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GEORGE W. CROCKETT: THE OPENER

Preface and Commentary by WARNER SMITH

JOURNAL: *Judge Crockett, who were some of your childhood heroes?*

JUDGE CROCKETT: . . . *I used to give orations on Toussaint L'Overture, Toussaint L'Overture lived for me.*

GEORGE W. CROCKETT, JR., Judge of the Recorders Court of Detroit, Michigan, is a man for all seasons. Throughout his adult life he has fought racist tyranny, poverty, political suppression of dissent, and the overreaching claws of police. He risked death itself by defending civil rights workers in Mississippi. He unleashed the fury of Detroit's silent majority by applying the law to the poor as if they were rich. He violated the national taboo in defending the rights of American communists. He aroused the wrath of Detroit's "finest" by using the judiciary as a shield protecting ghetto citizens from police lawlessness. Such audacity exemplifies a steeled will informing his lionlike courage.

The courage displayed in maturity began as rebelliousness in youth. While attending Stanton High in Jacksonville, Florida (James Weldon Johnson had been its principal), George Crockett learned a lesson from his mother which is an epiphany of his career. Stanton High conducted a speech contest with a rival school. The speakers were to debate on the 13th, 14th and 15th amendments to the U.S. Constitution. The prize awarded the outstanding speaker was \$200. George Crockett wrote a speech and asked the coach if he could enter the contest. Denying the request, the coach told him two students had already been selected. Carrying his crestfallen spirits home, the young scholar informed his mother of his misfortunes. She advised him that so long as one could appeal to higher authority, one should never accept the first "no." He appealed his case to the school principal who agreed that the speakers representing the school should compete in an elimination contest. Young Crockett won the contest, the interschool debate, and the \$200. He has remembered that the fruits of victory often lie on the far side of the shadow cast by mean authority.

Using the \$200 to help pay for his school expenses, he enrolled at Morehouse College. He aspired to be a dentist, but as he studied, his interest in dentistry waned while his interest in political science, history and law waxed. He changed his major to pre-law. While an undergraduate at Morehouse he was president of the freshman, sophomore and junior classes, president of the student body during his senior year, president of the debating society and captain of the debating team, associate editor of the student paper, and a varsity cheer leader. Upon graduation he received the prize granted the student who had participated in the most extra curricular activities while maintaining an average of B or above. His undergraduate work illustrates three salient aspects of his character: a keen political sense, intellectual rigor, and the habit of command.

In 1931 he graduated from Morehouse and matriculated at the University of Michigan's School of Law. He was one of two Blacks in a class of three hundred. While attending school full time, he worked as a waiter to pay his room and board. His favorite course was constitutional law; he readily identified with the issues in cases concerning the constitutionality of racial discrimination. He avidly studied the thinking of "the great dissenters," Brandeis and Holmes. The work of the New Deal lawyers, those legal architects of FDR's socio-economic reforms, quickened his imagination. In June, 1934, he graduated from law school.

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JOURNAL: *What did you do upon graduating from law school?*

JUDGE CROCKETT: I decided I did not want to stay up North; I felt I had an obligation to go back South. At the same time, I was afraid that if I went back South I could not realize my full potential because I knew Black lawyers in the South were not fully accepted. So I decided my best bet would be to locate in one of the so-called border states. My father-in-law had been a minister in West Virginia. He told me about Black's growing political awareness in West Virginia. So I decided to locate there.

JOURNAL: *Did you have any difficulty in passing the West Virginia bar?*

JUDGE CROCKETT: Well, I went to Charleston, West Virginia and met Mr. Jackson, a Black man, who was the state law librarian for the Supreme Court. He introduced me to the clerk of the state supreme court. During the course of our conversation, the clerk, who was also secretary of the Board of Law Examiners, remarked about my practice in Michigan. I said I had not practiced in Michigan and was not a member of the Michigan bar. He said that raised a problem, because, unless you came to the state as a practicing attorney from another state, you must be a resident of West Virginia for one year before you can take the state bar exam.

JOURNAL: *How did you respond to that bad news?*

JUDGE CROCKETT: I decided to return to my home state, Florida, take the bar exam, and return to West Virginia.

