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EXCERPTS FROM
ELBERT TUTTLE PORTRAIT CEREMONY
AND
ELEVENTH CIRCUIT
HISTORICAL SOCIETY CEREMONY

January 24, 1983

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Before GODBOLD, Chief Judge, RONEY, TJOFLAT, HILL, FAY, VANCE, KRAVITCH, JOHNSON, HENDERSON, HATCHETT, ANDERSON and CLARK, Circuit Judges, TUTTLE, JONES, DYER and MORGAN, Senior Circuit Judges.

GODBOLD, Chief Judge:

Welcome, all of you, to this happy occasion. It is a combination of two separate streams of events.

The law clerks of Judge Elbert Tuttle wish to honor him by presenting a portrait of him to hang in this courthouse. They have asked the court and Judge Tuttle's family and friends to join with them in this tribute. This is the first event.

The Eleventh Circuit has authorized and supported the organization of the Eleventh Circuit Historical Society. The Society wishes to begin its life and its activities in an appropriate and formal ceremony.

These two separate streams of events have come into confluence here today. The organization papers of the Historical Society were signed on January 17 by the Society's organizers and trustees, a distinguished group of lawyers and professionals drawn from the three states of the Eleventh Circuit. In this ceremony today the Society will receive as its first gift the portrait of Judge Tuttle.

We are indebted to Judge Tuttle's law clerks—present and past—for their efforts, extending over many months, that have brought the portrait into actuality. Many of the clerks are here, ranging over a span from 1954 to 1983. Will all of the Tuttle clerks stand, please.

Special recognition should go to Sarah Ellen McIntyre and Donald Winslow, law clerks in 1980-81, Robert McGlasson and Lana Sensenig, last year's clerks, who fostered the idea of the presentation of a portrait, and Mike Egan and Gary Guzy, this year's clerks, who added their efforts during the last few months.

After the ceremonies in this courtroom are completed, there will be a reception downstairs in the first floor lobby. This is hosted by the Tuttle law clerks. We thank them for making this possible.

Several members of the Tuttle family have come for these ceremonies.

Dr. and Mrs. Elbert P. Tuttle, Jr. (Virginia)—son of Judge Tuttle—
Atlanta

Mr. and Mrs. John Harmon (Jane)—daughter of Judge Tuttle—
Rochester, New York

Guy and David Tuttle—sons of Dr. Tuttle—Atlanta

Mr. and Mrs. David Cannon (Jane)—daughter of Dr. Tuttle—
Jonesboro

Beth Tuttle—daughter of Dr. Tuttle—Washington, D.C.

Mrs. Ralph Bauer—mother of Virginia Tuttle (Mrs. Elbert Tuttle,
Jr.)—Wausau, Wisconsin

. . . .

Judge Anderson has a letter concerning this ceremony, which I shall appreciate his reading.

ANDERSON, Circuit Judge:

Judge Goldberg wrote this letter to Chief Judge Godbold and he wanted to share it with you.

Honorable John C. Godbold,
Chief United States Circuit Judge for
the Eleventh Circuit
P.O. Box 1589
Montgomery, Alabama 36102

Dear John:

Marian and I both regret that due to conditions beyond our control we cannot be present at the unveiling of the portrait of Judge Tuttle in order to shake his hand and to give Sara the kiss that we would love to bestow. I cannot let the occasion pass without sharing with you some of my impressions of Judge Tuttle, both as friend and judge.

Today we gather, in person and in spirit, to honor Judge Elbert P. Tuttle. We do not honor an ordinary man, for Judge Tuttle is both a *great* judge and a *great* human being. Judge Tuttle is almost the indescribable man and friend because no matter how many superlatives I employ, how many metaphors I seek, how many similes suggest themselves, none can provide the lexicon to present the full man and the whole man. His physical stature suggests the man strong, erect, head up, shoulders back, looking forward and glancing backward only for guidelines for the future. I know of no person who dislikes Judge Tuttle, and really, to know him is to love him. That love exists not

only with family, but also with his law clerks, his associates on the court, and with everyone with whom he has had contact or entertained a relationship. While speaking of his family, let me add that one does not think of Judge Tuttle without thinking of Sara. It can truly be said that their union has been an indissoluble one created in that form and continued through many years with the same fervor, love, devotion, and above all, understanding.

