with serious injuries.

John Lewis, a black Alabama farmer’s son and young civil rights leader at the head of the march—who had been knocked unconscious as the first Freedom Rider off the bus in Montgomery—recalled what it was like that day, as the troopers and possemen advanced toward the marchers that he was leading. “I felt that we had to stand there, that you couldn’t turn back. . . . For some strange reason I didn’t believe the troopers would do what they did, but I felt that we had to stay there. . . . It was a frightening moment, really terrifying.”² Lewis went to the hospital with what was first diagnosed as a skull fracture.

Television transformed the event into a morality play that riveted the nation’s attention. A few nights later, a Unitarian minister from Boston, the Reverend James Reeb, was fatally clubbed by a Ku Klux Klansman on the streets of Selma. Subsequently Viola Liuzzo, a white mother from Detroit who came to lend support to the demonstrators, was shot to death by Klansmen. In his courtroom in Montgomery, Frank Johnson moved onto center stage, impelled by a vision of maintaining supremacy of the law.

Although Selma and Dallas County were located in the Southern District of Alabama and were under a court order issued by Judge Dan Thomas of Mobile—an order that did not embrace the “freezing” principle for registering black applicants—lawyers for King and his Southern Christian Leadership Conference (SCLC) filed suit in Judge Johnson’s court in Montgomery the day after the first march. Instead of granting their request to enjoin Alabama officials from interfering with further marches, however, Johnson issued an order prohibiting a further march from Selma to Montgomery until he could rule after a full hearing.

“There will be no irreparable harm if the plaintiffs will await a judicial determination of the matters involved,” Johnson stated, “. . . in order to protect the integrity of this court and to prevent the judicial processes from being frustrated by the plaintiffs and other members of their class continuing to attempt to enforce the rights they seek to have judicially determined in this court.”

It was the same policy he had followed at the time of the Freedom Rides, aimed at ending the turmoil until he could determine the facts, the purpose, and the controlling law. Looking back at Selma, he said, *If you*

2. Interview with John Lewis, November 20, 1973, from Jack Bass and Walter DeVries, *The Transformation of Southern Politics* (New York: Basic Books, 1976), p. 11.

come to court, let's settle it in the courtroom and not in the streets. They subjected themselves to the protection of the courts.

Walter Turner, the Judge's law clerk, who later became deputy attorney general of Alabama, recalled, "Frank Johnson was critical of civil disobedience and at that time not a great admirer of Martin Luther King. He viewed Dr. King as somewhat of a black counterpart to George Wallace. He felt very strongly that if you have a complaint, you take it to court, and you present it to a judge and a jury, and you get that complaint adjudicated there. You don't go out in the streets and whip up a bunch of people into a frenzy. You bring all those complaints into the courtroom. That's where those differences needed to be resolved. He prepared me in that light.

"That's the way I was prepared to perceive Martin Luther King, but that was not my experience at all of him from the witness stand. I was enthralled by his speech, by his delivery, his demeanor, his personality. He was a captivating speaker, and I shall never forget it. For me, it was almost a religious experience."³

I had a lot of respect for Dr. King, but not his philosophy [of civil disobedience]. If everyone did it, we'd have national turmoil and anarchy. As a person he articulated very well. Very intelligent. I think he was sincere in his beliefs.

King, who characterized the Judge's order as "unjust" to newsmen, testified in Johnson's courtroom, "I felt that it was like condemning the robbed man for getting robbed and allowing the robber to go uncondemned, and I made it very clear that this order was an order that I was very concerned about and very upset about, but I did not, in spite of saying this, ever say that I was defying the court order."

Before he gave that testimony, King led a symbolic second march under conditions delicately negotiated by former Florida Governor LeRoy Collins, whom President Lyndon Johnson had sent to Selma as head of the Community Relations Service established by the 1964 Civil Rights Act.

On Monday night following the Sunday violence, a late evening telephone call awakened Jack Greenberg, who as lead attorney in Selma for the NAACP Legal Defense Fund was counseling King. Greenberg joined in a three-way conversation with King and Attorney General Nicholas Katzenbach. "I told King if he marched he would be in contempt, and not only that, he would be alienating Judge Johnson, who otherwise was somebody who would treat him quite fairly," Greenberg recalled. In the end, he said, Collins worked out "a face-saving formula. . . . I still recall that Fred Gray told me that Johnson told him that if King marched in violation of the order, he would put him *under* the jail. Fred passed that

3. Interview with Walter Turner, August 2, 1989.

word back. King just didn't need that, particularly from a judge who was well disposed.

"I had a lot of cases before him. He had a kind of rigidity and military bearing. He didn't approach these things from a humanistic point of view, at least from his outward appearance. He had a sense of what was right, and by God that's what he was going to do, like a Marine colonel. There was no display of what his own feelings were about.

"There are some judges from whom you would get a feeling of the warmest human empathy. John Wisdom, for example, would come out the same way. He would laugh with you. Skelly Wright had sort of a brusqueness in his manner, but a feeling you could put your arm around him or vice versa. You couldn't do that with Frank Johnson."⁴

Collins flew into Selma Tuesday morning after White House efforts to persuade King not to march broke down several hours past midnight. He told King the situation was explosive and that a repeat of the events on Sunday "would be a tragedy for the whole nation, and it would tarnish the image of our nation." In response, King said, "I agree with you absolutely, and I think instead of urging us not to march, you should urge the state troopers not to be brutal toward us if we do march, because we have got to march."

Hundreds of clergymen and other supporters from all over the nation were flowing into Selma, and King would explain in court, "My whole philosophy has been that it is better to give people a creative, nonviolent channel to express their discontent than to keep this pent-up feeling there that can explode in violence if you don't give them a chance to march and express this resentment in some way."

King initially resisted the Collins proposal for a symbolic march, unsure both that the marchers would follow if he turned around and that the troopers would agree not to use force, but Andrew Young, his top strategist, encouraged giving the compromise a try.

King told Collins that he felt "at least we had to walk to the point where the brutality occurred Sunday, and not only walk to that point, but to be able to make some kind of witness, some kind of testimony, to have some prayers, because of the numerous religious leaders who had come in from all over the country."