JOURNAL: *Did you have difficulty in taking the Florida bar?*

JUDGE CROCKETT: The Florida bar examination was given in the chamber of the Florida State Senate and heaven forbid that a Black man should sit in a white senator's seat in the Senate chamber. So instead, they put up a temporary table just outside the door of the chamber in the corridor and put a chair there. That is where the one Black applicant took the Bar examination in December, 1934.

JOURNAL: *Did such blatant racism deleteriously affect your exam performance?*

JUDGE CROCKETT: I don't get hung up on problems like that under those circumstances. I have a one track mind. If I am to fight that kind of racism I must get myself in a position to do it. So don't worry about it, you subject yourself to it; just don't forget about it. Concentrate on getting admitted to the Bar. Then you can raise hell about that kind of condition. You can help prevent it from happening to subsequent candidates.

After practicing in Florida for a year, Attorney Crockett became disenchanted with the severely limited opportunities for Black lawyers. He re-

turned to West Virginia, passed the bar and began practicing in Fairmount, West Virginia.

JOURNAL: *After returning to West Virginia how did you become involved in community affairs?*

JUDGE CROCKETT: My wife and I became active in the local church. I sensed a need for some sort of civil organization. The citizens had not organized an NAACP branch in the area, so I proposed to some of my friends that we should create a chapter. Goodness knows we had issues. Some whites were talking about building a swimming pool with public funds. They were going to build it in a white neighborhood and not allow Blacks to use it; the mayor said as much. Using the theory that he was going to use federal funds and could not legally use federal funds to build a segregated pool, I threatened to bring suit against him. We were able to organize the NAACP around that issue. We got the Blacks in three counties together and organized the Tri-County branch of the NAACP. The last time I was in West Virginia, the branch was still operating and still doing a good job.

Attorney Crockett was asked by the campaign manager of Senator Mathew Nealy to campaign for the senator in the 1938 election. Atty. Crockett spoke for and endorsed the senator in the local newspapers. He helped swing Black votes in the senator's favor. In 1939 he was rewarded with a job in the Wage and Hour division of the U.S. Department of Labor.

JOURNAL: *Why was this job important?*

JUDGE CROCKETT: I was the first Black lawyer ever employed in a legal capacity by the U.S. Department of Labor. The significance of the employment was from the national publicity the Black press gave the appointment. It was a breakthrough for Black lawyers.

JOURNAL: *What type of work did you specialize in?*

JUDGE CROCKETT: I became the department's expert on employee suits under the Fair Labor Standards Act, a federal wage and hour law. In that capacity I wrote several articles on different aspects of employee suits; two of the articles were published by the *University of Michigan Law Review*.

JOURNAL: *Did you argue any cases in court?*

JUDGE CROCKETT: Oh yes. I represented the Federal government. One of the first cases I argued had to do with the constitutionality of the wage and hour statute. I argued before the Court of Appeals for the First Circuit in Boston. The case was *Kirschbaum v. U.S.* The court upheld the law's constitutionality.

JOURNAL: *Did your white peers discriminate against you on the job?*

JUDGE CROCKETT: I progressed rather rapidly in the Department. I was promoted from assistant attorney to associate attorney, to attorney, and then to senior attorney. As senior attorney I was second in charge of the appellate grievance section of the Department, and my next promotion would have been to principal attorney. I was told, however, that I had gone as far as I could reasonably expect to go; that they didn't feel the time had arrived when a Black would be a principal attorney in charge of a section in the legal division of the Department of Labor. The man who told me that was the assistant solicitor who was also a good friend of mine. He was very

frank about it. He said look, I know you should be promoted, you should have the job. But I am telling you it is just not going to happen that way.

JOURNAL: *What was your response to that slap in the face?*

JUDGE CROCKETT: I decided to leave the Department of Labor.

JOURNAL: *After leaving the department, where did you work next?*

JUDGE CROCKETT: I was invited to join the President's Commission on Fair Employment Practices, the first FEPC created by President Roosevelt. The Commission wanted to create a staff of hearing examiners to go about the country and conduct hearings, literally, as referees. I was the first one selected as a hearing examiner with the FEPC.

