

Penn & Thanksgiving, 1948

*John Q. Barrett**

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When Justice Owen J. Roberts resigned from the Supreme Court of the United States in July 1945, he was seventy years old and had completed fifteen years of service on the Court. He returned to Philadelphia, where he had been born, raised and educated (University of Pennsylvania, A.B. 1895, LL.B. 1898), where he had practiced law privately and been a prosecutor, and where he had taught law for twenty-one years (also at Penn). He resumed living fulltime on his beloved farm in West Vincent Township outside the city.

Three years later, Owen Roberts began an unexpected final chapter in his career. In response to some institutional turmoil and a sudden vacancy, Roberts accepted the deanship of the University of Pennsylvania Law School. From the start, he was not merely a titular or retiree dean—he devoted himself to the work of the job. He also had, of course, a unique pool of friends and former colleagues on which to draw for the benefit of his school and its students.

A slice of Dean Roberts's external work is captured in this letter, which he sent to his former Supreme Court colleague Robert H. Jackson in late September 1948:

My dear Jackson:

As you know, I have assumed the office of Dean... One of the duties, as well as pleasures of my position, is to offer outstanding young men to the Justices as possible Law Clerks. I have in mind two or three class leaders who will graduate in June of 1949 whom I can recommend as thoroughly fit for such a position. If, by any chance, you may be needing a Law Clerk for the term beginning in October 1949, will you not let me send you during the coming winter one or two of these men for an interview?

* Professor of Law, St. John's University School of Law, New York City, and Elizabeth S. Lenna Fellow, Robert H. Jackson Center, Jamestown, New York (www.roberthjackson.org). An earlier version of this text was posted to my Jackson Email List on November 25, 2009.

For a selected archive of Jackson List posts, 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.

Another matter I have on my mind is that I should like to get you up here to speak to our students and to meet our Faculty some time during the coming year. I think you may understand how much it means to the morale of the Faculty and to the student body to meet a man who holds your position in the profession. Let me know if there is any possibility of your coming to us at any time and we will make the necessary arrangements.

My regards to Mrs. Jackson and to you.

Sincerely yours,

/s/ Owen J. Roberts¹

Jackson immediately dictated and sent a reply. It reflected his Court history and bond with Roberts and included some typically wry Jackson comments:

My dear Roberts:

I will be glad to interview any young man you wish to send me as an applicant for law clerkship. ...

I would be very happy to come to the University of Pennsylvania and talk with your students and faculty, provided it can be done informally. I like to talk, as you know, if I can find an audience that will listen. There are certain kinds of speeches I am refusing to make, however: one is any kind of speech where they have a radio hook-up. My early education was defective and I can't spell very well, and when you have to talk to a radio audience by spelling out most of the words, as is the modern radio custom, it puts too much strain on me. So I have flatly refused anything that has a radio hook-up. Also, I am lazy and don't like to prepare a manuscript. But if an informal man-to-man talk will do, I

¹ Owen J. Roberts to Mr. Justice Robert H. Jackson, Sept. 30, 1948 (original), in Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C. ("RHJL") Box 46, Folder 6. An image of this letter and each letter cited herein is reproduced at the end of this file.

will be glad to come at some time that will be convenient for you and not in conflict with matters here.

...

With best wishes,

Sincerely yours,

/s/²

Roberts wrote next. His letter back to Jackson began by recommending very enthusiastically a top Penn law student for a clerkship with Justice Jackson, and by suggesting that this student come down to Washington to interview with Jackson at the Supreme Court. (This soon came to pass, and Jackson was impressed by the Penn student. It seems clear to me that Jackson would have hired him if one other applicant, a Yale law student who Jackson also interviewed and liked, had not had a special credential: during Jackson's 1945-46 work as chief U.S. prosecutor of the principal Nazi war criminals before the International Military Tribunal at the Palace of Justice in Nuremberg, the Yale student had served there in the U.S. Army message center and code room. For Jackson, Nuremberg service was a tipping factor and that applicant, rather than the Penn student, got the clerkship.)