In thinking of Judge Tuttle as a judge, anyone who knows him would be convinced that he was not an unlikely hero, but on the contrary, a most likely hero. Synonyms for the word "Tuttle," both within and beyond the Fifth Circuit, necessarily include integrity, rectitude, compassion, fairness, research, and scholarship. I venture to assert that he is the most composite judge who ever served on the Fifth and Eleventh Circuits, and by that I mean he was great in so many things that I could enumerate and catalog that the end evaluation would make him the greatest judge of them all.

Judge Tuttle never surrendered to consensus in order to achieve a majority. He stood his ground as a soldier would. Judge Tuttle demonstrates that a great judge is more than a scholar, a student, a writer. He had these attributes, but he has more, always devoid of malice, prejudice or bias. He is fearless in his defiance of injustice. He has the rare capacity to listen as well as he speaks, a trait too uncommon among us. He cabins no prejudices, but he is brigaded with convictions. He was our seer even though he would insist that he was never more than our peer. As I ruminate and reflect upon the influences that have come to me, none and I repeat, none do I feel more indebted to than Judge Tuttle. I would have been a better man, a better person, a better judge, had I never deviated from the philosophy that he espoused, the attitude that he maintained, and the spirit that he diffused among all who came in contact with him.

Elbert was my chief and I was his ardent disciple. We rarely disagreed, and when we did, I always was left with the queasy feeling that I might be wrong. I have never left his presence without having been uplifted by the experience. May his visage look down upon the members of the court who sit in this chamber, and the lawyers who are litigating there will know that the piercing eyes of a noble soul are viewing them. May his productivity continue and may Sara and Elbert be our compassionate companions, our beloved friends, and our happy associates for many years to come. I know that he is allergic to praise, to encomia, so I will simply close by saying that Marian and I both love and love very deeply both Elbert and Sara.

Sincerely yours,

Irving L. Goldberg

GODBOLD, Chief Judge:

Judge Kravitch has a letter which she would like to read, please.

KRAVITCH, Circuit Judge:

I have the honor of reading a letter from the Chief Justice of the United States Supreme Court.

Dear John:

I join with the federal judges and the lawyers of the Eleventh Circuit in honoring my old friend and colleague Elbert Tuttle. He has served his country with distinction as a lawyer of the rich and the poor alike, as a soldier, as an officer of the executive branch of our government and as a judge.

I congratulate the Eleventh Circuit on the organization of its Historical Society. We have learned the importance of preserving for future generations the history, records, and memorabilia of our federal courts and their judges. Much has been irretrievably lost. I am delighted that your new circuit will record its history as it unfolds.

Cordially,

[signed] Warren E. Burger

Honorable John C. Godbold
United States Circuit Judge
United States Circuit Court U.S. Courthouse
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

GODBOLD, Chief Judge:

I should like to introduce now a friend of all of us, a former colleague of all of us, and once in a while when he comes over to visit and sit with us, presently a colleague of ours, one of America's truly distinguished judges. The Honorable John Minor Wisdom of the Fifth Circuit would like to speak with you about Judge Tuttle. Judge Wisdom.

THE HONORABLE JOHN MINOR WISDOM:

Judge Godbold, judges of the Court of Appeals for the Eleventh Circuit, Mr. Hale, members of the Tuttle clan, ladies and gentlemen:

It is good to see old friends, judges with whom I have sat, lawyers who have appeared before me, and Judge Tuttle's former law clerks. His clerks and my clerks always got along well together.

I am doubly pleased to be here today. First, considering the loud noises I have made over a long period of time in opposing the division of the Fifth Circuit and the consequent establishment of the Eleventh Circuit, I take it that your invitation to me to speak today is tantamount to your saying that you forgive me for my stubborn, intractable resistance

to reform. Second, and more importantly, I am honored and happy to pay a small tribute to the subject of the portrait, my comrade in arms for almost 26 years, Elbert Parr Tuttle.

I have always enjoyed talking about Elbert, because I have such great respect for him as a judge and as a human being. Do I repeat myself? So, I repeat myself.

For those of you have come to Georgia in recent years I shall give a few barebones facts about a man who distinguished himself in every endeavor he undertook. For most of you it is more than a twice-told tale.

