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1 Mr. Figures. Well, Mr. Kimbrough's remark obviously
2 came prior to Mr. Sessions' remark pertaining to these
3 matters.

4 At the time that the administrations changed,
5 Senator, Attorney General William French Smith continued a
6 policy that had been implemented during the Carter Admini-
7 stration, saying that there would not be wholesale removal
8 of assistants solely because of political reasons.

9 I took that at face value. There were two assistants
10 who came in under Carter. And I felt that if the other
11 assistant could stay, without any pressure to leave, then
12 I felt that I could stay without any pressure to leave.

13 Additionally, there was a much more overriding purpose.
14 At the time that Mr. Sessions came in, there were two cases
15 to which I was assigned that I wanted to see through to
16 some type of meaningful conclusion. One was the Michael
17 Donald matter. I made a commitment to myself to stay there
18 until such time as I saw Tiger Knowles [phonetic] sentenced.
19 Tiger Knowles was one of the major participants in the
20 crime.

 The second professional objective that I had was to try
to bring a civil case that I was working on, a class action
civil case which challenged FHA loan servicing regulations,
of servicing in Alabama, to some type of settlement fashion.
The case had been around for a long time, and those were my

1 two professional objectives for staying.

2 Senator Kennedy. Mr. Chairman, could we get some idea
3 of how we are going to deal with the time of the other
4 witnesses on this?

5 Senator Denton. Yes, sir. They put him first, and he
6 is the key guy.

7 The Chairman, when he was questioning the first time,
8 went on for quite some time before he continued. And in view
9 of the selectivity with which I have seen this portrayed, and
10 the lack of exposure to the Senators on this side except for
11 Mr. Hefner and Mr. DeConcini for a short time, yesterday,
12 I am very anxious about the impression to my colleagues
13 being accurate.

14 So I hope you will indulge me to go through at least
15 one rationale here, which is about the comments on which,
16 in some people's minds, Mr. Sessions has already been
17 convicted, before we add to the subjectivity of that.

18 Senator Kennedy. I am just interested in finding out
19 how we are going to proceed.

20 Usually, after the committees get started on a particu-
21 lar occasion, there is discretion obviously of the chair on
22 a particular occasion. But I did not know it was going to
2 apply for every single hearing that we are going to hold.

23 I have interests in inquiring of the witness as well in
24 these matters. And it just seemed to me--and there are other

1 Senators here--who would just like to know. Now it is
2 3:00 o'clock. This witness has been on for about an hour.
3 And to the best of my knowledge, you have had about a half
4 hour of questioning. And I just wanted to find out.

5 Senator Denton. I think we started about twenty after.
6 And since this hearing has been very much occupied with
7 previous considerations of and use of Mr. Figures'
8 information by those opposed to the nomination, I think in
9 the interests of fairness there should be a proportionate
10 time by which he is questioned. And it is about time that
11 he be questioned, I think, considering the importance of
12 what he said.

13 For him, I want him to know that I respect him as a
14 lawyer. I respect him as a man. I think that you are--have
15 been propounding things which, were I you, and perhaps even
16 if I were in your position, I would be propounding also.

17 I might question whether in your zeal you might have
18 gotten very heated at times and might have felt so strongly
19 about this that there might be some lack of objectivity at
20 times in conversations you might have held, and even in the
21 memories that you might hold.

22 Senator Kennedy. Mr. Chairman, I object to that kind--
23 the witness is not on trial here. There has been absolutely
24 nothing that has been suggested as to that kind of conduct.
25 We are not here to browbeat these witnesses. We are here

1 to hear their testimony.

2 Senator Denton. Compared to your interrogation of
3 Mr. Sessions, I think my questioning of Mr. Figures has been
4 very polite.

5 Senator Kennedy. You are trying to characterize the
6 nominee's conduct at some time that is not a matter of public
7 policy. You are talking about some conduct that we can
8 absolutely see no vindication of. You're trying, evidently,
9 to impinge the credibility of the information he is
10 giving.

11 I think there is no basis for that, that I have seen.

12 Senator Denton. I am trying to ascertain the
13 objectivity of the statements that, when Mr. Sessions says
14 something, he is not jesting, no matter what he says, and
15 when the witness who accuses him of that says that he is
16 making a statement in jest, we have to agree with it.

17 Senator Kennedy. Well, what is the answer to the
18 question about when others are going to be permitted to ask
19 questions?

20 Senator Denton. Well, after this line of questioning,
it will be ten minutes apiece, Senator Kennedy.

21 How can you be so certain that, as you say, quote, he
was without question describing his personal and manifestly
deeply felt position?

I ask that because I know men with whom I have gotten

1 into a heated argument like that, and I have said things that
2 I did not mean, and so have they.

3 Mr. Figures. Senator, the only thing that I have to base
4 it on is the manner in which the statement was delivered;
5 the obviously serious look on his face when he said it; the
6 pitch of his voice; the rapidity with which words followed
7 another. There just was no doubt in my mind, Senator, that
8 he meant what he was saying, and he wanted me to get the
9 message. And I got it.

10 Senator Denton. Did you say anything in response to
11 him?

12 Mr. Figures. My recollection is, I was somewhat
13 speechless. I was speechless; not somewhat speechless. I
14 could not think of anything to say.

15 Senator Denton. So the conversation ended about there
16 and you did not make any efforts to persuade him to the
17 contrary?

18 Mr. Figures. No, sir. I think I said, thank you. And
19 he turned around and walked out.

20 Senator Denton. But there was, in other words, some
21 anger felt by you, and resentment?

22 Mr. Figures. Oh, I was not--I was not angry. I was
just somewhat shocked.

It was just unconscionable to me that someone would
say that during this day and time. I did not know how to

1 respond. I did not want to say anything else that would
2 provoke him any further.

3 Senator Denton. Your portion of the statement
4 referring to the Klan pot smoking remark is at substantial
5 variance with testimony received yesterday. Mr. Barry
6 Kowalski told the Committee that his recollection of the
7 incident is that you were not present, and that it was he,
8 Kowalski, who informed you of the humorous comment.

9 He, Mr. Kowalski, also said it was an obvious joke,
10 and you have called it a serious statement with a serious
11 face. I refer again to the cartoon which you participated
12 in making some kind of jest, and your own admission, or
13 your own assertion, that you referred to that subversive
14 NAACP.

15 So it strikes me as bizarre and somewhat convenient
16 for your purposes, and those who oppose Mr. Sessions, that
17 on the one hand there is offense at Mr. Sessions' comments
18 and no offense from yours.

19 You have said--

20 Senator Heflin. Mr. Chairman--

21 Senator Denton. Yes, sir.

22 Senator Heflin. --I would like to state that my
23 recollection of Mr. Kowalski's statement, and the reading
24 of his deposition--in his deposition that he gave, he made
25 the statement that it was to the best of his recollection

1 that Mr. Figures was not present. Then on the testimony
2 here in this Committee he testified that he was not positive
3 and that he did not know.

4 I think the characterization of your question, that
5 Mr. Kowalski says that Mr. Figures was not present, is
6 incorrect in relationship to Mr. Kowalski's testimony.
7 The sum total, as I gather it from the latest expression of
8 Mr. Kowalski was, that he was not certain; he did not know.