Roberts also spelled out to Jackson a fuller plan for his visit to Penn:

I was amused at your enumeration of the conditions on which you would talk to our students. Fortunately we can meet all of them. The students have organized what they call a Law School Forum and last year they had a series of very interesting talks from leading lawyers and judges. If you could speak here on either November 23 or November 24 they would be delighted, and if you would let me know you can they will send you a formal invitation from the Forum. Either 2:00 in the afternoon or 8:00 in the evening, as you prefer, would be convenient times for your address. It will not be on the radio and it will be all the better for being extemporaneous and informal. In this connection I have a suggestion. If you could come up for the 2:00 talk I shall

² Robert H. Jackson to Honorable Owen J. Roberts, Oct. 5, 1948 (unsigned carbon copy), in RHJL Box 46, Folder 6.

arrange a luncheon for the Faculty at 12:30, you could talk at 2:00, and I would then take you and Mrs. Jackson, if she will come with you, to our farm outside Philadelphia and we would send you to your train at Wilmington to Washington the next day, or the day after, if you will give us more than one night. You and I will thus get a chance for some legal gossip for which I must say I am hungry.³

A Penn law student on the Forum soon followed up on Dean Roberts's letter. The student wrote to Jackson that the Forum Committee had noticed

that Wednesday, November 24th is the day before our Thanksgiving vacation begins. Consequently, many students will have left Philadelphia on Wednesday morning or they will leave immediately after their classes on that day. Therefore, since we are desirous of giving as many of our men as possible the opportunity of hearing your remarks, we wish to urge that you not select Wednesday, November 24 to speak to our Forum.⁴

Justice Jackson, appreciating this direct advice and recognizing the inconvenience of choosing the Wednesday date, wrote to Roberts that he would visit Penn Law School on Tuesday, November 23rd. Jackson added, with regret, that the press of Court business meant that it would have to be an up-and-back-by-dinnertime one-day trip—"I will take a rain check on the invitation to your farm, much as I would enjoy visiting it."⁵ (Roberts later wrote, in response to this sentiment, another strong pitch based in their friendship: "I am really very anxious to see you and to talk with you. Sometime when you and Mrs. Jackson are free we should love to have you spend a week-end at the Farm. We could get together some interesting people from the neighborhood and have an interesting time. Please keep this in mind. I will talk to you more about this when I see you."⁶)

³ Owen J. Roberts to Mr. Justice Jackson, Oct. 8, 1948 (original), *in* RHJL Box 46, Folder 6.

⁴ Bennett [sic?] B. Friedman to Mr. Justice Jackson, Oct. 20, 1948 (original), *in* RHJL Box 46, Folder 6.

⁵ Robert H. Jackson to Honorable Owen J. Roberts, Oct. 23, 1948 (unsigned carbon copy), *in* RHJL Box 46, Folder 6.

⁶ Owen J. Roberts to Mr. Justice Jackson, Oct. 25, 1948, *in* RHJL Box 46, Folder 6.

Jackson also advised Roberts that he proposed to speak about Nuremberg:

I don't know just what you have in mind for me to talk about on the 23d, but subject to your better judgment I would discuss very informally with the group the difficulties we experienced in reconciling four systems of law in working out a procedure for the Nurnberg trials, and some of the amusing incidents and serious lessons that resulted. This is usually of interest to those who are interested in the profession and happens to be a subject on which I can speak with a minimum of speech preparation.⁷

Writing separately to the law student, Jackson told him of the proposed topic of Nuremberg and offered a Q&A session: "When speaking to a law school or professional group on this subject, I have generally been willing to open the matter to questions, for oftentimes there are problems in the minds of students that have not occurred to me."⁸ Both Dean Roberts and his student wrote back to Jackson their enthusiasm about his proposals,⁹ and the plan thus was set.

The Supreme Court sat on Monday, November 22, 1948, before recessing for the rest of the week. The next morning, Jackson, traveling solo, took a 10:00 train from Washington's Union Station to Philadelphia's 30th Street Station. Owen Roberts met Jackson at the station and brought him to Penn Law School, where they had lunch together, by themselves, in the dean's office. (Jackson later wrote, privately, that this talk showed him that Roberts was "in a mood to tear into things" in future public speeches.)