At Cornell he was president of his senior class and at Cornell Law School he was Order of the Coif and Editor-in-Chief of the Law School[sic]. He worked his way, principally as a reporter. Part of the time he was married. Elbert, a loyal alumnus of Cornell, served as president of the Alumni Association and as a trustee of the University for many years. But he also found time to serve as trustee on the boards of Atlanta University, Morehouse College, Spellman College, and Interdenominational Theological Center. He has been president of the Atlanta Bar Association and the Lawyer's Club of Atlanta as well as president of the Atlanta Chamber of Commerce. These activities did not prevent his serving as a trustee of the Atlanta Community Chest and the Atlanta Planning Council as well as a director of the Atlanta Children's Home and Piedmont Hospital.

Unlike your speaker, Judge Tuttle was not a desk soldier in World War II. He was a combat soldier. He commanded a field artillery battalion of the 77th Infantry Division and took part in the invasion of Guam, Leyte, and Okinawa. He suffered multiple wounds, He was awarded the Legion of Merit, the Purple Heart with Oak Leaf Clusters, and the Bronze Star; his final rank—Brigadier General. President Carter awarded him the Presidential Medal of Freedom.

He and I actively supported Eisenhower's nomination and election. Elbert was the top Eisenhower man in Louisiana, as State Chairman; I was the top Eisenhower man in Louisiana, as National Committeeman [sic].

Judge Tuttle's legal career is neatly divided into two parts. He practiced law for thirty years, from 1923 to 1953, with Sutherland, Tuttle, and Brennan. Then he was General Counsel for the Treasury Department for a year before his appointment to the Court of Appeals for the Fifth Circuit. He is now in this thirtieth year on the bench. And he has not slowed up in any way. He still drives to the west coast when he sits by designation in the Ninth Circuit, on the court of appeals and on the district court.

Perhaps his most impressive distinction in a career marked by distinctions is his taking up golf with vim and vigor when he was 69 years

old. There may be others who hit a longer ball, but he does not hook or slice and his drives are, you guessed it, straight down the middle of the fairway.

I shall refer to only one case in this talk, because I have to reserve for another scheduled time and place references to other specific important opinions by Judge Tuttle which are lasting contributions to the law. This talk, in a sense, is a prologue to another I shall make in April to the Atlanta Chapter of the Federal Bar Association.

The case I have in mind is one in which Elbert, then a young but talented lawyer of thirty-eight, acted *pro bono publica* for an indigent. A young Marine named Johnson, on a spree, attempted to pay for his drinks with currency that turned out to be counterfeit. He went to trial without a lawyer to represent him and without being informed by the trial judge that he was entitled to have counsel appointed to represent him. He was convicted and sentenced to three concurrent terms of five years each. On his own, except for advice from jailhouse lawyers, Johnson petitioned for a writ of habeas corpus. The district court denied the writ. The American Civil Liberties Union then asked Elbert Tuttle to take the case. He did, and appealed to the Court of Appeals for the Fifth Circuit. I'll not say who was on the panel; the court held that there was no affirmative duty on the trial court to inform the defendant of his right to counsel, and affirmed the denial of the writ. By that time the ACLU had run out of money. Elbert put up his own money for court costs, to say nothing of the expenditure of his time, and petitioned the Supreme Court for a writ of certiorari. The Supreme Court granted the writ. Elbert argued the case and won it by 6-2 decision. The Supreme Court held that the trial of an accused without a knowing waiver of the right to counsel violated the due process clause and the right to counsel clause of the United States Constitution. That decision, *Johnson v. Zerbst*,¹ is probably the most frequently cited decision in the American constitutional law of criminal procedure.

With the aid of a friendly computer, I have been able to come up with an incredible statistic, of which Judge Tuttle is probably not aware. Judge Tuttle has, up to today, written 1,225 opinions, 1,131 for the Court and 94 dissents. As far as I can tell, no federal judge has come close to that record. Other judges have served longer, but they served on courts which had much smaller workloads.

