

THAT BABY: JUSTICE JACKSON'S WRITINGS ABOUT A GRANDCHILD, AND VICE VERSA*

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As Justice Jackson's ("Grampa's") oldest grandchild (born in March 1946), I was able to observe him from a perspective that most people did not—from a crib, or from under the dining table, for example. Seriously, my younger brother Bob and I were fortunate to spend a good bit of time with him, and at his Hickory Hill home in McLean, Virginia, because my family lived nearby from 1949 until his death in October 1954. Of course, he was the chief inspiration for my legal career.

Grampa mused about becoming a grandfather, upon hearing in a letter from his daughter Mary—our mother—that she was expecting (me). He wrote back to her on the West Coast in September 1945, when he was en route to Nuremburg to prepare for the International Military Tribunal.

Your atom bomb dropped on the house while I was at home and I am very glad to hear that I am to be a grand pappy. Of course it makes me feel a little ancient, but I have the feel anyway, so I might as well have the perquisite of old age—grandchildren. I know you have too much sense to get your heart set on a particular sex for the infant—just want what you get and be happy about it. Also don't let every damned hysterical old maid scare you about it. There is nothing to fear except fear itself as F.D.R. would say.¹

Grampa added that if our father, Tom Loftus, M.D., who was in

* Any resemblance between the title of this article and *That Man*, Justice Jackson's recently published memoir of President Franklin Roosevelt, is purely intentional. See ROBERT H. JACKSON, *THAT MAN: AN INSIDER'S PORTRAIT OF FRANKLIN D. ROOSEVELT* (John Q. Barrett, ed., 2003).

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¹ Letter from Robert H. Jackson (RHJ) to Mary Jackson Loftus (Sept. 10, 1945).

the Navy, was ordered to the Pacific before the blessed event:

I shall try to substitute as well as my age and enfeebled condition will permit. I can walk the floor and worry as well as ever and confinement is really much more of an ordeal for a pa than for a ma—she knows what's going on and he conjures up the worst.

Seriously I expect the Nuremburg trials to be over by that time but in any event I shall choose to be here if it is at all possible and if Tom can not be. Of course I shall spoil the discipline—just as my mother did yours.²

The trials he conducted would not end, however, until more than four months after I was born and our father was in the Pacific for the event too, courtesy of the Navy.

In May 1946, in a letter to his sister Helen from Nuremburg, Grampa noted reports about me and displayed his keenly skeptical legal mind.

I hear great reports [about] Tommy Loftus III. I expect to get a letter from him any day now, for I gather from the modest accounts that he is bright enough to write any time. Great that every mother feels that way. Irene [his wife, my grandmother] and Mary seem to be having their own way about things with no husbands around to bicker or meddle. Anyway, I'll be glad to see the little rascal and see if he is as good as they say.³

After returning to his day job as a Supreme Court Justice, Grampa faced challenges balancing work and family. Once when I was a toddler, he attempted to carry me down the staircase at Hickory Hill in one arm, while toting law books in the other. As he reached the landing above the first floor, one of those loads must have shifted, because he lost his balance. He managed to deposit me gently on the carpeted stairs leading down, as he dropped to all fours, and I rolled all the way to the bottom. Mother and grandmother hurried to the scene, concerned that I might be injured, but I just broke into laughter and started calling up the stairs, "Dood it again Gwampa! Dood it again!" Everyone had a good chuckle about it.

At family meals, there often was spirited discussion of the issues of the day around the table—except for Grampa. I recollect that

² *Id.*

³ Letter from RHJ to Helen Jackson Adams (May 22, 1946).

generally, Grampa would listen silently while family members bantered about their opinions. He would listen politely but not respond, giving no hint as to whether he agreed with any of it. (I don't recall anyone opining on legal matters he faced at the Court, and I am sure he would not have tolerated that.)

Grampa held his eating utensils in an unusual way with his right hand—his palm above the handle, his thumb underneath it. Our mother said that was because he had broken that arm while horseback riding, and the bone was not set quite right. That problem did not seem to interfere with his writing, though—he wrote his draft opinions out in longhand.

Grampa's demanding position left him little time for babysitting the grandchildren. I got the impression (mostly from my mother) that his time seldom was his own, and that his job was often arduous and frustrating. By contrast, she said, he seemed to have plenty of free time during her formative years in Jamestown, New York; although he was a very sought-after lawyer there. At times, my mother and grandmother expressed anxiety about keeping up with his hectic schedule, playing their own demanding roles, and getting us kids to mind our P's and Q's in public.

Despite his heavy schedule, however, Grampa included Bob and me in various outings, and in his Sunday activities at home. We sometimes joined him for his Sunday walk in the woods behind Hickory Hill. I recollect him walking vigorously along the (then) rural dirt roads, while our mother tried to get us to keep up. (For several years before his heart attacks in 1954, a physician had been advising him to get more exercise.)

Grampa also took us on a couple of fishing trips on Chesapeake Bay (with skipper Doyle Kendall of Deale, Maryland). I recall the day the "Bobbyfish" was reeled in. It was a striped bass that flailed about wildly as it was pulled aboard, causing my brother (then "Bobby") and me to retreat below deck and bawl a bit. But when the fish was measured, it turned out to be just the same height as Bobby—hence the name "Bobbyfish."

We were seen but seemingly not much heard by Grampa on those outings—but he was looking out for our interests. I remember him counseling Bob and me one day in the kitchen at Hickory Hill, as we enjoyed a between-meals snack. He emphasized that we should never lie or cheat, and that we could outwit and prevail against people who do. I never recollect Grampa denigrating, or expressing exasperation at, either of us—although opportunities doubtless

presented themselves.

Sunday was Grampa's day of comparative relaxation—although he often worked at his desk much of the day. The grownups would devour the Sunday *New York Times*, and in the evening would listen to Lowell Thomas's weekly news summary on the radio. At some point, Bob and I petitioned for a Sunday paper that gave us the intellectual stimulation the *Times* did not provide—comics. So Grampa began taking the Sunday *Washington Post*.

No recollection of Grampa's life would be complete without mentioning "Granny"—his wife Irene. She kept his household together and babysat her grandsons many times, in addition to playing her public role, which included serving on the Board of Directors of the Visiting Nurse Association and the Humane Society. She was an elegant person and an engaging conversationalist—although not an extrovert, and occasionally a bit overwhelmed with all the commotion in the household (often caused by the grandchildren). She was extremely devoted to Grampa, and she encouraged us grandkids to express ourselves, including on the issues of the day. I felt special when she paid that kind of attention to me.

Hickory Hill was a good babysitter, too. It was about five acres—with plenty of places for Bob and me to play detectives and "Cowboys and Indians"—places like the boxwood garden, the cherry orchard and the small stable where Grampa's horse Renee was sometimes kept. Then there was the time Bob and I experimented with the brakes and gears of the tractor (a converted 1926 Chevy), until it rolled downhill a good distance from the shed where it was parked—which got us into big trouble!

Grampa was our mother's superhero, and thus ours. His untimely death hit her extremely hard. He continues to be for me a source of great self-confidence, high aspirations and a strong belief in the importance and value of honest, hard work.