CHAPTER SEVEN

Selma, Alabama, June 1985: Building Bridges from the Bottom Up

Watch out," Rose Sanders had warned me when she picked me up from the airport in Montgomery in June 1985, a week prior to the first day of trial. "Selma can change you," Rose whispered. "Selma changes people's lives. It changed my life." Rose was reminding me of the need to remain connected to the passion and indignation that gave the civil rights movement its strength and its resilience. By the mid-1980s, the civil rights movement was in danger of succumbing to empty phrases and moral indifference in the White House and Congress, where a few smooth phrases about voting rights resembled the obligatory nondenominational prayer, a meaningless gesture in which the words carry no substance.

"Watch out," Rose repeated, smiling this time despite the heat. It was one of those sultry, heavy Alabama summer afternoons. I could feel my forehead already glistening with sweat. As we drove from the airport to Selma, Rose was explaining her decision to settle there. Rose was guided by a romantic vision that paid tribute to Selma as a site of historic struggle. But her life was hardly the stuff of fantasy. Her definition of a successful life meant continuing that struggle.

At five feet five, Rose Sanders is a dervish of energy and enthusiasm. One of her most striking characteristics is her voice. It sounds perpetually hoarse, almost gravelly, as if driven by an inner urgency and passion. She and her husband Hank have lived their entire professional lives in Selma. Compared to others in their Harvard Law School class, they chose a hard life. For them, achievement would not be measured in a fast track to partnership in a prestigious law firm, or in the number of awards or high-status "big jobs" they received, but by the
number of people they helped, and the number of local institutions they built.

That commitment to collective struggle is also what keeps them going. For Rose Sanders, "the fact is that struggling is as natural as air." Rose says to stop struggling is "like trying to stop breathing." When I asked her how she and her law partners had sustained three decades of resistance, she told me, "It takes faith." Rose said, "You have to believe that the mighty river is filled drop by drop. You just have to put your drop in the river, and somebody else will put in their drop, and then eventually one day those drops will make a river. And then faith—that's what keeps us going."

Rose was an acquaintance of mine from the early 1970s when she was in law school and I was in college. Rose and her husband Hank settled in Selma soon after they both passed the Alabama bar because, as Rose explained, "we have always been community-oriented. We always wanted to do community work with our law degree." Looking for a community in which to settle, Hank drove south. He was awed when he "came through Selma, came across the Edmund Pettus Bridge, with all of its symbolism of struggle and victory in the civil rights movement." He "made a right turn at the bridge and knew instantly that's where he wanted to be." They were home.

They subsequently discovered there was only one black lawyer in town, J. L. Chestnut, brilliant, but an alcoholic. Rose remembered how "Hank made contact with him and stepped out on faith. A lot of young people had said, 'Well, he's an alcoholic; I'm not gonna go into business with him.' It never crossed Hank's mind that Ches's alcoholism would be a problem. And Ches basically said, 'Give me time to straighten up a few things and I will join you.' "

Rose Sanders, Hank Sanders, and J. L. Chestnut were in Selma when, in the early 1980s, the Reagan administration "launched its assault on black leadership in the Black Belt," Rose says, "through using voter fraud as the tool to disenfranchise black people." Tipped off by several white politicians who had lost ground in the September 1984 Democratic Party primary elections in Alabama, the federal probe fastened on key black activists throughout the Black Belt, including Spiver Whitney Gordon, a former official of the Southern Christian Leadership Conference who was called the "black Moses" of neighboring Greene County, and Albert Turner, Alabama coordinator for SCLC during the 1960s, who was one of the marchers beaten on Bloody Sunday in 1965 and who subsequently led the mule train at Martin Luther King's funeral in Atlanta. Prominent politicians worked closely with FBI agents and Justice Department attorneys in the investigation of seven black activists and a white sympathizer. The Perry County Civic League was
a particular target of the investigation. Headed by Turner, this community organization had helped black voters who could not get to polling places to vote by absentee ballot.

Rose explains, "Fortunately, we were here. Being the kind of law firm that we were, we instantly came to the defense of people without money. Never asked them for a penny. What we did do, because we realized it was too awesome, that the task was too great for us to handle, because it was coming from every direction and about eight different counties, [was] we called upon the NAACP LDF, the Center for Constitutional Rights, we called lawyers throughout the country to help us. And the response was overwhelming."

That's how Rose met me for the second time. She had not seen me since I was an undergraduate at Harvard and she was there in law school. This time, she got to know me as a person, when I came to Selma, as Rose remembers, "in response to our cry. In response to our human cry you came with Deval Patrick and other people from other parts of the country."

It was Hank Sanders, by then an Alabama state senator, who had first called me at LDF's offices in New York. Hank's manner was low-key and persuasive. I remembered Hank as a big man with smooth, dark brown skin. What I also knew was that behind that cherubic face is a razor-sharp intellect and a deep integrity. Hank told me that the federal government initially pursued seventeen people in Perry County alone, all of whom were black, but finally "decided to cut it down and get Albert Turner, his wife [Evelyn], and Spencer Hogue, who were the key leadership in most of Perry County." Hank told me that the Reagan administration zeroed in only on the absentee ballots cast by blacks and only on black voters who had received assistance from local black civil rights activists. The Reagan attorneys had issued a total of 212 felony indictments between Greene and Perry counties alone. This was not about the federal government upholding democracy or dispensing even-handed justice, Hank explained. This was about the federal authorities helping a few local whites hold on to power, the old-fashioned kind of power of the local planter class.

After the passage of the Voting Rights Act in 1965, the white South, terrified by the specter of black political power, fought back. With all that the act accomplished, one thing it could not do was change the minds of southern traditionalists determined that blacks would have no voice in political life.

As hard as voting was, voting effectively, that is to say, voting with the possibility of one's vote mattering, was even harder. J. L. Chestnut recalled that after the federal registrars came in 1965, the number of blacks registered to vote shot up in Dallas County alone, from 150
registered voters to 10,000 in a matter of six weeks. Before 1965, Perry County had twelve registered black voters; by 1980, it had five thousand. Yet they still couldn't win any elections.

The use of at-large, winner-take-all elections was only one of many schemes to dilute and disenfranchise the newly registered black voters. Many blacks continued to work on land owned by whites on whom they were economically dependent and to whom they felt socially beholden. Others worked for whites who would give blacks, but not whites, overtime on election day, even though they never gave overtime away during the rest of the year. Still others found themselves prohibited from leaving during their lunches, and watched while their white colleagues left to exercise their citizenship rights. Some voting places were only open from 1:00 to 5:00 P.M., making it very difficult for anyone who worked during those hours to vote, and all but impossible for the many blacks who worked out of the county. Deputy registrars who had been successful at registering blacks to vote were eliminated. Finally, a disproportionate percentage of the black population was over sixty-five years old. Though many were people who had marched on the Edmund Pettus Bridge, and many more witnessed Bloody Sunday, they were older now, and it was difficult for them to get to the polls in a rural county with no public transportation.

Black electoral success in the Black Belt was inhibited not only by efforts to chill the black vote but also by whites' effective use of the absentee ballot. By using the absentee ballot to register every possible white voter, white leaders maintained political control of many majority-black counties. Observers of the region were fond of noting that black politicians went to bed thinking they had won the election, but in the morning, after the absentee ballots had been counted, they would always learn they had lost. As Reverend Joseph Lowery of the SCLC complained in 1985, "They have given us our voting rights, but they are trying to take away our voting results."

Throughout the late 1970s, Chestnut and others complained to the Carter Justice Department about the way local white politicians were using absentee ballot boxes to manipulate elections to keep blacks from winning any office. As Chestnut explained to me:

Jimmy Carter has a relative named Chip Carter, and it was through Chip that we first began to complain to the White House that these people were cheating us; we always win at the polls but we never can win when they count the absentee ballots. Somebody in the White House directed us to the Justice Department and directed somebody down there at the Justice Department to hear us and we complained not directly to [Attorney General] Griffin Bell but we complained to
Chestnut spoke to several people and got back the same directive: "Get out there and learn how to do that." Every time he went to Washington, Chestnut kept lodging his complaint that whites in the Black Belt who could go to the polls were instead voting absentee. Every time he got back the same answer: This is a state matter, the federal authorities don't have any jurisdiction. Chestnut and others continued to complain, but they were simply told: Don't complain. Do it better. Chestnut remembers:

We finally got word from the White House that, and this came from my uncle Preston Chestnut. Word came back through him that this is something that the Carter administration will address in its second term; we don't want to deal with that now. That was the last answer that we got on that.

Albert Turner also remembered specifically being told, "It's more of y'all than them. What are you up here complaining for? They ought to be up here complaining." Everyone they spoke with at Justice directed them to learn to use the absentee process themselves. And so, in the early 1980s, they did.

They were careful. Turner was "suspicious": "If we were catching all this hell from Jimmy Carter, the Democrat, and now we got Ronald Reagan, the Republican, I know things are gonna go from bad to worse." As a result, Alabama State Senator Hank Sanders testified to Congress, "blacks have gone out of their way to stay within the bounds of legality." As had always been his habit, Turner continued to pay close attention to the rules: "I know the law," he said.

The Perry County Civic League (PCCL), of which Turner was president, became very active in providing voter assistance in the form of sample ballots, published slates of endorsed candidates, door-to-door registration of voters, and door-to-door organizing to assist infirm or elderly voters in applying for and filling out absentee ballots. They had to ensure that the forms were properly filled out with birth dates, signatures, notarization, and the like. Certain forms of voter assistance could only be provided through absentee voting.

The absentee ballot and voter organizing made a difference in people's access to voting. Those who otherwise would not have been able to vote, either because they worked out of the county or could not get to the polls on election day, were now voting. As Mattie Brown, a
Perry County resident observed, "People just wouldn't vote if they couldn't vote absentee."