Five hundred troopers had moved into Selma. Most kept out of sight, but more than a hundred had formed columns to block Highway 80 beyond the Pettus Bridge by the time Collins found Sheriff Clark and got his agreement not to interfere with a symbolic march by King and his followers to the point of the Sunday confrontation. Accompanied by Clark, Collins met with Public Safety Director Al Lingo, who testified that Collins

4. Interview with Jack Greenberg, June 16, 1989.

told him, “What these demonstrators want to do is march down and be confronted by troopers and sing and pray and return to the church. Will you permit that?”

Lingo responded affirmatively after talking privately by telephone with Governor Wallace. The public safety director told Collins, “I will even protect them on their way there. I will see that nobody harms them.”

Collins, primarily concerned with avoiding another violent confrontation, didn’t discuss the agreement with Judge Johnson but had met with him. The Judge recalled it as a courtesy visit, with Collins letting him know Washington would support any orders the court might issue.⁵

Collins, an astute lawyer as well as a former governor, apparently believed that his formula for the symbolic march on Tuesday would be acceptable to the Judge, that turning around at the point of the Sunday confrontation with the troopers would amount to a symbolic statement of acceptance of the court’s injunction against a march from Selma to Montgomery.

On Tuesday morning, Walter Turner walked into Judge Johnson’s office without knocking. “He had always told me, ‘Do not knock. Do not bother to ask admission. You are my law clerk. There is nothing I will conceal from my law clerk. I expect my law clerk to maintain our confidential relationship. I’ll let you know if that ever becomes a problem.’ And he would have.

“I walked in, and he had Judge Thomas on the phone. He was letting Judge Thomas know about his feelings about the deliberate delay in getting these injunctions served on these officials in Selma. It was pretty explosive, pretty tense. His voice was very loud, and the emotion that was in his voice was very obvious—anger. I also knew he was talking to another District Judge at the time.”⁶

Although King was fully aware of the court’s order, he was not served until United States Marshal Stanley Fountain met him on Tuesday just before King and some two to three thousand followers reached the Pettus Bridge. King told Fountain he was aware of the order, but on the basis of conscience they had to walk on. King didn’t disclose his plans to turn around except to a few top aides.

Before the march began, King met with Collins, who gave him a piece of paper with a hand-drawn map that Sheriff Clark had insisted on as the march route. King showed it to Andrew Young, who said it was the same route that had been followed on Sunday.

King testified two days after the second march, at the hearing before Johnson, that he told Collins he was aware that the troopers would be

5. Telephone interview with Frank M. Johnson, Jr., November 10, 1991.

6. Interview with Walter Turner, August 2, 1989.

standing in large numbers at a point several hundred feet beyond the bridge and “that we would not ever attempt, on the basis of the nonviolent spirit and the nonviolent movement, to break through a human wall that had been set up by a policeman.”

At a critical point in King’s testimony, Johnson questioned him, apparently to resolve whether he was in contempt of the court’s order:

The court: Is it correct to say that when you started to march, and you went across the bridge, you knew that the state troopers were approximately five hundred feet beyond it?

Witness: That’s right. We did.

The court: Had you made any advance preparations for a march from Selma to Montgomery—

Witness: I think—

The court: —in the way of food for that day, in the way of food and trucks and things like that?

Witness: No, we didn’t. The— the predominant opinion was that we would not be able to get to Montgomery, so we didn’t even prepare for it.

The court: Now, it has been reported to me—and let me ask you if this is correct—that after you reached the state troopers, and while you were there and confronted by the troopers, that they were pulled away and that their automobiles were removed while you all were still there; is that correct?

Witness: That is correct.

The court: And then did you go forward, or did you turn and go back to Montgomery— I mean to Selma?

Witness: We turned around and went back to Selma.

The court: After the state troopers had been pulled back?

Witness: That’s right.

The court: And at that point there were no troopers in front of you—

Witness: That is correct.

The court: —between— on the highway between you all and Montgomery?

Witness: That is correct.

The court: But you turned and went back to Selma; is that report to me that I have received from the Justice Department correct?

Witness: Yes, sir; that is correct.

Johnson then established that Collins had served as liaison between King and the troopers, that Collins had given King the piece of paper marking the route for the march, that King had told Collins they would stop the march where the troopers were, and that Collins had told King, “I think things will work out all right.” King added, “And I assumed by that he meant that we would be able to march at least to the point where the brutality occurred Sunday and would face the human wall, and that we

would be permitted to have a brief period there and go back to the church.”⁷

The order to pull out the troopers had come from Wallace.⁸ Two days later, *The New York Times* quoted an unnamed Negro spokesman as saying that the withdrawal of the troopers was apparently designed to expose Dr. King’s “lack of militancy” and thus to “embarrass him” before his followers.

Wallace’s move may well have been aimed more at Johnson than at King. A violation of the injunction would have forced Johnson—who never bluffed—into jailing King for contempt. Tens of thousands had participated in sympathy marches in cities throughout the nation on Tuesday—ten thousand in Detroit alone, led by Michigan Governor George Romney—and jailing King would have provoked a national outcry against Judge Johnson, which Wallace without question would have relished.

But if withdrawing the troopers was intended to lure King into violating the court order, his response to it seemed to assure Johnson that King intended no defiance. Lingo’s lame testimony for pulling out the troopers was that he thought “traffic had been paralyzed long enough.”⁹

In contrast to the events surrounding the Sunday march, Sheriff Clark and his posse didn’t participate, hostile whites were cleared away from the route of the march, and the troopers used no force.

During more than four days of testimony that filled more than eleven hundred pages of transcript, the full background of voting discrimination and police brutality in the Black Belt emerged, but Johnson wrestled with the competing legal claim of the public’s right to travel unimpeded on the highways.