JOURNAL: *What were the results of your examinations?*

JUDGE CROCKETT: This was during the war. We were concerned with speeding war production and eliminating discrimination in war production. The public transportation system in Philadelphia, Pennsylvania refused to employ Blacks as motormen and conductors. A complaint was filed with the FEPC and I was assigned to go to Philadelphia to prepare and present the case. The normal procedure was that after you had finished a case, you wrote a proposed opinion for the Commission with an order attached. I did that. The Commission approved and issued that as its opinion and its order. If the defendant company refused to comply voluntarily with the order, then we sent the order to the President. In this case, the Philadelphia Transit Company refused to comply with the order. It was sent to the President, and, based on that order, he sent the Army to Philadelphia to take over and operate the company. That's how Blacks were first hired as conductors and motormen by the Philadelphia Transit Company.

Attorney Crockett's work with the FEPC brought him to the attention of R. J. Thomas, president of the United Auto Worker's Union. The union sought someone to head its new fair practices committee. The committee was the first program within an automobile union aimed at combating racism within the unions and auto industry. Attorney Crockett was asked to become the committee's executive director. He accepted the job.

JOURNAL: *What are some examples of your tasks on the committee?*

JUDGE CROCKETT: The fair practices committee was made up of five key members of the international union's executive board. If the members were convinced a local union was discriminating, they had the authority to ask the board to appoint an administrator over the local union, take control of the union, and administer it to eliminate racial discrimination. We received a complaint from Atlanta that Black employees at the General Motors plant were being denied admission to the union. I met with most of the Black workers, explained union policy and accepted their applications for membership. I brought the applications to the regional director and informed him that his job was to get the men into the local union. The white members refused to take any Blacks into the local union. I phoned Walter Reuther, then director of the General Motors department, explained the situation and recommended that he come down to Atlanta to clean it up. Walter met with the local and told them what the policy was. The Blacks would have to be voted in. At that point, the local union voted to take them in. That is how Black workers first got into the U.A.W. locals in Atlanta.

Subsequently Attorney Crockett broke with Walter Reuther, the rising star of the U.A.W. During the U.A.W. strike of 1946 Reuther assured Attorney Crockett that the General Motors department of U.A.W. would not conclude its contract negotiations with G.M. unless the contract contained an anti-discrimination clause. Black interests were sacrificed when the contract was signed without the clause. Attorney Crockett was outraged.

JOURNAL: *How did you respond to Reuther's breach of faith?*

JUDGE CROCKETT: Later that year, the union's annual convention was held in Atlantic City. Seeking to unseat R. J. Thomas as president of the union, Reuther addressed the Black caucus. After his speech, I spoke and told the caucus, in effect, that Walter could talk against discrimination but would act only when pinned down and forced to oppose racism. Walter never forgave me for that speech. The next day he was elected president of U.A.W. One of his first acts as president was his request for my resignation. I ceased to be director of the Union's fair practices committee.

JOURNAL: *What did you do after leaving the U.A.W.?*

JUDGE CROCKETT: I went into private practice. During my first week in private practice, I was called to Washington to be interviewed for an appointment as District Attorney for the Virgin Islands. I went to Washington and spoke to the official in charge. He was concerned about my connections in U.A.W. and I refused to do any red-baiting. He suggested Negroes were more inclined to follow the communist line than others. I told him I would say nothing on the matter. As far as Blacks are concerned, we don't care who helps us so long as we are helped. It doesn't make any difference to us whether you call them a communist, whether they are communists, or anything else. If they are going our way, welcome to the fight. I knew then I would not be U.S. District Attorney in the Virgin Islands.

JOURNAL: *After expressing your independent viewpoint did you have qualms about your future career being jeopardized?*

JUDGE CROCKETT: No. You develop a certain amount of self-confidence. You have studied and burned the midnight oil. So you have a sense of your own competence and are prepared to say, "If I can't make it here, I can make it over there; so why should I be unfaithful to my beliefs and principles just to get this job?"

After returning from Washington, D.C., Attorney Crockett was asked by Maurice Sugarman, a former associate at U.A.W., to join a team of lawyers defending the leadership of the American Communist Party who were on trial in New York, N.Y. His friends advised him not to accept the offer because he would be destroyed by reactionaries and bigots who would smear him with the label pro-communist.

