Theodore Roosevelt and The First Law Cornerstone

(When the cornerstone of the current Law Building was laid in April, 1903, the principal address was delivered by President Theodore Roosevelt. That speech is reprinted below as it appears in the University Record, Volume VII, May, 1902—April, 1903.)

Mr. President, men and women of the University, and you, my fellow-citizens, people of the great city of the West:

I am glad indeed to have the chance of being with you this afternoon to receive this degree at the hands of President Harper, and in what I have to say there is little that I can do save to emphasize certain points made in the address of Mr. Judson.

I speak to you of this University, to you who belong to the institution, the creation of which has so nobly rounded out the great career of mercantile enterprise and prosperity which Chicago not merely embodies, but of which in a peculiar sense the city stands as symbolical.

It is of vast importance to our well-being as a nation that there should be a foundation deep and broad of material well-being. No nation can amount to anything great unless the individuals composing it have so worked with the head or with the hand for their own benefit as well as for the benefit of their fellows in material ways, that the sum of the national prosperity is great. But that alone does not make true greatness or anything approaching true greatness. It is only the foundation for it, and it is the existence of institutions such as this, above all the existence of institutions turning out citizens of the type which I know you turn out, that stands as one of the really great assets of which a nation can speak when it claims true greatness.

From this institution you will send out scholars, and it is a great and a fine thing to send out scholars to add to the sum of productive scholarship. To do that is to take your part in doing one of the great duties of civilization, but you will do more than that, for greater than the school is the man, and you will send forth men; men who will scorn what is base and ignoble; men of high ideals, who yet have the robust, good sense necessary to allow for the achievement of the high ideal by practical methods.

It was one of our American humorists who, like all true humorists, was also a sage, who said that it was easier to be a harmless dove than a wise serpent. Now, the aim in production of citizenship must not be merely the production of harmless citizenship. Of
course, it is essential that you should not harm your fellows, but if, after you are through with life, all that can be truthfully said of you is that you did not do any harm, it must also truthfully be added that you did no particular good.

Remember that the commandment had the two sides, to be harmless as doves and wise as serpents; to be moral in the highest and broadest sense of the word; to have the morality that abstains and endures, and also the morality that does and fears, the morality that can suffer and the morality that can achieve results—to have that and, coupled with it, to have the energy, the power to accomplish things which every good citizen must have if his citizenship is to be of real value to the community.

Mr. Judson said in his address today that the things we need are elemental. We need to produce not genius, not brilliancy, but the homely, commonplace, elemental virtues. The reason we won in 1776, the reason that in great trial from 1861 to 1865 this nation rang true metal, was because the average citizen had in him the stuff out of which good citizenship has been made from time immemorial, because he had in him honesty, courage, common sense.

Brilliance and genius? Yes, if we can have them in addition to the other virtues. If not, if brilliant genius comes without the accompaniment of the substantial qualities of character and soul, then it is a menace to the nation. If it comes in addition to those qualities, then of course we get the great general leader, we get the Lincoln, we get the man who can do more than any common man can do. But without it much can be done.

The men who carried musket and saber in the armies of the East and West through the four grim years which at last saw the sun of peace rise at Appomattox had only the ordinary qualities, but they were pretty good ordinary qualities. They were the qualities which, when possessed as those men possessed them, made in their sum what we call heroism. And what those men had need to have in time of war, we must have in time of peace, if we are to make this nation what it should ultimately become, if we are to make this nation in very fact the great republic, the greatest power upon which the sun has ever shone.

And no one quality is enough. First of all is honesty—remember that I am using the word in its broadest signification—honesty, decency, clean living at home, clean living abroad, fair dealing in one's own family, fair dealing by the public.

And honesty is not enough. If a man is never so honest, but is timid, there is nothing to be done with him. In the Civil War you needed patriotism in the

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soldier, but if the soldier had the patriotism, and yet felt compelled to run away when that was needed, he was not of much use.