“I remember he was having trouble with the legal balancing test in this case,” Walter Turner recalled. “From time to time he would come into the library and just simply pace up and down and say, ‘All the rights in this case are on the side of the state. The state has a duty and an obligation to maintain the safety and commerce on those highways.’ And then he’d come back and say, ‘But those people in Selma have been mistreated.’ He wrestled with this decision.”¹⁰

Johnson received a letter from Hugo Black’s second wife, Elizabeth—whom Johnson had known when he was United States attorney in Birmingham and she was a deputy clerk of court—commending him for enjoining the second march. It was an apparent sign that Justice Black

7. Official transcript of *Williams v. Wallace et al.*, Civil Action No. 2181-N, Accession No. 021-74CO813, Location No. B0150841, Box 125, Federal Records Center, East Point, Georgia.

8. Thomas R. Wagy, “Governor LeRoy Collins of Florida and the Selma Crisis of 1965,” *Florida Historical Quarterly*, April 1979, p. 415.

9. Transcript of testimony by Al Lingo, *Williams v. Wallace*, op. cit., p. 100.

10. Interview with Walter Turner, August 2, 1989.

approvingly thought that the injunction signaled Johnson would block any march to Montgomery.

The Dallas County Voters League, 1 of 275 SCLC affiliates, had invited King to assist in getting more blacks registered to vote, and he had come to Selma in January, almost two years after John Lewis and the Student Nonviolent Coordinating Committee (SNCC) that he then headed had begun its work there. Collins later wrote that Lewis, “then in his early 20s and anything but charismatic, was a leader of great strength and courage. He took to Selma a record of more than 80 jailings and scars from many beatings in the civil rights cause. He always wore his blue working overalls. He was stoic, imperturbable, doing his job, never complaining. He was a rock standing in the turbulent currents of his time and could always be trusted and believed. He was the leader out front on bloody Sunday.”¹¹

Amelia Boynton, a black businesswoman in Selma and member of the steering committee for the Voters League, described her treatment by Clark when she went to the courthouse as a registered voter to vouch for fifty to seventy-five blacks lined up outside waiting to attempt to register. After she went outside to feed a parking meter, Clark directed her “to get in that courthouse, and you get in there quick.” At noon, the registration office closed and deputies sent her outside until it reopened at two. Clark confronted her again.

She told the court, “He said, ‘I told you to get in that courthouse and stay in there.’ In the meantime I was headed toward my office, and I said, ‘I am going to my office now; it is after twelve o’clock,’ and he said, ‘Don’t you say anything to me.’ He ran to me, ran behind me; he grabbed me first by my coat around the waistline, he swung me around, and I continued to say, ‘I am not— He said, ‘You get in that line.’ I said, ‘I am not in the line; I am on my way to the office as a pedestrian.’ So he said, ‘Don’t say anything to me’; he grabbed me then around the neck, and he shoved me for perhaps thirty feet toward the— practically the length of the courthouse, and he turned me— he told the sheriffs [deputies], ‘Arrest her, she is under arrest.’ And I went to jail, stayed there, was given a criminal’s number, fingerprints taken.”

Under cross-examination, McLean Pitts, Clark’s lawyer, questioned Mrs. Boynton about her arrest and asked, “And you called him a white son of a bitch, didn’t you?”

She turned toward the Judge and said, “Your honor, I don’t know how to curse.” Then she answered Pitts, “You picked the wrong person to say that—”

11. LeRoy Collins, book review of *Protest at Selma*, by David Garrow, *St. Petersburg Times*, December 10, 1978, p. 1D.

Johnson interrupted, "Just answer the question; did you or didn't you?"

"No, I did not," she said.

Pitts continued: "And you spit at him, didn't you? Didn't you?"

"No, indeed, I did not," she answered.

During the first march, Mrs. Boynton was clubbed and knocked unconscious.

Johnson listened intently as Lewis and Hosea Williams—the director of political education and voter registration for SCLC, who led the first march with Lewis—both gave graphic accounts of the confrontation.

Williams said that Major John Cloud told them they had two minutes to disperse, saying, "This march is not safe, the governor wants it stopped, and I am ordering you to disband, disperse, and return to your church or home." When Williams asked to have a word with him, Cloud said, "There will be no talking." Williams said that after a minute and five seconds by his watch, Cloud ordered the troopers to move in and disperse the crowd, about fifty feet away.

And then, Williams said, "The whole group of state troopers leaped into the line, knocking us back, driving us back, and some began stabbing with their billy club, and some began swinging right and left."

Lewis was hit twice, "once when I was lying down and was attempting to get up. . . . The troopers, most of them kept saying, 'Move back, move back, you niggers, disperse,' and calling people black bitches and sons of bitches and things like that."

He continued, "When we were forced back, most of the people in line knelt in a prayerful manner. . . . The line all the way back was almost a spontaneous reaction on the part of all the people in the line as far back as you could see, and at that time the major ordered the troopers to put on their gas masks, and they started throwing gas, and people became sick and started vomiting, and some of us were forced off of the highway and behind some buildings in the woods."

In his testimony, Lewis described the posse "taking whips and bullwhips, and the whips about eight to ten feet long, beating people, and I saw one incident, myself, where a member of the posse started beating a Negro woman, she dropped her bag, she lost her shoes and everything, she was trying to run, and she sort of turned around and stared at the posseman who was beating her, and he said, 'Get on, you black nigger woman, you.' "

Williams said, "They were trying to get the whites, though, really more than they were the Negroes; they would say, 'There is another white nigger-loving son of a— get him.' . . . I saw possemen chasing little children, twelve and thirteen years old, with billy sticks, swinging at them,

hitting them. I saw Sheriff Clark going onto this woman's porch and hit this woman . . . whacked this woman."

He described other blacks who also weren't on the march but were attacked, including one man with a cork leg who shouted he wasn't a marcher. "They screamed, 'You are a goddamned nigger, though.' He would try to run and fell—he had a cork leg—and every time he would get up, they would start beating him, and they drove him into the line of marchers, into the gas."

Four times, Williams testified, he heard Clark shout, "Go get the goddamned niggers."