JOURNAL: *Why did you defend the communist party leadership?*

JUDGE CROCKETT: There are several reasons. I've always taken literally that canon of legal ethics that says no lawyer shall refuse a man's cause out of considerations personal to himself. I knew I would be labelled pro-communist, but that was a consideration personal to myself. Such a consideration should not prevent me from giving, whoever the defendant is, the best defense the law will allow. As a Black lawyer, you didn't get many opportunities

to participate in a case attracting national attention. Also, I was acutely aware of the case's constitutional import; I was going to defend the constitutional guarantee of the right of free speech and freedom of association. I knew that if communists' rights were abridged, Blacks' rights would soon be crushed.

Years later when I was defending civil rights workers in Mississippi, I was confronted with precedents established in the so-called anti-communist cases. The precedents were being used to block the efforts of sharecroppers and poor whites who sought to organize politically.

During the anti-communist trials, I went to the NAACP's national office and asked them to file a brief on our challenge to the state's economic bias in selecting jurymen. Their answer was no. They said they couldn't do it because the organization would be labeled pro-communist and it could not afford such a smear. I believed they would regret the decision. A few years later in Alabama, the state tried to seize control of the NAACP's membership records. The state used precedents established in the anti-communist cases, including those in New York. Fortunately, the NAACP prevented the state intrusion, but only after appealing the case to the U.S. Supreme Court.

Attorney Crockett vigorously defended the communists' rights of freedom of association and speech. He was held in contempt of court and sentenced to four months in the federal penitentiary.

JOURNAL: *Sir, I know this question brings back painful memories. Did your prison experience influence your attitude toward the law?*

JUDGE CROCKETT: First of all, you shouldn't have introduced the question by saying it is painful. The four months were not painful. I look back upon them as a bright spot. The state defeats its purpose when it sends a man to prison who knows he is innocent of any wrongdoing. When people, by and large, do not accept the verdict, he becomes a hero.

My prison experience has colored my outlook. I have always favored the underdog in our society and prison pushed me further into the underdog's camp. When I tell a man he has so many years in prison, I know what I'm doing because I have been through it. I think it would be wonderful training if we could arrange, as a prerequisite to serving on the bench, that you spend some time in prison. Hopefully, incognito. Something like thirty days to see what prison is like. A judge would then know if prison will rehabilitate a man. I think our institutions would be all together different places if judges had that kind of experience rather than pre-announced tours of prisons where everything is cleaned up and in shipshape form.

After serving his sentence, Attorney Crockett was subjected to a public reprimand but was not disbarred. He returned to private practice and specialized in personal injury cases. He became bored with making money. Serving as a national vice president, he was active in the National Lawyers Guild. During the summer of 1964, COFO, a coalition of civil rights organizations, launched its voter registration and educational campaign in Mississippi. As usual, Mississippi racists trampled on the constitution, intimidated civil rights workers, and ultimately murdered three of them.

JOURNAL: *What role did you play in Mississippi in 1964?*

JUDGE CROCKETT: The National Lawyers Guild decided to send members and invite attorneys who were not members, but interested, to go to Missis-

issippi and defend civil rights workers. I was selected as director of the program. I went to Jackson, Mississippi and set up a small office on Ferris Street. We had three small rooms which we made fairly comfortable by borrowing equipment. Before the summer ended we brought in about sixty-two lawyers from all over the country. They worked hard at defending the workers against the police's trumped up charges and harrassment. I am proud of the Guild's work in Mississippi.

After leaving Mississippi, Attorney Crockett returned to Detroit. He was tired of private practice, so he sought public office. He ran for a city council seat, but lost.

JOURNAL: *How did you lose the election?*

JUDGE CROCKETT: I lost primarily because of the red-baiting campaign by some Detroit newspapers. But I found, to my pleasant surprise, that what I had done in Mississippi was known by the so-called little Black people of Detroit. They had read about it in the newspapers and various members of the Guild had talked about it in the community. So I was not a complete stranger. Unless a Black has identified himself with our people's struggle he won't be known. The campaign publicity helped me the next year when additional judgeships were created on the Recorders Court.