Roberts then introduced the student to Jackson, and at 2:00 p.m. he spoke to students and probably some faculty—extemporaneously, without being taped or broadcast—about Nuremberg.¹⁰

Jackson took a train from Philadelphia back to Washington at the end of the afternoon. The next day, while Penn law students were attending (or missing) classes, Jackson worked at the Supreme Court. On Thursday,

⁷ Jackson to Roberts, *supra* note 5.

⁸ Robert H. Jackson to Bennett B. Friedman, Oct. 23, 1948, in RHJL Box 46, Folder 6.

⁹ See Roberts to Jackson, *supra* note 6; Bennet [sic?] B. Friedman to Mr. Justice Jackson, Oct. 27, 1948, in RHJL Box 46, Folder 6.

¹⁰ See Alan H. Cassman to Hon. Robert H. Jackson, Nov. 29, 1948, in RHJL Box 46, Folder 6.

PENN & THANKSGIVING, 1948

he and his wife Irene celebrated Thanksgiving at home in McLean, Virginia. Dinner, a Virginia ham, had previously been one of the pigs they raised at their Hickory Hill home.

UNIVERSITY OF PENNSYLVANIA
PHILADELPHIA

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THE LAW SCHOOL
3400 Chestnut Street

September 30, 1948

Office of the Dean

Mr. Justice Robert H. Jackson
Supreme Court of the United States
Washington 13, D. C.

My dear Jackson:

As you know, I have assumed the office of Dean of the Law School of the University of Pennsylvania. One of the duties, as well as pleasures of my position, is to offer outstanding young men to the Justices as possible Law Clerks. I have in mind two or three class leaders who will graduate in June of 1949 whom I can recommend as thoroughly fit for such a position. If, by any chance, you may be needing a Law Clerk for the term beginning in October 1949, will you not let me send you during the coming winter one or two of these men for an interview?

Another matter I have on my mind is that I should like to get you up here to speak to our students and to meet our Faculty some time during the coming year. I think you may understand how much it means to the morale of the Faculty and to the student body to meet a man who holds your position in the profession. Let me know if there is any possibility of your coming to us at any time and we will make the necessary arrangements.

My regards to Mrs. Jackson and to you.

Sincerely yours,

Owen J. Roberts

Owen J. Roberts

OJR:cm

October 5, 1948.

Honorable Owen J. Roberts;
University of Pennsylvania,
3400 Chestnut Street,
Philadelphia 4, Pennsylvania.

My dear Roberts:

I will be glad to interview any young man you wish to send to me as an applicant for law clerkship. I think the experience of having been a clerk for a Circuit Judge is valuable and I would be inclined to give some preference to one who had that experience. Also, I like to have a man stay two years, for he seems much more valuable to me and much less trouble to me the second year.

I would be very happy to come to the University of Pennsylvania and talk with your students and faculty, provided it can be done informally. I like to talk, as you know, if I can find an audience that will listen. There are certain kinds of speeches I am refusing to make, however: one is any kind of speech where they have a radio hook-up. My early education was defective and I can't spell very well, and when you have to talk to a radio audience by spelling out most of the words, as is the modern radio custom, it puts too much strain on me. So I have flatly refused anything that has a radio hook-up. Also, I am lazy and don't like to prepare a manuscript. But if an informal man-to-man talk will do, I will be glad to come at some time that will be convenient for you and not in conflict with matters here.

I may say that I was greatly pleased that you accepted the deanship. I know it gives you keen pleasure to work with fresh young minds that are the hope of the future legal profession. I know, too, that they get great inspiration from you. Incidentally, I hope you will give any prospective law clerks very thorough training, because you know law clerks are of increasing importance in our top judiciary. Conference is becoming more and more a ratification meeting. But enough of this fault-finding lest you think I am becoming a bitter old man. It would be good to have a chance to chat with you again.

