

## OWEN J. ROBERTS—THE MAN

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During the years when Owen Roberts was a conspicuous figure in the life of his community, his fellow citizens accepted the universality of his interests as a matter of course. Lawyers who thought of him chiefly as a practicing lawyer and as a judge were more or less dimly aware that he was active in other fields of endeavor. Those who were concerned with inter-racial adjustments were grateful for his service in this vitally important area, but they too had little exact information about his other activities. It was generally recognized that he was rendering useful service in the field of education and of legal education in particular, but nobody undertook to form an exact estimate of the value of his service. Perhaps his colleagues in the American Philosophical Society had a clearer conception than other people of the scope of his activities, but it is doubtful whether even they pictured him as the loyal churchman that he was or fully appreciated the depth of his religious convictions. Those to whom international affairs are a matter of only remote concern scarcely took seriously his intelligent and highly valuable proposals for developing American foreign policy. It was only after he had gone from our midst that we paused long enough to estimate the cumulative effect upon his community of his labors in all these—and other—fields. The several records of his varied activities assembled in this issue of the *Law Review* make it possible in retrospect to see more clearly what manner of man he was than if an appraisal had been attempted while he was still at work.

Perhaps the element to be first considered in any such appraisal is that thoroughness with which all his work was done. There was nothing sketchy or superficial in anything that he did. He exhausted not only each subject that he dealt with but also those of his colleagues who tried to keep pace with him. When Lord Brougham was raised to the wool-sack, O'Connell is said to have observed that if the new Lord Chancellor only knew a little law he would know a little of everything. Even in jest, no such comment could possibly have been made upon Roberts and his diversified labors.

The next quality which demands recognition is the sincerity which characterized all his efforts. It is to be doubted whether in all his

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life he ever said or did anything merely to attract attention. If there was a dramatic element in much that he did it was purely incidental to his conscious effort. Indeed he took no pains to conceal his contempt for the show-off and the publicity-seeker.

He was not of the contemplative type: he might be described as character in action. He was thoughtful, but he never made thought his aim. If there was something that needed doing, he did not wait for others to act: he did it himself.

If to thoroughness and sincerity there be added two characteristics not often found in combination—simple godliness and boundless energy—we shall have a clue to the source of his influence over other men. While the specialist undoubtedly has a useful contribution to make to human progress, it is the all-round man whose leadership is most widely accepted and whose influence is more stimulating and dynamic.

Reference has just been made to his "simple godliness." Nobody can speak with authority upon the source of this vastly important characteristic. Perhaps it was an inherited quality stimulated by a parent's influence. In any event it was not a characteristic of which he often spoke. If there was any trace of dissimulation in his make-up it was in seeming to feel less deeply about sacred things than he really did. This is not a suggestion that he counterfeited religious indifference but merely that the roots of his spiritual life were buried much more deeply than a casual acquaintance would have suspected. In all its outward manifestations his religious life was conventional. He was a faithful member of his parish. He accepted without hesitation such official responsibilities as he was called upon to assume. During his years of official residence in Washington, he served as a vestryman of St. John's Church. For a brief period he represented his Philadelphia parish in the Convention of the Episcopal Diocese of Pennsylvania, and for a longer time he honorably discharged the duties of a highly responsible office—that of Chairman of the House of Clerical and Lay Deputies in the General Convention of his Church. He was in fact the only layman ever elected to that office.

One of his activities after his acquisition of his farm at Kimber-ton was in connection with an old church in the neighborhood, St. Andrew's, West Vincent, which for a number of years had been closed. Through his leadership and his personality others were led to join him in the movement to reestablish and revitalize the parish. He was able to attract the attention of the rural community through his loyalty and Christian faith manifested in the course of his busy life.

The faithful discharge of his official duties was merely the outward manifestation of deep religious conviction. As above suggested,

he was not of the contemplative type. His beliefs were not of a complicated sort. He accepted unquestioningly the conventional teachings of his Church, domesticated them and proceeded to vitalize them by living in their atmosphere. If anybody in his presence ever advocated a course of conduct inconsistent with them he was likely to incur a rebuke not soon to be forgotten.

As for the energy with which he translated all his beliefs into action, it may well be described as prodigious. His partners will testify to the vigor of his approach to the legal problems which he was called upon to solve. His fellow-laborers in various other fields recall with something like awe the effective cooperation which he gave them. It is not wise for an outsider to speculate about the independence of thought which he manifested in the consultation room of that "more than Amphictionic Council"—the Supreme Court of the United States. It may safely be assumed that his approach to the solutions of complicated legal and constitutional problems was in harmony with his attitude toward the many other problems with which he came to grips.