JOURNAL: *In campaigning for the judgeship, what reforms did you advocate?*

JUDGE CROCKETT: I discussed some areas of the law with which other poor people and the Blacks of Detroit were dissatisfied. For example, I compared the treatment of drunk derelicts and other defendants who claim they are suffering from some uncontrollable malady as far as their criminal charge is concerned. I believe chronic drunkenness should be treated as a physical ailment and not be punished as a criminal offense. I called attention to Michigan's defense of "irresistible impulse." The law holds that if the criminal act results from an irresistible impulse, then that is a defense and one can't be punished for it. I said a chronic drunk drinks as a result of an irresistible impulse. It doesn't make sense to say that if you are chronically drunk, you go to jail, but if you take a human life under the influence of an irresistible impulse, you don't go to jail.

JOURNAL: *Upon becoming a judge how did you implement your opinion about chronic drunks?*

JUDGE CROCKETT: Each morning in court we have from 20 to 30 derelicts. So I started the process by having them come in. The record must show a conviction before you can do anything. They are not reluctant to admit guilt. So I announced from the bench that the only ones who would go to jail would be those who told me they wanted to go. Otherwise, if they wanted to go with the Salvation Army or another social agency, or if they felt confident enough to go back onto the street, that's where they would go. I said I would take them one at a time and each would tell me his choice. About three or four would say, "Judge, I can't take it. Will you send me to the Detroit House of Corrections?" And I would say, "For how long?" "Well, make it about 30 days." I said, "I will send you out for 30 days, but if at the end of any lesser period you feel that you are able to do it, send me a note and I will reduce the sentence to the amount of time served." That practice, I think, is now almost standard practice in Recorder's Court.

JOURNAL: *What other reforms did you initiate?*

JUDGE CROCKETT: The U.S. Supreme Court ruled in *Mapp v. Ohio* that if police violated the constitutional protection of a citizen against illegal search and seizure, the police could not benefit from that violation; hence the evidence must be excluded. The ruling was applied to the states. Subsequently Michigan rewrote its constitution. It provided that if it consisted of narcotics or a gun obtained outside of the privilege of the home, such evidence could be received by the court. Not too long after I got on the bench, a reporter asked me about my views on that provision. I told him it was in conflict with the Federal constitution and I did not intend to follow it. Immediately there was a story on the front page of the paper attacking my statement. In our court, presiding judges rotate. One function of the presiding judge is to hear and decide all pre-trial motions. My turn came up as presiding judge. Because of the press coverage of my statement, every lawyer who thought he had a case resulting from illegal search and seizure saved it until the month when I was presiding. To save time and effort, I worked out an arrangement with the prosecutor: in those cases where his position was there was no illegal search or seizure, I would listen to the argument and rule; in those cases where his position was that there had been illegal search or seizure, but because of the Michigan constitution, the motion to suppress must be denied, we don't need to argue. He knew what my ruling would be and had his exception. That's how we got through the days' work during that month. I became the only judge on my bench who was dismissing cases of illegal search and seizure and I incurred considerable displeasure from the police. Later two other judges of my court decided to take the same position.

JOURNAL: *How did the higher state courts respond to your ruling on the issue?*

JUDGE CROCKETT: Ultimately Michigan's court of appeals reversed itself and said, in effect, that I was right in the first place. Then the case went to Michigan's Supreme Court. It upheld the court of appeals, said that the provision of the Michigan constitution was unconstitutional and threw it out. Now the point is that, all too frequently, if you get one judge who is willing to stick his neck out and say I'm not going to be moved, eventually he draws other judges to him.

JOURNAL: *After your viewpoint had been upheld by higher authority, did the press retract its statement or apologize for its attack?*

JUDGE CROCKETT: If it did, I am not aware of it. After all, by that time, it was no longer my point of view. I started it, but several other judges had taken the same position.

JOURNAL: *What was your next major decision?*

JUDGE CROCKETT: In 1967 or 1968 a young man, Mr. Tyler, charged with armed robbery came before me. The defendant was pleading guilty to the charge of assault with intent to rob. According to the probation report, he was a narcotics addict. Before sentencing I inquired if he had anything he wanted to say. He said, "I am no good at talking your honor. I have written out what I want to say and I would like to hand it up to you and have you read it." The statement told me about his addiction and that he was in the throes of withdrawal when two of his associates came by and offered him a

chance to go along to get some money. Since he was unable to work he went along on this serious crime. He told me of the beating he allegedly received from the police. His parish priest stepped forward and said he could verify the beating. The priest had seen him the day after he had been arrested. The priest said his head felt like a bunch of grapes. His mother then spoke up and said when she saw her son his eyes were closed, his nose was broken and blood was all over his clothing. I said, in substance, "that when it appears to me and I am satisfied a defendant, while in police custody, has been brutalized, I will not add to his punishment by sending him to jail. The state has an obligation to protect people in its custody. When the state, acting through its officers, punishes suspects without trial, it usurps the judicial function. When a man has been punished, I will not send him to prison or punish him again."

