

From Nuremberg to Howard, Perhaps Not on a First Name Basis (1948)

*John Q. Barrett**

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In early 1948, Dr. Jacob Billikopf wrote from Philadelphia, his home, to Justice Robert H. Jackson at the Supreme Court of the United States. Dr. Billikopf, a noted national leader in social work, Jewish philanthropy, labor relations and other pursuits, wrote as a trustee and chairman of the executive committee of Howard University in Washington, D.C.

Dr. Billikopf explained that he and another Howard University trustee had been, for the past few years, hosting private dinner meetings on campus “for the purpose of making friends for that great institution.” He explained that Howard’s president Dr. Mordecai Johnson, members of his administrative staff, “key men” on the faculty and 25-30 other guests attended the dinners. Dropping mention that Jackson’s colleagues Justices William O. Douglas and Felix Frankfurter had been guests of honor at previous dinners, Billikopf asked Jackson if he would be the honored guest at dinner a month hence.¹

Justice Jackson promptly dictated and sent back his positive answer. It was contingent, he explained, on another pending matter not claiming his schedule on the date in question. Although Billikopf was not someone who Jackson knew well, he signed his short letter “Bob.”²

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For an archive of selected Jackson List posts, many of which have document images attached, visit <http://thejacksonlist.com>.

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¹ Letter from Jacob Billikopf to Justice Robert H. Jackson, Jan. 22, 1948, in Robert H. Jackson Papers, Library of Congress, Manuscript Division, Washington, D.C. (“RHJ LOC”), Box 45, Folder 16.

² Letter from Robert H. Jackson to Jacob Billikopf, Jan. 23, 1948 (unsigned carbon copy), in *id.*

Billikopf, writing back immediately, focused first on Jackson's signature:

Dear Mr. Justice:

When my good friend, Benjamin Cardozo, was appointed to the Supreme Court, I naturally greeted him as Mr. Justice. "Don't call me Mr. Justice. Please don't," said he. "How then should you be addressed?" "Call me Ben," was the reply. Of course I couldn't be guilty of such irreverence and so we reached a compromise.

Now, then, when I received your letter signed BOB I was naturally flattered and then it occurred to me that it must have been a case of *lapsus calami* [a slip of the pen]. ...³

In the heart of his letter, Billikopf wrote that that he was "so happy" that Jackson had accepted the invitation, if somewhat contingently. Billikopf proposed an alternative date, one week later.

For Jackson, that date, February 27, 1948, was clear. On that Friday evening, Jackson attended a private dinner in Frazier Hall at Howard University. He spoke to the group about his 1945-46 work as U.S. chief prosecutor at Nuremberg of Nazi war criminals.⁴

Justice Jackson's rough notes, from which he spoke, indicate that he discussed the Nuremberg trial and its lasting implications. He described how the Nuremberg judgment recognized individual responsibility under international law. Jackson explained that international law fetters national sovereignty in ways that resemble how the 14th Amendment to the U.S. Constitution limits the sovereignty of States to violate the rights of individuals.⁵

Following the dinner, Dr. Johnson wrote to Justice Jackson, thanking him for his presence and his remarks. Noting that Jackson and his

³ Letter from Jacob Billikopf to Justice Robert H. Jackson, Jan. 26, 1948, in *id.* An image of this letter follows this text.

⁴ Frazier Hall, built in 1929, is now a dormitory under renovation. See www.howard.edu/renewal/facilities/extreme_makeover/frazier.html.

⁵ Robert H. Jackson notes, n.d., at 4 ("Must overcome as Fed did state sovereignty in bill rights matters by 14th Amend"), in RHJ LOC, Box 45, Folder 16. Images of these Jackson speech notes follow this text.

Nuremberg colleagues had worked there to establish “world community,” Johnson stated his “hope that our own nation may come to exercise increasingly effective leadership toward its realization.”⁶

There is, interestingly, no record of a Jackson response to Billikopf’s comment on Jackson’s “Bob” signature. Following that Billikopf letter, Jackson’s secretary, not he, handled the additional pre-dinner correspondence.⁷

At the Howard University dinner, Billikopf surely greeted Jackson and introduced him to the group as “Mr. Justice.” That would have been consistent with half of what I suspect were Billikopf’s modes of interacting with his friend Justice Cardozo. Their “compromise” was, I think, that Billikopf called him “Ben” in private communication and “Mr. Justice” in public settings.

⁶ Letter from Mordecai W. Johnson to Justice Robert H. Jackson, Mar. 8, 1948, in *id.* An image of this letter is at the end of this file.

⁷ See Jacob Billikopf—Elsie L. Douglas Letters, in *id.* In minor comedy, Billikopf apparently misread Mrs. Douglas’s signature as “Eric L. Douglas” at the start of this correspondence and thereafter wrote back to Justice Jackson’s assistant as a man of that name.

