

A Week That Revived Slapstick Comedy

By Tom Johnson, Editor
 Montgomery, Ala., Independent
 This was the week that brought slapstick back to life. In a courtroom, in Congress, in the White House, on the streets of Montgomery and a United States highway, the civil rights drive brought out a collective absurdity that can't be duplicated again any more than a comedian can duplicate the splatter from a pie in the face.

The tone was set last Monday night when President Johnson, unveiling a revolutionary voting law, admonished demonstrators that "the right of free speech does not carry with it the right to endanger the safety of others on a public highway." It seemed that he was counseling against the march from Selma to Montgomery.

Two days later, Judge Frank Johnson, Jr., decreed that the Negroes have a "legal and constitutional right" to march from Selma to Montgomery on a public highway.

Whereupon, President Johnson said: "I am pleased that the issued of the Selma-Montgomery march has been determined in the courts. As I have said many times before, this is where the issued should be settled."

That statement was as dizzying as a double exposure.

The same day — last Monday — 500 demonstrators with out a parade permit plopped to the pavement when stopped by Montgomery police. Asst. Chief D. H. Lackey tried to talk to them.

"We're praying now," one of the demonstrators told Lackey, "You think you're better than God? Keep the hell quiet."

One thing the week proved was that the principal streets of Montgomery are not essential to the movement of vehicular traffic. There were several marches or abortive marches on the Capitol that stopped or rerouted traffic.

Dr. King led 1,500 down Washington Avenue to pack the block in front of the court house.

A white outfit called the "State Headquarters Organization for Better Government" marched about 300 strong up Dexter to a point in front of the Capitol. It was crowded, because there ahead of them were 90 Negro demonstrators with their own protest going.

When the Negroes were arrested for parading without a permit, about 300 other demonstrators set off for city hall to protest the arrest. City officers had to head them off.

The same white group then marched again Saturday to the Federal building to let Judge Johnson know what they thought of his order approving the Selma march. And any minute, from any direction, Negro demonstrators might take off up the street.

One scene to be remembered took place while President Johnson was on television last Monday night. Several hundred demonstrators were characteristically on the pavement while an ambulance with wailing siren was trying to get through.

Suddenly, a young demonstrator thrust a transistor radio to the P. A. system — and above the siren, the sound of officers on horseback trying to clear a way for the ambulance, and the chant of the demonstrators, Johnson's twang floated forth imploring Congress, in effect, to "pass this one for me you're lovely President."

It developed at another point that the efficacy of prayer is relative to the altitude of the supplicant. Fifty white preachers who are in town protesting

Montgomery medievalism went to the Capital to pray on the steps.

Denied access to the steps, they refused to pray on the street or sidewalk. Finally, at 4 in the morning, a "compromise" was worked out with the State Troopers, and the preachers were permitted to kneel on the lower steps leading up to the Capitol. Eighteen inches closer to heaven, they prayed at last.

It was Judge Frank Johnson's order approving of the Selma march that set off a new phase of grotesqueries. Approval of the march itself was surprising, but the supporting arguments contained in Judge Johnson's memorandum opinion may constitute a new theory of law — that a citizen's rights are proportional to the wrongs done against him. And contrarily, it may be, if he has not been wronged, he has no rights.

Said Judge Johnson: "... It seems basic to our constitutional principles that the extent of the right to assemble, demonstrate and march peaceably along the highways and the 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."

Judge Johnson recited the voter discrimination in "several counties in central Alabama," and the "harassment, intimidation and brutal treatment" of demonstrators by white lawmen.

He also touched on the "conflicting interests of society" — meaning in this case the right of motorists to use the highway as balanced against the demonstrators' right to march upon it in protest.

Having set up the proposition, Judge Johnson set about to draw the "constitutional boundary line" between society's conflicting interests. He moved it as far as he could to justify the march.

"It is recognized," Judge Johnson wrote, "that the plan as proposed and as allowed reaches... to the outer limits of what is constitutionally allowed. However, the wrongs and injustices inflicted upon these plaintiffs and the members of their class... have clearly exceeded—and continue to exceed — the outer limits of what is constitutionally permissible."

It seemed that Judge Johnson was saying that a citizen, when repeatedly denied his normal rights, is entitled to extraordinary compensatory rights—as in civil suits a sum is often awarded for actual damages and frequently larger sum is awarded as punitive damages.