I said, however, "that is not the issue before me now. The issue is whether or not I should do anything about your narcotic addiction." I told him I would put him on probation on condition he went to Lexington, Kentucky to get treatment for his addiction. He went to Federal court and the judge authorized his going to Lexington. He then went to Lexington, but the Detroit newspapers sent reporters along. They let the authorities in Lexington know that the case had gained considerable notoriety in Detroit. After keeping Tyler for about twenty days the authorities in Lexington decided he was not fit for rehabilitation. They felt his criminal conduct was not occasioned by his addiction. So they returned him to Detroit. He came to me for sentencing.

I told him my sending him to prison depended on whether or not I was convinced he had been a victim of police brutality. I informed him that I would appoint counsel to investigate his charges. I appointed a lawyer who was the son of a Judge of the U.S. Court of Appeals. He was a young conscientious man who, subsequently, has been elected city clerk of Detroit. I fixed a date for hearing. I notified the police commission and the prosecuting attorney so they could give any evidence they wanted to offer. I referred the case to the probation department so it could investigate the charges of police brutality.

On the appointed date the prosecutor appeared and announced his office would prefer not to have anything to do with the hearing. I told him he was welcome to stay and observe; so he sat down. No one appeared for the police commission. The young lawyer, representing the defendant, had done a good job. He had gone to the community and found two young witnesses, kids about 17 or 18 years of age. They had been on their front porch, witnessed the arrest, and saw the police beat the defendant. They saw another man come up and whisper to the police who then stopped beating him. The police put the defendant in the car and punched him as the car was leaving the scene. The probation department representative had gone to the police department and examined their files which included mug shots. There was a mugshot of the man taken right after he was arrested showing his broken nose, eyes puffed up and blood splattered over his shirt. The police offered no evidence in contradiction. For the record, I again heard the priest's testimony. I concluded that the defendant had been the victim of police brutality and that he should not be sentenced to prison. He was placed on probation for three years under the joint supervision of the probation department and his parish priest. I told him, from the bench, that if he had any difficulty, the doors to my chambers were always open and he could come to my chambers and I would discuss his problems.

The aftermath to the Tyler story is rather sad. He strayed from the beaten path on one occasion, but our probation department straightened him out. He did not commit a crime that time. Earlier this year he was [involved] in a shoot-out and was killed. So he flunked the test.

But the Tyler case is significant for other reasons: the opinion of the man in the street was that dope addicts should be locked up in jail. I think the Tyler case persuaded more people to think seriously about the problem and consider the necessity for providing medical assistance for narcotics addicts. About a year after the case the state government appointed a commission to look into the matter. One of our circuit court judges created an organization called Narco. It seeks to induce the Federal government to turn over one of its facilities to the state so the latter may better treat addicts. In my court, because of my efforts and those of two of my colleagues, we have a federally financed program for helping addicts. It is supervised by the court itself. I have been serving as chairman of the committee supervising that program.

JOURNAL: *I imagine the white press roasted you because of your disposition of the case.*

JUDGE CROCKETT: After I recommended that Tyler go to Lexington the newspapers came out with screaming headlines about dope addicts loose on probation and what does this Judge Crockett think he is doing, etc. What really occasioned much of the controversy was my comment about police beating. That was picked up by the New York Law Journal on a front page story. I received letters from law reviews asking me if I would write an article on my statements about police brutality. Other lawyers asked me for some authority for that. The chief justice of Michigan's supreme court was quoted in the press as saying that although he was "very much opposed to what Judge Crockett said . . . the law gives Judge Crockett discretion to decide who he would put on probation. The question is not why he did it, but whether or not what he did is within the limits authorized by the legislature. Therefore, there is no right of appeal from his putting the dope addict on probation."

