

Eugene C. Gerhart (1912-2007), Jackson Biographer

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In October 1946, Justice Robert H. Jackson was newly back in the United States and again working at the Supreme Court after more than a year's absence to serve as the chief prosecutor of Nazi war criminals in Nuremberg.

On October 28, 1946, Justice Jackson traveled to Atlantic City, New Jersey, for the American Bar Association's annual convention. That evening, he spoke to the ABA and the general public, including national and international press. His address, entitled "The Legal Profession in a World of Paradox," was a hopeful account of his experiences with legal systems and lawyers across Europe, including in Germany and with colleagues from the Soviet Union.¹

Justice Jackson's October 1946 trip to Atlantic City was, aside from his speaking engagement, his first real respite after a crazy, grueling month capping seventeen previous months of Nuremberg's intense work. Jackson had, at the start of October, returned from Nuremberg to Washington. He then made an immediate trip to Buffalo, New York, to give a major speech.² He then returned to Washington for the start of the Supreme Court's new Term. He prepared, participated in many oral arguments and worked on Court cases, including some that were deadlocked and being reargued for him to supply a deciding vote. He met in numerous Court Conferences with

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For a selected archive of Jackson List postings, see my homepage at www.law.stjohns.edu. To subscribe to the Jackson List, send a note to barrettj@stjohns.edu.

¹ Jackson's speech, as published in 33 AM. BAR ASSN. J. 24-27 & 85-89 (Jan. 1947), is available as a PDF file at www.roberthjackson.org/documents/Lawyers%20Today.pdf. Contemporaneous press coverage included Kalman Seigel, *U.S.-Soviet Barrier Held Deep-Seated*, N.Y. TIMES, Oct. 29, 1946, at 8.

² Justice Jackson delivered this speech, *The Nurnberg Trial: Civilization's Chief Salvage from World War II*, at the University of Buffalo's Centennial Convocation on October 4, 1946. It is available as a PDF file, as published in VITAL SPEECHES OF THE DAY, at www.roberthjackson.org/documents/The%20Nurnberg%20Trial.pdf.

fellow Justices to discuss and vote on cases. He also worked on his first opinions of the new Term.

Justice Jackson's Nuremberg work also continued during October 1946. He met with War Department and State Department colleagues and communicated regularly with his former prosecutorial office and staff, including as prisoners' appeals were rejected in Germany and then as their executions were carried out. During that month, Jackson wrote his final Nuremberg report to President Truman, met with him and others privately to discuss Nazi war crimes and Germany matters, and formally resigned his appointment as chief prosecutor.³ He also prepared his Atlantic City speech and, after the Supreme Court adjourned on Monday, October 28th, traveled with his wife Irene to the ABA meeting there.

Because the Supreme Court was in recess for the remainder of that week, and because Jackson enjoyed gatherings with fellow lawyers, and because he needed a break, he stayed in Atlantic City, at the Claridge Hotel, for more than three days. He rested, but he also attended ABA section meetings and functions. On Thursday, October 31st, Jackson attended the ceremony at which the ABA awarded its annual Erskine M. Ross essay contest prize. Jackson met the winner, a 34-year-old lawyer from Binghamton, New York, named Eugene C. Gerhart. Jackson was impressed by Gerhart's essay,⁴ and by the young man himself, who was a graduate of Princeton University (1934) and Harvard Law School (1937), had served in 1934 as a secretary to World Court judge Manley Hudson in Geneva, Switzerland, had practiced law in New Jersey, had served during World War II in the United States Navy and, most recently, had opened his own law office in Binghamton.⁵

Eugene Gerhart, who was at least equally impressed with Justice Jackson, followed up on their meeting. Gerhart wrote to Jackson and they began to correspond. He saw Jackson a little more than a year later, when they both attended the New York State Bar Association's annual meeting in New York City; they had breakfast together then at the University Club.

³ Jackson's final report, which he delivered to President Truman on October 7, 1946, is available as a PDF file at www.roberthjackson.org/documents/Final%20Report%20to%20the%20President.pdf.

⁴ See Eugene C. Gerhart, *Labor Disputes: Their Settlement by Judicial Process*, 32 AM. BAR ASSN. J. 752-56 & 801-08 (Nov. 1946).

⁵ As to the last point, see Eugene C. Gerhart, *Going It Alone*, 32 AM. BAR ASSN. J. 397-400 (JULY 1946).

As their acquaintance developed, Gerhart disclosed that he wanted to write Justice Jackson's biography. Jackson was skeptical—he regarded himself as a life still in progress, he was uncertain about the significance of such an undertaking, and he was unwilling, as a sitting Justice, to talk very much about Supreme Court matters. But Jackson also liked Gerhart. Indeed, Jackson certainly saw something of himself in this young, talented, ambitious, upstate New York lawyer who was inclined toward language, ideas and writing.

Justice Jackson agreed to cooperate and Gerhart commenced to work on interviewing, researching and writing about Jackson's life and career. Over the next seven years, Gerhart interviewed Jackson at least ten times. Gerhart began writing, and he eventually sent Jackson draft chapters and received his comments on the work in progress.

