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### The Civil Rights Judge: Taming the Storm: The Life and Times of Judge Frank M. Johnson

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## The civil rights judge

*Taming the Storm: The Life and Times of Judge Frank M. Johnson, Jr. and the South's Fight Over Civil Rights*, by Jack Bass. Doubleday, 1540 Broadway, New York, N.Y. 10036, 800-223-6834 x9479 (New York residents, call 212-782-9479). 1993. 512 pages. \$24.95 cloth, \$14.95 paper.

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by Howard O. Hunter

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Judge Frank M. Johnson Jr. is a tall, raw-boned man who came down from the hills of north Alabama to Montgomery, the heart of the old Confederacy, to make a lasting mark on the desegregation of the South. How did a white man with roots deep in the South, who was educated in the segregated schools and colleges of Alabama, who was a law school classmate and one-time social acquaintance of George Wallace, come to be so revered among the leaders of the civil rights movement that his likeness is next to that of Dr. Martin Luther King Jr. in a mural at the Dexter Avenue Baptist Church in Montgomery? That was Dr. King's church, the nerve center of the Montgomery bus boycott and the birthplace of King's nonviolent crusade for social justice.

*Taming the Storm*, a biography of Judge Johnson, follows the judge's life in roughly chronological order until his appointment to the federal bench by President Dwight Eisenhower in 1955. Thereafter, the book is based more upon the major cases that have come before him in more than 35 years on the bench, first as a federal district judge and since 1979 as a member of the U.S. Court of Appeals (for the Fifth Circuit and later for the Eleventh Circuit).

The author, Jack Bass, is a well-known journalist who has written extensively about the civil rights movement. Judge Johnson, his wife Ruth, his longtime secretary, his law clerks,

and other colleagues worked closely with the author. In this sense, the volume is an "authorized biography."

Judge Johnson was reared as one of that small, hardy band of individualistic Republicans who inhabit the mountains of the South. His ancestors resisted secession and never accepted the racial politics that dominated the South for a century after the Civil War. Johnson and a few other judges used the enormous power of the federal judiciary to decide cases that gave legal status to the moral cause of the civil rights movement.

From struggling young lawyer to prosecutor to judge, Johnson matured during the most momentous period of social change in 20th-century America. He used his talents and powers as agents of that change, and, in so doing, helped create a revolution. Given the opportunity, he made state and local governments breathe life into the equal protection and due process clauses of the Constitution. Many of the cases that came before him presented the grand issues of constitutional law, such as voting rights, speech and assembly rights, privacy rights, and due process rights to fair and humane treatment at the hand of the government.

While dealing with the great issues

of his time in a public forum, Johnson had to deal with equally difficult problems of personal and professional disappointment. Neighbors shunned him and his family (although there were close allies on the bench and among those Southerners who were committed to racial justice). The judge's only child, an adopted son, was mentally ill and eventually committed suicide. An obvious candidate for appointment to the Supreme Court, Johnson was excluded from consideration as part of President Richard Nixon's "southern strategy" to win over the votes of those Southerners who were opposed to the civil rights movement. Later nominated by President Jimmy Carter to direct the FBI, Johnson had to withdraw because of a life-threatening illness.

## A superficial chronicle

Judge Johnson's life story is the stuff from which great biographies are made. There are so many themes to explore: the tensions between hill country Republicans and the Democrats of the piedmont plateau and coastal plain; the role of the federal courts in the civil rights movement; the personal life of tragedy and estrangement from neighbors; the power of the federal judiciary. An effective biography would bring these grand themes alive and take the reader on a journey of exploration. Unhappily, all the reader gets from *Taming the Storm* is a superficial excursion. The book is interesting—the stories are too great for it not to be—but there is no depth, only a loosely connected description of events enlivened at times by verbatim transcripts from lengthy interviews with Judge Johnson. The author's survey of Johnson's life is essentially uncritical. Although the book is good for light reading, readers will have to wait for serious biography.

A lawyer, for example, might be interested in a consideration of Judge

Johnson's use of the vast powers of a chancellor in equity to devise remedies for civil rights complainants or to overhaul Alabama's mental health system. His use of the power may have been prudent, but what controls exist to protect against the unwise, insensitive, or imprudent judge who is tempted to employ those powers to the fullest? One concerned with judicial ethics might want a closer examina-

tion of a story about an ex parte meeting between Judge Johnson and then state Judge George Wallace in connection with a case before Judge Johnson in which Wallace was an interested party. Perhaps Judge Johnson was no more than polite to Wallace as the book suggests, but should there even have been such a meeting?

The list could go on of intriguing issues worthy of serious consideration.

Thomas Jefferson had Dumas Malone and Abraham Lincoln had Carl Sandburg to tell their stories. Judge Johnson and those interested in civil rights, the South, and the federal judiciary have not yet been so blessed. □

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