Williams described an earlier occasion when Clark and his deputies arrested more than 150 blacks at the courthouse, "and they carried us down and kept us three days in jail with no blankets. Went down to sixteen [degrees]. . . . We asked the guards there why we couldn't have some blankets and some mattresses, some something, and they say, 'We are directly under the orders of Sheriff Clark.' And they fed us food—bread and watered peas—for three days, wouldn't let us make a call to a lawyer, wouldn't let us call our families."

Lingo testified that Governor Wallace told him the night before the confrontation that there "would be no march from Selma to Montgomery." Lingo said he interpreted that to mean he should "restrain them from marching."

Johnson interrupted from the bench, "Regardless of what it took to do it?"

Witness: Well, I don't mean kill any of them, but use the means of least force as possible to restrain them from—

The court: But whatever it took to do it?

Witness: Yes, sir.

Under questioning by Doar, Lingo testified that the action of Major Cloud in sending twenty or thirty troopers against the front of the line of demonstrators "definitely" was a minimum amount of force.

Lingo also confirmed that Jimmie Lee Jackson, a black man who had died after a gunshot wound on the night of a demonstration in Marion, the county seat in neighboring Perry County (and hometown of Coretta Scott King), had been shot by a trooper.

John Doar questioned John Carter Lewis, a thirty-eight-year-old black man who hadn't participated in the demonstration, but whom troopers stopped after he got off work as a dishwasher.

He testified, "I met a state trooper car, and he turned around right after he met me—pulled in an intersection, turned around—and so I had idea he was going to stop me, so I just prepared to stop. Well, he trailed me about a quarter of a mile. Then he turned the signal lights on, the red flashing lights, so I pulled aside and stopped, opened my door, and reached for my

driving license, my billfold, and I met him at the back end of my car. And so he said, 'I want to check your license.' I say, 'All right.' And he looked down at me, he said, 'You just off your job?' I say, 'That's right.' At that time another state trooper drove up behind him. He say, 'Who you got here?' He said, 'This boy just off his job, he pretty good boy.' . . . The second one say, 'Well, let's beat him up, anyway,' and so he pulled his stick out, but he didn't hit me then. And so I looked at the first one what had my license in his hand, and when I took my eyes off him, then he come right down across my head there with the stick so that it knocked me off from him, you know, and I just staggering around, so he—he—while I staggered back, he hit me again. So he say, 'Get in your car,' so that time I spied my billfold on the ground, and I attempted to pick up my billfold. He popped me back of my head again. I stood there. 'Maybe I get my billfold,' so I made another attempt to get my billfold; he hit me back of my head again as I was going over then, so I just went on over then. I got so weak then, the first lick was just—"

Attorney Maury D. Smith, representing Governor Wallace at the hearing, interrupted, "Excuse me. Excuse me. We object to this, the court please, move to exclude his entire answer—shows no relationship to the demonstrations."

"Overrule," Johnson responded. "Go ahead."

The witness continued, "So the first lick just bust this open up here, see [pointing to his head]. He had a good aim at that because I wasn't paying him any attention, you see. I had took my eyes off him; I didn't have no idea he was going to hit me for real, so I took my eyes off. He bust this open across here. . . . I really wasn't passed out, but I was so weak I couldn't get up . . . had been losing so much blood."

A friend found him and took him to a hospital, where he remained five days for injuries that included a broken arm.

In his book, *Protest at Selma*, political scientist David Garrow argued that King had moved from a "philosophy" of nonviolence to a "technique" of nonviolence. Garrow wrote, "Federal legislation, King increasingly realized, was one route by which effective change could be brought about. The path to such legislation, in turn, lay through the national news media and the audiences to which they could convey the movement's pleas for assistance and reforms . . . and the news media's interest quickly waned when no violent or unusually dramatic confrontations were occurring."

LeRoy Collins disagreed with Garrow's conclusion that King was involved in a strategy implicitly aimed at provoking violence by others, in this case the short-fused Sheriff Clark. "To me this is a conclusion tainted with cynicism," Collins said. "It makes manipulators of the civil rights

leaders rather than the spiritually inspired crusaders for reform and progress I knew them to be.”¹²

When asked at the hearing what was the purpose of the mass demonstrations, King said, “To seek to arouse the conscience of the community and the nation on this issue, so that somebody would really come to the point and aid us so that we could register and vote without any problems.”

Johnson listened intently when King was asked, first by Jack Greenberg, to explain the philosophy of nonviolence: “This philosophy says in substance that one must have the inner determination to resist what conscience tells him is evil with all of the strength and courage and zeal that he can muster; at the same time he must not resort to violence or hatred in the process. It is a way of seeking to achieve moral ends through moral means, and I would say that the basis of the philosophy of nonviolence is the persistent attempt to pursue just ends by engaging in creative nonviolent approaches and never coming to the point of retaliating with violence or using violence as an aggressive weapon in the process.”¹³

When asked about his philosophy under cross-examination, King explained his attitude toward civil disobedience: “I think there are times that laws can be unjust and that a moral man has no alternative but to disobey that law, but he must be willing to do it openly, cheerfully, lovingly, civilly, and not uncivilly, and with a willingness to accept the penalty, with a hope and a belief that by accepting this and doing it in this way he will be able to arouse a conscience of the community over the injustice of the law and therefore lead to the bright day that everybody will set out to change it.”

At one point Pitts, the lawyer for Sheriff Clark, became so aggressive in questioning King that Greenberg objected that his manner was “insulting.”

Johnson sustained the objection and said, “All witnesses in this court, regardless of who they are, are to be interrogated with common courtesy.”

When Pitts replied, “I’m trying to, your honor,” Johnson cut him off and said, “Make a little better effort.”

Walter Turner, who didn’t know if the Judge had seen the TV news report of the violence that ended the first march, took the unusual step of suggesting to Doar that he show the edited footage of the troopers and posse assaulting the marchers. “I had seen it on TV and how dramatic it was and thought it would be a tremendous piece of evidence.” Johnson viewed it at the end of the last full day of testimony.