In another context (this week only), compensatory rights might work this way: If you are repeatedly and wrongfully arrested for speeding, perhaps beaten by the arresting officers and otherwise are made miserable

while trying to drive your car, you are entitled to relief.

This relief would consist, not merely of being allowed to drive without harassment at the normal speed limits but of floorboarding it through town.

In this case, the officers who had wronged you would be directed to clear the streets and sidewalks of other motorists and pedestrians while you revved her up and poured down Main street at jet speed — the speed being commensurate with the wrongs done to you.

Judge Johnson's opinions had another feature that fit with the out-of-focus character of the week. The following:

"... plaintiffs' proposed march from Selma to Montgomery... is clearly a reasonable exercise of a right guaranteed by the Constitution of the United States provided the march commences not earlier than March 19, 1965, and not later than March 22, 1965."

The proviso, which seems strangely contradictory, apparently means that the demonstrators have a clear constitutional right to march this month but they didn't have it last month and won't have it next.

In supporting his decision, Judge Johnson referred to the Constitution as "a flexible and 'living' document." It may be since four years ago the judge seemed of a different mind in a case involving conflicting interests of society.

The riot at the bus station involving Freedom Riders and a white mob had just taken place. Judge Johnson snapped off an injunction that lumped into one remarkable and squirmy package the city police, the Klan, CORE and such individuals as Klan leader Bobby Shelton and Negro leaders Ralph Abernethy and Dr. Martin Luther King.

He ordered the police to provide protection, the Klansmen not to interfere and the Negro groups to lay off.

He directed the Negro groups and individuals to stop "sponsoring, financing, assisting or encouraging any individual or individuals in traveling in interstate commerce through or in Alabama for the purpose of testing the state or local laws as they relate to racial segregation."

Judge Johnson reasoned that "those who sponsor, finance and encourage groups to come into this area with the knowledge that such publicized trips will foment violence... are just as effective in causing obstruction to the movement of bonafide bus passengers as are those defendants named in the government's suit (the police and klansmen)."

Even though the Negroes' agitation was within the law, "the right of the public to be protected from the evils of their conduct is a greater and more important right."

Orally, Judge Johnson deliv-

ered a line that will be remembered: "If there are other such occurrences (as the bus station riot), I'm going to put some klansmen, some police officials and some Negroes preachers in the United States penitentiary."

But be that as it may (as tired lawyers and editors say), Judge Johnson cut a coat to fit the present march, and his old friend, Gov. Wallace, went before the legislature.

In 1963 when Gov. Wallace was attempting to stave off integration at the University of Alabama, he laid about, protesting the federalization of the National Guard. The State of Alabama was entirely capable of keeping order, he said, and the dispatch of troops was abominable.

Last week, before a joint session, he called on the President to "provide sufficient officers to guarantee the safety and welfare of citizens in and around the route (or march)."

The federal government has created this matter," he said, "they can help protect the same." It was an invitation to federalize the troops.

Gov. Wallace said it would take 6,171 men, 489 vehicles and 15 buses to provide security for the march — and the most the state could scrape up were 300 State troopers and 150 ABC and Conservation Department officers.

Johnson might have thought this right down his alley —

a Southern governor giving him an open invitation to send the troops. But Johnson was peevish. He said Wallace had 10,000 guardsmen at his call.

"If he is unable and unwilling to call up the guard and maintain law and order in Alabama, 'I will call the guard up and give them all the support required.'"

Gov. Wallace had one other message for President Johnson that day — it also fits with the week. Following tornado damage in Northwest Alabama, Wallace asked Johnson by telephone to declare that area the victim of a "major natural disaster" and make available all federal aid. Apparently Johnson did so, because the appropriate federal agency has set up shop in Northwest Alabama to receive applications for aid.

In turn, Wallace must have hooted when he got a telegram from Hosea Williams, one of King's lieutenants in the Selma commotion.

Williams just wanted to tell Wallace what the State of Alabama should have ready to service the marchers.

"State responsibility can be met adequately" the wire read, "by providing the following needs: Six equipped ambulances, two mobile aid stations, nine 300-gallon water trailers, portable toilet facilities, two rubbish disposal trucks and containers, mobile radio communications for

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