The results were visible. Compared with the kind of near-complete political domination of whites immediately following the Voting Rights Act, gradually during the early 1980s blacks gained some representation in seven county commissions and nine towns. Before 1965, there were virtually no blacks registered to vote in the ten western Black Belt counties of Alabama; in 1982, there were now about 70,000 blacks registered and voting. The 138 black elected officials in these ten counties now constituted almost half of the total number of black state elected officials. In particular, blacks gained majorities in both the county government and the school boards in five counties: Greene, Sumter, Perry, Lowndes, and Wilcox.

The results in Perry County were particularly startling. According to Albert Turner, compared with Birmingham's voter turnout rate of 15 to 20 percent, and the state's average of 50 percent, Perry County often turned out 2,300 of its 2,600 black citizens. He boasts that on average, Perry County has a turnout rate of about 80 percent. "And that doesn't just happen," Turner reminded me. "We organize daily, down to the precinct level." Consequently, the Perry County Civic League and organizations in other counties mobilized to make black voters in the Black Belt a vote to be reckoned with, even at the state level.

In imitating others' success with absentee ballots, the Perry County Civic League was able to elect a few blacks to political office. This electoral success did not go unnoticed by some elected white officials in Perry County, including Clerk Mary Aubertin and District Attorney Roy Johnson, both of whom then initiated the federal investigation. Joined by a carefully selected handful of local politicians, Aubertin and Johnson identified for the federal authorities the key black leaders in each of these counties: Albert Turner and Spencer Hogue in Perry County; Spiver Gordon in Greene County. Albert Turner, his wife, Evelyn, and Spencer Hogue would become known as the Marion Three.

Aubertin and Johnson wrote to Assistant Attorney General Brad Reynolds, who told them to go to the FBI and to the U.S. Attorney for Alabama's Southern District. In the fall of 1984, U.S. Attorney for Alabama's Southern District Jefferson Beauregard Sessions III initiated an investigation of the PCCL. The local lawmen were now joined by federal agents, who hid with them in the bushes at the post office, watching as Albert Turner posted his mail. They then swooped inside and seized absentee ballots from the mail slot as if the ballots contained drug paraphernalia, making special marks on the envelopes.

Finding nothing criminal going on at the PCCL meetings, the federal agents began to harass the voters themselves. Dozens of FBI agents made repeated visits to scores of rural shacks on dirt roads with no
interrogating Willie Lee and hundreds of other elderly citizens who resided in the Black Belt. The FBI showed their badges and flashed a copy of each voter's ballot. Still standing, the agents then asked how each voter had voted and if the voter had received voting assistance from the Perry County Civic League. Agents often returned to these rural residents two and three times to pursue their inquiries, demanding to know, "Can you read and write?" and, "Why did you vote by absentee ballot?" Department of Justice rules said that voter ballots could not be investigated to reveal the identity of the voter. The FBI agents investigating ballots cast by black voters in 1984 paid the rule little heed.

Whereas the Justice Department under President Carter had dismissed years of complaints from blacks about white use of the absentee process, under Ronald Reagan it seized the very first opportunity to investigate the absentee ballot process when called upon to do so by whites who had long held power. The FBI descended on precisely those five Black Belt counties where incumbent politicians lost support and where black newcomers were slowly gaining political ascendancy—Greene, Sumter, Perry, Lowndes, and Wilcox counties. The agency conducted no investigations where local white politicians won. At the same time that the intensive federal investigation of Spiver Gordon in Greene County and Spencer Hogue and Albert Turner in Perry County was underway, blacks reported scores of substantial allegations of voter misconduct in ballots handled by white political organizations, but these violations went uninvestigated by the federal authorities. Whites continued to use the absentee ballot process in much higher proportions than blacks, but no white absentee ballots were investigated.

The geography of the prosecutions revealed the racially biased nature of the investigations. Senator Hank Sanders's testimony to Congress detailing the selective prosecution of black voting rights activists is worth quoting at length:

Our concern is that the investigations are only going on in counties where blacks have achieved control of a government. If you look at a picture of a map there, you would see Lowndes which has a black county commissioner and blacks on the Board of Education; you would see them investigating there. Then you would go down to Wilcox. It has a black Board of Education, a black county commission; investigations were there.

Then you would come to Dallas, where I live. We have no black elected officials on the county level. They skip over Dallas and they go to Perry. Perry has a black elected county commission and Board of Education. Investigations are going on there. Hale County, which is 63 percent black, but had only two county-elected officials, they skip over that and go to Greene. Greene has a black controlled government.
investigations there. They skip over Pickens because they have no black elected officials. They come back down to Sumter again where they have black officials controlling the government; investigations going on there.

If you look over the entire Black Belt, you see that pattern.

Clarence Mitchell, then a Maryland state senator, commented with exasperation, “The White Citizens’ Council and the Ku Klux Klan can just close up shop these days because the Justice Department is doing their job with the taxpayers’ money.”

Despite a devastating record of black complaints about suspected misuse of the absentee ballots by white politicians, Reagan officials saw Turner as the charlatan, the PCCL as the vehicle by which he accumulated corrupt power, and black absentee voters as the victims to whose defense the federal government now came running. One official in the Reagan Justice Department’s Public Affairs office defended the racially partial focus of these investigations as part of a “new policy,” brought on by the “arrogance on the part of blacks” in these counties. Thus, by 1984 the federal government, twenty years earlier the main ally of Alabama’s grass-roots voting rights movement, now became their prosecutor.

Not all the federal authorities were close-minded when confronted with the evidence of selection prosecution. The U.S. Magistrate who heard Spiver Gordon’s selective prosecution claim in Greene County found that the federal investigation took place during a time of “an intense struggle between whites and blacks in the Alabama Black Belt with white persons seeking to retain political power and blacks seeking to share in it.” After a hearing, the magistrate concluded that Spiver Gordon’s evidence showed that “while others similarly situated have not been proceeded against,” Gordon and his colleagues had “been singled out for prosecution.”

It also did not take much to convince many local lawyers and civil rights activists in the Black Belt that the Reagan Justice Department had initiated these grand jury proceedings for political reasons solely to intimidate black voters. Alabama black attorneys J. L. Chestnut, Joe Reed, John England, and Fred Gray were alarmed at what was happening. With one or two others, these black lawyers went to Washington to meet Justice Department official Brad Reynolds and Attorney General Edwin Meese, to complain that black voters were being targeted for doing the same things that whites in the Black Belt had always done—vote by absentee ballot. These local lawyers brought evidence with them that blacks alone were being prosecuted. They presented absentee ballots cast by white voters that had not been investigated despite similar deficiencies.
Jefferson Beauregard Sessions III, U.S. Attorney
Jeff Sessions had been quoted as saying that he “used to think” the Ku Klux Klan was “O.K.” until he found out that some members were “pot smokers.” Sessions was also reported to have made statements that he believed the NAACP was “un-American” and that the American Civil Liberties Union was “Communist-inspired.” Sessions acknowledged many of the remarks but said they were taken out of context or were made by others in his presence, as, for example, when he agreed with the statement made by another person that a white civil rights attorney was a “disgrace to his race.” But suddenly Chestnut had more than just U.S. Attorney Sessions to worry about. Chestnut was greeted by a level of ignorance and contempt for the facts that he found shocking when he met with Sessions’s superiors at the Department of Justice in Washington, D.C.

Chestnut, who had by then been practicing law in Selma for thirty years, called the session with Attorney General Meese “the strangest meeting” he had ever attended in his life. Chestnut met with Meese in the Attorney General’s conference room, the same room in which eight years later Howard Paster delivered the Clinton administration message to me that “we don’t have the votes.” Given my own experience in that room, I could understand how eerie it must have felt for Chestnut, a small-town black lawyer, to be there. Certainly, the sheer size and cavernous dimensions overwhelmed many of its occupants. But Chestnut was just as disoriented by the rush of activity, then the two minutes of absolute silence that followed Meese’s entrance.

The group of Justice lawyers who accompanied Meese “were like trained seals,” Chestnut reported.

I’ve never seen anything like that. They were sitting around this table with Ed Meese and when Ed Meese laughed they laughed, when Ed Meese had a cough in his throat they had one. It’s just like trained seals. We sat around this long table and here we were five little black lawyers from Alabama, ushered into this huge room with this huge table and sat down at the far end and we were left cooling our heels there for at least forty minutes and finally in comes Edwin Meese like some grand potentate with his legal pad, and surrounded by an entourage of at least at least twelve Justice Department lawyers all dressed alike, all dressed in black, looked like they all going to a funeral, all in black. This is the truth. And they sit at one end of the table and we sit at another end and there was this big gap of space and I thought that was so symbolic.

Ed Meese sat at the head of the table, his arms folded. With his big legal pad laid out in front of him, Meese listened as Chestnut and his
Companions presented examples of some ballots that a number of white activists had handled in precisely the same manner as Albert and Spencer and the others were handling them. Chestnut reminded Meese that it was from whites in Alabama that Albert and the other defendants had learned how to use absentee ballots. The black lawyers pointed out all the similarities in the ballots to Mr. Meese. The black lawyers then said, "if it was wrong for Albert and Spencer, it was wrong for these other people and the government ought not to have singled out these black folks."

Meese looked at the people from Main Justice who were following his every gesture. He asked them whether this was so. They said they didn't know anything about it but they would look into it. According to Chestnut, Meese began "to write seriously on his legal pad and he promised us that he would look into it and we would hear from him shortly. We never did hear from him, never expected to."

Chesnut left the meeting with Attorney General Meese "unbelieving," convinced that those who testified before the grand jury were deliberately intimidated while federal officials in Washington looked approvingly. His law partner, Rose Sanders, agreed, calling them "Voter Persecution Cases," whose "whole purpose was to chill the black vote." Rose saw the Reagan-initiated inquiry as playing into "the politics of race in the South—it's used to engender fear and apathy, because what it does is it leads black people to think, 'Well, it's no use,' and they give up, and what white people do is come to the polls en masse because of fear of black control." Jesse Harper, a member of the Perry County Civic League who was not investigated, said emphatically, "The people that are testifying... are doing so because they are scared."