Together with honesty you must have the second of the virile virtues, courage; courage to dare, courage to withstand the wrong and to fight aggressively and vigorously for the right.

And if you have only honesty and courage, you may yet be an entirely worthless citizen. An honest and valiant fool has but a small place of usefulness in the body politic. With honesty, with courage, must go common sense: ability to work with your fellows, ability when you go out of the academic halls to work with the men of this nation, the millions of men who have not an academic training, who will accept your leadership on just one consideration, and that is if you show yourself in the rough work of actual life fit and able to lead, and only so.

You need honesty, you need courage, and you need common sense. Above all you need it in the work to be done in the building the corner-stone of which we laid today, the law school out of which is to come the men who at the bar and on the bench make and construe, and in construing, make the laws of this country; the men who must teach by their actions to all our people that this is in fact essentially a government of orderly liberty under the law.

Men and women, you the graduates of this university, you the undergraduates, upon you rests a heavy burden of responsibility; much has been given to you; much will be expected from you. A great work lies before you. If you fail in it you discredit yourselves, you discredit the whole cause of education. And you can succeed and will succeed if you work in the spirit of the words and the deeds of President Harper and of those men whom I have known so well who are in your faculty today.

I thank you for having given me the chance to speak to you.

White—

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change by addressing his new colleague as “Grandfather Justice Brandeis.”

Another instance of White’s playing the father role is revealed in Holmes complaining to Laski, “The C.J., who occasionally speaks to me as if I were unknown to the world at large, said the people thought I didn’t work when I fired off decisions soon after they were given to me.”

Umbreit wrote of Edward Douglass White that he looked so much like a Chief Justice that he might have merited the position on appearance alone. He refers to him as a monumental man, who gave the impression of massive strength. William Howard Taft, who appointed him Chief Justice and later succeeded him in that office, said of White, “Massive, dignified, impressive as was his physical mould, his mental structure was like it. . . . His capacity for work was enormous.” Indeed, while he was a member of the Louisiana Supreme Court White wrote 80 opinions in 14 months. During his 27 years on the Supreme Court of the United States he prepared more than 700 opinions. His memory was prodigious. His opinions, which were usually lengthy, he delivered orally.

He showed a strong sense of judicial responsibility. Taft, after pointing out that the study of cases with a view to their decision in conference is a greater task than the preparation of opinions, stated that no one could have been more conscientious in this regard than Chief Justice White. In the opinions themselves White’s sense of responsibility impelled him to dwell continually on the “consequences” that might follow a particular decision.

A suggestion of his general view in all cases is is revealed in Holmes’ complaining to Laski, “The A. B. Dick Co. sold a mimeographing machine to which was attached a plate which stated “This machine is sold . . . with the license restriction that it may be used only with the stencil-paper, ink and other supplies made by A. B. Dick Co.” The purchaser of the machine bought ink from another manufacturer, and the A. B. Dick Co. sued this manufacturer alleging an infringement of its patent. A majority of the court held with A. B. Dick Co. White’s dissent overshadowed the present majority view of the Supreme Court. His argument in part follows:

“My reluctance to dissent is overcome in this case: First, because the ruling now made has a much wider scope than the mere interest of the parties to this record, since, in my opinion, the effect of that ruling is to destroy, in a very large measure, the judicial authority of the States by unwarrantedly extending the Federal judicial power. Second, because the result just stated, by the inevitable development of the principle announced, may not be confined to sporadic or isolated cases, but will be as broad as society itself, affecting a multitude of people and capable of operation upon every conceivable subject of human contract, interest or activity, however intensely local and exclusively within state authority they otherwise might be. Third, because the gravity of the consequences which would ordinarily arise from such a result is greatly aggravated by the ruling now made, since that ruling not only vastly extends the Federal judicial power, as above stated, but as to all the innumerable subjects to which the ruling may be made to