A man with such a well-rounded development seldom lacks opportunity for useful civic service. One such opportunity came to Roberts in 1919 when he was appointed a member of the Board of City Trusts. This organization had been formed to take over and administer charitable trusts of various sorts which from time to time had been confided to the City of Philadelphia by public-spirited testators. One of the most important trusts which the Board was called upon to administer was Girard College, an educational institution established under the will of Stephen Girard for the education of male orphans. While all departments of the work of the Board were benefited by his appointment, it is safe to say that the administration of Girard College made to him the strongest appeal. The standing committee of the Board primarily responsible for the administration of the College was the Committee on Instruction, of which Roberts became chairman. In 1925 he was appointed a member of the special committee to consider the expansion of the facilities of the college for vocational training, formal education, housing and care of new students, construction of a new dining hall, a new junior school, residences for executives, a new library and a new chapel. Roberts himself introduced the resolution authorizing the appropriation for the erection of the chapel, and when the finished structure was dedicated in 1933, he delivered the address of dedication. An inspection of the record shows that on nine different occasions he addressed the boys assembled in the chapel. He delivered a number of commencement addresses and made the presentation address when a group of Girard

alumni tendered to the college a memorial tablet commemorating the military service of its alumni in World War I. His interest in the college was by no means limited to problems of physical expansion. He took a deep and intelligent interest in the curriculum and in the spiritual nurture of the students. When he took his seat upon the Supreme Court, his resignation from the Board was recognized as inevitable but was accepted with keenest regret.

His interest in educational problems of a certain sort was manifested not merely by his work for Girard College but by his contribution to Negro education. It must be borne in mind that service in this field may be rendered from either of two motives—Christian obligation or a passion for social justice. To what extent Roberts was moved by one or the other of these two cannot be determined with certainty, but it is highly probable that in his case both motives were operative. He perceived the need for unselfish service and he proceeded to render it. He was well fitted for such a task because there was nothing patronizing in his approach, and while he probably realized that such a service had dramatic possibilities, it was his sense of justice that determined his course.

It was through his official relation to Lincoln University that he rendered his most important service in this field. He accepted election as trustee on June 24, 1929, but shortly thereafter was compelled to resign because of his appointment to the Supreme Court. After his retirement from the Court, he accepted re-election on February 4, 1948. Thereafter he served faithfully and effectively until his death. During his term of service and with his enthusiastic approval, a new program was adopted to enable the institution to serve all humanity and not merely a neglected minority. He also favored acceptance by the University of a special responsibility for the training of leaders for Africa. In thus helping to set the institution on a truly inter-racial and international basis, he showed great flexibility of mind and all his wonted energy. On this and all other major questions of policy, he saw eye to eye with Lewis M. Stevens, president of the board of trustees, and with Dr. Bond, the president of the University. Largely due to Roberts's influence, the "new program" is now well under way with a growing enrollment that is irrespective of color or race. It should be added that in 1947 and 1948, Roberts headed a local effort in the interest of the United Negro College Fund. Naturally enough, he came to be regarded as one of the best friends of the Negro race.

While service in the field of inter-racial relations had both a moral and intellectual justification, his relation to other educational problems was merely a manifestation of an intelligent community interest. How-

ever, in the case of the law school of his alma mater, he felt the emotional urge of loyalty as well as the compulsion of civic duty. His service to the University of Pennsylvania both during his early teaching days and during his term of office as Dean of the Law School has been admirably appraised in Professor Keedy's contribution to this symposium. All this was in addition to his active and invaluable service to the University as a member of the board of trustees.

As he always had taken a great interest in the training of boys, and, in addition, had a love of outdoor physical exercise, it was natural that the Boy Scout movement with its emphasis on outdoor life should make a strong appeal to him. He recognized that it offered to boys exceptional opportunities to live close to nature and that, under proper direction, it could exercise a wholesome influence upon boys at a critical time in their development. Accordingly when, in 1930, he was invited to become a member of the Boy Scout Council in Chester County, he accepted with alacrity and spent both time and effort in the discharge of this congenial responsibility. As an illustration of his official activity, it should be recorded that he was instrumental in the establishment of the endowment fund of the Chester County Council. This fund has gradually grown in size. Its income is to be used for the maintenance and extension of the Scout camping program. Roberts served as chairman of the council board of trustees from the time of its organization until his death. In 1946, he became a member of the National Council of Boy Scouts of America, in which capacity during the rest of his life he rendered valuable service to the cause which he had so much at heart. In the course of his discharge of official duties, he made a profound impression not only upon his colleagues but upon individual scouts. Also, personal participation in Boy Scout activities was a source of real pleasure and joy for him. For a great many years he spent one or more full days at the Horseshoe Boy Scout Reservation where he would mingle and talk with the lads from all walks of life and all sections of the county. The various official awards of which from time to time he was the recipient were made not merely because of official services rendered but because in his personal relations with the Scouts themselves he disclosed himself as an embodiment of the high ideals which give vitality to the Scout movement.

Roberts's active and practical energies were also exercised in cultural activities. During his period of residence in Washington, he served as a regent of the Smithsonian Institution. His official duties were not onerous, but the work of the Institution interested him greatly and he proved himself a wise adviser.