Here was Willie Lee, ninety-two years old, disenfranchised for most of his life, facing a federal grand jury asking details about his voting practices during the 1984 season's primary election. Ninety-two years old and feeble, Willie Lee was hauled by federal agents to Mobile to testify before a federal grand jury. After interrogating almost two hundred voters in Perry County—and conducting hundreds more interviews in five Alabama Black Belt counties—the government had scraped together twenty people whom they bused to Mobile to testify before a grand jury. Some witnesses were led to believe that they would receive $300 for testifying, though in the end the money covered only lodging and expenses. Four state troopers, three FBI agents, two Marion, Alabama, police officers, and a state conservation officer gathered Lee and the other elderly black witnesses onto a Greyhound bus headed 160 miles for the trip from Perry County to Mobile.

Many witnesses were intimidated by an investigation focused, as it was, solely on local black civil rights leaders in Alabama's Black Belt and raising the specter once again that voting was absolutely dangerous.
for most of the lives of these grand-jury-witnesses—eventrying-to-register-had-required great courage. As black people over the age of sixty in Perry County, they also did not assume that white people who came to their door were there to help them. Indeed, many concluded from the investigation that they had broken some law simply by voting absentee. Their natural inclination was to distance themselves from voting at all. Ninety-two-year-old Willie Lee, for example, whose absentee ballot was immaculately prepared, was so frightened by “the law” that he was afraid to admit he had even voted.

One grand juror joked with eighty-four-year-old Maggie Fuller when she was on the stand: “You didn’t know you was going to get to come to Mobile when you was voting, did you?” Assistant U.S. Attorney General E. T. Rolison chimed in, “You made that X and got a ride all the way down to Mobile!”

But voting was not a joking matter for black people in Alabama. The government’s witnesses had risked a great deal to register and then to vote. Now their worst fears had come true, and some took the experience as a lesson.

“Is this the first time you’ve voted absentee?” a grand juror asked another Perry County resident, Fannie Mae Williams. After having her ballot investigated by the FBI, and having her voting practices intensely scrutinized by a federal grand jury inquiry, Mrs. Williams could only murmur, “Uh-huh. First and the last.”

Other elderly blacks in Perry County, Alabama, had already reached similar conclusions. They had believed deeply in democratic participation and acted accordingly; but the government-sponsored fracas in Mobile had convinced them that voting was a dangerous activity, one not worth the risk. Like Fannie Mae Williams, Zayda Gibbs declared that due to “all that had gone on with the investigation,” she didn’t want to vote any more at all. Mattie Perry said loudly that she “may be through with voting.” Another elderly woman, wearied by all the activity, sighed, “If I’m able to get to the polls, I’ll vote. But I ain’t voting no more absentee.”

Following the grand jury sessions in Mobile, the federal government charged Perry County activists Spencer Hogue, Albert Turner, and Albert’s wife, Evelyn Turner, with mail fraud and conspiracy to vote more than once. The government indictments promised each defendant more than one hundred years in prison if convicted on all counts of federal criminal activity, including felony charges under the Voting Rights Act of 1965. I joined the defense team several months after the Mobile grand jury investigated and then indicted the three Perry County civil rights activists.

Hank Sanders believes that getting lawyers like me from out of town was crucial, not simply because of who but because of what we
represented-LDF, in particular—"helped to give a legitimacy to the whole struggle that was very much needed. Because other civil rights organizations were diving away from it, that sent an unusual message. And because of the long history of the Legal Defense Fund in the whole civil rights arena, it gave a legitimacy that I can't tell you how much that meant. It was all out of proportion to the actual litigation role you played."

Sanders organized a team of lawyers, recruiting an experienced and impressive group. The most prominent were Oakland attorney Howard Moore, who had defended Angela Davis in the 1970s, and Morton Stavis, an experienced First Amendment and constitutional lawyer from the Center for Constitutional Rights, who celebrated his seventieth birthday during trial preparation. Also helping out were J. L. Chestnut; lawyer Robert Turner (Albert's brother) of Marion, Alabama; Dennis Balske, a young white criminal defense lawyer from Montgomery and the Southern Poverty Law Center; Margaret Carey, a young black woman then practicing civil rights law in Mississippi; and several LDF staff lawyers, including Deval Patrick (who replaced James Liebman mid-trial), and me.

Rose Sanders remembered fondly this national roundup of legal talent:

Our law firm has been in the Black Belt up to about 15 to 16 years and we had carried so many of these struggles alone. We have responded to so many of these things without any resources other than the immediate resources that we had. We had taken a range of cases all without pay and it was clear to us that we could not do that, that we could not respond to this level of attack without help. And the fact that the help came so—I guess it was quick. I can't remember—but the people who came, they were just very dynamic, very caring, as well as confident. And that's what made it so exciting because they weren't just technicians, they were caring as well as confident people.

Hank also had to raise funds for those lawyers who were working free of charge. No lawyer got paid, but some lawyers were not with organizations, and Hank had to pay their expenses. Hank Sanders described what he did as a three-front effort. The first was "to get lawyers from all around the country to participate in this fight." The second was "to fight on a community organization basis." Within the Black Belt and in other places, it was Hank's job to organize "our communities so that whatever happened those communities would be able to go ahead and function politically afterward." This meant that Hank had to fight constantly "to try to define the issues so the community would be able to understand" what was at stake in the case and would rally in support
of the defendants. He conducted a grass-roots appeal to educate the public in the face of a full-blown media effort to present only the criminalized image of the Marion Three. Finally, "we fought on a political basis. So we organized not just in Alabama, but we decided to nationalize it. We got help and support from lawyers from all over the country. We got help and support from community organizations all over the country."

The public relations battle was especially difficult. Hank recalls that the local press was very hostile. "They tried to publish anything negative and anything positive they simply wouldn't say." But despite initial resistance from the local media, Hank and Rose persisted.

We first tried to organize it so that people other than us lawyers here would be able to speak. But the press would just shut them out. There would be no article at all. So at some point the lawyers—me and Rose and Ches—had to speak out a lot more. And we spoke out in ways that were strong and we had a lot of bar complaints filed against us to have our license taken on the basis of us speaking out on these issues. Ultimately, nothing came of those because they really were freedom of speech issues. Still, most folks would have slowed down, wouldn't have continued. Part of their theory was to weigh us so much down in our fight for ourselves that we couldn't fight for our clients and we could not fight for our community.

But the effort to intimidate the local lawyers, just like the effort to intimidate local residents, didn't work. For Hank Sanders, Rose Sanders, and J. L. Chesnutt, "it was a political life-and-death situation." They saw the absentee ballot charges as the opening wedge in a full-fledged Republican battle to undermine black political power in the Black Belt. "If they had succeeded in that situation, we expected that they would be able to go to other places in the political spectrum. So, in light of that, we just simply said, 'Well, if they get us on that front, then they're gonna get us on every other front.' We really saw that as the beginning of an effort to roll back those gains—a second end of Reconstruction." Inspired by the determination of the local lawyers in Alabama, others joined the effort. Maryland State Senator Clarence Mitchell declared, "Vigilance is the price of liberty. We should never have left the streets. Now we're going to get back out there."

In trying to take the measure of the effects of the investigation on blacks in Perry County, and in order to prepare for trial, a group of LDF lawyers and researchers rented a car and traveled the dusty dirt roads to meet the people the government had hauled down to Mobile. I also traveled the rural dirt roads to interview some of the people in Perry
County who had voted absentee but had not been hauled down to the grand jury in Mobile. We soon discovered that the government had pursued its case against the Perry County Civic League activists even though most of the FBI formal interview forms (called "302's") revealed nothing suspicious about the ballots in question. Our follow-up interviews uncovered nothing wrong from the voters' perspective in the way their absentee ballots had been prepared. Many residents told us that they had indeed received voting assistance, and that the ballots were precisely as they should be. Yet many of the FBI interviewers never addressed the content of the ballot at all, demanding to know instead why these elderly people needed assistance to vote, asking them to recall in minute detail the specific actions they took in checking off each name on the ballot. The FBI took the opportunity to investigate other matters as well. While interviewing eighty-four-year-old Maggie Fuller, the FBI "observed . . . in her front yard a 1965 Ford pickup truck." Whose was it, they wanted to know, writing down the license plate number. Who drove it?

A few of the people we met had refused to talk to the FBI altogether. Alma Price told the special agents who tried to interview her that "they have no business" at her home. Carrie Sewell wanted to know, "if the ballot is sealed, how do they know it's been changed?" Believing that the FBI had "done all of this dirty work" in order "to scare people," Mrs. Sewell challenged the special agents who came to see her: "The FBI came around to my house asking me a lot of questions. It's none of your business who I voted for. You better get out of my yard." I got nasty with them because they made me mad. I told them, "Don't you ever come around here." No one had to tell me how to vote. I vote the way I want to vote. I've got a mind of my own."

These interviews helped confirm in my mind that I was on the side of justice fighting the Justice Department. But the sense of righteousness about my mission was incomplete until I met one of my clients, Spencer Hogue.

Spencer Hogue is a soft-spoken man. He and his wife Jane live in Marion, the largest town in Perry County. Although it was the county seat, Marion looked pretty much just like the rest of this rural county except that the roads were paved, some of the houses were brick, not just wooden shacks, and all of the houses were closer together. Spencer and Jane lived in a frame house with its own makeshift porch; it was a small house, with only two bedrooms. Their daughter and her family lived in a trailer at the rear of the house, so close it almost knocked up against the backroom wall.