With best wishes,

Sincerely yours,

UNIVERSITY OF PENNSYLVANIA
PHILADELPHIA

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THE LAW SCHOOL

Office of the Dean

October 8, 1948

My dear Jackson:

I was delighted to get your letter of October 5. I should like to send Edward W. Mullinix down to see you at an early date. As he is in classes every week-day, I am wondering if he could see you some Saturday morning at your chambers. If you can see him on a Saturday, I will send him down. He is a very mature man and I think can do a wonderful job as a law clerk. He is so good that the Faculty here hopes he will take up law teaching. But whether he takes up teaching or elects to go into practice, we all agree that experience as a law clerk will be valuable. I know he will stay with you two years if you want him. If you cannot see him on a Saturday he, of course, will come on any other day of the week convenient to you.

I was amused at your enumeration of the conditions on which you would talk to our students. Fortunately we can meet all of them. The students have organized what they call a Law School Forum and last year they had a series of very interesting talks from leading lawyers and judges. If you could speak here either on November 23 or November 24 they would be delighted, and if you let me know you can they will send you a formal invitation from the Forum. Either 2:00 in the afternoon or 8:00 in the evening, as you prefer, would be convenient times for your address. It will not be on the radio and it will be all the better for being extemporaneous and informal. In this connection I have a suggestion. If you could come up for the 2:00 talk I shall arrange a luncheon for the Faculty at 12:30, you could talk at 2:00, and I would then take you and Mrs. Jackson, if she will come with you, to our farm outside Philadelphia and we would send you to your train at Wilmington for Washington the next day, or the day after, if you will give us more than one night. You and I will thus get a chance for some legal gossip for which I must say I am hungry.

*Inv. +
W.S.B.
before
signing.
Court
out.*

I am having a wonderful time in my new position. We have a strong and splendid Faculty and a good student body and the contacts I have with them constitute a very refreshing experience.

The Roberts send their good wishes to the Jacksons.

Yours sincerely,

Owen J. Roberts

Owen J. Roberts

Mr. Justice Jackson
Supreme Court of the United States
Washington 13, D. C.

LAW SCHOOL FORUM

THIRTY-FOURTH AND CHESTNUT STREETS

PHILADELPHIA 4, PENNSYLVANIA

October 20, 1948

Mr. Justice Jackson
Supreme Court of the United States
Washington 13, D. C.

Honorable Sir:

Dean Roberts has told our Forum Committee that he suggested to you Tuesday, November 23 and Wednesday, November 24 as ideal dates for you to speak at our School.

We now observe, however, that Wednesday, November 24th is the day before our Thanksgiving vacation begins. Consequently, many students will have left Philadelphia on Wednesday morning or will leave immediately after their classes on that day. Therefore, since we are desirous of giving as many of our men as possible the opportunity of hearing your remarks, we wish to urge that you not select Wednesday, November 24 to speak at our Forum.

Dean Roberts and we hope that you will be able to come on Tuesday, November 23. If this date is not convenient for you, however, we hope that you will suggest some other Tuesday or Wednesday that you could come, as we are truly anxious to have you here.

Sincerely,

Bennett B. Friedman
Bennett B. Friedman
Law School Forum Committee

BBF/L.

October 23, 1948.

My dear Roberts:

I had a letter in the machine saying that I would come to you on November 24th, when I received a letter from Friedman calling attention to the inconvenience of that date.

What I can do is to come up on Tuesday morning, November 23d, speak at 2 o'clock; but I would like to get back here for dinner Tuesday evening. As this will be a pretty hurried trip, I will take a rain check on the invitation to your farm, much as I would enjoy visiting it. But I hereby invite myself for lunch with you. Don't bother to arrange any luncheon, for it will be a delight to chat with you.

I would be glad to see Edward Mullinix almost any Saturday morning if he will let me know when it is convenient for him to come down. But I am wondering whether it would not save him trouble and expense if I had a short interview with him before lunch on the 23d when I am in Philadelphia. I will not be making any decision until late spring in any case and I have some peculiar and unorthodox notions about law clerks, which I will tell you when we get together.

I don't know just what you have in mind for me to talk about on the 23d, but subject to your better judgment I would discuss very informally with the group the difficulties we experienced in reconciling four systems of law in working out a procedure for the Nurnberg trials, and some of the amusing incidents and serious lessons that resulted. This is usually of interest to those who are interested in the profession and happens to be a subject on which I can speak with a minimum of speech preparation.

