

Lincolnian Jackson

*John Q. Barrett**

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It is unclear when Robert H. Jackson, born on February 13th in 1892, first noticed that his birth date was adjacent to the February 12th birth date of the late President Abraham Lincoln. Certainly it was early in Jackson's boyhood. In Pennsylvania, where Jackson was born on a family farm in Spring Creek Township, Lincoln's February 12th birth date became a state holiday before 1900.¹ In New York State, to which the Jackson family moved (to the town of Frewsburg) when Robert was a young boy, Lincoln's birthday became a state holiday even earlier.² In addition to its legal holiday status, Jackson knew of Lincoln's birthday because it was celebrated prominently and with much enthusiasm in Jackson's boyhood corner of the Union (Warren County in northwestern Pennsylvania, adjacent Chautauqua County in southwestern New York, and Erie County to the north).³

Enthusiasm for Abraham Lincoln was not, however, the perspective of young Robert Jackson's family. His great grandfather Elijah Jackson (1772-1845), who settled in Spring Creek early in the nineteenth century, was a "stiff Democrat" who followed Thomas Jefferson and then Andrew Jackson, and allegiance to the Democratic Party became the family political tradition. Robert's grandfather Robert Rutherford Jackson (1829-1913), who lived with young Robert's family during his boyhood and played a central role in his upbringing, told him that he (grandfather Robert R.

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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, which does not display recipient identities or distribute their email addresses, send a note to barrettj@stjohns.edu.

¹ See *Lincoln's Birthday*, N.Y. TIMES, Feb. 13, 1900, at 6 (editorial).

² See *State Holidays*, N.Y. TIMES, Jan. 25, 1896, at 2.

³ The tradition of public commemorations of Lincoln's birthday began in Buffalo, the seat of Erie County, in 1874. See Louise Continelli, *Lincoln Tribute Places Spotlight on Buffalo Connection*, BUFF. NEWS, Feb. 17, 2003, at B1. Westfield, New York, about 35 miles from Jackson's boyhood home in Frewsburg at the opposite end of Chautauqua Lake, also had (and has) a unique tie to Lincoln himself: in 1860, Westfield was the home of the eleven year old girl whose letter to presidential candidate Lincoln persuaded him to grow his beard. On the way to his inauguration, Lincoln's train stopped in Westfield in February 1861 and he met—indeed, he kissed—the cheek of this girl, Grace Bedell. Westfield today has a Lincoln statue that commemorates these events.

Jackson) had voted against Abraham Lincoln twice. Justice Jackson later recounted hearing that during the Civil War, his forebears felt deeply that northern abolitionists were lawless hot-heads, that slave owners were lawless hot-heads, that more moderate measures on both sides could have avoided war and freed the slaves, that slaves should be bought and then given their freedom, and that the Democratic Party deserved support over the Republican Party of Lincoln because the Democrats were less extreme.

In that environment, Robert Jackson began to learn about Abraham Lincoln and, in time, to admire and draw upon him. In high school, Jackson gave a speech that identified himself as a hereditary Lincoln “enemy” but then acknowledged and described aspects of Lincoln’s greatness. As a twenty-two year old lawyer delivering a Decoration Day speech to Civil War veterans, Jackson closed by quoting Lincoln’s Gettysburg Address declarations that “these dead shall not have died in vain” and this nation “shall not perish from the earth.” Later, in one of his earliest speeches at Chautauqua Institution, delivered on February 12, 1917 (and during a World War), Jackson spoke with admiration about Lincoln and George Washington.

Jackson, a great reader and student of history, was drawn to Lincoln’s life story, challenges, achievements and eloquent writings. Jackson surely also was struck, at the level of personal comparison and in terms of his own ambitions, with life parallels between Lincoln and himself: each was born on the family farm; each was raised to work hard in modest circumstances; each was a voracious reader; each was light on formal schooling and largely, and deeply, self-taught; and each was drawn to debating, the study and practice of law, and politics. As Jackson’s ambitions developed, he surely aspired to travel, as Lincoln had, far distances from his beginnings.

In Robert Jackson’s public life, Lincoln became an important topic and interest. In 1937, while doing research and preparing material to defend President Franklin Roosevelt’s “Court packing” proposal, Assistant Attorney General Jackson discovered that the views of Presidents Jefferson, Jackson and Lincoln in their respective battles with the Supreme Court were not well recorded; after FDR effectively won his fight with the Court, Jackson decided that “the story [must] be told and a few lessons drawn from it,” and thus he wrote his 1941 book about each of those battles, *THE STRUGGLE FOR JUDICIAL SUPREMACY*.