During our strategy sessions, Spencer often sat at the dining-room table without speaking for long periods of time. He kept his hands folded in his lap; his back was erect. He wore his simple, freshly laun-
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weathe r. Jane kept us all eating, with fresh tomatoes from her garden and delicious hot pies, still warm from the oven.

Spencer Hogue is a proud man. He has a few teeth missing in the front. To protect his dignity and sense of control, he preferred not to smile. But when he was genuinely amused, he could laugh with his whole body. His dark brown face would light up, his eyes twinkling with delight. When I first met him in 1985, however, Spencer did not laugh often. He was facing multiple felony charges; if convicted, he could spend the rest of his life in jail.

I asked Spencer why he joined the Perry County Civic League and why he worked with Albert Turner, knowing all that was at risk. "I guess a lot of things happened to me coming up," he explained. "My great-grandmother had been a slave. She used to tell me how they were treated and everything, and I guess that had a lot to do with it. It had a lot of effect on me and I didn't want to come up that way."

Not all of Spencer's activism reflected his great-grandmother's stories. Spencer had a few stories of his own. When he was five years old, in the 1930s, he and his great-grandmother and grandfather were living on a plantation. Cotton was the staple. The overseer had come over to his great-grandfather's house.

That afternoon, my grandfather had a little plot of corn that he was plowing and I took him some water up there and I guess the overseer got there just about the time I did and when I carried the water to my grandfather, the overseer was right there. And when my grandfather finished drinking, he handed me the jar. The overseer was angry that my grandfather was working on his own plot. He cussed at him, calling him boy and everything else that he could think of. And I never did forget that. That followed me. I can remember having that jar in my hand and I didn't know whether he was gonna hit Grandfather or not, but I made up my mind that if he did I was gonna break that jar on him. And that followed me a long way. I didn't hate white people but that always stayed with me and it's still with me. I never did forget that.

Spencer Hogue also remembered how inspired he had been working with the Civic League during the 1960s. Throughout the South, Septima Clark of South Carolina had spread the idea of "Citizenship Schools," which were held "in people's kitchens, beauty parlors, and under trees in the summertime" to teach adults directly from voter registration forms how to write their names in cursive. Spencer and Jane Hogue turned their living room in Perry County into one such school. As Spencer explained to me, "We ran a school in our home to teach people how to read and write. People would come sit in the living
room or we would move—everything—from the dining room into the
kitchen and people would sit there. And a lot of people came to love us
from that.

"My wife even taught her daddy how to read," he boasted quietly.
In their small wooden bungalow, the Hogues, with help from SCLC,
ran the school about two months without stopping, and then on and off
for a number of years. People from the community would talk about
whatever they had done that day; their stories would be written down,
becoming the text for the reading lesson. Discussion deliberately em-
phasized "big" ideas—citizenship, democracy, the powers of elected of-
ficials. Local adults were taught to read newspaper stories critically and
to be skeptical of politicians' promises. Neither Spencer nor Jane Hogue
had finished high school, but they were the best teachers in these
"schools." As respected members of the community who could project
well, they could teach. People, they discovered, learn best from their
peers, from people whose own status was not so different than theirs.
Spencer and Jane became local leaders, just waiting to be discovered and
further developed.

Spencer Hogue, a quiet, slow-moving man who wouldn’t forget
the indignities of growing up black in Alabama, soon associated himself
with Albert Turner. Turner, who had also lived all his life in the same
community, is an enthusiastic talker. Albert Turner has a story for every
occasion, a fighting spirit, and a reservoir of energy that would keep
two men going. Albert laughs easily; he is gregarious and full of life.
He enjoys the sound and feel of his own words. When Albert speaks,
he holds the words in his mouth while his tongue slides over the
fullness of his message the way a connoisseur might sip wine, allowing
it to linger on his palate to savor the texture.

Turner explained why the activities of the Perry County Civic
League were so threatening to some of the people in the county. We
had been standing in front of the courthouse facing a row of stores, a
drug store across the street, and a fairly narrow sidewalk. I asked Albert
what his life had been like.

When I first started with the Civil Rights Movement, we couldn’t
even walk the streets, I mean a black man had to tip his hat to a white
lady, and walk off the street when he met her. Uh, they put you in jail
and you would never get out. Now, this is in my lifetime, this is in
the early sixties.

Probably 80 or 90 percent of all the blacks [in this area] worked the
land. And you grew crops for them and you didn’t get no money, you
know. Hm! You picked cotton and they just buy you some shoes,
something, or some groceries, but no money. You could make a hun-
dried bales of cotton and there was no cash. It was like South Africa. That's a fact. And this, I'm talking about some thirty years ago. And this is what people did. It seems like for years [we've] just been their property, someone to make a living off of, to use for their economic purposes.

Now, suddenly, blacks were talking about sharing power. That idea frightened many whites, who figured blacks would simply use their newly acquired seat at the table to do to whites what had been done to them. What those whites didn't realize was that Albert Turner did not consider himself a regular politician. He was a man of big ideas. "I'm the kind of person," Albert said, "I consider myself as being one of those that make deep-seated changes. I'm called the 'root doctor' sometimes, and it's because I like to deal with the roots of a situation, I like to plow it out, to go down to deal with what really makes a situation work."

This was not about revenge. This was about justice. This was about a government that represented all the people.

Against the advice of their lawyers, Evelyn Turner, Spencer Hogue, and Albert Turner went to Mobile prior to trial and voluntarily testified before the federal grand jury. Albert Turner insisted on telling his story to the grand jury even though grand jury proceedings are secret: the only people present are the jurors and government attorneys. Turner and Hogue would not be permitted defense counsel in the grand jury. Nor would they be able to ask questions. But Albert Turner knew that he was innocent. He wanted to begin his defense early. He wanted to tell the local people in Perry County he was not afraid. He wanted to show his supporters that they had nothing to fear either. Albert Turner also knew that by testifying freely, he might begin to turn around the public perception that had been created by the local media.

Turner began his testimony to the grand jury by saying, "I felt that probably the grand jury ought to know the real truth about this. And I came today to answer whatever questions you want to ask." Albert Turner explained why he went to testify before the grand jury. "I'm simply doing this to try to prove that I'm not a person who walks around with a gun trying to intimidate people to make them vote absentee." Instead, he said, he helped people cast an informed ballot, telling them who the candidates are, what they stand for, and what the PCCL thought about their political agendas.

Turner explained to the grand jury how, in 1962, he, Spencer Hogue, and others formed the PCCL to mobilize for the right to vote. Turner was inspired to create the organization when he returned from college with a bachelor of science degree and found he was prevented
from voting. He remembered, "I graduated from college, and I thought I knew something. And I couldn't register to vote. That set me off so I started by trying to get myself registered. That took about two years."

In the interim, he joined and was elected the second president of the PCCL. Over the years, the PCCL broadened its reach to include voter registration and voter education. The latter entailed the production of voting slates—lists of endorsed candidates such as those produced by many political organizations and such as were published by other political groups in Perry County. In more recent years, the PCCL turned its attention to serving the community's everyday needs, such as getting groceries to the elderly, helping the homebound get to the doctor, providing scholarships to students, sponsoring a radio program. Albert Turner told the grand jury, "the main goal of the Perry County Civic League now is to try to make life better for people who are oppressed, whatever we have to. For instance, we help people get food stamps and we . . . haul commodities to people. We try to encourage education and try to improve education." Turner explained that the Perry County Civic League was not just concerned about winning elections. "I mean, we went to the whole community, wherever the problem was. If they had a problem with the school, we worked on it; if they had a problem with food stamps, we worked on it. It was not just what you called electoral politics."

For Spencer Hogue and Albert Turner, this was what the civil rights movement meant by participatory democracy. As Albert later told me, "This government doesn't believe poor people should run government. They think people who own property and are wealthy—only the elites should vote and run government. I think everybody ought to run the government." Whereas some people had felt in the past that "we were just interested in what you call the right to vote," they weren't aware that more was at stake than the outcome of an election. It was about getting people involved in making decisions that affected their lives. "That's what it was all about all along," Albert said. "Everybody ought to run the government."

Government attorney E. T. Rollison completely ignored the subtleties of Turner's philosophy. He simply asked Turner at the grand jury:

How do you do it? Do you say, "Who do you want to vote for?" Or do you say, "We're voting for this"—How do you actually handle it when you get to a person that's got the ballot? How do you help them vote? Tell me how you do that.

A. In incidents where people don't know who the candidates are or nothing, we let them know who the candidates are.  
Q. That you're supporting?
And most times we also carry with us a sample ballot and let them know who we're supporting. And we let them make that choice after they know who we are supporting, after they know who the candidates are. And once the people say we want to vote such and such a way, then we vote that way. (italics added)

Spencer Hogue, though much less gregarious and outspoken than Albert Turner, also testified to the ongoing work that the Perry County Civic League performed. "The voter looks to us for more than just voting. They look to us for other services... Well, in some cases I have to take some of my people to the doctor. I have to help them with other necessary business papers that they have. And a lot of them is on the food stamp program. I have to help them there." Spencer continued: "We've been working with these people ourselves since sixty-two for various things. And we have never deceived them. So whenever we make a representation, they almost always go with us. Ain't no doubt about it. The people in my community do." The people "almost always go with us" because of the work that Spencer and Jane Hogue did starting in the 1960s to hold citizenship schools in their dining room. "They loved us for that," Hogue said.

Flouting the recommendations of their lawyers, Turner and Hogue talked freely and voluntarily. They were, in this sense, their own lawyers, or at least insistent on advocating for themselves, speaking in their own voice. It was a commitment to speaking up, despite the risks, that in 1993 inspired me to struggle to go public on Nightline despite repeated administration warnings against defending myself and my ideas. It was my own exposure to Albert's and Spencer's experiences and their belief that everybody ought to run the government that later influenced my law review articles and my search for a more democratic way to include all of the people in making the decisions that affected their lives.