With best wishes,

Sincerely yours,

Honorable Owen J. Roberts,
Office of the Dean,
The Law School,
University of Pennsylvania.

October 23, 1948.

Mr. Bennett B. Friedman,
Law School Forum Committee,
University of Pennsylvania,
Philadelphia 4, Pennsylvania.

My dear Mr. Friedman:

I have your letter suggesting November 23d rather than November 24th as a date for the meeting. I have written to Dean Roberts suggesting that I can come to Philadelphia and speak at about 2 o'clock on the 23d, providing I can get away and return to reach Washington at dinnertime.

If it is agreeable, I will discuss the problems arising in connection with the Nurnberg international trial, particularly the difficulty of reconciling four systems of law in formulating a procedure. When speaking to a law school or professional group on this subject, I have generally been willing to open the matter to questions, for oftentimes there are problems in the minds of students that have not occurred to me. Whether you will want to do this, I leave entirely to your judgment.

I am sending a copy of this to Dean Roberts for his information.

Sincerely yours,

UNIVERSITY OF PENNSYLVANIA
PHILADELPHIA
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THE LAW SCHOOL

Office of the Dean

October 25, 1948

My dear Jackson:

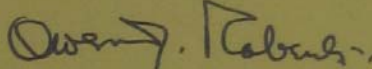
Thank you very much for your letter of October 23. I am delighted that you are coming up to talk to our students on November 23. We can easily get you to a train leaving West Philadelphia about 4:11 in the afternoon which would get you to Washington about 6:30. I am delighted that you can come and I think what you intend to talk about will be of interest to our students.

Do arrange to leave Washington fairly early in the morning so as to arrive here shortly after 12:00. We can then have an unhurried luncheon and meet the 2:00 engagement easily. I think the 10:00 train from Washington will arrive at 30th Street, Philadelphia at about 12:15. In any event, let me know what train you are taking. I will meet you at the station. We can either lunch down town or in the neighborhood of the University.

I am really very anxious to see you and to talk with you. Sometime when you and Mrs. Jackson are free we should love to have you spend a week-end at the Farm. We could get together some interesting people from the neighborhood and have an interesting time. Please keep this in mind. I will talk to you more about this when I see you.

With all best wishes, I am,

Yours sincerely,



Owen J. Roberts

OJR/hcm

Mr. Justice Jackson
The Supreme Court of the United States
Washington, D. C.

LAW SCHOOL FORUM

THIRTY-FOURTH AND CHESTNUT STREETS

PHILADELPHIA 4, PENNSYLVANIA

October 27, 1948

Mr. Justice Jackson
Supreme Court of the United States
Washington 13, D. C.

Honorable Sir:

Thank you very much for your letter of October 23d stating that you can come to Philadelphia and speak on November 23d. We are indeed happy that you can make it.

The problems of the Nurnberg international trial and the difficulty of reconciling four systems of law in formulating a procedure certainly will be of great interest to our group. We appreciate your willingness to open the matter to questions. Such a question period has been a valuable part of many of our past forums.

As to your returning to Washington by dinnertime, this the train schedule will permit. We know that in this regard Dean Roberts has written to you.

Already we are looking forward with enthusiasm to your visit.

Sincerely,

Bennet B. Friedman
Bennet B. Friedman
Law School Forum Committee

LAW SCHOOL FORUM

THIRTY-FOURTH AND CHESTNUT STREETS
PHILADELPHIA 4, PENNSYLVANIA

November 29, 1948

Hon. Robert H. Jackson
Supreme Court of the United States
Washington, D. C.

Dear Sir:

We wish to thank you, on behalf of the Forum of the Law School, for coming here to address us on November 23. We realize that the time and effort required for such an appearance is considerable, and especially difficult for you during the crowded Supreme Court Session. We are grateful to you for our increased understanding of the Nuremburg Trials, and we are honored that you could have been with us.

Sincerely yours,
The University of Pennsylvania
Law School Forum

Alan H. Cassman
Alan H. Cassman

AHC:cm