9 Senator Denton. I accept that. We do not have a
10 transcript, and it is my recollection that the general
11 feeling expressed by all of them was that he was joking,
12 and I thought it was accurately reported that way.

13 Senator Kennedy. If you could yield just on this point?
14 As I understand from the testimony, Mr. Sessions said that
15 the statement was made, I know, in the presence of Barry
16 Kowalski, who came down from the Department of Justice,
17 Civil Rights Division, to prosecute the case, and my assistant
18 Tom Figures was the lead person in our office. I, in that
19 work, was reading the report and saw that the client had
20 left the meeting and gone out and smoked pot, and I thought
21 it was really kind of, I do not know, bizarre.

22 Senator Denton. I do not think it says that Mr. Figures
23 was there, Senator Kennedy.

24 Sir, I do not believe that that says that Mr. Figures
25 was there, in Mr. Kowalski's view, unless I am hearing it

1 wrong.

2 Mr. Figures, you have said that you annotated the
3 Klan cartoon with a comment that was intended to show just
4 how serious you thought Mr. Sessions' remark was.

5 Did you know that Mr. Kowalski thought that the comment
6 was a joke, and that he has so testified?

7 Mr. Figures. I was here, yesterday. I heard Mr.
8 Kowalski's testimony.

9 Senator Denton. So you knew it then?

10 Mr. Figures. Sir?

11 Senator Denton. You knew that he thought it was a
12 joke; Mr. Kowalski?

13 Mr. Figures. Now, at the time that the statement was
14 made--

15 Senator Denton. No, I mean that Kowalski thought it
16 was a joke. You knew that he thought it was a joke.

17 Mr. Figures. That is what he testified.

18 Senator Denton. On the original comment.

19 Mr. Figures. Well, his testimony yesterday, I believe,
20 was that he thought it was a joke. But at the time that the
21 statement was made, frankly, it was unclear to me what Mr.
22 Kowalski's true thoughts about it were.

23 Senator Denton. How did you give the cartoon to Mr.
24 Kowalski?

25 Mr. Figures. Senator, my best recollection is that

1 just as a matter of coincidence, I suppose. During the
2 course of the Donald investigation, and shortly after
3 Mr. Sessions made that statement--which, by the way, I heard
4 because I was there; with all due respect to Mr. Kowalski's
5 recollection--I received in the mail that cartoon. A friend
6 of mine sent it to me who lived at the time up towards
7 Anniston. I think it had appeared in an Anniston, Alabama
8 newspaper.

9 I thought it, at that time, very appropriate, an
10 appropriate vehicle for me to use to express my criticism
11 of Mr. Sessions' position regarding the Klan.

12 I wrote that notation on it; made two copies; I gave
13 Mr. Sessions one and I gave Mr. Kowalski one.

14 Senator Denton. All right. Looking at the cartoon
15 again, do you not believe that Mr. Kowalski could take that
16 cartoon as humorous?

17 Mr. Figures. I am sorry, I did not clearly understand
18 the first part of the question, Senator?

19 Senator Denton. I am asking that with what you wrote
20 on there and the content of the cartoon, would you not
21 believe that Mr. Kowalski would consider the thing
22 humorous; not vicious?

23 Mr. Figures. Sir, I am not trying to be evasive. I
24 am not inside Mr. Kowalski's head. I do not know what his
25 thought processes are. I know that I did not consider it a

1 joke. I did not consider it humorous. I did not at that
2 time, and I still do not, Senator.

3 Senator Denton. In just a minute, then, I am turning
4 it over to Senator Kennedy.

5 Moreover, Mr. Figures, is it not true that another
6 Assistant U.S. Attorney in the office, Mr. E.T. Bolison,
7 while working a totally unrelated case, received information
8 that Benny Jack Hayes, the highest ranking Klan official in
9 the Mobile area, had committed arson in an insurance mail
10 fraud scheme, and that Mr. Bolison authorized an undercover
11 investigation which led to the indictment and conviction of
12 Mr. Hayes and his wife?

13 Mr. Figures. I know that that case was assigned to
14 Mr. Bolison. With respect to what Mr. Bolison did in
15 investigating the case, I am not competent to testify to
16 that because I just do not know.

17 Senator Denton. So Mr. Bolison was the assistant to
18 Mr. Sessions, and he prosecuted that case to the end. And
19 is it not also true that the U.S. Attorney's office
20 recommended maximum sentencing for Mr. Hayes, who is now
21 incarcerated in a Federal penitentiary?

22 Mr. Figures. I do not know what we recommended in
that case, Senator. Other than the fact that it was assigned
to Mr. Bolison, and I believe Mr. Bolison tried it, I do not
think it went out on a plea; beyond that, I do not know.

1 Senator Denton. Well, I just cannot believe that you
2 thought that Mr. Sessions really had any liking for the
3 Klan, in commonsense or in the context of your working with
4 him and his assistants in that office.

5 Mr. Figures. Senator, that statement, if taken in
6 isolation, might support your conclusion.

7 But there were other statements and actions, during
8 the entire four years that I was there, which aided in
9 forming my conclusion with respect to his position on the
10 Klan.

11 Senator Denton. Well, I respectfully submit, had I
12 known a U.S. Attorney for whom I was working had a liking
13 for the Klan, I would not only retire, but I would blow
14 the whistle on him right away.

15 Senator Kennedy?

16 Senator Kennedy. Mr. Kimbrough was referred to earlier.
17 Was he the U.S. Attorney, was it?

18 Mr. Figures. Yes, sir.

19 Senator Kennedy. And I expect that after the change
20 of the administrations, he was replaced; am I correct?

21 Mr. Figures. Yes, sir.

22 Senator Kennedy. And that is generally the procedure.
So around the country, very few are retained, some for brief
periods, who are involved in major cases; but by and large
the practice has been to replace them.

1 You in your testimony describe also comments regarding
2 the Ku Klux Klan remark which Mr. Sessions made during the
3 Donald case.

4 Now, in response to Senator Denton's question, you
5 indicated that there were other actions or statements that
6 were made during the period that you were in the U.S.
7 Attorney's office that led you to draw this conclusion.

8 Were those statements the statements that were made
9 with regards to the Ku Klux Klan, and also about, he must
10 think he's in New York and this is Alabama, and the other
11 testimony, which I guess was in your statement but you
12 have not commented upon, and that is about, be careful what
13 you say to white folks?

14 Mr. Figures. Yes, sir; those type of statements.

15 Senator Kennedy. Were there other statements as well?

16 Mr. Figures. Yes, sir, Senator; there were others.
17 You know, I was regularly called, boy. And if you grow up
18 in the South, perhaps in the border states, you know what
19 that means.

20 Senator Kennedy. When were you called "boy"? When
 you were involved in being Assistant U.S. Attorney?

21 Mr. Figures. Yes, sir.

22 Senator Kennedy. And who called you "boy"?

23 Mr. Figures. Mr. Sessions did; one or two of the
24 other assistants.

1 Senator Kennedy. And what did you say when they
2 called you--used that term? Did you ever say anything to
3 them? Did you ever say, knock it off, or quit it?