Just as administration staff kept counseling me before the confirmation hearings to remain silent, Albert and Spencer's lawyers worried that the defendants' stance before the grand jury was courageous but risky. As attorney Rose Sanders later explained: "Albert just wanted to talk because in his mind, he had nothing to hide. He actually testified before the grand jury and he didn't have to. That was a part of his right and in his mind, 'because I am right, I don't have nothing to hide.' But what Albert was not recognizing is that righteous behaviors are all right for righteous people but if you are dealing with the unrighteous, it often doesn't matter if you are right."

In Albert's case, the sense that he was entitled to be heard turned out to be a useful strategy. At trial, the prosecution presented the jury with copies of Albert and Spencer's grand jury testimony. Both had
done such a good job of explaining themselves to the grand jury that we decided not to put them on the witness stand at trial, where they might have been tricked up by clever cross-examination.

Although Albert and Spencer never stopped believing that their cause was just, some of the defense attorneys early on looked for a way to avoid a lengthy trial, knowing that a conviction, even on a weak evidentiary record, was a distinct possibility. At one point, a couple of lawyers tried to negotiate a plea bargain. It had become clear to J. L. Chestnut, for example, that in all of the massive documents the government had collected, they could find some technical violations of the law. Since no one had any intent to do anything wrong, the question for Chestnut was whether U.S. Attorney Sessions "would be interested in some sort of misdemeanor which somebody could plead to, not have any permanent record, not serve any time, send some message that we want to be careful about voting." As Chestnut later explained to me: "I don't think you know about this, there was a discussion of whether or not to meet with Jeff Sessions and to see whether or not anything could be worked out. And we met with Jeff Sessions along those lines. Mort Stavis, deep down in his heart, I think did not want any compromise. Mort wanted it tried out and the government put on trial so the rest of the country could see it." Although Chestnut pursued the plea negotiations, he "didn't think we had a prayer of working anything out." Chestnut went down to meet with Jeff Sessions, but he didn't have any high expectations.

J. L. Chestnut told me, "I had no doubt in my mind about how ambitious Jeff Sessions was and is, and we met with him and I said to him: 'Jeff, what possibility is there, if any, of trying to work something out on a misdemeanor basis? I suspect that from what we have seen from this evidence, you may be able to establish some technical violation of the law.' And Jeff said there was no way that he was going to agree to any kind of misdemeanor plea.

"And I said, 'You're gonna fall flat on your face because you can't win.' And I'd tried cases before him, and Jeff was not then or now what I would call a number one trial lawyer by anybody's standards, and here he was in this case talking about no way. But that also confirmed that he had an agenda with me. I had made deals with him, plea bargains with criminals and all that, and here he was with these people saying no. It didn't even make sense, except I understood that he had this larger agenda far beyond convicting Albert and Spencer."

Albert also realized that the trial was not about punishing him "in terms of incarceration." "I was offered a bargaining chip, and Spencer was, too," Albert explained. "I was given the option, through a plea bargain situation, to be set free, one hundred and forty-five years dropped completely for a five-year probation which would have been,
In reality, two election cycles, and all I had to do was tell them that I was not involving myself in politics." At that point there was absolutely no question in Albert’s mind that the issue was “the deep-seated, deep-rooted kind of politics I was involved in.”

Since Albert was not going to agree to change his “deep-seated, deep-rooted” politics, there was no deal. In response, the government’s most important strategy was to criminalize the Marion Three. They indicted them each on twenty-nine counts, including conspiracy, mail fraud, voting more than once, furnishing false information to election officials, marking absentee ballots of elderly voters, vote dilution, “defrauding the citizens of Perry County and the State of Alabama of a fair and impartial primary election,” and “causing the casting and tabulation of false, fictitious, spurious and fraudulently altered absentee ballots.” Together, Albert Turner, Evelyn Turner, and Spencer Hogue were looking at 180 years in prison if convicted on all the charges.

The tactic worked at first; many people in the community were frightened by the number and the weight of the indictments. Senator Sanders remembered how hard it was to gather support for the Marion Three at the beginning of the trial:

We tried to get help from SCLC and from ADC [Alabama Democratic Conference], and other places. We didn’t get much help from the traditional places, even though Albert Turner had been state director for SCLC back in the ‘60s and early ‘70s, and led the mule train at Martin Luther King’s funeral. But the reason we didn’t get support is because people say, “Well, if they got that many charges against ‘em, they must’ve done something! And they’re going to get a conviction, and if I get too close to them I’ll get dragged down in the process.” A lot of individuals will desert you because they think, “They wouldn’t have indicted them if they hadn’t done something wrong.”

The civil rights leadership were not the only ones initially wary of associating with the Marion Three. Community members were also afraid of getting involved. Though Perry County residents knew the PCCL well, the number and weight of the charges made them “nervous” and “self-conscious.”

Dayna Cunningham was a law student working for LDF that summer. She came down to help us get ready to cross-examine the government’s witnesses. During the trial, she and LDF staff lawyer Deval Patrick traveled throughout the county interviewing people about the PCCL, about Albert Turner and Spencer Hogue, gathering information about the PCCL’s practices and its activists’ relationship to the community. The task was difficult because people were scared. Initially, they resisted
I’ll never forget, we went to this one house and there was a woman on the front porch sweeping the front porch. We had learned by now that we couldn’t just walk right up to the house, and so we were standing about twenty feet back, and Deval said, “I guess you know what’s going on in the county and we just wanted to talk to you some about what’s going on.” And this woman had this broom, and she was holding this broom and sweeping the porch, and as she was sweeping it she said, “No! No! No! I ain’t talkin’ to nobody! Not nobody! Now you just get off my porch!” This broom was her weapon, and she was sweeping us off the porch with all the dust, you know? And Deval said, “Please, ma’am, we really need to talk to you. We are trying to help Spencer and Albert and we just want to spend a few minutes talking to you.”

The woman did not look up. “How do I know you are here to help Albert and Spencer?” The whole time she’s sweeping. She did not stop sweeping once. She’s not going to let us onto the porch and this broom is going to ensure that we don’t get onto the porch. And so finally Deval, who is a master at this, said to her with this angelic smile, “Ah, now why are you being so mean to me?” And the woman could not help herself. She cracked a smile and said, “I ain’t that mean, am I?” The next thing we were sitting in her living room drinking lemonade and she was complaining about her no-good husband.

Historical memory may also have solidified community fear of and for the Marion Three. In addition to the illicit and dangerous quality inherent in black voting in the South for so much of the lives of all but Perry County’s young people, there were some very recent prosecutions of voting activists, including the well-publicized case of Mrs. Maggie Bozeman, the fifty-five-year-old black schoolteacher from neighboring Pickens County. Although her conviction was ultimately overturned after I filed a habeas petition in federal court, the case had a lingering effect in reducing black voter turnout in Pickens County, and an instructive and depressing effect for blacks in neighboring counties like Perry and Greene.

That local Alabama authorities might come after blacks for voting was one thing. But, presumably, the federal government should have been something entirely different. After all, it was a federal judge in Montgomery who ruled in Mrs. Bozeman’s favor and threw out her state conviction for insufficient evidence. Even the blue suits in Wash-
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the voting rolls.
Yet here we were being summoned once again to Alabama to
defend voting rights activists, this time from federal, not state, prose-
cution.

EMMETT COX was the presiding judge at the trial. As Deval Patrick said:
"He looked like what you would expect a judge to look. He looked older
than he was. He wore a perpetual scowl on his face. He was impatient
and crotchety. He had whitish hair. He seemed bigger than he was.
Particularly in criminal cases, judges often convey they are giving the
defense its time but not its due. The more vigorous the defense, the
more impatient they seem. That was Judge Cox."

Dayna Cunningham remembered Judge Cox literally stepping
down to do whatever he could to bend the stick toward the prosecution.
During the testimony of a white law enforcement officer, "the judge
actually got down off the bench and poured the witness a glass of
water." By contrast, Dayna recalled the judge's demeanor with an
eighty-five-year-old black prosecution witness. "The witness was sort
of bent over and spoke very quietly, and the microphone was far from
his mouth and so he was not very well heard by the jury, and the judge
at one point just kind of leaned over and barked at him and said, 'Sit up
straight and talk into the microphone! The jury can't hear you!' And it
was just such a striking contrast to the judge getting off the bench and
going to fill the water glass of a white witness."

The prosecution team, although not outsourced, was certainly
outnumbered. Our defense team—seven blacks and three whites—took
up two long tables. During most of the trial, U.S. Attorney Jeff Sessions
was not present, leaving only two young white attorneys at the govern-
ment table. Perhaps the judge was just trying to level the playing field
in his own way.

Both Robert Turner (Albert's younger brother and a lawyer in
Marion) and J. L. Chestnut thought Judge Cox was one of the fairest
judges in the area. Robert in particular remembers how Judge Cox let
him pull the numbers from the master wheel to select the jurors who
would be seated in the box for questioning by the lawyers. Robert
thought Judge Cox did this because he had already denied all of our
defense motions challenging the discriminatory way in which the jury
was empanelled in Mobile to hear a case from another part of the state
that was dramatically different geographically and demographically.
Robert Turner assumed that Judge Cox, given his jury rulings, was so
confident the defendants would be convicted that he could appear to

Estonia had played an apparently sympathetic role, certainly for the last
third of the century. Indeed, not until the federal examiners came down
in 1965 after the U.S. Congress passed the Voting Rights Act did most
bloch in the Black Belt of Alabama join the voting rolls.
give them a little boost. Robert memorized the jury numbers of the black prospective jurors. After Robert finished pulling the numbers and both sides finished voir dire, we had a jury of seven blacks and five whites.

