

THE JUDGE

A black and white photograph of Frank M. Johnson, Jr. He is an older man with short, dark hair, wearing a dark suit, white shirt, and dark tie. He is seated in a large, dark leather chair, looking slightly to his right with a serious expression. In the background, an American flag is visible, partially obscured by the chair and the man's head. The setting appears to be a formal office or courtroom.

*The Life & Opinions of
Alabama's Frank M. Johnson, Jr.*

"... a no-nonsense legal
giant..." — CNN's
Across America

BY FRANK SIKORA

INTRODUCTION BY HON. WILLIAM J. BRENNAN

The following is excerpted material from
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by Frank Sikora (NewSouth Books 2007).

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Praise for *The Judge*

“[Judge Johnson’s] first ten years in the Montgomery courtroom coincided with the most tumultuous period of Southern history since the Civil War. This tense and emotional time—the civil rights decade, 1955-65—is the primary focus of Frank Sikora’s book. Drawing extensively from interviews with the judge and from court transcripts, he recounts and dramatizes the cases that challenged and finally overturned the segregation laws. Sikora, an Alabama journalist since the mid-1960s, interviewed Judge Johnson on numerous occasions over a thirteen-year period. Roughly one-third of *The Judge* is in Johnson’s own words.” — JOHN EGERTON, *Southern Changes Magazine*

“*The Judge* gives an inside look that blends court transcripts, reporting, and exhaustive oral history interviews with Judge Johnson, originally conducted over the course of years from 1976 to 1989. A no-nonsense look behind the scenes of the courtroom, and a welcome contribution to biography as well as American History shelves.” — JAMES A. COX, *Midwest Book Review*

THE JUDGE

*The Life & Opinions
of Alabama's
Frank M. Johnson, Jr.*

FRANK SIKORA

INTRODUCTION BY
HON. WILLIAM J. BRENNAN

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PART I

‘Walk Together, Children . . .’

THE MONTGOMERY BUS BOYCOTT, 1955–1956

CHAPTER I

Wednesday, March 2, 1955, was balmy and spring-like in Montgomery; the magnolia trees were in bloom, and around the Alabama State Capitol building, jonquils lined the winding sidewalks. But the sun was hazed by gathering clouds that signaled rain or thundershowers by nightfall. That afternoon, as usual, black students from Booker T. Washington High School stood along the cobblestone streets downtown waiting to catch a bus home. Among them was Claudette Colvin, a sophomore, age fifteen, a slim girl standing five-foot-three and weighing about one hundred and fifteen pounds.

She boarded the Highland Avenue bus, made her way to the back, noting the seats for “Colored” were full. However, the last seat in the “White” section was vacant. She hesitated a moment, then suddenly sat down there. A short time later, a pregnant black woman named Hamilton followed and sat beside her.

It didn’t take the driver, Robert Cleer, long to spot them in the rear view mirror. He ordered them to stand and let a white woman have the seat. In those days, Southern bus drivers had almost as much power as police officers. But on this day, the two blacks remained in the seat.

Angered, Cleer parked the bus and summoned police. Minutes later officers Paul Headley and T. J. Ward came aboard and made their way down the aisle. After some exchange of words, a black man stood and Mrs. Hamilton moved and took his seat in the “Colored” section. Miss Colvin, however, remained. The officers warned her that she was in violation of state and city codes which declared there was to be segregated seating. (“It’s the law,” one of them said.)

Still, she didn’t move. Then, according to the police report filed later, she “struggled and kicked and scratched” as they forcibly pulled her from the seat and removed her from the bus. Sobbing, she was handcuffed and taken to jail.

The incident had occurred near the heart of downtown, called Court Square. It was just down the street from the imposing Capitol where Jefferson Davis had been inaugurated president of the Confederacy. The square had once been the site of the county courthouse; a century earlier, it had been the city's main slave auction block.

Miss Colvin was booked, held in jail for a short time, then released on bond. She would later be tried in city court, found guilty and placed on probation, a ward of the state.

Her solitary protest on that bus had come nearly a century after a civil war and laws that were supposed to give black people full freedom. It would be the first salvo of what would become a legal-social revolution. The Thirteenth, Fourteenth and Fifteenth Amendments of the Constitution had ended slavery, given blacks citizenship and the right to vote. Yet, one decision by the Supreme Court of the United States effectively froze those laws and the rights they carried.

It was the 1896 case styled *Plessy v. Ferguson* in which the court upheld the State of Louisiana's right to segregate its public transportation facilities. But far more sweeping was the doctrinal trend it carried—separate but equal.

That case allowed Southern politicians and Southern society to oppress blacks along every avenue of day-to-day life, restraining them as second-class citizens. "Separate but equal" became the misguided beacon for life in the South and would go unchallenged for more than half a century.

But Miss Colvin, the school girl, would contest it, and so would others after her. Her action was the beginning of what would become the most dramatic American story in the post-Civil War century. This plaintive cry for full freedom was not unlike that which had sparked the War Between the States nearly a hundred years before. And the backlash against it would be much the same as the terror that flamed across the Southern states during Reconstruction.