4 Mr. Figures. Senator, I felt that if I had said
5 anything or reacted in a manner in which I thought appropriate
6 I thought I would be fired.

7 I always felt that my position was very tentative
8 around Mr. Sessions.

9 I had developed these two case goals. And I said I was
10 going to finish that. Private practice was always in the
11 back of my mind. And I said when those got into a position
12 where I could leave, I would leave.

13 There were also financial considerations. I was not
14 sure that I could make the financial transition.

15 Senator Kennedy. To your knowledge, did he ever refer
16 to any other Assistant U.S. Attorney or any other person
17 as "boy" in your presence?

18 Mr. Figures. Not in my presence.

19 Senator Kennedy. What did you think Mr. Sessions
20 meant by the remark, referring to you, he must think he's
21 in New York, and this is Alabama?

22 Mr. Figures. My best recollection is that I had declined
23 to accept his recommendation that a particular civil rights
24 case not be further investigated. And my interpretation was
25 that he obviously thought that there were different standards

1 of justice. Some applied in New York and elsewhere; others
2 applied in Alabama; that I had better take the Alabama
3 interpretation.

4 Senator Kennedy. Were there any other Assistant U.S.
5 Attorneys who were black who were in the--at the time you
6 were there?

7 Mr. Figures. No, sir.

8 Senator Kennedy. You were the only black Assistant
9 U.S. Attorney?

10 Mr. Figures. Yes, sir.

11 Senator Kennedy. In your testimony you have some
12 comments about, be careful what you say to white folks.

13 Were you surprised that Mr. Sessions would make such
14 a statement?

15 Mr. Figures. At the time that he made it, no.

16 Senator Kennedy. Why not?

17 Mr. Figures. Because other statements had preceded
18 that, which suggested that he was capable of saying such.

19 Senator Kennedy. Did you hear that--I believe, to the
20 best of my knowledge--when he was asked about the use of the
21 words, that phrase, he said, I believe, that he just used
22 the word "folks," not "white folks."

Mr. Figures. That is not true, Senator. He said,
"white folks."

Senator Kennedy. And you remember that occasion?

1 Mr. Figures. Yes, sir.

2 Senator Kennedy. While you were an Assistant U.S.
3 Attorney working for Mr. Sessions, did you ever receive a
4 performance evaluation from Mr. Sessions?

5 Mr. Figures. Yes, sir, I received annual performance
6 evaluations.

7 Senator Kennedy. Do you know what the rating was?

8 Mr. Figures. The last two ratings were excellent,
9 but that standing alone bespeaks some other things.

10 The '84 rating, as I recall, Mr. Sessions wanted to
11 rate me in a manner that I did not think was fair; and I
12 resisted. And he changed it such that the overall rating
13 was excellent.

14 The last rating that I received, he wanted to rate me
15 the same way, in that particular category.

16 Senator Kennedy. What category is that again?

17 Mr. Figures. He had some kind of problem with
18 relationship with clients and others. My conclusion is
19 that if you ever become considered for a U.S. Attorney or
20 something like that, you know, people would look at that
21 category, relationship of clients and others. For some
22 reason he wanted to rate me in that category in a manner
23 that I thought unfair.

24 The last time that he chose to do it, I just resisted,
25 and I told him that I would appeal. There is an appeal

1 procedure to the executive office for U.S. Attorneys with
2 regard to ratings. You have 10 days within which to appeal.
3 On the tenth day, he called me at home, and he said that he
4 would change it because I might tell the U.S. Attorneys--
5 Executive Office of the U.S. Attorney's office something
6 else. Or you might have some other things you want to tell
7 them too. And I do not want to fight about it. So he
8 changed it.

9 Senator Kennedy. What did you understand those other
10 things to be, that you think he was most concerned about?

11 Mr. Figures. The type of things that I have described
12 in my statement. And--well, basically, those types of
13 things.

14 Senator Kennedy. I have no further questions.

15 Senator Denton. Senator Heflin.

16 Senator Heflin. Just from a point a clarification,
17 since the record is a little confused on Mr. Kowalski as to
18 whether Mr. Figures was present on the statement, my staff
19 has pointed out to me on page 81, and then on page 56 of
20 the record, that Mr. Sessions says that Mr. Figures was
21 present, along with Mr. Kowalski at that time. So just to
22 clarify that.

23 Mr. Figures, this statement about New York and Alabama,
24 and in your statement--

25 Senator Denton. Excuse me, Senator, can you give us

1 the page numbers? Are you referring to the first day's
2 testimony by Mr. Sessions, or are you referring to Mr.
3 Kowalski's own testimony?

4 Senator Heflin. Page 81, which includes Mr. Sessions,
5 and 56, which I assume is the same thing.

6 Senator Denton. Is that the first day's testimony, sir?

7 Senator Heflin. Is that what it is? I am so informed.

8 Senator Denton. There was other testimony yesterday--

9 Senator Heflin. It is hearsay to me, but that is what
10 staff said.

11 Mr. Figures, on your statement on page 3 in which you
12 read, I believe verbatim, that is the result of a disagreement
13 between Mr. Sessions and myself regarding the handling of a
14 particular case. Mr. Sessions said, referring to me, he must
15 think he is in New York. This is Alabama.

16 That language would indicate to me that that was not
17 said to you directly; it was said to someone else.

18 To whom was it said?

19 Mr. Figures. Linda Nelson.

20 Senator Heflin. Linda Nelson? Who is Linda Nelson?

21 Mr. Figures. Secretary to the U.S. Attorney.

22 Senator Heflin. Secretary. Were you--did you hear it?

23 Mr. Figures. Yes, sir.

24 Senator Heflin. You heard it?

25 Was there any specific circumstances? I mean, did Mr.

1 Sessions know that you were present? Or later you referred
2 to something in regards to what you had overheard. Would
3 you give us a little more of the details of the factual
4 situation in regards to that statement?

5 Mr. Figures. Judge Heflin, I had been in Mr. Sessions
6 office, discussing, as best as I can recall, a criminal
7 civil rights matter. I cannot remember the name, or anything
8 like that. And he had suggested that he thought the case
9 ought to be declined on before it went up to Washington.

10 I recall disagreeing with that. And told him that if
11 he felt that way, I preferred not to handle it.

12 The conversation ended on somewhat of a, I think it is
13 fair to say, heated level. And he opened his door for me to
14 walk out.

15 Linda Nelson's office adjoins his office. And by the
16 time I got to the door of Linda Nelson's office, he was
17 walking behind me. And he was standing in Linda Nelson's
18 office. And he said, he must think this is New York; this
19 is Alabama.

20 Senator Heflin. Now, I believe Mr. Sessions testified
21 that he thought that remark was in connection with the
22 Sammy Murry case. But you say that it was not; it was
23 another case.

24 Mr. Figures. It was not--I do not recall it being
25 made in connection with the Sammy Murry case, Judge.

1 Senator Heflin. All right. So now--

2 Senator Denton. Excuse me, Senator Hefner. If you will
3 defer on a question which has been raised so many times.

4 I have read page 56 and page 81 to which you referred,
5 and I do not find, as yet, any verification that anyone said
6 that Figures was in the room. But I just wanted to get it
7 straight in my own mind.