For J. L. Chestnut, the case was almost over once the jury sat in the box. "Black jurors," he told me later, "will convict blacks, Chinese, Eskimos, anybody else, they do it all day every day. If they would not convict in these counties which are seventy percent and seventy-five percent black, you wouldn't have anybody going to the penitentiary and there are no less people being sentenced in a county in Alabama that's seventy-five percent black than in a county that is fifteen percent black. There is no appreciable difference. What occurred is that because of the black experience, when the judge charges a black juror about the state's burden to prove beyond a reasonable doubt, they're glad to hear that and probably would hold the state to that standard even if it were not the law. Because they have had somebody in their family, somebody in their neighborhood that has had experiences which cause them to be suspicious of all authority and in particular of all authority that's closest to them—the police. Jeff Sessions never understood that, and his arrogance and the arrogance of the people working for him who selected that jury when they put all of those blacks in the jury box with this circumstantial case and they were not going to get close to proving any criminal intent, and once I saw the jury I knew that that case was over with."

Chestnut found Jeff Sessions's miscalculation understandable: "They figured they were the government; all they had to do was prove that these people had violated the letter of the law, and the jury would give the government the benefit of the doubt and assume intent. That's what they did and that's a crucial mistake. These blacks were not going to give the government the benefit of the doubt."

Early in the trial, the judge seemed to rule against every defense motion. He seemed particularly overwhelmed by the amount of legal papers the LDF lawyers filed. We motioned him to death. Most of our experience was as appellate lawyers. As in Maggie Bozeman's case, we were often the ones called in to salvage a case on appeal that had been lost at trial. Our strategy, therefore, was to protect the record in the event the defendants were convicted. Fortunately, the other defense lawyers, particularly Howard Moore and J. L. Chestnut, were more single-minded; they were interested in convincing the jury seated in the jury box to vote to acquit.

Judge Cox infuriated the defense team when he ruled that we could not even mention the word "race" in court. He had already denied our pretrial motion to dismiss the entire case on the grounds that the government was selectively prosecuting our clients because they were black. Now, the judge was afraid that, given the composition of the jury,
He would lose control of the courtroom or the case if witnesses were even racially identified. He was not content merely to scold us at every mention of the racial undercurrents. At one point, Judge Cox went so far as to hold defense attorney Howard Moore in contempt with the promise of a later fine (the citation was later thrown out by the Eleventh Circuit) when, on cross-examination, Howard Moore simply asked Clerk Mary Aubertin, a government witness and one of the primary forces behind the federal investigation, to state for the record the race of two white voters whose absentee ballots she had handled personally although the voters had long since moved out of Perry County.

The government's case hinged on twisting constitutionally protected voter assistance into a criminal activity. They employed a novel theory to make federal criminals out of Alabama civil rights activists. The government claimed that marking a ballot with the consent of a voter, what Judge Cox called "proxy voting," was illegal. In the government's eyes, Turner and Hogue, by helping illiterate voters to fill out their ballots—with the voter's specific and voluntary consent—were themselves voting more than once. Assistant Attorney General E. T. Rolison told the court that

It is our position that if a person obtains a ballot from an individual and the voter says, "All I did was make my X on this ballot where my name was to go" and that voter says, "I didn't make any of these marks" [in the candidate boxes], [then the voter] did not exercise any of these choices for these candidates. [T]hat is voting more than once and if a voter just hands over to a member of the Perry County Civic League without knowing anything [about] the slate or who they are supporting and they vote that ballot, that is also voting more than once.

Judge Cox immediately saw the extraordinary implications of the government's theory for any kind of political slate or public endorsements, or for spousal communication in which one spouse deferred to the political judgment of the other. Many people vote without being personally knowledgeable about every candidate. People vote with lists in their hands given them by neighbors or with sample ballots provided by advocacy organizations they trust. And, perhaps most commonly, they pull the lever in the voting machine for a political party sometimes without even knowing what offices they are voting for, let alone which candidates they are supporting. The court, comprehending the disjuncture of the government's theory with standard American practices, asked:

Even if the voter authorizes someone to complete the ballot?
*Mr. Rolison:* That is correct . . .
The Court: Even if the voter authorizes someone else to fill out the ballot?
Mr. Rolison: If the voter has no idea who is going to be voted for on that ballot that is voting more than once, because that person is exercising their will and control over that ballot and are making a choice that that person had nothing to do with.

In other words, the act of writing and marking a ballot was necessary to forming a political judgment. For the Reagan U.S. attorneys, voting was a profoundly solitary act, to be performed under circumstances in which the voter acts without connection to any other members of his or her family or community and without availing him/herself of trusted sources of information.

Judge Cox found that proxy voting was a legal and constitutionally protected activity in Alabama, yet the U.S. Attorney’s office presented witness after witness to show that Spencer Hogue or Albert Turner had helped a person to vote with that person’s consent. When the voter was illiterate, Hogue and Turner marked the ballot for them, calling out the names of the candidates. When the voter was confused, they informed the voter of the merits of various candidates.

There had been an unusual amount of confusion during the primary elections of 1984 in Perry County because the PCCL, for tactical reasons, decided not to put out a sample ballot or announce their preferences on the radio. Much of the voter education, therefore, took place in face-to-face encounters with the voters themselves. Of course, the opportunity for overreaching was certainly present. Had Albert Turner and Spencer Hogue been strangers to the community, or political hired guns, or even conventional political operators, they might have misused this moment of intimacy. But Albert and Spencer were a different kind of political activist: voting for them was about community empowerment, not individual advancement.

Perhaps Albert and Spencer could have spent more time with each voter educating them about the political process generally, not just advising them on the merits of individual candidates. Perhaps they should have insisted that the voters attend public meetings to make their voices heard. But these were elderly, impoverished people living in the countryside, with no means to get around. If voting was important, voting had to come to them.

One witness, a Mrs. Sanders, testified she told Hogue that she wanted “the man we all want.” For Mrs. Sanders and others, voting was an expression of solidarity, based on relationships of mutual trust and common understandings of a collective plight. Other government witnesses also testified that they wanted to vote the PCCL slate, the “way the crowd was voting.” They trusted Spencer Hogue and Albert Turner
and wanted to vote the Perry County Civic League slate. "I've been knowin' Albert all my life. I know his daddy. I know his mama and that's his little brother sittin' there beside him. Albert's been pickin' my ballot for sixteen years," one witness said.

Far from the picture of exploitative activists using unknown elderly people for their voting power that the prosecution needed, the witnesses expressed affection for the defendants, describing their relationships with Albert and Spencer sometimes from birth, but always characterized by cooperation and goodwill. Spencer and Albert helped them to the doctor when they were sick; they brought them food when they were hungry. Witness after witness testified to the longstanding bonds of community that held them together. They depended on the Perry County Civic League to gather information about the candidates, some of whom were running statewide and about whom the witnesses knew little or nothing. As Mrs. Sanders testified, she "didn't know none of the folks" running, and the PCCL slate was itself her choice. She, and others, deferred to the expertise and informed judgment of the Perry County Civic League in general, and in particular its members Albert Turner and Spencer Hogue.

LDF defense attorney James Liebman, who is now a Columbia Law School professor, told the court, "I don't see how that is any different from that situation where they have made a choice and that choice is I want to go with you or the PCCL slate." Judge Cox agreed: "I am not inclined to think that a situation where a voter gives someone else his ballot with the authority to mark the candidate he wants to mark and vote it is a criminal offense." He instructed the government's lawyers not to argue in court that such activity was a violation of the law. Judge Cox recognized that voting, for the government witnesses, was not an isolated act by a lone individual. Nor was it merely an autonomous expression of unmeditated, individual will. The witnesses' vision of voting—the one they insisted upon in court even when it provoked badgering by government lawyers, and the one upheld by Judge Cox as legal proxy voting—was an expression of community power. It did not take much cross-examination for the government's evidence to collapse under the weight of its own estrangement from common, democratic, and perfectly legal practices.

Still, this was only the beginning of the prosecution's problems. Judge Cox may have been initially sympathetic to the prosecution. He could not, however, resuscitate the government's case once it started to fall apart. The Reagan-appointed U.S. Attorney had delegated most of the dirty work to two junior attorneys, who based their case on the testimony of seventeen witnesses out of two hundred people interrogated by the FBI in Perry County. These witnesses turned out to be the prosecution's biggest liability.
A few of the witnesses were clearly disoriented to find themselves in a wood-paneled and physically imposing courtroom, testifying about something that did not stand out in their mind at the time, and that moved ever further into the past as the months passed between the September 1984 primary and the June 1985 trial. A few days into the trial, local papers, hardly sympathetic to the defense, were reporting that witnesses "could not remember voting at all," and that they "appeared frightened during the questioning process" or "confused and their testimony has been confusing." For example, Renear Green's testimony on direct examination by the government did little to further E. T. Rolison's theory:

Q. Okay. And who marked the ballot for you?
A. I marked it for him to sign.
Q. So you—
A. I done some scratching, but I don't know whether that is the paper or which one. It has been more than that and that... .
Q. Did you tell the FBI that you did not know why Spencer Hogue marked the ballot for a candidate other than Reese Billingslea. Now, the answer is yes or no?
A. I told him no, I didn't know none of them but him. I told him, yes or no.

The government attorney, getting frustrated, pressured another witness, Robert White, to name whom he voted for. "I can't remember what did I do because I had him fill it for me. I couldn't do it." White, like many other government witnesses, was corroborating the defense theory, what the judge called perfectly legal proxy voting.

Some witnesses gave contradictory testimony. Others revealed, on cross-examination, that they couldn't read or write, and therefore could not identify the ballots being waved in their faces by the government attorneys. Others could barely see. Some had no long-term memory of voting at all, but admitted that the problem was their memory, not their voting. Each in their own way actively undermined the government's case that they had been coerced or intimidated into voting against their will. Most of the government witnesses went even further, giving endorsements for Albert and Spencer. Their stories did not help the government. Had the government lawyers or agents ever listened to them, really listened, they would have known that.