At the time, it seemed unlikely that Miss Colvin's arrest could in any way be affected by Frank Minis Johnson, Jr., then thirty-six years old. Johnson was a resident of Jasper, a coal-mining town in Walker County. He was also the United States Attorney for the Northern District of Alabama, with his main office in Birmingham. Montgomery was in the Middle District, out of his territory. Johnson was a tall, rangy man, standing six-foot-two and weighing

a hundred and eighty pounds. He had thick brown hair which sometimes fell over his right forehead; the cheekbones were high, the jaw firm; his nose was long and hawklike; his brown eyes were narrow and piercing, glinting darkly when he was riled, twinkling when he found something amusing. There was something of the frontier about the man. He liked country music and buck dancing. He hated hunting, but loved to spend a cool spring morning fishing.

Like most attorneys, he knew change was coming across the land. The year before, in May of 1954, the U.S. Supreme Court had decided in *Brown v. Board of Education* that racial segregation in the public school systems was unconstitutional. It would only be a matter of time, he felt, before the effects of that ruling would cut across the entire social, political and economic fiber of the country.

Johnson hadn't heard the first thing about the arrest of the black girl on the Montgomery bus. But fate would put Johnson and Miss Colvin on a course that would ignite the start of dramatic change to the Southern way of life.

On June 6, 1955, U.S. District Judge Charles Kennamer of Montgomery, the lone judge in the state's Middle District, died at the age of eighty-four. Almost from that instant rumors began that Johnson would be considered to fill the vacancy. A few days later he received a telephone call from the Republican party chairman in Alabama, Claude Vardaman, who asked if he would be interested in the job. Johnson said he would be.

JOHNSON:

At that time I was a rather scarce item in Alabama—a Republican. My family came from Winston County, in the northwest section of the state, a county which had historic ties with the GOP dating back to the Civil War. We were what I call Lincoln Republicans. I had played a small part in politics; I hadn't sought any elected office myself. When Dwight Eisenhower ran for president in 1952, I had headed the Alabama Veterans for Ike and had been a campaign worker for him. In the national convention in 1948, I had been a delegate.

When Ike was elected president, he chose me in 1953 to be the United States Attorney for Alabama's Northern District. I had not planned to make a career of federal service. I figured I'd be back in

private practice in a few years. But when the judgeship came open, it put a different slant on my future. It was a lifetime appointment. Most lawyers desire, I think, to be a federal judge. I was no different.

On September 26, 1955, Eisenhower suffered a heart attack while in Colorado; things like naming federal judges took a back seat. Then, on a Saturday night in late October, Johnson received a telephone call at his home in Jasper, Alabama, about forty miles northwest of Birmingham. The caller was a reporter from the *Birmingham News*.

"Mr. Johnson," the reporter said, "we have an AP story out of Denver here that says President Eisenhower has named you the federal judge for the Middle District of Alabama. We want to know what your reaction is."

"I haven't heard a thing," Johnson said. "You guys know more than I do."

"It's an authentic story," the reporter said.

"Well, if it's true, then you can just say that I am very pleased," Johnson said.

The following Monday, the Justice Department called him to confirm the report. The job was his. He was asked when he could take over and he replied, "I'll go to Montgomery as soon as I can, but I still have one very important bank robbery case up in Anniston to be prosecuted."

On November 7, 1955, eight days after he had turned thirty-seven, Johnson and his wife, Ruth, and their son, Johnny, eight, whom they had adopted at infancy, drove to Montgomery for the ceremony inducting him as a federal judge.

A city of 123,000, Montgomery was the heart of the Alabama Black Belt, the old plantation section curving across the middle of the state from Georgia to Mississippi, an area where cotton was still king. In the autumn months, before the harvest was complete, the cotton looked like snow lying on the reposing, amber meadows. On the low horizon were narrow hardwood thickets, aging fences and stately mansions which contrasted sharply with the shanties where the black tenants lived.

Most of those blacks, as well as those living in places like Selma, Union Springs, Marion and Tuskegee, could not vote, could not serve on juries, could not run for political office, could not get a Coca-Cola at a soda fountain and

drink it there, had separate but unequal water fountains and restrooms at public places, and could not go to the same school as white children, not to mention that they had to ride in the back of public buses and stand while white people sat.

In Alabama and other Southern states, “separate but equal” was more than a malady in the education system: it was woven through the entire fabric of life, touching every aspect of society. Johnson was not sure the nation would ever really comprehend what it did to the black people who endured it all those years. Slavery might have ended nearly ninety years earlier, but in 1955 the black people living below the Mason-Dixon Line truly were not free. . . .

JOHNSON:

I took the oath of office at 10 A.M. that day. Ruth and Johnny stayed for lunch, then drove back to our home in Jasper. Until school was out and we could buy a home in Montgomery, I would stay with my parents who had lived in Montgomery since World War Two, and Ruth and Johnny would stay in Jasper. There was concern among the local people about me being the new judge; the Montgomery newspapers referred to me as an outsider, “a foreigner” from the hill country of Northwest Alabama; even called me a Yankee.

It went back to my Winston County heritage. During the Civil War, Winston had refused to fight against the Union and had, in effect, “seceded” from the State of Alabama. Most of the men there and in Fayette County, including great-grandfather James Johnson, had fought for the Union. Only a few people in Winston had owned any slaves. When I was growing up in the 1920s and 1930s, I remember only about a dozen black families in the whole county, so the caste system that marked much of life in the South was not a part of my upbringing. I just never thought about it in terms of racial discrimination (even though the few black families who lived there were not able to send their children to the same school as whites).

He was still getting settled into the new job when the sputtering fuse lighted by Claudette Colvin’s arrest ignited a powder keg of human discontent.