8 Senator Heflin --indicate that you mentioned to
9 Barry Kowalski, Civil Rights Division attorney from
10 Washington, who spearheaded the prosecution of the Klansmen
11 hanging of a black man, the report of the Klansman smoking
12 marijuana which you think you read in the presence of, I
13 understand, at the moment you made the statement, that
14 was referenced before Mr. Kowalski and your assistant, Mr.
15 Figures, was also in the room.

16 Senator Denton. Period.

17 Senator Heflin. Period.

18 Mr. Figures is a black man, is he not?

19 Senator Denton. Question mark.

20 Senator Heflin. Yes.

21 Senator Denton. Answer, yes, he is a black man.

22 Senator Heflin. Well, I--

23 Senator Denton. He did not answer any question about
Figures being in the room.

24 Senator Heflin. I do not see any qualification following

1 the yes?

2 Senator Denton. All I ask is that you read it. I
3 understand that at that moment when you made the statement
4 that was referenced before, Mr. Kowalski and your assistant
5 Mr. Figures was also in the room, period. Mr. Figures is a
6 black man, is he not? Mr. Sessions: Yes. He is answering
7 the question of whether or not Mr. Figures is a black man.

8 Senator Heflin. Well, that depends on whether a man
9 would be motivated to--well anyway, I think that should be
10 cleared up. Sort of a scholarly, detailed approach on it.
11 But it is, as I pointed out, here--I believe on page 56 also
12 that it is also stated that--.

13 Senator Denton. There's another period there, Senator
14 Heflin.

1 Senator Heflin. Well, further on the page--

2 Senator Denton. It goes on there and says, and
3 my assistant--excuse me; I did not mean to interrupt you,
4 sir. Go ahead.

5 Senator Heflin. Well, further on that page Senator
6 Biden comes along.

7 Senator Denton. Ah, but that is Senator Biden coming
8 along.

9 Senator Heflin. And right below that, Senator Biden,
10 yes, and the statement that you allege to have made was,
11 those bastards, I used to think that they were okay, but
12 they are pot smokers. Now I could see how someone could
13 say that humorously. That does not mean you are defending
14 the Klan, but you do not think it was insensitive to say
15 that in front of a black man after a black man had just
16 been brutally beaten and hung. Do you not think that that
17 was insensitive with a black man sitting there to say that?

18 Senator Denton. What page are you on now, Senator?

19 Senator Heflin. Eighty-one, just following through
20 on what you were quoting.

21 Mr. Sessions replied: Senator, my impression of the
22 situation was it was so ludicrous that anyone could think
that it was supporting the Klan that he would not be offended
by it.

Now I believe any reasonable interpretation would say

1 to this whole line of questioning, if there is any question
2 in Mr. Sessions mind as to whether Mr. Figures was present,
3 he would have brought forth the fact that Mr. Figures was
4 not present.

5 Senator Denton. All right, would you cite the paragraph
6 or page you are talking about there? I do not--

7 Senator Heflin. It is 81, the same page that you were
8 reading from just a few minutes ago.

9 Senator Denton. Yes, sir; and what part of the page,
10 please?

11 Senator Heflin. Well, the "yes" is in the middle of
12 the page. I started reading right below the "yes."

13 Senator Denton. The "yes" is in the answer to the
14 question, Mr. Figures is a black, is he not, question mark.
15 Mr. Sessions: Yes.

16 Now what else do you have?

17 Senator Heflin. I will read it again, following the
18 "yes".

19 Senator Denton. Well, why--you keep referring to that
20 "yes". I do not understand it.

21 And then Mr. Biden says "yes" as if it means that the
22 guy was there, and he asserts that he was in there. But I
do not see Mr. Sessions saying he was there.

23 Senator Heflin. Well, I do not want to belabor it.
But if you will read all of the content of page 81, and tell

1 me--in which their questions--is not directed to the fact
2 that Mr. Figures is not there. And the question of the
3 insensitivity of saying the statement before a black man,
4 and then show me anywhere, with all of that arisen, and on
5 that one page, at least four instances--I believe four--of
6 where there are statements that Mr. Figures was present or
7 that he was a black man, and he was there, and the question
8 of insensitivity to black men, and show me any statement
9 that denied that he was there or that says, "I don't
10 remember," or anything else, I think it is rather clear
11 what that states.

12 Senator Denton. Well, I do not agree with you. But
13 I do not see that there is any positive statement saying
14 he was not there.

15 Senator Kennedy. Would the Senator yield for a
16 question?

17 Senator Heflin. Yes.

18 Senator Kennedy. Kowalski is white; is that right?

19 Senator Denton. Yes, sir.

20 Senator Kennedy. So the references to somebody black
in the room would be a black man?

22 Senator Denton. That is Mr. Biden, Senator Biden's
23 reference.

24 Senator Heflin. I do not know, I am trying to be fair
25 about this thing. I want to give Mr. Sessions a fair

1 hearing. Though he is not my nominee, he is from my State.
2 I want to be fair to him. I want to be fair to everybody
3 else.

4 But I think when we phrase questions, we ought to be
5 fair as to how we phrase it. And that is the only thing
6 I want to say about it.

7 Senator Denton. Senator East?

8 Senator East. I have no questions, Mr. Chairman.

9 Senator Denton. Mr. Figures, before you left the U.S.
10 Attorney's Office, in 1985, had you threatened to resign
11 before?

12 Mr. Figures. Yes, sir.

13 Senator Denton. Do you recall a conversation with
14 Mr. Sessions several years ago in which you were going to
15 quit, and Mr. Sessions asked you to stay on to think about it
16 over the weekend? And do you recall him telling you that
17 he thought you had a significant contribution to make?

18 Mr. Figures. Senator, my recollection of that
19 conversation is that he did not ask me to stay on. He did
20 ask me to think about it over the weekend. But he did not
21 ask me to stay on.

22 My best recollection is that he did not ask me to stay
23 on.

24 Senator Denton. Senator Heflin?

25 Senator Heflin. The procedure relative to the position

1 of the Assistant U.S. Attorney and the U.S. Attorney and the
2 Department of Justice, what is the normal procedure pertaining
3 to this if a--say that you are assigned a case, and you have
4 certain feelings about it. You make those known to the U.S.
5 Attorney.

6 What relationship does the Assistant to the U.S.
7 Attorney? What relationship then does the U.S. Attorney
8 play to the Department of Justice? Who vetoes who, or is
9 it necessary that all be in agreement if the assistant or
10 Attorney General takes a position contrary to the U.S.
11 Attorney?

12 If you would go into that procedure, including the
13 procedure where the U.S. Attorney might take a different
14 position from the Department of Justice? All of this, as
15 to how this works, and who has the final say-say?

16 Mr. Figures. Judge Hefner, it depends on the nature
17 of the case.

18 In civil rights cases, voting cases, criminal civil
19 rights case, pursuant to the United States Attorney's
20 manual, and I suspect other authoritative sources, the
21 United States Department of Justice has ultimate decision-
22 -making authority with respect to whether a case is brought.