Judge Cox tried to alert the government. "You should be on notice by now," he said, "that you have witnesses that are saying one thing in court that is different from the way the FBI understood it." But the government agents failed to pay attention to such details; they projected their own views onto their rural, community-oriented witnesses.
Mrs. Price's trial testimony, for example, revealed that she needed voting assistance because she "had arthritis in my hand and my eyes were bad." She had marked the candidates she did not want to vote for and she was "nervous [about voting] and couldn't write." Albert Turner provided the assistance that she needed. Frustrated and indignant that its witnesses were not making its case, the government badgered Mrs. Price, as it had every other witness, about the ostensibly inconsistency between the FBI's 302s and the witnesses' court testimony.

Q. Do you remember telling Mr. Bodman [a special agent] that you don't know Evelyn Turner?
A. I remember that.
Q. Is that a true statement or were you mistaken?
A. Well, I meant that I knew her but I didn't know her as well as I knew her husband.

What the white FBI agents did not realize is that many black people in the rural South, confronted with their own powerlessness in the face of overwhelming white domination, often developed a way to soft-pedal bad news. They cleverly coded their messages so white folks could hear exactly what the white folks wanted, at the same time carefully maintaining the integrity of their own version of the truth. Some scholars call it "signifying"; Dayna Cunningham calls it "classic dissembling. Where you can't confront anybody, but you just want to go on your own way the best you can—steadfastly, you know? And 'Yeah, that's right, sir; that's exactly what I said'—never disagree with the man, but clarify and tell the whole story exactly the way you see it."

This is apparently what happened with Mrs. Price, when the government pressed on in questioning her as if she were not their own witness.

Q. When you talked to Mr. Bodman, do you remember telling him that you did not authorize anybody to make any changes?
A. No more than what I told them to make.
Q. Let me try to rephrase it [the prosecuting attorney insisted]. It really calls for a yes or a no, if you can answer it that way. Do you remember telling Mr. Bodman that you did not authorize anybody to make any change, either yes or no?
A. No, I didn't tell them to make no changes.
Q. Do you remember telling Mr. Bodman that you did not authorize telling anybody to make any changes? I am trying to get at what you told Mr. Bodman? [The prosecution leaned in toward Mrs. Price]
A. Yes.
Q. Do you remember telling Mr. Bodman that you did not authorize anybody to make any changes for you? [leaning in even closer]
A. The only changes were made—no more than the changes—

As the prosecution’s voice got louder and the government attorney moved in closer to the witness, Howard Moore objected: “This witness has problems, but hearing does not seem to be one of the problems.”

“Where would you like me to stand?” The prosecution sneered.
“Wherever you like, but not in the witness’s ear,” Mr. Moore shot back.

The government’s aggression toward their own witnesses startled the jury. Albert’s brother Robert observed during the trial that the jury appeared to be thinking, “You ought to be ashamed for asking something like that question. Why are you being like that, why are you picking on them?” The prosecution’s overzealousness and hostility toward its own witnesses even led Judge Cox to interrupt the prosecutors:

You know, I can understand it once or twice, but you folks are on notice that we have witnesses coming in here saying things differently from what they said on a 302. We have to waste all of this time and that is what it amounts to, calling these witnesses to say one thing and proving that they told the F.B.I. something else, you know, and it doesn’t accomplish anything.

One of Dayna Cunningham’s jobs was to make a note of what moved the jury, what failed with them, what they paid attention to, and the like. She was watching the jury during Willie Anderson’s testimony. Mr. Anderson, a man who seemed afraid of his own shadow, testified for the government that he didn’t support the defendants because black people had never done anything for him. “To tell you the truth,” Anderson said on cross-examination, “if it wasn’t for the white people, I don’t believe we would get them [Social] Security checks.”

Once again, the government had failed to anticipate the effects of its witnesses and their testimony on community members—and though they were sequestered, that is what some of the black members of the jury remained: peers of the defendants and members of the Black Belt community. As Dayna recalled:

I remember there were a couple of black women in the jury, and they looked like good, upstanding, churchgoing, solid Sunday-dinner-cookin’ sisters. You know, they were matronly looking, with very large breasts, and you just knew when they left the courtroom they were wearing their hats. And I will never forget, they were sitting there, and when this man started to talk, they looked like my husband Phil’s
Aunt Pearl. They had their arms wrapped around their massive chests and they just went, “Um um um.” I mean, their faces were just dripping with contempt and pity. Their faces looked as if they smelled something really bad in the jury or had a memory of something that was really disturbing.

Despite the many moments of high drama in the trial, for Dayna Cunningham, whose job it was to observe the jury closely during the trial, the sad testimony of this quiet, beleaguered witness was memorable precisely because of the effect it had on the jury. His testimony also inadvertently bore witness to a nuanced black economic dependency that persisted in the Black Belt. Though blacks no longer lived in large numbers on white land, nor shopped at plantation commissaries, economic tethers continued to constrain black political expression.

By the seventh day of the trial, local newspaper headlines read: Prosecution Witnesses Fail to Advance Government’s Case and Witnesses Say They Authorized Amendments to Absentee Ballots. On July 3, Judge Cox dropped the number of charges against the Marion Three from twenty-nine to sixteen against Albert Turner; fifteen against Evelyn Turner; and seven against Spencer Hogue—due to insufficient evidence. Only one witness (and a family which harbored a grudge against Albert Turner but couldn’t seem to work out the inconsistencies in their own story) performed as the government wanted.

For its part, the defense did its homework. Its homework, however, was not just limited to making well-honed legal arguments. Its homework meant getting to know the witnesses, the community, learning the facts, not just the law. Deval Patrick and Dayna Cunningham’s interviews with voters and with witnesses were part of the defense’s research strategy. As Deval put it, the legwork in the community “paid off in spades.” Because Deval had visited Robert White at his home and knew that Mr. White was living on his own quite independently, when a nurse appeared out of the blue in court, Deval felt “outdone.” Deval immediately suspected that the prosecution had deliberately staged the entrance of a nurse in white dress uniform to send a message to the jury that Robert White was not only feeble but incompetent. Deval gently cross-examined Mr. White to show he did not need, nor had he asked for a nurse to be present.

Deval Patrick then asked that “the government dispense with the theatrics of having a nurse in full dress and stethoscope.” “The judge scolded me,” Deval remembered. “The Assistant U.S. Attorney threw her pad down. But the nurse did not come back.”

As a result of the community organizing that Rose Sanders and Hank Sanders did, and as people heard what was happening in the courtroom, more and more local people rallied around the Marion
Three, attending court in greater numbers, until the courtroom was full on a daily basis. Community support was never more evident than after the fire at the Turners’ house.

Judge Cox prohibited any mention of the fire in court—or defense suspicions that it was deliberately set on a night when Albert, Evelyn, and their lawyers were sitting in the kitchen. Howard Moore, who was helping the Turners prepare for court the next day, remembered it was late in the evening when he heard what he thought was a thunderclap and then saw the fire as it “just bolted through the house,” accelerating rapidly and searing half the Turners’ house. Dayna Cunningham remembered that though there was no mention of the fire in court, its effects permeated the courtroom. Attorneys Morton Stavis and Howard Moore, both of whom had been staying at the Turners’ home, sent their clothes to the cleaners, but the smell of fire could not be gotten out and “every day there was a smell of smoke in that trial.”

Evelyn Turner lost all of her clothes in the fire. But her family was determined that the fire not affect her appearance in court. “Every day,” Dayna remembered, “she came to court with a beautiful new dress on. Because her aunt and her family and her supporters felt so strongly that she should maintain her pride and her dignity.” Evelyn Turner remembered quietly how “different women in the community gave my aunt material and my aunt stayed up late into the night to make me clothes so that I could be decent in court during the trial.”

If anything, the fire simply reinforced the extraordinary outpouring of community support for the defendants. Evelyn Turner remembers, “Oh, they were behind us, if there is such a thing, three thousand percent. During the trial we couldn’t pay some of our bills: light, gas. People helped us pay the utility bills. We had one outstanding note where we had borrowed money and the church paid it for us. We got donations from as far away as Africa, and that money went to our defense fund.”

At the conclusion of its reading of the defendants’ grand jury testimony, the prosecution rested. The defense brought in character witnesses, including Andrew Young, then mayor of Atlanta. Andy Young had been pastor of a church in Marion. His wife grew up there. They were connected both to Albert Turner and to Marion, Alabama. Indeed, one day several weeks before trial, as I was leaving my apartment building in New York City headed to Alabama, suitcases and briefcases slung over both arms, a woman who lived several floors below me stopped to chat. She wanted to know where I was headed. This was an unusual request anywhere, but particularly from a stranger in New York, where anonymity is treasured, even among neighbors. I told her, “Alabama.” Where in Alabama, she asked me. “Near Selma,” I
volunteered, thinking that was enough to satisfy her curiosity. "Where near Selma?" she persisted. "Marion, Alabama," I blurted out, worried now that I might miss my plane. "Oh," she answered with great delight. "I'm from Marion. My sister is married to Andy Young."

My neighbor had heard about the federal investigations in the Black Belt and was hoping, since she knew I worked for the NAACP LDF, that I might be involved. What seemed to be serendipity, however, turned out to reveal an important historical lesson about Marion, Alabama. I learned that Coretta Scott King also grew up in Marion, along with many others who eventually became prominent in the civil rights movement. Apparently, nineteenth-century missionaries had made Marion an educational center of the Black Belt.