JOURNAL: *Sir, large sectors of white society were infuriated by your handling of the New Bethel case. I have read your cogent explanation of the case in the April-May 1970 issue of Judicature magazine. Would you care to comment on this case for the benefit of those members of our reading audience not informed on the case?*

JUDGE CROCKETT: The case involved the legality of the mass arrest of some 140 men, women and children who were gathered in a Detroit church. Two police officers had been shot, one fatally, just outside the church. Some witnesses said the assailants ran into the church. The alleged assailants were members of an all-Negro separatist group called The Republic of New Africa. They were dressed in green and armed with long guns. The police came on the scene and shot up the front of the church. At about 11 p.m. Saturday all of the people in the church were herded into police buses and were taken to the first precinct. They were kept there incommunicado.

At about 6:00 a.m. Sunday the church's Black pastor came to my house and asked me to do something about the matter. Now our court holds a session on Sunday and we rotate who the judge will be. It just so happened that that was my Sunday as presiding judge. Under Michigan law, in such circum-

stances as were described to me, the judge has the obligation to act. Our statutes also say that, under such circumstances, if a judge declines to issue the writ of habeas corpus, he is guilty of a criminal offense. So he has the obligation to issue the writ. In the past, judges have avoided the import of the statute by issuing the writ, but making the writ returnable at a time that will allow the police sufficient opportunity to do all they want in order to show the arrest was legal in the first place. The law is clear that the arrest must be legal as of the time the arrest was made, not as of the time the judge conducts a hearing on the writ.

I had blank forms of habeas corpus at home kept for that kind of emergency. Because court need not be in session in order to issue a written habeas corpus, all I had to do was sign them. A judge can issue the writ wherever he happens to be in his jurisdiction. So I got two blank forms, dressed, and went to police headquarters.

I asked for a list of those being detained and was told the police had not compiled one. Police commissioner Spreen arrived and I told him to provide the list immediately and to bring the arrestees before me for a habeas corpus hearing on the legality of their detention. The commissioner agreed to furnish the list and acceded to my request that a courtroom be set up in the building. By 1:00 p.m. Sunday, the cases of 130 of the 142 arrestees had been called. Because of insufficient evidence, the prosecutor had moved for their release, and I granted his motion. You know the rest of the story from the article.

Actually, I took the easy way out because before you decide the question of releasing someone on bail under a writ of habeas corpus, you have to first decide the question of the legality of their arrests. If their arrests were illegal, you don't get to the question of bail; you just order them released. Had I inquired into the legality of their arrests, I would have released all of them. But had I strictly followed the law, it would have been more favorable to the arrestees and the newspapers would really have been yelling.

JOURNAL: *Was your action condoned by higher authority?*

JUDGE CROCKETT: Since the white press, in the main, sent up such a hue and cry about the case, it became important to have some authoritative statement on whether or not Judge Crockett had followed the law. Ordinarily the authoritative statement is issued by a higher court when the case is appealed. At no time did the prosecutor suggest taking an appeal from my decision. A high level civic group, New Detroit, appointed a subcommittee to investigate and render an opinion on the matter. Their legal staff's opinion said Judge Crockett was correct, as a matter of law, in everything he did. There was a symposium on T.V. by the deans of Detroit's four law schools; each one suggested I was right. About two weeks after my decision, the United States Supreme Court decided *Davis v. Mississippi*, a case involving the legality of mass arrests. The decision confirmed my action in the New Bethel case. Indeed *Time* magazine said, in effect, that Judge Crockett seems to have anticipated the Supreme Court by two weeks.

JOURNAL: *Sir, did you experience any problems in adjudicating cases stemming from the Detroit riots of 1968?*

JUDGE CROCKETT: The riot began on a Sunday. When I came to court the next morning, a special meeting of the bench was called. The presiding

judge and another had worked all Sunday night on bail hearings. On the recommendation of the prosecutor, they had decided there should be a high bail policy because the riot was still going on. They also decided that bail should be \$10,000 for all rioting suspects appearing for release on bail because some were real criminals and the only way to weed them out from the rest was to hold them until F.B.I. records were obtained from Washington. I didn't say anything, but I made up my mind that the Constitution did not intend for judges to operate on that basis in setting this type of bail.