23 There are some other cases, type cases, where the
24 United States Department of Justice has ultimate authority.

25 The U.S. Attorney's manual pretty much sets out what

1 the United States Attorney can decide on his own without
2 consultation or approval from the United States Department
3 of Justice, and what he can not. It really just depends on
4 the case, the type of case that it is.

5 Senator Heflin. Now, where the U.S. Attorney and the
6 Assistant U.S. Attorney differ, does the Assistant U.S.
7 Attorney's opinion go to Washington as well as the U.S.
8 Attorney's?

9 Mr. Figures. In the criminal civil rights area, the
10 opinion of the Assistant U.S. Attorney who reviews the
11 matter is generally noted on the report that is sent to
12 Washington; yes, sir.

13 Senator Heflin. Now, what happens when something that is
14 assigned to one assistant and then the U.S. Attorney may
15 take it away from him and put it and give it to another?

16 Mr. Figures. If it is a criminal civil rights matter,
17 ordinarily the opinion of the first assistant would not be
18 included on the report. It would be the opinion of the
19 second assistant who gives the official opinion.

20 Senator Heflin. There would be no requirement that it
21 be there, the first one? Or would there be a requirement
22 that they both be there?

23 Mr. Figures. I have not ever seen a report where there
24 are opinions from two Assistant U.S. Attorneys, Judge.

25 Senator Heflin. There has been some--in your statement

1 or previously it has been asked about declining criminal
2 cases of a civil rights nature. And some statement to the
3 effect that you are quoted as having said, maybe in your
4 statement, you quote Mr. Sessions as saying, I wish I could
5 decline all of them.

6 I do not believe you went into that in your oral
7 statement.

8 Mr. Figures. Judge Heflin, that statement was made
9 in connection with a discussion of the Hodges case. The
10 Hodges case was a criminal civil rights matter, in
11 Evergreen, or Greensboro, or something, I believe, that had
12 a "green" in the name of the city or town, where an individual
13 or a couple had moved into an all-white neighborhood, if
14 I recall. And the home had been shot into.

15 Mr. Sessions assigned that matter to an Assistant--
16 another Assistant U.S.--an Assistant U.S. Attorney other
17 than myself. Apparently, that Assistant--well, I know that
18 that Assistant U.S. Attorney declined prosecution on the
19 case.

20 The case went up to the Department. The Department
21 sent back down an investigative request containing several
22 items that the Department felt should be explored before
a final decision was rendered with respect to the case.

23 Thereupon, Mr. Sessions called me into his office
24 and told me that he had given the case to this assistant.

1 Additionally stated that it was clear to him who had
2 performed the act. But that the Department wanted some
3 additional investigation, and he wanted me to take it over.

4 I indicated to Mr. Sessions that I preferred not to
5 because I had not reviewed it initially. I had not worked
6 with the FBI Agent who was investigating the case; that I
7 would be going over the tracks of someone else; that I
8 just felt it inappropriate for me to take it up after it
9 had been worked between an Assistant and an FBI Agent, and
10 the Assistant that had--you know, I had not benefitted from
11 telephone conversations with the FBI Agent. I know that in
12 working criminal civil rights matters that oftentimes
13 impressions are not included in the report; oftentimes
14 certain witnesses are not interviewed, or if they are
15 interviewed, oftentimes from a strategic trial strategy--
16 well, a trial strategy point of view. You leave certain
17 things out of the report. There is a relationship that
18 engenders, when you work one of these kinds of cases,
19 between you and the FBI Agent. And I had not benefitted
20 from all of that.

21 So I told Mr. Sessions that I preferred not to take it
22 up. He became upset. And my recollection is that he took
23 the Hodges case and he threw it on the desk, and he said:
24 Damn it, I wish I could decline on all of them.

25 Senator Heflin. Decline on what?

1 Mr. Figures. Decline on all of them, referring to
2 criminal civil rights cases.

3 Senator Denton. Would you mind if I asked if he
4 thinks that that was because he was so racist or because
5 Mr. Kimbrough advised him not to take on the other case;
6 it would just get him into trouble?

7 Mr. Figures. Sir, taking the statement in the manner
8 in which it was delivered, the impression on his face, the
9 manner in which his face blushed, I believe that it
10 represented a hostility to investigating and pursuing
11 those types of matters.

12 Senator Denton. I must say that all the Department
13 of Justice witnesses who have testified have said that he
14 was aggressive, and even Mr. Hebert said that he was more
15 cooperative than his predecessor, and took on tremendous
16 workloads by the testimony of a black attorney who knew
17 him very well.

18 And I just wanted to make that observation, Senator
19 Hefner,

20 Senator Heflin. I have no further questions.

21 Senator Denton. Senator East?

22 Senator East. I have no questions, Mr. Chairman.

23 Senator Denton. Mr. Figures, you have made reference
24 to being called "boy". Would you tell us who else was
25 present when Mr. Sessions called you "boy"?

1 Mr. Figures. The first time he did it, he was
2 standing in the doorway of the office to either Jenny
3 Grenade--I believe it was Jenny Grenade's doorway, in
4 Jenny's office, where Jenny--and I believe that E.T. may have
5 been in there, I am not sure. But my recollection is that
6 E.T. and Jenny were in there.

7 Senator Denton. So the first time Jenny Grenade
8 and others might have overheard him--E.T. Romelson [phonetic]--
9 you mentioned, did you not, that there were many times that
10 he called?

11 Other people called you "boy". Who were they?

12 Mr. Figures. Well, the first time it was done,
13 Senator, it was "Ruddy" Farne.

14 Senator Denton. Is he dead?

15 Mr. Figures. Yes, sir.

16 And then subsequently, Ed Volevich.

17 Senator Denton. It seems remarkable to me that
18 since you had responded earlier on to the National Bar
19 Association with adverse testimony regarding Mr. Sessions
20 conduct, remarkable that you would not have mentioned
21 someone calling you boy.

22 I find it, you know, a caricature of reality in
23 Mobile Alabama for one attorney, white, to call a black
24 attorney "boy". I find that incredible that it makes me
25 wonder that others can find it credible, that you would not

1 have objected, unless he was teasing in some way that would
2 have been appreciated by you.

3 But you had this persecution of being called "boy"
4 in the office by Mr. Sessions on a regular basis?

5 Mr. Figures. Senator, as I have have--no, I did not
6 testify, I believe, that he called "boy" on a regular basis.
7 Senator Kennedy asked me if there were other comments that
8 were made.

9 Senator Denton. I am just trying to get it in context,
10 in fairness.

11 Mr. Figures. Yes. I felt very tentative around Mr.
12 Sessions. I had to guard my reaction to things, Senator,
13 because I needed a job at the time. And I wanted to finish
14 the matters that I have alluded to, So I took a lot of
15 things; I just kept it inside.