At trial, my neighbor's brother-in-law testified about working with Albert Turner when Turner was the Alabama director for SCLC. Andy Young knew Albert Turner "as an independent person," who kept the staff on course in Alabama during the height of the civil rights demonstrations during the 1960s. "Dr. King was very much impressed with Albert Turner," Andy Young said. "I have trusted Mr. Turner in many difficult situations over the last twenty-five years." I asked Albert Turner why, when other local civil rights leaders waited quietly on the sidelines not eager to get involved, Andy Young was so willing to testify on his behalf. Albert Turner answered simply, "Andy and I were comrades. We slept and ate and went to demonstrations in the streets. When we were being shouted at and beaten up and put in jail, Andy and I would sit side-by-side. Andy, I'd say really knew who I was, not what somebody said about me."

Before the case went to the jury, the attorneys had a chance to make their closing arguments. It was July 4, 1985. The jury had been sequestered for more than two weeks and the judge was eager to get back to Mobile, where he, the court staff, and the prosecutors all lived. All the lawyers made some reference to the Edmund Pettus Bridge. F. T. Rolison, the Assistant U.S. Attorney with the unique view that proxy voting was per se illegal, said no man was above the law, no matter who his friends were or who he marched with. Albert Turner, Rolison declared, had lost sight of his purpose and his civil rights dreams, pursuing naked power instead. Defense attorney Morton Stavis said the jurors would have a big impact on democracy in the region. "What happens to the democratic process if the people who win elections and have control of law enforcement can routinely go into court and kill off the opposition by criminal prosecution?"

When my turn came to speak, I carefully rebutted in detail the government's evidence against Spencer Hogue, demonstrating all the inconsistencies and contradictions. What was more important, in some
ways; was my—demeanor, the close attention I paid to every nuance in the government's case gave substantive reinforcement to the more powerful courtroom orators.

I also have a vivid recollection of what I did during the lunch break just before I was due to speak. In the front seat of a car parked outside the courthouse, I rehearsed my closing. I was not talking to myself. Deval sat in the seat next to me, prompting me, helping me revise for different emphasis, closely following every word. Like everything else about that trial, those moments of quiet collaboration meant so much more than the subsequent performance. I do, however, remember, as does Deval, J. L. Chestnut's closing. Now that was a performance. Indeed, when Chestnut finished, Deval had to wipe the tears from his eyes.

Chestnut is a great courtroom orator. He is not a big man, but he has an enormous, almost operatic command of his voice. When he speaks, he uses his entire body to punctuate his sentences. He knows how to reach an audience. Sometimes, Chestnut explains, "I'm speaking beyond the courtroom. I may be speaking to the public at large. If this is a case in which there are significant public issues and there is an opportunity within the vortex of representing my client that I can also educate the public, I will gladly yield and do that." This was such a time. He developed a refrain: "Who is this Albert Turner? ... The government has singled out this black man in Alabama. I ask, 'Who is this Albert Turner?' He is a man who risked his life so blacks in Alabama could vote; a man who faced police dogs and armed state troopers when the government would not come. It did not come then. Now a scant twenty years after blacks fought, marched, bled and died to gain the vote, the government comes to criminal court to prosecute three black people."

On July 5, the jury deliberated for approximately three hours. They returned a verdict of not guilty on all counts for all three defendants.

We had prevailed. All of us, from the government witnesses to the sequestered jury, had spoken truth back to power. The courtroom erupted in singing. It was not merely a victory—it was a triumph. We sang many of the old civil rights songs on the steps of the courthouse, the same steps we had climbed for the last few days, steps then crowded with community folk waiting to get into the trial, steps that almost parted in half as the lawyers approached. "Make room, the lawyers are coming," and the people who had taken off time from work, the people who had gotten up early in the morning, made a pathway for us to cross. Now we were leaving the courthouse, all of us, jubilant. We celebrated together right there on the steps of the courthouse.
Spencer Hogue had awaited the jury verdict calmly. He had been angry when they first brought the charges—experiencing the false accusations as "something that goes real deep"—but now he felt a sense of peace. For Evelyn, the anxiety kept mounting. The lowest point for Evelyn Turner had been the day she was fingerprinted. "They said I had been indicted and I just blurted out 'For what?' And Hank and Rose, they talked to me and told me that it was just a part of the procedure that they had to go through, that I had to go through. But I just didn't want to do it. It made me feel like I was a criminal, and I hadn't done anything, so I didn't want to be fingerprinted for nothing." Yet, here she was, moments after the jury verdict. "Words cannot describe how I felt," Evelyn said. "No words can describe how I felt—one. I had made up my mind that, well, what will be, will be. And when they came back with a 'not guilty,' I was overwhelmed with joy." We all were.

As the people spilled outside, the brooding image of the Edmund Pettus Bridge loomed in the background. We had labored throughout the trial in its shadow. With the memory of the marchers who passed the 1965 Voting Rights Act on that bridge, we had carried on a noble tradition. That is how powerful we felt: we had history on our side. Buoyed by the converging streams of historical memory and contemporary struggle, we spoke truth to power in the most meaningful way in a democracy—from the bottom up.

That bridge and the Selma trial reinforced for me so many of the things my father had taught me as a little girl. I always believed that ordinary people with little education still had a lot to teach. That belief, which my father's stories certainly planted, was cemented during the trial. I was my father's Virago—to some, a troublemaker, but to others a persistent questioner with big ideas, enormous curiosity, and an appetite for collective struggle. We pursued a dual strategy in the courtroom: some of us did the meticulous, well-researched preparation that provided the foundation for the more fiery performers. We were engaged in a series of collaborations, among the lawyers, between the lawyers and the clients, with the lawyers and the community witnesses. We showed that civil rights lawyers did their best advocacy partnering with a community. All of us worked in tandem to represent our clients and to locate that representation in the context that really mattered to Albert Turner, Evelyn Turner, and Spencer Hogue—their community. In representing Albert, Evelyn, and Spencer, we were also representing their neighbors and their friends. Those with whom they lived and worked were not technically our clients, but they came to see us as their advocates, too.

The trial also reinforced the idea that while lawyers often focus too much only on the legal aspects of a case, this case was an example of a different model. It was a different model because Hank Sanders pursued
a public education strategy alongside the defense team in court. It was a different model because the lawyers were working not for fame or fortune or because we knew what was best but because we were willing to support local leadership in a community struggle against the more powerful forces of federal authority. We were lawyering to empower Albert Turner and Spencer Hogue to be able to return to their local community and do their important work as community organizers.

I saw firsthand the importance of "motherwit," the wisdom of common folk that Albert Turner and Spencer Hogue displayed, when they sought out opportunities to defy publicly both the government's and the media's characterizations of them and their ideas. This was an early lesson that ordinary people can prevail, even when up against the enormous resources of a government bureaucracy.

All of us eventually realized we had to speak beyond the courtroom. As was evident in Chestnut's closing argument, we had to speak to the public at large, trying, as Albert Turner did, to change the way people think. We saw an opportunity within "the vortex" of representing our clients to educate the jury and the public, both. We were architects of a legal bridge anchored in history but designed to allow the forces of change to meet the forces of tradition.

Our clients assumed enormous leadership within the trial strategy itself. They bridged the role between lawyer and client, sometimes advocating for themselves and their community against the advice of counsel, but always speaking out not from the elevated perch of technical expertise but from the more humble yet secure ground of their communities.

The elderly black voters, who were summoned by the federal government to testify against our clients, in effect testified as witnesses for the defense. These black citizens spoke with the greatest eloquence and the utmost dignity in their own voice and their own way. They were citizens of a community, they told the court and the jury. They were part of a communal "we" who sought to gain real power by harnessing their individual voting rights to a community agenda. They said, by the way they exercised their vote, that their power came from the power of collective action, the power of "their people." They said, by the way they spoke up in court, they had power because they did not see themselves as isolated and lonely individuals.

They may have been old. They may have been feeble. But they too were building bridges. They refused to back down from a community-based vision, even when badgered or provoked. It was their vision and their courage that stayed with me when I later became a legal academic. When I began writing about the importance of giving a voice—and a choice—to ordinary people, it was the witnesses in the Selma trial who often came to mind. They were mostly uneducated in a formal way, but
they were schooled in the more important lesson of joining hands and standing their ground.

At that moment, rejoicing on the steps of the federal courthouse in Selma, Alabama, I realized how central Derrick Bell’s advice to me had been four years earlier to go south, to mix it up, to become a civil rights advocate, not just a civil rights technician. I should not be content, in Professor Bell’s words, to remain an “anonymous bureaucrat” who brings expertise but “rarely learns from the people with whom they work.”

Dayna Cunningham captured the almost mystical power of Professor Bell’s advice when she explained the significance of her law student experience working on the trial:

That summer [1985] in Alabama just put the whole thing into focus for me. It made me realize that there was actually something immediate, and useful, and fulfilling that you could do with law school. And that was it. From that day on, the only thing I ever wanted to do was—in terms of the law—was to practice voting rights law at the Legal Defense Fund. That’s the only thing I ever wanted to do. . . . I have absolutely no interest in the law or being a lawyer. Except to the extent that I could be a voting rights lawyer at the Legal Defense Fund.

That day in the shadow of the Edmund Pettus Bridge, I felt personally connected to the forces of nature Derrick Bell told me I would find if I went south. It was the kind of natural struggle Rose lived by. As individuals fighting to challenge false accusations, we each put small waterdrops of faith in the river. One by one those small drops became the river of a different truth as the lawyers, the clients, the formal witnesses, and the ordinary people who came to court every day to bear witness spoke out in unison for a change.

Rose Sanders was right. Selma changed me because it joined me to the force of the “ancient, dusky rivers” that were Langston Hughes’s metaphor for a common oppression, a collective struggle, and an uncommon faith. I came to know Selma—its history, its bridges, and its underground streams of resistance.

Drawing strength from all that Selma represented, we built our own bridges to truths that were anchored in Albert Turner and Spencer Hogue’s deep sense of underlying justice, fortified by Rose and Hank Sanders’s grass-roots organizing to build community support.

Even in the face of intense and powerful opposition, we would not be moved.