

Thurman Arnold

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One has to be hesitant in writing about Thurman Arnold. He was too large and interesting a man to be encapsulated in a few paragraphs. It is particularly hard to write about him today because this conforming society sees individuals as types and clusters ideas in the same way. Arnold was an original. Those who knew him could recognize him, but they never ceased to be surprised by him. He had the element of the unexpected—a common trait among the few uncommon men. He needed a Boswell, and so far as I know he didn't have one, although the idea he should have one was widespread. Those who knew him still feel the glow of past incidents, even when the incidents are forgotten. But you can't tell the story without the story. And then there are some stories which one wouldn't tell because taken by themselves they would not be understood.

He was a significant voice in the philosophy of law. He arose out of the group of legal realists, but he went his own way. He had the capacity for taking a penetrating, humane and creative look at the institutions of law and society. He had the driven curiosity and special kind of objectivity of a scientist. Arnold's objectivity was aided by a Twainian sense of humor—an ability to understand and create the comic. But unlike Twain, there was an inner gaiety. The humaneness involved an understanding of human error, gullibility and pretense. It involved an enormous sympathy for individuals and a desire to be of help. There was no pretense in the desire and drive to be of help. Arnold was very much the lawyer with his eye on the situation calling for a remedy. And this was so even though he knew many remedies resulted in failure.

Like most realists in law, he was concerned with what courts did, and he knew how to work with courts, but his canvas was much larger. He wanted to make institutions work and people respond. He was skeptical of most categories, although he used many of them, whether of political commitment or social theories, or views of good or bad people. He believed in civility, in reasoning, in kindness, in fair treatment, in the perfectable goodness and capacity (and weakness) of all people. He could have put his views in terms of a more formal philos-

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ophy. He was a great deal more learned than he let on. He didn't want to be trapped by the lesser concepts which men create as pale images of what they ought to mean, and which are then used to forestall inquiry and block insight. *The Symbols of Government* and *The Folklore of Capitalism* were among the few generative works in American jurisprudence projecting an understanding of the purposes, functioning and flexibility of the American legal system.

Thurman Arnold was a man of concern for others. He was courageous. He had enormous energy. The young man who worked in Hull House was central to the mature lawyer-philosopher. I don't suppose he ever thought of courage as a matter of choice. It was part of his honesty and energy. He could not sit to be bored. His honesty was a disciplined reflection of the insights which he had. He understood the means which mislead and the difficulties of communication which blur the boundaries of truth. It was a kind of comic joke on mankind that the means of communication got in the way of communicating. But it was one thing to enjoy the joke and quite another to be careless about the results. He knew the uses of meanness, but he had no meanness in him, and he did not like the results of meanness. He represented all kinds of people because he believed in a system of law and he was interested in individuals. He did not use his representation of the unpopular as a membership card to the Temple of Causes.

He understood the propensity of all men, including himself, to be captured by some special direction, set by the imperatives of a particular job or by positions previously taken. But his candor would evoke a larger vision. He had the capacity and the necessity to free himself and in that way to be himself. In the joining of skill, purpose and responsiveness, he became one of the great lawyers and human beings of his time.