12. Ibid.

13. Transcript of *Williams v. Wallace*, op. cit., pp. 26, 76.

John Lewis, who also had already seen the footage, kept his eyes on Johnson. Years later, as a member of Congress, Lewis recalled, “He watched it intensely, taking notes as fast as he could. Afterwards, he stood up and called a recess, then removed his robe and walked out through the door behind the bench. From his demeanor, I just knew he was going to rule for us.”¹⁴

Turner had some brief personal exposure to King during the hearings after being introduced to him in the courtroom by Fred Gray. Turner chatted briefly with King several times after he took telephone calls in the law clerk’s office, which was part of the Judge’s library.

One day before court convened, a telephone call came in for King, and Turner went to the courtroom to get him. Turner recalled, “The reason I remember it so particularly is because he was telling the person on the other end of the line that he wanted no demonstrations. We were going to try this in the courtroom. He seemed sort of irritated by whomever was calling him. His end of the conversation was interesting, anyway. That’s when we started chatting about the Judge and he said what he did about him being a man of great honor, that he gave true meaning to the word ‘justice.’ I was very impressed.”¹⁵

Greenberg learned the night before the final morning of testimony that Johnson wanted a detailed plan for the march. “He wanted an order which described how many people would march, how fast they would march, where they would stop, who would take care of lodging, things like that. We had to consult with Hosea Williams. I said, ‘Hosea, who’s in charge of the logistics?’ And he said, ‘I am the logician.’

Greenberg continued, “Jim Nabrit [a Legal Defense Fund lawyer] and I sat on the floor of some motel in Montgomery and wrote it out—one, two, three, four, five.”¹⁶ Lewis joined them in the room.

They worked on the plan until after midnight and submitted it formally at nine thirty-four that morning after giving copies to the other lawyers.

Soon after the hearing ended less than an hour later, Johnson went to his office and began dictating his order, with Miss Casper and Jane Gordon, then the chief deputy clerk, alternating in taking shorthand and converting it to typescript. Johnson had taken detailed notes on a legal pad during the hearings, his customary procedure; he and Turner had researched the law and issues and had received unsolicited memoranda,

14. Interview with John Lewis, July 31, 1991.

15. Interview with Walter Turner, August 2, 1989.

16. Interview with Jack Greenberg, June 16, 1989.

including one from Professor Jay Murphy of the University of Alabama Law School that Turner recalled “was very much on point.”

Turner had seen Johnson “wrestle with the ebb and flow of his emotions, but then when he reached a point of serenity I knew it was going to go that way. . . . He was pretty damned mad about George Wallace not controlling those people at the Selma bridge. He was angry about that. I don’t remember any particular words, but he put the blame on George Wallace for not controlling the sheriff over there.”

Johnson ruled on what he would later characterize as a *theory of proportionality*. . . . *Redress for your grievance should be in proportion to the wrongs that you’re petitioning against.*¹⁷ In his summary of the facts, Johnson declared, “The evidence in this case reflects that, particularly as to Selma, Dallas County, Alabama, an almost continuous pattern of conduct has existed on the part of defendant Sheriff Clark, his deputies, and his auxiliary deputies known as ‘possemen’ of harassment, intimidation, coercion, threatening conduct, and, sometimes, brutal mistreatment” that “reached a climax on Sunday, March 7, 1965.”

After describing the confrontation with marchers who had “proceeded in an orderly and peaceful manner,” Johnson wrote, “The general plan as followed by the State troopers in this instance had been discussed with and was known to Governor Wallace. The tactics employed by the State troopers, the deputies and ‘possemen’ against these Negro demonstrators were similar to those recommended for use by the United States to quell armed rioters in occupied countries.”

He described what happened and characterized its purpose and effect “of preventing and discouraging Negro citizens from exercising their rights of citizenship, particularly the right to register to vote and the right to demonstrate peaceably for the purpose of protesting discriminatory practices in this area.”

Johnson noted, “The law is clear that the right to petition one’s government for the redress of grievances may be exercised in large groups. Indeed, where, as here, minorities have been harassed, coerced and intimidated, group association may be the only realistic way of exercising such rights.” But he cautioned that such rights were “not . . . unrestricted.”

He discussed the competing rights of peaceful mass demonstrations to protest grievances and “the rights by other citizens to use the sidewalks, streets and highways.” Johnson said that a “constitutional boundary line” must be drawn between “the competing interests of society. This Court has the duty and responsibility in this case of drawing the ‘constitutional boundary line.’ ”

17. “Bill Moyers’ Journal,” *Judge: The Law and Frank Johnson*, July 24, 1980, transcript, Part II, p. 12.

Then, in language that seemed to echo with the moral resonance of the Old Testament, he asserted, “In doing so, it seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and streets in an orderly manner should be commensurate with the enormity of the wrongs that are being protested and petitioned against. In this case, the wrongs are enormous. The extent of the right to demonstrate against these wrongs should be determined accordingly.”

Johnson then cited details from the plan submitted by Greenberg, which was attached as an appendix to the order, stating that the number of marchers would be unlimited where the highway was four lanes, but would not exceed three hundred proceeding two abreast in groups of approximately fifty persons supervised by a designated leader where the highway was only two lanes. The length of the march for each of the five days was spelled out in the plan—with stops in designated fields, permission of the owners already granted, large tents to be erected by professionals, and meetings and song festivals at the campsites at night. The plan called for a march that was orderly and peaceful and “otherwise observes the highest standards of dignity and decorum.”

Johnson called the plan “a reasonable one to be used and followed in the exercise of a constitutional right of assembly and free movement,” but he recognized that it “reaches . . . the outer limits of what is constitutionally allowed.”*

Then, quoting from Chief Justice John Marshall in *McCulloch v. State of Maryland* (1819), Johnson wrote, “It must never be forgotten that our Constitution is ‘intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs.’ ”

In conclusion, Johnson stated, “The only question that is now presented is whether the State of Alabama authorities are willing to employ their available resources and utilize the additional available resources of the United States Government to preserve peace and order in their compliance with this Court’s order.”