We divided the day into three shifts and my shift was from 4 p.m. to 9 p.m. for the duration of the riot. The first group brought before me was comprised of about five people. I think the highest bond I fixed was \$2,000 for a guy who did have a record of which the prosecutor then had information. I shocked the prosecutor because I released a woman on personal bond and I released each of the others on bonds of about \$500.

The prosecutor visited me during the first recess I called. He was disturbed because I wasn't playing ball. The other judges were fixing bonds at \$10,000 and better, but in my court the bonds were lower and he wanted to know why. I told him why. I said because I think that, but for the fact that most of these people are Black, you would not have recommended your so-called high bail policy. I don't intend to go along with it. At that point, he gave me a lecture about his ancestors and how they had been so kind to Black people. I became angrier by the minute at his plantation line of explanation. When I went back on the bench I really cut the bonds down; I was releasing people right and left on personal bond. The newspapers began screaming like mad.

After about two days, about three other judges on my bench stopped fixing those \$10,000 bonds. They didn't come down as low as I did, but they did come down. This again illustrates what I mean when I say one Black judge who shows the disparity between treatment of whites and Blacks can set the pattern for his white brothers. One conscientious Black judge can show that democracy is not overthrown when you follow the Constitution.

Of course there were investigations about the high bail policy. There was an article in the *University of Michigan Law Review*. It reported my court handling of the riot situation. The article carefully pointed out in the text that the conduct of my court was, if I recall correctly, commendable and starkly contrasting to the policy in the other courts.

JOURNAL: Judge Crockett, what recommendations have you for improving the administration of laws toward the end of diminishing racism and class prejudice against the poor?

JUDGE CROCKETT: We should get more Black judges on the bench. Because of their background they are better able to recognize the injustices, racism, and class prejudice than many white judges. There should be many more Black judges, especially in the deep south where there is not a single Black federal judge.

Secondly, I would make government responsible for insuring adequate legal representation for the poor and the indigent by creating a body of civil servant lawyers who would represent the poor in all cases when the poor requested such representation. This service would be like an extension of our present public defender system we have in some states.

A third thing is close adherence to the Constitution itself. The United States Constitution is a beautiful document. I do not know of a single aspira-

tion had by any minority in the country that can not be realized within the framework of the Constitution. The problem is with respect to the people who administer the law. The only answer is to get rid of them by getting more people registered to go to the polls and vote. That is the only way short of revolution. I don't think revolution will help because we can't win. We are still in the minority. There are too many guns on the other side, so we must use the Constitution. I am not so sure that the door will always be open for us to use the Constitution. The body politic operates, the establishment especially, liberally on paper. But when you interpret the Constitution literally the establishment wants to change the rules. That's the story of Fascism. But so long as the door is open for us to bring about constitutional changes peacefully, I think we should.

JOURNAL: Do you think Black judges should organize formally on the local and national levels?

JUDGE CROCKETT: Yes. I believe there is a need for improved communication between Black judges and that improved communication will advance our struggle against racism. That is why I helped create a National Council of Black judges within the National Bar Association. In our metropolitan areas the Black judicial councils should get together with white judges to discuss problems and how to solve them. I am hoping that, as a result of our creating the National Council, we will let the powers that be who arrange judicial conferences in our states know we want subjects included for discussion at these state wide conferences similar to the seminar held here at the NBA convention. We want to educate white judges on how to administer the law to poor and nonwhite people. We feel that is the best way to get law and order and improve the performance of the judicial system.

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SOME JUDGES ARE ADMIRABLE for writing brilliant opinions. Others for infusing the law with compassion. But another type of judge deserves our profound respect: he who labors to actuate society's stated ideals; he who rejects the premise that might makes right; he who does not cloak racist tyranny with euphemisms of reasonableness, prosecutorial discretion and custom; he who, within the marrow of his bones, knows that a law not applied is no law at all; he who perceives that, on issues of race, white America is still lawless. George W. Crockett is a judge of the latter cast. After struggling on behalf of Blacks for a lifetime, he has lived some of his finest hours since becoming a judge. His iconoclasm, legal knowledge, and humane spirit distinguish him as a Black leader opening the way for the oppressed.

The Honorable George W. Crockett, Jr. has much to teach others who would vivify Black freedom.