How did he do it? He did it by accepting fully his responsibility as a federal judge and as our chief judge. As our workload in the old Fifth Circuit was increasing from 500 filings in 1954 to over 4,000 filings, each year he set an example for his colleagues. He sat more often than other judges, 13 or 14 weeks a year; for comparison, the judges who sit today

¹ 304 U.S. 458 (1938).

on the Fifth and Eleventh Circuits sit seven weeks each. He has a religious belief in the principle that justice delayed is justice denied, so he turns out his opinions more promptly than any other judge on the court. When the caseload increased, he increased his output accordingly. When other judges were writing 50, 60, or 70 opinions a year, Elbert was writing 100 to 125 opinions. Those were the days before screening. There were no one-line opinions (Rule 21's) and few per curiam opinions. We had one law clerk, not three. We had no staff counsel with an office of 25 lawyers.

Judges are not fungible. They differ in their work habits and writing style, wholly aside from their judicial abilities. Elbert Tuttle, thanks perhaps to his newspaper training but thanks also to an exceptionally logical and orderly mind, could turn out the best first draft of any writer I have ever known. You can be sure that a second draft was just right.

Do not get the idea that the speed at which Elbert worked and his productivity affected adversely the quality of his writing. He writes lean, strong English in what Karl Llewellyn called the "grand style." You will find no dangling participles and no mixed metaphors in his opinions. He has a purist's feeling for the right word and correct syntax, a reporter's discriminating eye for significant details, and an editor's feeling for logical order. He was editor-in-chief of the Cornell Daily Sun in college, a reporter for the New York Evening Sun after graduation from college, and then Editor-in-Chief of the Cornell Law Quarterly. This helps to explain his skillful and economical use of words. But it does not explain the impact of his opinions and the effect of his presence on the bench.

These came more from his inner being showing through a black robe. He exemplifies the truth of Ehrlich's aphorism, "There is no guaranty of justice except the personality [the conscience] of the judge." Judge Tuttle is heavily endowed with conscience. His conscience told him what was right and no personal consequences swayed him from his duty as he saw it.

I am not just speaking of his personal integrity or rectitude. I am not just referring to the moral and intellectual honesty which judges share with other men, and I am not just referring to that high level of integrity which federal judges should share with all other judges and with Caesar's wife. I relate it also to Judge Tuttle's profound understanding of the importance of preserving the integrity of the federal judicial process. I refer to the proposition that the integrity of judicial process in the federal system requires federal courts to stand an around-the-clock watch over the Constitution and laws of the United States. Reliance of litigants upon other guardians and other forms of protection is not enough when the rights of the nation and federally-created or

federally-protected rights of individuals are jeopardized by state or local action. Judge Tuttle has pointed out:

It was not until the Emancipation Proclamation created a new, easily identifiable class of citizens, having in common with each other the distinguishing characteristics of race, color, poverty, illiteracy, and lack of attachment to the land, that it became apparent that neither a commonality of interests nor the multiplicity of interests among citizens would be adequate to protect the peculiar interests of the new class.²

What is needed is an independent, impregnable federal judicial system.

Judge Tuttle has made an enduring contribution to American federalism by his insistence [sic] on preserving the integrity of judicial process in federal courts. This has been accomplished within the framework of the Constitution and within accepted bounds of judicial restraint. Anyone who knows Elbert Tuttle at all knows that his sensitive conscience would not permit him to deviate from The Law: Judges above all men must obey the rules.

As long ago as 1965 Harvard University had the good judgment to confer upon Judge Tuttle the degree of Doctor of Laws. One sentence of the citation he received at that time should be lettered in gold on the frame of his portrait:

The mind and heart of this dauntless judge enhance the great tradition of the federal judiciary.

This is where I could conclude. But I cannot conclude without saying that his most distinguished award was not the Legion of Merit or the Purple Heart with Oakleaf Cluster or his LL.D. from Harvard University, to say nothing of the distinctions Atlanta and the State of Georgia have conferred upon him. His most distinguished award came when Sara Sutherland consented to marry him. If there has ever been a closer or better matched Judge-Wife team than Sara and Elbert Tuttle, I have not encountered it. All of us love you both. We salute you both.

GODBOLD, Chief Judge:

To share some reminiscences of Judge Tuttle and also to make the presentation of the portrait, I introduce to you Mr. Randolph W. Thrower.

Mr. Randolph W. Thrower:

Judge Godbold, members of the Court, other distinguished judges, Trustees of the Society, members of the Tuttle family, fellow lawyers, and other friends.