After the order was written that night, the Judge contacted Doar, told him what it contained, and said that before issuing it he wanted full assurances that the federal government would enforce it. Attorney General Nicholas Katzenbach called Johnson early the next morning. After the

*A few months later, Johnson expressed his strong disapproval of civil disobedience when he refused to remove from the state courts a case involving more than 150 black students. He declared, “Civil disobedience by ‘civil rights workers’ in the form of ‘going limp’ or lying or marching in the streets or upon the sidewalks, or marching around the city hall while night court was in session, singing ‘freedom’ songs, or taking to the streets to do their parading and picketing in lieu of using the sidewalks, while failing to make any application to city authorities for a parade permit, is still a violation of the law.” *Forman v. City of Montgomery*, 245 F. Supp. 17, 24.

Judge said he wanted to be sure his order would be backed by the United States government in case Wallace attempted “some grandstand play” like his blocking the school desegregation order at Tuskegee, Katzenbach assured the Judge his order would be backed.

The Judge told Katzenbach he didn’t want his assurance; he wanted it from the President.

Katzenbach called back in twenty minutes and said, “You got it.”¹⁸

When the Judge issued the order that afternoon, lawyers for the state of Alabama informed him they planned to appeal. Johnson called the Fifth Circuit Court of Appeals in New Orleans and arranged for an emergency panel to hear the appeal that night.

Johnson’s creative solution, which involved blocking half of a public highway where it was four lanes, shocked many in the legal profession, including some of his most ardent admirers. Friends of Justice Hugo Black reported that he thought it was outrageous. Katzenbach, who had ordered the Justice Department to intervene at Selma, years later said, “I thought it was a fine solution . . . that didn’t have any justification in the law whatsoever. That’s my opinion of it. I’m very glad he did it, but I would hate to defend him as a lawyer.”¹⁹

But after the order was issued, Judge Rives made a rare visit to Johnson’s offices on the second floor to congratulate him on the opinion. Walter Turner called the visit “an important gesture.”

Archibald Cox later characterized Johnson’s action “under the pressure of events” as a “novel but sound principle.”²⁰

What made Johnson’s Selma ruling unique was that he took the traditional legal principle of proportionality—a larger award for a more serious personal injury, or a harsher penalty for a more serious crime—and applied that principle of civil and criminal law to constitutional injury.

Looking back a quarter century later, Doar agreed with Johnson’s concept of proportionality as a “perfectly appropriate kind of relief under the circumstances,” but he acknowledged that “to suggest that demonstrations and people in the streets could get support for their activities through the courts was kind of a troublesome thing.”

Nevertheless, he added, “To allow a relatively peaceful, nondisruptive march along the side of the highway, granted that it on occasion would slow up traffic or disrupt traffic, was really a very, very imaginative, creative, practical way to permit the country to get through a situation so it could deal with the underlying problem, which was the refusal of the South

18. Sikora, *The Judge*, p. 223.

19. Interview with Nicholas Katzenbach, October 18, 1979, quoted in Jack Bass, *Unlikely Heroes* (New York: Simon & Schuster, 1981).

20. Archibald Cox, *The Court and the Constitution* (Boston: Houghton Mifflin, 1987) p. 25.

to comply with court orders and court rulings with respect to discrimination in voting. We weren't getting it done.

"We ran as hard as we could in Mississippi and Alabama and Louisiana for four years, and we weren't getting it done. And every day, every month, the black kids were getting more disillusioned. The consequences of that were enormously serious. And to get this thing off of the demonstrations and get the focus on legislation, so that the Congress would have an opportunity to act and you can get the whole process in the framework of law—anything that contributed to that, I think, was justified under the circumstances."²¹

Whether Hugo Black came to view it that way isn't known, but a month after the Selma march, he wrote a letter to Frank M. Johnson, Sr., the message and timing of which clearly muted Black's criticism of the Selma march order. He spoke of his pleasant memories of visits to Winston County when the senior Johnson was probate judge, and he recalled, "I believe I expressed great admiration for the Republicans in Winston County who were the sons and grandsons of men who became Republicans largely because of a deep-seated antagonism to slavery. I think you have reason to be proud of this fact. . . . You also have great reason to be proud of your son. He is a man of courage and a very useful citizen. His work as a judge should help greatly to bring about—in the long run—a much higher appreciation of the federal judiciary as a whole. This expresses both the views of my wife and myself."²²

Looking back a quarter century later, Johnson said of the Selma march order, *The fact that it had the potential for being historic was not a factor in my decision. I viewed it as another lawsuit.*

By the time Judge Frank Johnson joined Rives to watch the twenty-five thousand marchers parade peacefully to the state capitol on March 25, President Lyndon Johnson already had presented the Voting Rights Act to a joint session of Congress and had closed the nationally televised dramatic appeal by forcefully reciting the slogan of the civil rights movement, "And . . . we . . . shall . . . overcome."

President Johnson also had met in the White House with George Wallace, giving him "the treatment," in which LBJ turned on the full force of his overpowering personality and used earthy language to tell Wallace that history would judge both of them on the basis of their treatment of blacks. *The New York Times* reported on page one that the President called on Wallace to provide protection for the marchers, to publicly declare his

21. Interview with John Doar, April 21, 1989.

22. Letter from Hugo Black to Frank M. Johnson, Sr., April 21, 1965, from files of Frank M. Johnson, Jr., Montgomery, Alabama.

support for universal suffrage in Alabama and the nation, and to call for a biracial meeting in Alabama to seek greater unity among citizens of both races.

Wallace promised to give “careful consideration” to the President’s suggestions. Burke Marshall, who had just left the Justice Department, attended the three-hour meeting—which President Johnson left several times—as a consultant. “Governor Wallace was so beaten down by the President’s personality and the force of the occasion,” Marshall recalled, “when he walked out of the office, he was ready to do those things. Of course, the farther away he got from the White House and the closer he got back to Montgomery—he said when he got back he couldn’t afford it. The state didn’t have enough money to protect the marchers.”²³ President Johnson federalized the National Guard for that task, at a cost of \$500,000.