In summer 1939, Solicitor General Jackson, by then a subject of national political speculation, made something of a pilgrimage to Lincoln's Springfield, Illinois. Speaking at a State Fair political rally and a radio audience, Jackson told twentieth century Americans that FDR was "our Lincoln."

By early 1940, Robert H. Jackson was Attorney General of the United States and a leading presidential prospect. On February 9th, Jackson, alongside First Lady Eleanor Roosevelt, spoke in Washington to the American Youth Congress (and over national radio) at a Lincoln Memorial meeting of thousands in the Department of Labor auditorium.⁴ Because the Republican Party had declined to send a speaker to this event, Jackson opened by joking that Abraham Lincoln "was one Republican who would not have been afraid of" the crowd.⁵

Attorney General Jackson's 1940 speech, delivered in a time of domestic political turmoil and international military conflict, discussed citizens and their government under the United States Constitution. In the heart of his speech, Jackson described in detail how recent Supreme Court decisions had restored the constitutional powers of government. Noting specifically that Lincoln had, according to his biographer (and Jackson's own friend) Carl Sandburg, aimed his speeches at young people, Jackson delivered to the youth of his time a message about change, hope and using liberties within the American system to change the status quo. "I do not know what your dreams are," he said to his audience, "and it probably will not be for me to experience the unmeasured lengths of your adventures. In any case, I am quite certain that I believe in your right to have your dreams and your adventures."⁶

Justice Jackson's life and accomplishments were, of course, his own. The parallel early lives and the varying later experiences of Jackson and Lincoln may have produced, however, something of a common character. One observer, then-Justice William H. Rehnquist, who had been

⁴ See *Today on the Radio*, N.Y. TIMES, Feb. 9, 1940, at 25.

⁵ *Anti-Reds Balked in Floor Scuffles at Youth Session*, N.Y. TIMES, Feb. 10, 1940, at 1, 7. See generally *Youth Congress in Near Riot Over Stand on Communism*, WASH. POST, Feb. 10, 1940, at 1, 2.

⁶ *Jackson's Speech at Youth Congress*, WASH. POST, Feb. 10, 1940, at 9. Jackson's prepared remarks, *Youth and Government*, are available at www.roberthjackson.org/documents/Youth%20and%20Government.pdf.

a Jackson law clerk at the Supreme Court during 1952-53, noted twenty-five years after Jackson's life his

remarkable similarity to Lincoln in many respects. Obviously, there was only one Lincoln, and Robert Jackson did not lead the Union victoriously through a Civil War which resulted in the abolition of slavery. But I am speaking now not of historical accomplishments but of character traits. It seems to me that Jackson possessed much of Lincoln's rare ability to profit from experience, to accommodate his views when that experience seemed to require accommodation, and yet to maintain throughout his life a sturdy independence of view which took nothing on someone else's say-so.⁷

Years earlier, those who had known Robert Jackson best and loved him had thoughts of Lincoln as they recalled Jackson shortly after his passing. Jackson died suddenly in October 1954, so winter 1955 brought the next—and what must have been for family and friends the hardest—anniversary of his birth. On February 11, 1955, as the next day (Lincoln's birth date) and then Robert Jackson's birth date each loomed, Justice Felix Frankfurter, Jackson's closest friend and colleague on the Supreme Court, penned these words at his Georgetown home and sent them to Mrs. Jackson at her Hickory Hill home in McLean, Virginia:

Dearest Irene:

It has always
seemed to me appropriate
that our Bob's birthday was
so close to Lincoln's. Happily
he did not have Lincoln's
sombre [sic], melancholy vein—
but they had some essentials
in common. Both showed
how far native talent, when
joined to will and character,
can carry a man. Both

⁷ William H. Rehnquist, *Robert H. Jackson: A Perspective Twenty-Five Years Later*, 44 ALBANY L. REV. 533, 536 (1980).

were totally devoid of
self-righteousness; both
carried their wisdom and
their self-cultivation gaily;
both were gregarious but
not lost in the crowd.

I write to let you
know how deeply Bob is in
my consciousness, how
lively he remains with me.

Marion joins in good
wishes and affectionate greetings.

Felix⁸

⁸ Note from Felix [Frankfurter] to Irene [Jackson], Feb. 11, 1953 [sic], in Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C., Box 5, Folder 3 (and republished on the following pages). As Justice Frankfurter, probably filled with emotion, started to write this note, he mistakenly wrote the year as "53" (i.e., 1953). Mrs. Jackson later wrote on it his full name ("Felix Frankfurter") and the correct year ("1955").

Felix Frankfurter

3078 Aunborton Ave,

Supreme Court of the United States
Washington, D. C.

Feb. 11, 1955
(13)

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Yours