² This quotation is from Judge Tuttle's memorable lecture, "Equality and the Vote" (seventh annual James Madison Lecture of the New York University School of Law), 41 N.Y.U.L. REV 249, 257 (1966).

To be invited, with the approval of the Court, by the Clerks and former Clerks of Judge Tuttle to speak for them and others in making this presentation creates for me a disquieting responsibility. There is so much that should be said. Yet the Court often fails to allow all the time one feels is needed to do justice to a case. This occasion is no exception. There is a temptation, of course, to recount the well-known episodes in Judge Tuttle's life in which his character, integrity, incisiveness and effectiveness were revealed in some noteworthy episode which served our nation and enriched our lives. But in large part, I will resist this. Some already have been covered beautifully by Judge Wisdom. Others many of you know as well as I.

There are other revealing episodes in the life of Judge Tuttle not so well known. Little public attention has been given to the fact that he was once a third string quarterback for Punahou Academy in Honolulu. He finally concluded that a quarterback who weighed less than most of the cheerleaders could hardly have a bright future in football. He took up cross-country track and soon found himself garnering more points than anyone else on the team. The high scores that eluded him in football were heaped upon him in track, under a system by which the winner of first place received one point, second place two points, and so on.

He entered another sport, this time one that would have great impact on the future of the Hawaiian Islands. He and his older brother Malcolm and a few of their friends began surfing at Waikiki Beach, a sport previously engaged in only by a few native Hawaiians. He became a charter member of the now famous Outrigger Canoe Club, of which his father was the first president. Thus, with a few friends he popularized a sporting activity that has become the hallmark of the Islands and has made "the surf is up" the rallying cry of youth on the Coasts of the continental United States.

He casually skipped a grade in high school so that he and his brother would be able to go off together to college in the States. They landed at a spot high above Cayuga's waters. There, far from the beach at Waikiki, they converted their surfing skills into skiing, again solely for the sport of it and long before it became a popular national pastime.

His sense of duty and love of country caused him to enlist in the army in World War I. Very soon he volunteered to become a "Flying Cadet" in the Observation Corps of the United States Field Artillery—whose eyes were to be those flying contraptions which had successfully defied the laws of gravity only a few years earlier at Kitty Hawk. This was pretty risky business. However, fate had even more important assignments for Elbert Tuttle, and the war ended while he was still in training. The training, however, gave him an understanding of the needs of the artillery which stood him in good stead in a later war.

When I came with Sutherland, Tuttle & Brennan in 1936, I was

somewhat surprised to find Mr. Tuttle, this busy lawyer and civic leader, at what then seemed the ripe old age of 40, playing polo on weekends. This was an activity he and others in an infantry unit of the U.S. Army Reserves—note the infantry not the cavalry—had organized with stables in Piedmont Park and a polo field at the present site of the Atlanta Botanical Gardens.

In early 1941, as the United States moved closer to war, Elbert Tuttle left his law practice and private life, again to serve his country. As a Lieutenant Colonel commanding a howitzer battalion, he was unwilling to take a promotion into a staff position, as long as so many young men whom he knew and loved, including his son and nephew, were serving in combat areas. He narrowly escaped death on the Island of Ie Shima, off Okinawa, as he wrestled with two of several Japanese soldiers who had infiltrated his unit at night. Though he was wounded in a fierce onslaught by grenade, spike and club, his agility served him well in avoiding any fatal thrust or blow. The war was destined to end soon thereafter.

To return to stateside activities, he greatly enjoyed the game of bridge. It was intellectually challenging, providing an opportunity for his wife Sara and himself to visit his friends, whom they cherished, and satisfying the fascination for high scores that he had revealed in cross-country track.

It was no doubt this penchant for high scores that led him to become an avid golfer, a sport he began at the age of 69. There are few golfers who can match him in the number of courses on which he plays. As he and Sara Tuttle tour across the country, meeting court commitments, he is subject at anytime to being overcome by the temptation to stop at a course and play 9 or 18 holes, with anyone who happens to be there, or by himself.

I wish I had the time to talk about his great love affair with Sara Tuttle, extending over more than six decades. Without it, one is covering the episodes while omitting the essence. Also there should be covered his devotion to his family and friends. It might seem inappropriate if I dwelt on the lasting impact he has made on the law firm of which he was a part for thirty years.