In a powerful speech in front of the state capitol after the last of the marchers had passed by Rives’s window, King characterized the national response to Selma as “a shining moment in the conscience of man.” In his peroration, he declared, “I know some of you are asking today, ‘How long will it take?’ I come to say to you this afternoon, however difficult the moment, however frustrating the hour, it will not be long, because truth pressed to earth will rise again.

“How long? Not long, because no lie can live forever!

“How long? Not long, because you will reap what you sow!

“How long? Not long, because the arc of the moral universe bends toward justice.”

Never again would the civil rights movement be so united or hold hope so high.

The drama of the Selma march produced a sense of national outrage that energized Congress to join the other two branches of government in recognizing the historical dimensions of the problem. In an eloquent dissent in *United States v. Mississippi*, Judge John R. Brown declared, in response to two Mississippi judges, that the discrimination against Negroes resulted not from “discriminatory administration of valid laws. It has happened because it was meant to happen. To eradicate this evil, the attack need not be made piece by piece. It may be made by a frontal assault on the whole structure.”

Ultimately, that’s what the Voting Rights Act did. The executive and judicial branches had failed to solve the problem despite their concerted efforts because, as Burke Marshall said, “the latitude for discrimination is almost endless. The delaying practices that can be used are virtually

23. Interview with Burke Marshall, June 17, 1989.

infinite.”²⁴ Marshall lamented in 1964 that in seven years of litigation “the federal government has demonstrated a seeming inability to make significant advances . . . in making the vote real for Negroes.”²⁵ In forty-six counties in which suits were filed since the 1957 Civil Rights Act, only 37,146 of more than half a million blacks of voting age were registered.

When Congress overwhelmingly passed the Voting Rights Act prepared by the Justice Department, it performed major surgery on the traditional concept of federalism, cutting out and scraping away the sources from which states of the Deep South had bypassed constitutional prohibitions against discrimination in the right to vote.

Section 4 of the Voting Rights Act contained a “triggering” formula that suspended literacy tests and other devices in states in which less than 50 percent of the voting-age population had voted in the last election. It had the same effect as writing in the names of Mississippi, Alabama, Louisiana, Georgia, South Carolina, Virginia, and thirty-four counties in North Carolina. The act authorized the Justice Department to send in federal examiners to register voters in covered states, and extensions of the act subsequently added other jurisdictions.

The “freezing” principle that Frank Johnson had developed in *United States v. Alabama* was incorporated into the Voting Rights Act, first in the suspension of literacy tests and also in the Section 5 “preclearance” feature aimed at preventing future inequality. One of the most significant and initially little-noticed provisions, this ingenious feature required that before “any voting qualifications, or prerequisite to voting, or standard, practice, or procedure with respect to voting” can be enforced in a covered jurisdiction, it must be cleared by the United States Attorney General or the United States District Court for the District of Columbia in a determination that the change is not discriminatory “in purpose or effect.” Katzenbach justified the provision by explaining to the House Judiciary Committee, “Every time the judge issued a decree, the legislature . . . passed a law to frustrate the decree.”

Automatically, the preclearance feature shifted the burden of proof, warned state and local governments against attempting discriminatory tactics, and drastically cut down the amount of litigation. Originally, many thought of the preclearance feature in limited terms of blocking direct restrictions on registration and voting. The full force of the preclearance feature’s impact came only after a 1969 Supreme Court decision, *Allen v.*

24. Burke Marshall, quoted in Martin Luther King, Jr., “Civil Right No. 1: The Right to Vote,” *New York Times Magazine*, March 14, 1965, p. 27.

25. Burke Marshall, *Federalism and Civil Rights* (New York: Columbia University Press, 1964), p. 37.

State Board of Education, which held that the feature applied to election systems, such as reapportionment.

The immediate impact of the Voting Rights Act brought spectacular results. In contrast to the 37,000 blacks who had registered in the forty-six counties where the Justice Department had brought suits in the seven preceding years, more than 56,000 blacks registered within two months in twenty counties to which federal examiners were sent. The next year, black voters in Dallas County accounted for the defeat of Sheriff Jim Clark by a white moderate.

Within a decade, black registration would climb by more than 1.5 million to a total of more than 3.5 million in the eleven states of the old Confederacy. By 1990, more than 4,000 blacks held elective office in the South, including a governor, five congressmen, and more than 175 legislators, compared with less than 100 black elected officials in the region before passage of the Voting Rights Act. More importantly, black power at the polls sensitized white politicians to the needs and aspirations of their black constituents and encouraged a new breed of candidate.

Although often overlooked, the Voting Rights Act also served indirectly to transform juries in the South, because voter registration lists provide the main source from which juries are selected. Full representation of blacks on juries ultimately made a major impact on the administration of justice in the region.

Black voters began to help elect sheriffs, who immediately began to hire black deputies—or in some cases were themselves black. Service of black voters on juries also helped dissipate fear based on the threat of violence that could be inflicted with impunity. Thus, it became safe to vote—and to exercise the full range of newly won legal rights.

Congressional passage of first the 1964 Civil Rights Act and then the Voting Rights Act gave legitimacy to the Supreme Court's mandate for legal equality in *Brown* and silenced the cries in the South about "judge-made laws." A century after the Civil War ended, acceptance of this legitimacy ushered in a period of transformation of the American South that ultimately ended the region's separation from the rest of the nation.

A little past 11 P.M. on the final day of the march from Selma, with the crisis of a tense five days behind him, a drained and tired John Doar was sitting at a table in the Elite Cafe a couple of blocks from the federal courthouse in Montgomery, finishing his first meal of the day. A voice on the public address system announced, "John Doar—telephone."

He learned then that Viola Liuzza, a thirty-nine-year-old mother and wife of a union official from Detroit, who had been helping transport marchers back to Selma, had been shot and killed in her car.