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January 26, 1948

Dear Mr. Justice:

When my good friend, Benjamin Cardozo, was appointed to the Supreme Court, I naturally greeted him as Mr. Justice. "Don't call me Mr. Justice. Please don't," said he. "How then should you be addressed?" "Call me Ben," was the reply. Of course, I couldn't be guilty of such irreverence and so we reached a compromise.

Now, then, when I received your letter signed BOB I was naturally flattered and then it occurred to me that it must have been a case of *lapsus calami*.

I am so happy that you have been able to accept our invitation though it was somewhat contingent. This morning's mail brought me a letter from my good friend, Roy A. Roberts (copy enclosed). As I have accepted the invitation to the dinner to be given in honor of Harry J. Haskell, chief editorial writer and one of the co-publishers of the Kansas City Star, it occurred to me that if it would be convenient for you to be with us at Howard Thursday evening, February 26th, or Friday evening, February 27th, I would have ample opportunity to send out the invitations. If, however, either date is not convenient and the 20th is still possible, could I hear from you by next Monday so that I may send out the invitations prior to my departure for Kansas City.

This morning, too, I received a letter from David from which I quote: "I would appreciate so much your sending me the closing address by Justice Jackson at Nurenberg." And he adds: "If the weather keeps up as is, I will probably remain in Cambridge and during my vacation work on the Jackson thesis."

With all sorts of good wishes.

Cordially yours,

Jacob Billikopf

Jacob Billikopf

Mr. Justice Robert A. Jackson

1.

July 27 1948

Long range implications Nuremberg -

(a) not fate German individuals

(b) not effect of Germany alone

What victors committed selves to

4 Signatories London Agreement
19 Adherents

Is codification

Judicial Precedent
judgment
lawyer

Agreement + prosecution + judgment
= Commitment.

What?

2/

A. Individual responsibility to Int Law.

As it was my state

Made individuals answer - their acts
to Int law

This rejected doctrine of sovereignty

Germany protested protection

(a) Sovereignty for Germany

(b) acts of state

Their real claim is port facts not aggression

Sovereignty stripped from them.

What is the doctrine thus impaired

1. Right to go war at will

2. Right to do as will with own
citizens.

Now answer a higher law - Int law

Effect - like old confederation to
constitution

Effective Int law. What is it?

3/

B No war of aggression Crime of Peace

Beckman Hallway -

Hitler -

Great evil - all crimes

train of burdens & evils

Reduce standard of living

4/

(c) Persecution individuals & minorities

Crimes against humanity

Persecution for war needs.
Even by law

Sovereignty forbids go too far

Broke into it concentration camps
persecution & extermination

International Bill of Rights & Sovereignty

Fetter same way Bill of Rights
does

Must overcome as Fed did state

sovereignty in bill rights

matters by 14th amend

5/

Did the nation realize doing to sovereignty?

Vashinsky -

U.S.A. would ratify?

Will they adhere to sovereignty or
limited sovereignty -?

As to aggressive war probably yes.

No one wants war -

Russia not want war - wants things
may lead to it -

Condition to people etc

As to individual & minority rights No

Fundamental differences East & West

No use hating about it
Different tradition
Byzantium

Atlee estimate dispassionate.

Fundamentally different meaning of
"Democracy."

No rights as against state

Spread throughout East

Minorities proved dangerous

Czechoslovakia
Dapor

Norway

Progress that our concepts

Limit by Bill Rights

HOWARD UNIVERSITY
WASHINGTON 1, D. C.

March Eighth

1 9 4 8

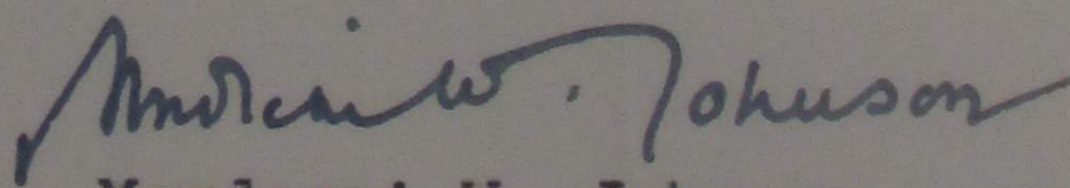
OFFICE OF THE PRESIDENT

My dear Mr. Justice:

Please allow me to thank you, once again, for your visit and your address to us on the evening of Friday, February twenty-seventh. Your presence was an inspiration to our entire community, and it was thrilling to hear from you something of the high considerations of world purpose and law which actuated the judges at Nuremberg.

In spite of the darkness in which we are now moving, I believe that the world community, transcending national wilfulness, there assumed by you and your associates, will be established. I hope that our own nation may come to exercise increasingly effective leadership towards its realization.

Sincerely yours,



Mordecai W. Johnson
President

Mr. Justice Jackson
The Supreme Court
Washington, D. C.