In spring 1954, Justice Jackson suffered a serious heart attack and he died suddenly that fall. This unexpectedly early conclusion to Jackson's life affected Gerhart personally. It also significantly diminished that era's interest in Robert H. Jackson—once people pass on, it takes years and perspective, including the context created by later developments and lives, before history really can identify giants in their lasting stature and greatness.

Eugene Gerhart, to his great credit, nonetheless persevered during the mid-1950s in his work on Robert H. Jackson. In 1958, Gerhart published his Jackson biography.⁶ In 1961, he published a second Jackson book, focused on his Court work.⁷ And as the years have passed since Jackson's time, Gerhart's writing about his friend and hero has been read widely and increasingly treasured—Gerhart's own knowledge, his perspective as a witness and his writing are important parts of what Robert H. Jackson has become in history's attention and growing appreciation.

Happily, Eugene Gerhart lived a very long, productive and healthy life. He remained a—*the*—lawyer of Binghamton and its region, founding the firm that is today Coughlin & Gerhart LLP. He also continued to write, including one book that was published during Justice Jackson's lifetime⁸

⁶ See EUGENE C. GERHART, *AMERICA'S ADVOCATE: ROBERT H. JACKSON* (Indianapolis, IN: The Bobbs-Merrill Co., Inc., 1958).

⁷ See EUGENE C. GERHART, *SUPREME COURT JUSTICE JACKSON: LAWYER'S JUDGE* (Albany, NY: Q Corp., 1961).

⁸ See EUGENE C. GERHART, *AMERICAN LIBERTY AND "NATURAL LAW"* (Boston, MA: The Beacon Press, 1953) (Foreword by Roscoe Pound).

and five that were published thereafter.⁹ Eugene Gerhart also was for many years Editor of the NEW YORK STATE BAR JOURNAL and a member of the Board of Editors of the AMERICAN BAR ASSOCIATION JOURNAL.

Throughout his life, Eugene Gerhart was animated by his knowledge and memories of Robert H. Jackson. In 2000, he contributed a speech about Jackson to the 100th anniversary celebration of the Jamestown (NY) Bar Association.¹⁰ On May 1, 2001, Gerhart was the inaugural speaker at the newly-created Robert H. Jackson Center in Jamestown.¹¹ Its website includes a video of Gerhart discussing, in his Binghamton law office in June 1999, the qualities he admired in Justice Jackson.¹² In 2004, Gene published a final Jackson tribute essay.¹³ He also became one of the Jackson Center's generous leading benefactors.

Eugene Clifton Gerhart died on Saturday, October 27, 2007, at age 95. He was learned, literate and wise, a lawyer's lawyer, a true gentleman and a trailblazer. I am very grateful that I had the opportunity to be his student and friend, and that I get to walk in some of his footprints.

⁹ See EUGENE C. GERHART, *LAWYER'S TREASURY: AN ANTHOLOGY SELECTED BY THE BOARD OF EDITORS FROM ARTICLES . . . REPRESENTATIVE OF THE BEST TO APPEAR IN THE FORTY-YEAR HISTORY OF THE AMERICAN BAR ASSOCIATION JOURNAL* (Indianapolis, IN: The Bobbs-Merrill Co., Inc., 1956); EUGENE C. GERHART, *QUOTE IT! MEMORABLE LEGAL QUOTATIONS: DATA, EPIGRAMS, WIT, AND WISDOM FROM LEGAL AND LITERARY SOURCES* (New York, NY: C. Boardman Co., 1969); EUGENE C. GERHART, ARTHUR T. VANDERBILT, *THE COMPLEAT COUNSELLOR* (Albany, NY: Q Corp., 1980); EUGENE C. GERHART, *QUOTE IT II: A DICTIONARY OF MEMORABLE LEGAL QUOTATIONS* (Buffalo, NY: William S. Hein Co., 1988); EUGENE C. GERHART, *QUOTE IT COMPLETELY!: WORLD REFERENCE GUIDE TO MORE THAN 5,500 MEMORABLE QUOTATIONS FROM LAW AND LITERATURE* (Buffalo, NY: William S. Hein & Co., 1998).

¹⁰ See Eugene C. Gerhart, *A Tribute to a Great American Lawyer* (delivered on his behalf, June 7, 2000, at Chautauqua Institution, Chautauqua, NY), available at www.roberthjackson.org/Man/theman2-6-4/.

¹¹ See Eugene C. Gerhart, *America's Advocate* (delivered May 1, 2001, at the Robert H. Jackson Center, Jamestown, NY), available at www.roberthjackson.org/Man/SpeechesAbout_AmericaAdvocate.

¹² See www.roberthjackson.org/Center/videolist.

¹³ See Eugene C. Gerhart, *The Legacy of Robert H. Jackson*, 68 ALBANY L. REV. 19-22 (2004), available as a PDF file at [www.roberthjackson.org/documents/Gerhart%20\(final\).pdf](http://www.roberthjackson.org/documents/Gerhart%20(final).pdf).