16 Senator Denton. But why, if you gave adverse testimony
17 regarding comportment you considered unfavorable to him,
18 would you not have mentioned that before now, because--

19 Mr. Figures. I have. I have, Senator. I told
20 Roland Nachman that.

21 Senator Denton. Not the National Bar Association or--

22 Mr. Figures. My recollection is, I told the National
23 Bar Association also. But you know I have no control over
24 what they put or do not put in their report.

25 Senator Denton. Okay.

1 You have a brother who is an elected official; is
2 that correct?

3 Mr. Figures. That is correct.

4 Senator Denton. And do you also practice law with
5 him?

6 Mr. Figures. That is correct.

7 Senator Denton. Would you tell us what party Senator
8 Michael Figures is?

9 Mr. Figures. He is a Democrat.

10 Senator Denton. Do you consider yourself a Democrat?

11 Mr. Figures. I have voted for Republicans in my life,
12 Senator.

13 Senator Denton. Sir?

14 Mr. Figures. There are Republicans that I have voted
15 for. But I consider myself a Democrat.

16 Senator Denton. Do you now, or have you ever, held
17 an official position in the Democratic Party?

18 Mr. Figures. The State Democratic party? The county
19 Democratic--

20 Senator Denton. Any official position in the Democratic
21 party at any level?

22 Mr. Figures. I was vice-chairman of the Mobile
23 Country Democratic Conference, upon returning to Mobile.

24 Senator Denton. Are you aware of the many articles
25 in which it has been alleged that Mr. Sessions appointment

1 of President Reagan was involved in a conspiracy in which
2 I was involved to render black voters intimidated so they
3 would not vote in my election in 1986? If not, I can
4 provide you numerous copies of such newspaper articles?

5 Mr. Figures. I have read those articles, Senator. Or
6 articles of that type; yes, sir.

7 Senator Denton. Are you aware that Democratic and
8 Republican polls over the past months have shown that this
9 Republican Senator has 40 percent support from the black
10 voters in Alabama?

11 Mr. Figures. I am not aware of that, Senator.

12 Senator Denton. Well, for the record, that is the
13 result of the polls.

14 I am sure that that is the effort here, to change them,
15 as you said, Reverend. And that is the effort behind this
16 smear campaign on Mr. Sessions; I think the newspaper
17 articles would indicate that.

18 That is why I am asking about the party affiliation,
19 because as the predecessor to Mr. Sessions, Mr. Kimbrough,
20 allowed, politics is pretty tough down there and we have had
21 some red-hot issues in Alabama politically and racially, of
22 course. We have had the school prayer case with the--very
23 uncharacteristic of blacks, the Muslim gentleman said that
24 there was a violation of separation of church and state;
25 he brought the charge. There's been an affirmative action

dispute, which you have referred to yourself. But bussing matter has been gone through. The school board was full of such controversy. And then the change in form of city government in Mobile was going on all at this time. As Mr. Kimbrough said, it is very difficult for anyone to believe that politics can be separated from anything else.

Are you aware that your brother, Senator Michael Figures, has referred to himself as a rascist?

Mr. Figures. I am not aware of that, Senator.

Senator Denton. Senator Heflin?

Senator Heflin. I have no questions.

Senator Denton. Senator East?

You may stay if you wish, Mr. Figures. You are excused, but would you stay around? Because we might be recalling you.

Okay, the Honorable Hank Sanders, Alabama State Senator, Montgomery, Alabama.

Mr. Sanders. Senator Denton, Judge Heflin, Senator East, my name is Hank Sanders, and I want to thank the Committee for the opportunity of appearing before it to testify on this very critical issue.

I have practiced law in Selma, Alabama, and am a member of the law firm of Chestnut, Sanders, Sanders, Turner & Williams.

I am also a member of the State Senate. And I have been a member of the State Senate for a little over two years and

1 four months.

2 I represent a Senator district composed of eight counties,
3 either all or part of eight countries, that stretch across
4 what is known as the west Alabama black belt. Among those
5 counties are Perry and Green, Lowndes and Sumpter.

6 Before I get into the substance of my testimony, I
7 would like to offer two--copies of two letters that were
8 sent out. One of them is titled a petition, and it is from
9 some elected and appointed officials in Green County who
10 are opposed to the nomination of Mr. Sessions.

11 And I would to have those offered.

12 Senator Denton. You want these included in the record?

13 Mr. Sanders. Yes, sir.

14 Senator Denton. Without objection.

15 [The following was received for the record:]

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1 Mr. Sanders. And the second one is a latter that is
2 signed by 17 of the Alabama legislators who are black, and
3 who are also opposed to the nomination of Mr. Sessions. And
4 I would like to offer it to be a part of the record, also.

5 Senator Denton. Without objection, it is so ordered.

6 [The following was received for the record:]
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1 Mr. Sanders. One other preliminary matter that I would
2 like to speak to before I go further--

3 Senator Denton. Excuse me, would you identify that last
4 one? Did you say that it is from 17 Alabama legislators who
5 are all black?

6 Mr. Sanders. Yes.

7 Senator Denton. You mean in the State government?

8 Mr. Sanders. State legislators.

9 Senator Denton. Okay.

10 Mr. Sanders. Yesterday, Judge McRae said that one of
11 my statements, I believe he characterized it as an outright
12 lie. And I was concerned about that, and I wanted to set
13 the record straight on that. And I believe the question was
14 in response from a Committee member concerning things that
15 were not true that were in my statement.

16 And Judge McRae indicated that my statement indicated
17 that there was no county that had a black minority that had
18 a black elected official. And I want to specifically put
19 that portion of my statement in the record.

20 And I said--just to read it briefly, it is on page
21 three--to fully understand the impact of the voting fraud
22 investigations in my area, it is important to look at the
political landscape. The black belt is composed of 12
counties ranging from 42 percent to 78.2 percent. Eight
of the counties have a black majority.

1 Although the Voting Rights Act was enacted in 1965,
2 electoral processes for blacks have been slow and difficult.
3 Black officials still do not come close to representing
4 these areas proportionately. Of the 193 officials in the
5 black belt, only 76 of them are black. Even this number is
6 misleading, since few of the elected black officials hold
7 higher office.

8 For example, only one of the 12 probate judges is black,
9 and only 3 of the 12 district judges are black. There are
10 no black countywide elected officials in any county that
11 does not have a black majority.

12 And I wanted to put that in there because I was
13 specifically in that statement referring to those 12
14 counties in the black belt, and I stand by that statement
15 as being a correct statement of what the situation is there.

16 Now, there is--the question of the significance of the
17 large number of absentee ballots in Perry County--

18 Senator Denton. Excuse me, sir. On the point that
19 you raised so emphatically about no elected black official
20 where there is not a black majority, that question came
21 up yesterday; I presume you know that, or you would not
22 have been so emphatic in saying that you persist in that
23 statement.

24 I refer to Judge King and Kennedy in Mobile?

25 Mr. Sanders. Senator Hefner--I mean, Senator Denton,

1 what I did, in that statement, I said that we had to talk
2 about the political landscape in our area. And I specifical-
3 ly referred to 12 counties. I specifically talked about all
4 of the elected officials in that area.