FBI informant Gary Thomas Rowe and three other Ku Klux Klansmen—Eugene Thomas, Collie Leroy Wilkins, and William Orville Eaton—from the Birmingham blue-collar suburb of Bessemer had driven to Montgomery that day under instructions from “the Imperial Office of the Klan” to harass marchers. That evening they drove to Selma. Rowe reported their spotting a white Oldsmobile with a Michigan license plate, driven by a white woman seated beside a Negro man. The Klansmen followed the car past Craig Air Force Base and overtook it. The Fifth Circuit Court of Appeals summarized what happened next:

Wilkins stuck his arm out the window, with Thomas’ pistol in hand, and as the woman driver of the other car turned her head toward them Wilkins fired two shots into the front window of her automobile. At this point, Eugene Thomas said, “Shoot the hell out of them, everybody shoot the hell out of them.” Eaton began firing his .22 pistol, loaded with shaved bullets. Wilkins continued to fire as their car passed the automobile. Eaton was leaning out of the car trying to fire. The Oldsmobile continued straight down the highway and the informer stated that the shooters had missed [the target]. Wilkins responded, “Baby brother, don’t worry. I don’t miss. That * * * and * * * are dead and in hell.”

Wilkins and Eaton threw their cartridge casings out the window. When they reached Bessemer they attempted to arrange alibis. The dead body of the woman driver of the Oldsmobile was, of course, soon found.²⁶

By the time twenty-two-year-old Collie Leroy Wilkins swaggered into Frank Johnson’s courtroom the week after Thanksgiving 1965, he had twice been tried for murder in the state courts of Alabama. In the first trial, a hung jury had voted 10–2 in favor of manslaughter after rejecting a second-degree murder conviction. On retrial in the fall in Lowndes County—after passage of the Voting Rights Act, and following the fatal street shooting of white seminarian Jonathan Daniels by a prominent white citizen there while Daniels participated in a voter registration drive—a second jury acquitted Wilkins altogether.

In federal court, Wilkins, Eaton, and Thomas faced charges under a Reconstruction conspiracy statute, passed in 1870 and aimed then at the Ku Klux Klan. The statute made it a crime for two or more persons to “conspire to injure, oppress, threaten or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the

26. *Wilkins v. United States*, 376 F. 2nd 552, 558–59.

Constitution or laws of the United States because of his having so exercised the same.”²⁷

Court decisions subsequently ruled that the statute didn’t apply to Fourteenth Amendment violations by private citizens, but the Justice Department argued that Mrs. Liuzzo’s rights were those protected by Article Three of the Constitution, the judicial article, because she was exercising rights covered by Judge Johnson’s order protecting the marchers.

In Johnson’s courtroom, with Doar prosecuting his first criminal case and sometimes cautioned by Johnson for asking leading questions, a twelve-member jury of white men listened to three days of testimony and then to Judge Johnson’s hour-long charge on the morning of the fourth day.

In charging the jury before it began deliberating, the Judge summarized the core principle of the supremacy of law in telling them, “I cannot be, as Judge of this court, and you cannot be, as jurors serving in this court on this case—if we discharge our duty and responsibility in the manner that our oath requires—concerned with the wisdom or the policy of the law. Because we are a government of laws, we are required in matters involving the law and the application of the law to, whether we like it or whether we don’t like it, accept the law and make a proper and an unbiased application of it in any given instance.”

Unable to reach a verdict, the jury returned the next morning to report it was deadlocked. Johnson responded with an *Allen* or “dynamite” charge, upheld in 1896 by the Supreme Court in *Allen v. United States* and aimed at unlocking a jury.

“You haven’t commenced to deliberate the case long enough to reach the conclusion that you are hopelessly deadlocked,” he told the jury after pointing out that more than forty witnesses and fifty exhibits had been presented, the cost of the trial, and the probability of another one. After telling the jurors that a new jury would be no more intelligent or competent than they were, he urged the minority, whichever side it was on, to reflect on its position without giving up any of its honest convictions.

A few minutes after returning from lunch, the jury reported reaching a verdict—guilty. It came on John Doar’s forty-fourth birthday, the day after an all-white state court jury in Anniston convicted a white man there of second-degree murder in the racially motivated slaying of a black man. In Montgomery, Johnson thanked the jurors for their service, then told them, “If it’s worth anything to you, in my opinion that was the only verdict you could possibly reach in this case and reach a fair and honest verdict.” He then sentenced Wilkins to ten years in prison—the maximum.

27. Title 18, Section 241, United States Code.

On appeal, former Mississippi Governor J. P. Coleman wrote the order for the Fifth Circuit that affirmed both the conviction and the message it conveyed that responsible white southerners were ready to punish racially motivated violence.

Johnson knew civil rights lawyers deliberately aimed at his court and had expected the Selma case to come to him. He told biographer Frank Sikora, *In a way it seemed I was being penalized for giving fair decisions. I didn't ask for the cases; in fact, there were times when I wished I didn't have to hear them. The Freedom Riders case was one of them, but this Selma-to-Montgomery march case was even more so. The emotional fever in Alabama at the time was unbelievable.*

He had hoped that the state of Alabama and the SCLC might work out a compromise on the march or that Governor Wallace would have to open up the voter registration process. *But there was not to be a compromise; there was only the rhetoric and the fiery oratory from both sides. I was the man in the middle in the final analysis, and in the end it would be up to me to make a ruling which I knew would create an emotional outburst. I didn't know any other way of doing it, but to do it.*²⁸

More than a decade after the Selma march, when Wayne Greenhaw was working on a manuscript for a book about Johnson after it appeared he would become FBI director, the Judge showed him photographs in scrapbooks kept by his law clerks. One series showed black people being beaten on the edge of Edmund Pettus Bridge and being herded close together by mounted lawmen holding sticks. “Do you know what those are?” Johnson asked, pointing toward the sticks.

Greenhaw shook his head no.

“Those are cattle prods. Every time one touches the body, it will send electrical shocks through the body. In the fifties and sixties it was not unusual for lawmen in the Black Belt to use prods on Negro people.”

In another series of photos, the Judge pointed to black people being educated, walking peacefully into well-kept modern schools, and working side by side with white people. “I like peace. I always have. I’m glad that I’ve been a small part of bringing peace to this country. These scenes of people living together, working together, going to school together—they’re nicer than those others, aren’t they?” His face slowly relaxed into a smile of satisfaction.

28. Sikora, *The Judge*, pp. 228–29.