

# Jacksonian Advice for the Next Attorney General

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Former United States Attorney General Janet Reno and former senior Department of Justice lawyer Geoffrey Klineberg have published a new article, *What Would Jackson Do? Some Old Advice for the New Attorney General*, in the HARVARD LAW & POLICY REVIEW.<sup>1</sup>

In the article, Reno and Klineberg focus on three Jackson speeches:

- Attorney General Jackson's April 1, 1940, speech, *The Federal Prosecutor*, delivered at the Department of Justice in Washington to the United States Attorneys from throughout the country;<sup>2</sup>
- Attorney General Jackson's September 19, 1940, speech, *The Department of Justice and the Cities*, delivered extemporaneously to another nationwide gathering, the United States Conference of Mayors meeting at the Waldorf=Astoria Hotel in New York City (and, through radio and print media, the public in that heated presidential campaign season);<sup>3</sup> and

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For a selected archive of Jackson List posts, see my homepage at [www.law.stjohns.edu](http://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](mailto:barrettj@stjohns.edu).

<sup>1</sup> See Janet Reno & Geoffrey M. Klineberg, *What Would Jackson Do? Some Old Advice for the New Attorney General*, 2 HARV. L. & POLICY REV. 197-209 (2008), available at [www.hlpronline.com/Reno-Klineberg\\_HLPR.pdf](http://www.hlpronline.com/Reno-Klineberg_HLPR.pdf).

<sup>2</sup> My Jackson List post on this speech and Jackson's text are available at [www.stjohns.edu/download.axd/56bb89d2b50849048a313799eb547d6e.pdf](http://www.stjohns.edu/download.axd/56bb89d2b50849048a313799eb547d6e.pdf).

<sup>3</sup> A transcription of Jackson's speech is available at [www.roberthjackson.org/documents/The%20Department%20of%20Justice%20and%20the%20Cities.pdf](http://www.roberthjackson.org/documents/The%20Department%20of%20Justice%20and%20the%20Cities.pdf). See also William H. Conklin, *Jackson Bids Cities Unify Our Defense*, N.Y. TIMES, Sept. 20, 1940, at 14; *Jackson Tells U.S. Mayors of Fight on Spies*, WASH. POST, Sept. 20, 1940, at 5.

- Justice Jackson’s May 9, 1951, James McCormick Mitchell Lecture, *Wartime Security and Liberty Under Law*, delivered at the University of Buffalo Law School.<sup>4</sup>

As Reno and Klineberg write, these Jackson speeches are “remarkably eloquent.” They also are, on the topics they address—the proper exercise of federal prosecutorial discretion; balancing federal law enforcement authority with local law enforcement needs; and protecting both national security and civil liberties—wise, very contemporary guidance to anyone who will succeed to the office of Attorney General of the United States.

We know that Attorney General Mukasey is, like former Attorney General Reno, a student and an admirer of his 1940-41 predecessor in office, Robert H. Jackson.<sup>5</sup> I am hopeful that that has become an office tradition.

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<sup>4</sup> See Robert H. Jackson, *Wartime Security and Liberty Under Law*, 1 BUFF. L. REV. 103-17 (1951), available at [www.roberthjackson.org/documents/Wartime%20Security%20and%20Liberty%20Under%20Law.pdf](http://www.roberthjackson.org/documents/Wartime%20Security%20and%20Liberty%20Under%20Law.pdf).

<sup>5</sup> My Jackson List posts on Mukasey’s admiration for Jackson are available at [www.stjohns.edu/media/3/82383b77a6c745098c5051650e92cb55.pdf](http://www.stjohns.edu/media/3/82383b77a6c745098c5051650e92cb55.pdf) and [www.stjohns.edu/download.axd/fa9ae020a14c42f38ddd509c71152a5a.pdf](http://www.stjohns.edu/download.axd/fa9ae020a14c42f38ddd509c71152a5a.pdf). Other former Attorney General writings on Jackson include Edwin Meese III, *Robert H. Jackson, Public Servant*, 68 ALBANY L. REV. 777-81 (2005), and Dick Thornburgh, *Balancing Civil Liberties and Homeland Security: Does the USA PATRIOT Act Avoid Justice Robert H. Jackson’s “Suicide Pact”?*, 68 ALBANY L. REV. 801-13 (2005).