5 Senator Denton. Well, you are only referring to those
6 12 counties; attacking that situation?

7 Mr. Sanders. Yes. And I think the statement clearly
8 indicates that that was the only--

9 Senator Denton. I did not mean to imply that it was.
10 I simply did not catch that.

11 Mr. Sanders. Okay. I am sorry, Senator Denton,
12 yesterday when he said that that was an outright lie. I
13 thought that that was a rather strong statement under the
14 circumstance.

15 Senator Denton. It was not noticed that you said only
16 12 counties. You know, they are making up representative
17 government in many parts of Alabama in which that situation
18 is being corrected.

19 Very briefly, the issue of the number of absentee
20 ballots as triggering the investigation has been raised on a
21 number of occasions. And I think it is important that we
22 understand a little bit about Perry County, because that is
23 critical.

24 Perry County is a county that is roughly 60 percent
25 black, and roughly, 40 percent white. It is a county where

1 the elections are just traditionally very, very close; and
2 elections are intensely fought. In fact, I think that if
3 you will check the records, you will find that Perry County
4 has the highest voter turnout in the State of Alabama. And
5 that is due to the intenseness with which the elections are
6 pursued.

7 And as a part of that--

8 Senator Denton. That represents the hottest absentee
9 ballot turnout in the State.

10 Mr. Sanders. Yes. I believe it may be the highest.
11 Green may have a little bit higher, I am not sure.

12 But in any event, very briefly, because of that over
13 the years absentee ballots have been a critical part of that
14 election. In fact, over the years, basically, initially
15 whites were the only ones who used the absentee ballot to
16 any extent. But then blacks began to also use absentee
17 ballots. And this came about specifically because
18 that question was raised some years ago with the Justice
19 Department. And the Justice Department said that there
20 is nothing--we cannot say that that is illegal. And if
21 you intend to win any elections, then you need to learn
22 that process also.

23 So it was the United States Justice Department, a
24 member of that, who suggested that particular process.

25 And black then began to use the absentee process also.

1 And the fact that there were a large number is no indication
2 that anything was wrong by virtue of that. There are many
3 sick people. There are many elderly people. And there is
4 some information to indicate that nearly a third of those
5 people who work in the county work out of the county. I
6 mean, people who work and live in the county, work out of
7 the county, because it is a very poor county.

8 And I suppose in most other counties, if one made
9 an attempt to get absentee ballots, then you would also have
10 a large number.

11 And I wanted to touch upon that very briefly, because
12 that is an explanation for the large number of absentee
13 ballots.

14 Senator Denton. Again, sir, you may correct me, I am
15 just trying to get this cleared up.

16 Testimony yesterday said there were a lot of young
17 men standing around who had submitted absentee ballots,
18 and all the Justice Department officials and every political-
19 ly experienced person I have talked with thinks that roughly
20 one-sixth of absentee ballots, as compared to one in a
21 thousand in Jefferson County, is abnormal, and not to be
22 normalized in the manner in which you are now doing here.

23 I may be wrong. If you want to explain that?

24 Mr. Sanders. Well, I would be glad to respond to that.
25 Because it is abnormal--and that is abnormal; we are not

1 talking about whether it is normal or not--whether that is
2 an indication that something illegal is taking place. And
3 that is no indication that something illegal is taking
4 place.

5 In fact, with the United States Government tagging all
6 of these absentee ballots and going through them one after
7 one, there is nothing in that report that I am familiar with
8 that indicated that people were voting illegally who were
9 not entitled to. And that was out of 700-and-some
10 absentee ballots.

11 So I simply state that there is a legitimate reason
12 for the high number. And that is because it is a very
13 competitive race; that is because it is a rural area; and
14 that is because, also, that there are many sick and infirm
15 people, and some who work out of the county.

16 Let me, for fear I run out of time, let me rush on to
17 one other thing about Perry County, and that is, that
18 Perry County is a county ever since 1972, I do not know of
19 a single year that there has not been a squabble after the
20 election, since 1972. And that is because the races are
generally--the critical races are often close, and the
21 competition between the parties is very intense.

22 Did you want to ask me something, Senator?

23 Senator Denton. No, sir.

24 Mr. Sanders. Okay.

1 And that is the background from which we start.

2 Now, there are two groups in Perry County, two major
3 groups, one is the group that has been in power over the
4 years; the other one is a group that has recently come to
5 power in Perry County.

6 One of those groups is predominantly black; another
7 one is predominantly white. Because of the closeness of the
8 election, a couple of hundred votes shifted either way can
9 mean victory or defeat. And that is the background with
10 which we start.

11 It just so happens that Roy Johnson, who is the
12 District Attorney there, is an intricate part of one of
13 those groups; and so is Mr. Phillips. They both involved
14 with one of those groups.

15 It is that background with which we were dealing with
16 the Perry County case.

17 Now I want to talk briefly about what the impact has
18 been, and why that impact has been the case.

19 Number one, there are four areas that I can see where
20 there has been a major impact. One of them is on voter
21 registration. In fact, one lady, when a lady named Siola
22 Miller, who was trying to get her to register, approached
23 her, and said to her that she ought to register to vote,
24 and what she said to her was, child, I do not want to get
25 you in trouble. And she asked her about that. And she

1 was explaining that she may end up going to jail for
2 simply trying to register her. And that is one indication.

3 Another problem has to do with people who vote at the
4 polls. I was at a church over in Marion several months
5 ago when a little lady came up to me and said, Reverend,
6 is it all right to vote next time? And I said, of course,
7 it is all right to vote next time. And in response, she said
8 something else, and I asked her why she thought that, and
9 she said that a number of people said that it was getting
10 dangerous to vote, and she was concerned about it, and so
11 she wanted to ask me.

12 And the fact that she called me reverend was not
13 unusually, because a good number of people think I look
14 like a minister and act like a minister and call me
15 reverend. But she was talking to me.

16 Senator Heflin. Are you a reverend?

17 Mr. Sanders. No, sir. I prayed about it, Judge. But
18 I did not quite get there.

19 Another impact is on absentee voters. Now several
20 absentee voters testified during trial that they would
21 not vote again. And I think that that is understandable.
22 Simply from the point of view that you have to ask yourself
23 is it worth voting if you may be visited by the FBI? And
24 I think that that is critical.

25 And in this instance, a number of people, several

1 hundred people, were visited by the FBI and interrogated, in
2 homes and on the jobs, at one point or another.

3 The last category is one of community organizer; and
4 it is most critical. Because the community organizers are
5 the key group that get absentee ballots. Few people simply
6 vote absentee ballots on their own. It is because somebody
7 knows that they are sick. Somebody knows that they are out
8 of county; and encourages them to vote absentee. It is not
9 a process that somebody says, well, I am going to be out of
10 town. Many people will simply forego voting if someone
11 does not encourage them to vote either at the polls or by
12 absentee.

13 And this group is the group that has been most affected.
14 That group has been most affected because the people who
15 were indicted were community organizers, - and community
16 workers, Albert Turner, Evelyn Turner, and Spencer Hogue.
17 This case went beyond Perry County, because the publicity was
18 so great.

19 But those are the people who have the great reluctance
20 about helping to assist people in voting. There are a few
21 factors why that is true.