Another—and more important—cultural activity was the service which after his retirement from the Court he rendered to the American Philosophical Society. Although eminently a man of action he was at home with scholars and men of science and never happier than when his lot was cast among them. He had an adequate understanding of the point of view alike of the man of science and the man of letters. He possessed neither the intellectual curiosity nor the contemplative quality of Benjamin Franklin, but one feels sure that Poor Richard would gladly have voted for him as an acceptable president of the Society of which Franklin himself was a founder. Roberts had been elected to membership in 1934 and was elected to the presidency in 1952. Professor Lingelbach has summarized Roberts's services to the Society in that office which he continued to hold until his death.

Roberts's interests in community affairs was by no means limited to the local scene, and he recognized that problems in international relationship are most intelligently discussed when the subject is recognized as one calling for statesmanlike common sense rather than for a moral explosion. It is a fair inference from what Mr. Streit has written that it was he who first aroused Roberts's active interest in world organization. His approach to its consideration was from the outset eminently unemotional and practical. He perceived clearly that the situation called for argument rather than for exhortation. His writings and speeches are models of clarity and restraint. It is true that he declined to be drawn into a discussion of some vitally important details such as the basis of national representation in a world-wide federal assembly. This, however, was not because he failed to realize the importance of the subject but rather because he perceived clearly that he must arouse intelligent interest in his great objective before it would be worth while to meet and try to overcome difficulties of organization. It is evident from his utterances that he was deeply impressed by the analogy which he found between the matter in hand and the problem of representation that was faced and solved by the framers of our own Federal Constitution. Possibly his emphasis on this analogy can be criticized as over-simplification, but nobody with practical experience can doubt the wisdom of dealing with first things first. He was fully aware of the fact that a realization of the plan which he and Streit alike advocated could be reached only by a long and difficult road. But whenever he was convinced that he was essentially right, he did not allow incidental difficulties to discourage him or even to give him pause. It certainly cannot fairly be said that effective world organization is only a dream. At the very least Roberts has demonstrated that his proposal for world-wide federal

union is a project to be taken seriously by all who are convinced that war is an unnecessary evil. If proof is needed that Roberts was no idle dreamer, it will be found in Mr. McCloy's comment on Roberts's Pearl Harbor report and on his effectiveness in dealing with the so-called *Black Tom* case.

While serving simultaneously such widely separated activities as the Philosophical Society, the Law School and the Boy Scouts, his reservoir of interest seemed ample enough to justify activity in a wider field of activity than any of these—the broad area of general education. It is in this area that the Fund for the Advancement of Education operates. This organization has already made for itself an important place among American educational agencies. The Fund is an independent corporation established by the Ford Foundation—and is in effect an agency for the discretionary distribution in the field of education of money given to it by the Ford Foundation. Roberts was on the original board of directors of the Fund and became its chairman in 1953. The Fund makes grants to other organizations for technical and scientific purposes and is in a position to exercise a very useful influence upon American educational policies. Until his final illness and death, Roberts was very active in his interest in the Fund's program, and his colleagues testify to the wisdom of his advice and the effectiveness of his leadership.

This summary of his most significant activities shows that, after his retirement from the Court, he simultaneously held important positions in half a dozen non-political and non-professional organizations of a permanent sort. In addition it is to be noted that he rendered important service in what might be described as emergency situations. Thus in 1948 he served as co-chairman of the national emergency food collection for the relief in that year of the unfortunates who were suffering from flood damage. In 1952 he took an active part in the work of the Lawyers' Committee for Eisenhower for President. A life-long Republican he had abjured political activity while on the Court but later evidenced his political faith by his works. His achievements as a leader of the bar and his accomplishments as a Justice of the Supreme Court have been adequately dealt with by Mr. McCracken and Dean Griswold.

Two additional recognitions of his citizenship and ability should be noted. He was the recipient of The Philadelphia Award in 1945, a distinction accorded annually to a citizen who has rendered service of such a quality as to reflect credit upon his native city. He was elected President of the Pennsylvania Bar Association in 1947.

In what is necessarily little more than a summary of Roberts's civic services, it has not been practicable to do justice to the power of the man's personality, although in his case, as in all others, it is this indefinable element which ultimately determines success or failure. If Roberts is properly described as character in action, it was the power of his personality which made him effective in whatever he undertook. His sound cultural basis, his legal attainments and his readiness to serve were all contributing factors, but it was Roberts the Man who in his day and generation made his citizenship a thing for which to be grateful. It was Roberts the Man who won the regard of his fellow Justices. It was Roberts the Man who made such a profound impression upon his legal brethren at the bar. It was Roberts the Man whose good citizenship was manifested in so many fields of religious and civic activity. It is Roberts the Man who will long be remembered by those of his contemporaries fortunate enough to be numbered among his friends.