

THE LEGACY OF ROBERT H. JACKSON

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Robert H. Jackson was a country lawyer from upstate New York who rose to be an international advocate of distinguished accomplishment. He became one of the most famous trial lawyers in the Jamestown (N.Y.) area. As a young man he did not have the benefit of a college degree, but he did attend Albany Law School, which granted him a certificate in 1912. He was, without question, one of the most distinguished members of the United States Supreme Court and was one of the finest writers on the Court. He was also witty and wrote many witticisms which are still quoted by the Court.

Jackson was a man of courage. After suffering a heart attack, he left the hospital and went directly to Court so that the entire Supreme Court could be present while Chief Justice Warren announced the unanimous decision in *Brown v. Board of Education*. He was criticized for accepting President Truman's appointment as the American prosecutor at the Nuremberg trials after World War II. John W. Davis, however, said that he thought Jackson's opening and closing addresses were among the finest examples of advocacy he had ever seen.

Jackson had an attitude of calmness and fairness regardless of race, color, or creed. Even in his famous dispute with Justice Black he did not resort to sarcasm or antagonism. Jackson was highly regarded by President Roosevelt, who appointed him Attorney for the Internal Revenue Service, Solicitor General, Attorney General and finally Justice of the United States Supreme Court.

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One of the attractive things about the Justice was his way of speaking to people, either publicly or socially. Having had the pleasure of dining with him and his secretary, Mrs. Elsie Douglas, and my assistant, Mrs. Lorraine Wagner, on several occasions while writing his biography, we learned that he had a personality without thorns. He had a very gracious smile. He never put on airs for the ladies or others. He was content to be himself.

Jackson was not afraid to show his good humor in judicial opinions. One of his favorite quotations was: "We are not final because we are infallible, but we are infallible only because we are final."¹ Jackson is also widely quoted for his opinion in *Massachusetts v. United States*: "I see no reason why I should be consciously wrong today because I was unconsciously wrong yesterday."²

Like President Ronald Reagan, Jackson operated on principles, not on the basis of public opinion polls. From his early background, he operated on the basis of the fundamental principles he admired and lived by. For example, he believed that democracy should be political. He said, "That, I submit, is the true American way of life—that habit of thinking things and not words, that emphasis on results—concrete results for our people."³ He liked to quote Maury Maverick who expressed it quaintly, but clearly, when he said, "We Americans want to pray, think as we please—and eat regular."⁴

Jackson did not believe, as many Democrats do, that the centralization of government in Washington is necessarily the right answer to America's future. Like a good trial lawyer, he said: "Let us face the facts." In this sense, Jackson could be said to be a conservative. He was trying to conserve the democracy he had inherited for the future generations of Americans.

Jackson was not in favor of paying Americans to vote. Much of Jackson's protection for future Americans came from public-spirited lawyers. He believed that lawyers play a vital role in preserving American democracy. Lawyers have the education and the public background to teach the fundamentals on which American democracy is based. With his pungent witticisms he

¹ *Brown v. Allen*, 344 U.S. 443, 540 (1953) (Jackson, J., concurring).

² *Massachusetts v. United States*, 333 U.S. 611, 639–40 (1948) (Jackson, J., dissenting).

³ EUGENE C. GERHART, AMERICA'S ADVOCATE: ROBERT H. JACKSON 456 (1958) (citation omitted).

⁴ THE AMERICAN TREASURY 1455–1955, at 135 (Clifton Fadiman ed., 1955).

said: "The soap box is a better line of defense for democracy than a Siberia."⁵ He felt that dictators are often deceived by their own bureaucratic staff that they have suppressed in order to maintain power. For this reason, Jackson was a great believer in the American free public school system. Speaking at the dedication of the Jamestown High School building in 1935, he said to the young people gathered there:

I would be proud and happy if my part in these ceremonies could pass on to those who are to study in this new building a life-long curiosity for knowledge, a lasting dissatisfaction with one's self, the inspiration to seek self-improvement by hard work and the courage to take responsibility. These are the precious jewels which I carried away from the old building and which I offer to return tonight.⁶

He also believed that a student today would find a college education the best practical way of getting his feet on the ground. He also believed that the educated man must be a man of courage. With these fundamental principles, it is easy to see why Jackson was a great advocate. He knew that a fearless and able Bar is indispensable to the maintenance of our American liberty. Jackson believed that the king—that is, the government—is directly under God and the law. In other words, the moral sense of the people and the legal background they built are the basis of protecting American liberty. John W. Davis declared that Robert Jackson "is undoubtedly a great advocate."

Combining these qualities, there was a certain idealism about him which was most appealing. On November 2, 1953, dignitaries from all over the United States gathered in Chicago to attend the laying of the cornerstone of the first American Bar Center. The principal speaker on that occasion was Robert H. Jackson. He ended his talk with what he called a summary statement of the ideals of the legal profession. He pointed out that we believe in the law as a growing, progressive science of civilized life. We believe that the only permissible use of force is under the law. That eliminates dictatorship. He also said that a strong Bar, free from government control, is necessary to fight for those laws. Jackson felt that the new American Bar Center could marshal the united

⁵ GERHART, *supra* note 3, at 458 (citation omitted).

⁶ Robert H. Jackson, Address at Dedication of Jamestown High School Building (Nov. 15, 1935), available at <http://www.roberthjackson.org/theman2-7-2-1.asp>.

wisdom of our powerful legal profession. He then summarized his own ideal with a story that he liked to tell and which I am happy to repeat here.

A visitor at a cathedral under construction questioned three workmen as to what they thought they were doing. The first muttered, 'I am making a living.' The second gave the uninspired reply, 'I am laying this stone.' The third one looked up toward the sky and his face was lighted up by his faith as he said, 'I am building a cathedral.' What are we doing today? We are building a cathedral to testify to our faith in the rule of law.⁷

The last portion of that sentence was chiseled into the imposing main entrance of the American Bar Center in Chicago. Let the young men and women of the law understand what it means.

⁷ Robert H. Jackson, *The American Bar Center: A Testimony to Our Faith in the Rule of Law*, 40 A.B.A.J. 19, 22 (1954).