22 One of them is because the whole matter was so widely
23 publicized.

24 A second one is, the way the investigation took place
25 in a number of things. Number one, there was pre-election

1 surveillance, which was highly unusual.

2 In fact one of the meetings that people were having the
3 night before, there was an FBI Agent out there watching them
4 with some detection devices for listening to them. It just
5 so happened that somebody came up and so them out there.

6 That concerns people that cannot even have a meeting
7 without being under surveillance.

8 The second thing, and I think perhaps the most devas-
9 tating thing, was the tagging of absentee ballots. In Alabama
10 your ballot is secret, because your first ballot is in an--I
11 mean, the ballot has no markings on it except those which you
12 put on it. It is in an envelope that has no markings on it.
13 The outside ballot does have, where you sign it and put
14 various information.

15 Since they were able to tag each of those absentee
16 ballots, so the ballot had a number, the inside envelope had
17 a number and the outside envelope had a number, it became
18 very, very critical, because the FBI then went to a number
19 of people and spoke to those people about who they had voted
20 for.

21 Now, in a city that might not make much different. But
22 in a rural area, where many of those people only voted
because they were assured that nobody would know how they
were voting, that becomes very critical.

23 In a rural area--in a city, you may not see the powerful

1 people ever. But in a rural area you see them almost every
2 time you go to town, or they live down the road from you.

3 So it becomes very critical that those ballots were
4 tagged, and that the FBI took those ballots and said, is
5 this how you are voting?

6 Many people are afraid to vote, still, even after
7 all these years. Many of them are on welfare. Many of them
8 are on food stamps. Many are on other kinds of way, and
9 it is just a serious problem.

10 Another problem that had to do with it was the extent
11 of the investigation. Now, I believe Mr. Sessions testified
12 that they simply took the 75 ballots that had markings on
13 it, and those were the ones they investigated. But there
14 were some ballots, of course, that were investigated that
15 were not among those 75. And if I am correct, I believe that
16 I raised this question with Mr. E.T. Rollison, and he told
17 me that in addition to those ballots, they took a group of
18 ballots, at random sample. And I asked him about that, this
19 random sample. And he said, well, there wasn't any problem
20 in the white community. The problem was in the black
21 community.

22 And they took those--I believe he told me it was 75
23 ballots at random sample; and went to each of those people
24 to talk to them. And these were ballots that had no markings
25 on them whatsoever.

1 In addition to the extent of the investigation, the
2 trip to Mobile had a very powerful impact upon people. And
3 I think--one of the trips--I mean, the grand jury one time
4 met in Selma. And this is where some of the people who were
5 targeted, who were young, who could get around, were able to
6 go to Selma, which is roughly 30 miles away.

7 But on the other hand, when the elderly people and some
8 other people were taken, they were taken to Mobile overnight,
9 which is 168 miles away. And at the particular time they
10 were taken, they were taken on a bus; they were indicated
11 that they must ride the bus; and they got on the bus and got
12 there and found that a number of law enforcement officers
13 were standing around.

14 And I think the irony of this is that the bus was
15 parked almost at the point where Jimmy Lee Jackson got shot.
16 And Jimmy Lee Jackson was a young black man in 1965 who had
17 been involved in a demonstration trying to get the right to
18 vote. And in the process what he did, after the march
19 did not take place, a number of State troopers had ended
20 up beating people at random. His 84-year-old grandfather
21 had been hit on the head. And he went and tried to take him
22 to the doctor. And the State trooper said he could not take
23 him. They stood in the door and stopped him.

24 And the reason this is important, and I tell that, is
25 because every year they hold a Jimmy Lee Jackson celebration

1 in Marion, where they talk about this and raise this issue.

2 But in any event, what happened on that occasion was,
3 Jimmy Lee Jackson, when he was told a second time that he
4 could not take his grandfather to the doctor, two of the
5 law enforcement officers began to beat him. He was down on
6 the floor. And as they beat him, his mother came up. And
7 one of them turned around and hit her and knocked her off
8 and she was trying to pull them off.

9 Then, after they beat him awhile on a floor, they stood
10 him up in the corner, and one of them put a gun in his side
11 and shot him one time. And they were holding him there. And
12 then they shot him a second time.

13 Senator Denton. What incident is this, in what
14 connection?

15 Mr. Sanders. It is in connection with Perry County.

16 Senator Denton. I understand that. But you have been
17 making the case that the whole situation was one in which
18 the government has been heavyhanded, and unjustified in
19 coming in there. Now where are we getting this man shot
20 in the side?

21 Mr. Sanders. Well, the point I was making was that the
22 bus that took the people to Mobile, with the law enforcement
23 officers standing around, was in close proximity to the spot
24 that Jimmy Lee Jackson was shot in 1965 in an attempt--

25 Senator Denton. I really do not think that is relevant.

1 You have been talking for almost 15 minutes. I do not mean
2 to be--

3 Mr. Sanders. I will be glad to leave it off. But,
4 for people who relive that every year, and have a meeting on
5 that, that was of some significance. But I will be glad to
6 leave it alone and go to the next point and close out, if I
7 have your permission?

8 Senator Denton. Sure.

9 Mr. Sanders. I just simply want to close out with two
10 small points.

11 One of them is, election workers, people who go out and
12 solicit absentee ballots, are also concerned because the
13 nature of the indictment that came down in this case; in that
14 indictment it simply--some of things that it laid out there
15 is that these people did approach citizens of Perry County
16 and encourage them to vote absentee ballots. It did assist
17 citizens to execute and submit absentee ballots. Did visit
18 voters in their home.

19 All of these are normal activities that were set out
20 in that indictment as part of the conspiracy in this particu-
21 lar case. So election workers, people who go out, look at
22 that indictment, and it was sent out to a number of people,
23 and have some serious concern.

24 The last thing, of course, is the number of counts in
25 the indictment. It was spread across the newspapers. It

1 was spread across television. Everything. That there were
2 82 counts. And at the moment, when they finally went to
3 the jury, there was far less counts. Some 50 counts were
4 no longer there. But of course that was not spread across
5 the newspapers.

6 All of that had a very profound impact, and I simply
7 say that because it has a tremendous effect. I go to meetings
8 almost everyday. And I know it had a tremendous impact.

9 Senator Denton. Are you finished?

10 Mr. Sanders. I am through.

11 Senator Denton. Well, you referred to things being
12 spread in the newspapers. Mr. J.S. Chestnut, Jr., writing
13 in the Selma Times Journal, is he a law partner of yours?

14 Mr. Sanders. Yes, he is.

15 Senator Denton. Was he one of the defense attorneys
16 in the Perry County case?

17 Mr. Sanders. Yes, he was.

18 Senator Denton. September the 22nd, 1985, under a
19 headline, Uncle Tomism to be dealt with, by J.L. Chestnut
20 Junior. His article begins, certain blacks can be so
21 sickening they make it difficult to contain oneself. Perry
22 County Commissioner Reese Billingsley [phonetic] and Tax
23 Assessor Warren Cunard [phonetic] continue to apout the
24 nonsense that the one-sided, racist Federal vote fraud
25 investigation and prosecution in Perry County were justified