Despite some of the exploits briefly mentioned, Elbert Tuttle is not a demonstrationist or a carefree daredevil, indifferent to risk, but a crisp, neat, quiet-spoken, effective person. He was doing these things because either he enjoyed them or he felt it his duty to render service where it was needed. He was not attempting to prove anything to anyone but was very comfortable with his decisions. So what do these episodes tell us? Perhaps they give us some very significant clues. He does not fear the unknown simply because of the uncertainties associated with it. With the same confidence that caused him to become a surfer when

surfing was virtually unknown as a modern sport, or a skier when only a few skied, or a "sky cadet" when people still wondered how those crazy things could get off the ground, or a golfer at an age when many abandon golf, caused him to face other areas of life with complete confidence and without fear.

In periods of great pressure in his practice of law, in political activities, in civic leadership, in Government and later on the Bench, the unknown has never frightened him. His compass in life consists of the high principles that he maintains and he never fears where they may lead him. They have led him time and again to cut through to the truth of a situation, cleanly and crisply.

He fell in love with the South, without entering into the conspiracy to perpetuate its blemishes. Despite the fact that he stood for change in the correction of injustice, too often resisted by a vested establishment, he was selected to head almost every group in which he participated, all of the Bar groups from the Presidency of the Georgia Bar down, the Chamber of Commerce, his church, and various other institutions of the community.

He became a noted military leader, rising to the position of Brigadier General, without ever becoming militaristic, autocratic or jingoistic. He engaged in polo, the sport of kings, yet maintained the common touch, without ever being common.

We are far from ready to total the score on Elbert Tuttle's career. I hope very much that I will be playing golf with him on the day, within the next ten or fifteen years, when he shoots his age—and not necessarily by improving his game, but by holding it steady as the years catch up. When the score is totalled on his contributions to the nation, what will have been his greatest? There are so many possibilities. Who can say? To borrow from the familiar World War II graffiti, "Kilroy was here," wherever he has been there has been left the indelible mark, "Elbert Tuttle was here." Will it be his representation of the prisoner in *Johnson v. Zerbst*, that landmark civil rights case discussed by Judge Wisdom, his leadership during important years in Atlanta, his flash of fire and integrity at a critical point in the national political convention which led to what I like to think of as the eight golden years of the Eisenhower Administration, or will it be the impact he has had as a judge upon the recognition in our laws of the dignity and respect to be accorded to every man, woman and child in our society? He would have warmed the heart of the prophet Amos who pleaded with his fellow Israelites that "justice [might] roll down like waters, and righteousness like an overflowing stream." How Amos would have delighted in Judge Tuttle!

One can suggest another candidate for the greatest contribution. It is the influence that he has had and continues to have, as a lasting, *growing* force, upon the young men and women with whom he has come in

contact—the transferral of this spirit of intellectual fearlessness and fundamental righteousness, to his clerks, to young lawyers, to law students, to the legal system of tomorrow. I cannot know how long the works of Judge Tuttle will be remembered but I am confident that far beyond the life of this portrait, and Mr. Nordhausen assures us that it is on a sturdy canvas, those works will continue to lift our society to a fuller recognition of the true meaning of justice.

So let me say for his clerks and former clerks, for his family and other friends, we take great pleasure, Judge Godbold, in presenting to the Court, and to Mr. Bradley Hale, as President of the 11th Circuit Historical Society, this portrait of Judge Tuttle by A. Henry Nordhausen of Columbus, Georgia.

GODBOLD, Chief Judge: I now ask Sara Tuttle, with Mr. Nordhausen, to step forward and uncover the portrait, please.

[The portrait is uncovered.]

Let me particularly recognize the artist, Mr. Nordhausen, who came up with Sara to unveil the portrait.

Mr. Hale:

My acceptance on behalf of the Eleventh Circuit Historical Society of this portrait of Judge Tuttle as the first gift to the Society is most appropriate because of the major part Judge Tuttle has played in the legal history of this section of the country and of the nation. In addition to this portrait, the entire ceremony is being recorded on video cassette which also will go into the archives of the Society.

