

ISLAMIC SOCIETY OF BOSTON CULTURAL CENTER

Roxbury, MA

Mid-Day Prayer Service

1:00 P.M., January 12, 2018

Remarks by

Ralph D. Gants

Chief Justice

Massachusetts Supreme Judicial Court

This is the third winter that I have joined you for your mid-day prayers, and to meet with Shaykh Yasir Fahmy and Executive Director Yusufi Vali. And, as long as I am invited, and as long as I am Chief Justice, and as long as things are being said in our nation's capital that might cause you to wonder whether your constitutional rights will be honored, I will continue to come. Because my presence here today is the clearest way I know to reassure you of the unwavering commitment of our judiciary in Massachusetts to protect the free exercise of religion, to ensure the due process of law, and to provide equal protection under the law.

That commitment did not begin with me; it began with John Adams, the author of the Massachusetts Constitution and the first Chief Justice of the Supreme Judicial Court (although he never sat as a justice). Article 1 of the Massachusetts Declaration of Rights, written in 1780, begins with these words, "All people are born free and equal and have certain natural, essential and unalienable rights." It did not take long for those words to have practical consequence. In April 1783, a slave named Quock Walker, who was beaten by his master, had the audacity to bring a civil action charging his master with assault and battery; his master defended by arguing that Walker was his property and he could do whatever he wished with his own property. The case was presented to a jury and Chief Justice Cushing provided the jury with instructions that essentially declared that the new Massachusetts Constitution abolished slavery. He said:

"Our Constitution of Government . . . sets out with declaring that all men are born free and equal -- and that every subject is entitled to liberty, and to have it safeguarded by the laws, as well as life and property, and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our conduct and Constitution."

Quock Walker not only won his case; he walked out of court a free man.

This was only the first time that our Supreme Judicial Court applied the Declaration of Rights to speak truth to power, and demonstrated our commitment to the rule of law and to the

equality of all persons under the law. We have done so countless times since then and, where justice so requires, we shall do so again. This commitment is not limited to our Supreme Judicial Court; it is shared by every judge who serves in our Trial Courts and in our Appeals Court.

There is something else that John Adams said that has never mattered more than it matters today, something he said not in writing our Constitution but as a 35-year-old attorney representing the most hated men in Boston -- the British soldiers who fired into a crowd and killed five men in what became known as the Boston Massacre. In his closing argument in that murder trial, John Adams said, "Facts are stubborn things, and whatever may be our wishes, our inclinations, or the dictums of our passions, they cannot alter the state of facts and evidence."

There is no place where the power of stubborn facts is more clearly seen than in the courts of our Commonwealth. Because each and every day in our courts, judges and juries hear the evidence that is presented, sort out differences in memory, and separate truth from lies, fact from fiction. We have a special name for lies spoken in a courtroom-- when they are said under oath, we call it perjury; when they are told to a judge, we call it contempt of court.

It is hard work to find the facts. It requires us to listen carefully to the evidence, to consider what is said both on direct examination and under the crucible of cross-examination, to examine documents and forensic evidence, to discern what makes sense, and what does not. Judges do the hard work needed to find facts every day. And so do juries.

If you do not believe that facts are stubborn things, consider this: in our Superior Court, where the most serious crimes are tried before a jury of twelve persons, juries are able to reach agreement on a verdict in approximately 99 percent of the cases they hear. With every jury, twelve people come together as strangers, from all walks of life, all races, ethnicities, and religions, all age groups, and all political parties. Yet, when they hear the evidence at trial,

consider the judge's instructions as to the law, and deliberate to find the facts, they are able to reach agreement 99 percent of the time. In the political sphere, this would be seen as a miracle; in our courtrooms, it is the near-universal norm. But it is what can happen when people commit to be fair and impartial, when they carefully consider the credible evidence, and when they listen respectfully to each other.

An independent and impartial judiciary under the rule of law, the constitutional protections of a declaration of rights, the stubbornness of facts, and the ability of everyday people, when they devote the time and effort, to find those facts -- that is what protects us from the reckless, lawless abuse of power, from the lies that can steal a person's liberty and tarnish a reputation, from the ignorance that measures a man or a woman's worth by the color of their skin, the nation where their parents were born, or the religion they freely have chosen. In a time of wind and rain, that is where we can find shelter from the storm.