The Society accepts the portrait from the donors with gratitude and with assurance that it will be well preserved and cared for.

Thank you.

GODBOLD, Chief Judge:

It is time for Judge Tuttle to respond to these remarks and events. Unlike the lawyers who appear before him in this courtroom, he has unlimited time. Judge Tuttle.

TUTTLE, Senior Circuit Judge:

Chief Judge Godbold and my Dear Colleagues and Friends:

When my law clerks said to me that they would like to have my permission to have my portrait painted, I reminded them that it is a Federal crime to disfigure any Federal building. They were fairly smart about that though. They said, “Well, if we are convicted of that crime it will come before the Eleventh Circuit, so I guess we will do all right.” It has always amused me when a lawyer rises to respond to an introduc-

tion to make a talk and says, "I'm speechless," but in truth I am speechless and you all can understand.

When a dear friend like John Wisdom, with whom I have been associated for 26 years, spends half an hour saying what a great man I am and a former law partner and present golf partner like Randolph Thrower throws away all caution to the wind and repeats to an audience like this things that I have told him on the golf course, afternoon by afternoon while we drive around and we talk about what we did as kids, and all of a sudden remembers everything I ever told him about running on a cross-country team or playing polo or that sort of thing, you do not know whom you can trust. But I have learned this much, I am going to have a provision in my will that to speak at my funeral, I am going to ask John Wisdom and Randolph Thrower to carry the laboring oar. I cannot tell you how much I appreciate John your over-generous, kind words and, Randolph, the same thing with you. I do appreciate it. Everybody knows you are overgenerous because of the nature of the event; you just had to overdo yourselves. I thank you for it.

There is one historical event of this year that I want to mention. Most of you know about it but I do want it to be mentioned as a part of the history of the Eleventh Circuit. My dear friend, Dick Rives, died three months ago. Dick Rives was Chief Judge of the Court after Judge Hutcheson, who retired shortly after I came on the Court. Judge Rives, at any time and in every case that I sat with him on, could count on my agreeing with him, with one exception. That exception was one where I was wrong and he was right. I did want to mention the fact that we have lost Judge Rives as a dear friend and colleague on this Court during this last court year.

And I cannot help but respond to what Judge Goldberg was so thoughtful to say. Judge Goldberg and I have been paying each other compliments now for five or six years. He came over to speak about me at my law clerks' party they gave me when I had been a Judge for 25 years. His law clerks invited me to Dallas to speak on the occasion of his 20th anniversary on the Court, so I appreciate his over-generous, kind remarks and those of my longtime friend, Chief Justice Warren Burger, a friendship that went way back to 1948 during the Dewey-Truman election. I deeply appreciate the letter he has written.

This is really all I have to say except I want to tell my law clerks how much I appreciate, not alone what they have done here, but what they have given Sara Tuttle and me during these 30 years that I have sat on the Court. There is not a Judge sitting with me here this afternoon who would not agree with me that we get three or four times as much from you all who are our law clerks as we are able to give to you. And while I said that everything John Wisdom said was over-generous, there is one thing I do not disagree with him on and that is where he

said that I got the prize of all when I met and fell in love with and married Sara Sutherland. I am the nominal member of the Court of Appeals but it is a family membership of this Court. I have traveled now for 30 years on the Court. Sara has missed four trips during that 30 years of my travel on the Court. I believe when I had the opportunity to take this position on the Court I asked her whether it would be all right with her and she said, "Yes, if we do not have to establish more than one home." I said, "Well, I will put down a rule, too. I will take the job if you will go with me," and we both lived up to that understanding.

Judge Godbold, I appreciate more than I can say your willingness to permit this portrait presentation to be made a part of this *en banc* session of the Court. Thank you all again.

GODBOLD, Chief Judge:

We shall adjourn in a moment. Remember the persons with red ribbons. Remember the reception on the first floor. If you would like to wander into the library on the first floor it will be open. In a year and a half we have built it from scratch—not a book—into one of the better circuit court libraries in the country.

This has been a good ceremony. There has been honor and hope here. Honor for Elbert Tuttle. Hope for the future of the Historical Society. There is hope in another sense. As the future unfolds, each of us will be a better person, personally and professionally, for having been associated with Elbert and Sara Tuttle.

These proceedings are adjourned.