

my brother expressed his admiration for the principles of contract and property. What the Jaycees had agreed (contracted) to do was to exclude someone (the essence of property/privacy). Viewed in this light, there is nothing whatever “enigmatic” about the holding in this case.

No one, certainly no judge worth his or her salt, is so simple-minded that the essence of his or her jurisprudence can be captured by a single word. In addition to being deeply informed by classical liberal principles, my brother’s opinions are shaped by, among other things, a highly practical sense of how the world works and the proper role of appellate judges. What I mean to suggest in this tentative look at a very select few of my brother’s numerous, varied opinions, is simply that a way of understanding some of them is that he believes that the constitution, in its bill of rights and elsewhere, contains robust guarantees of individualism, not puny ones, and that this attitude may well have been forged rather early on in his life. Other examples of this mindset at work might no doubt be usefully multiplied and dissected, but I shall leave that to others and to another day.

PHILIP HEYMANN*

When Richard Arnold and I worked in the same office at the Harvard Law Review as the two “case editors” before we graduated in 1960, his character was already powerful and in many ways, unique.

Obviously, he came to the second year of law school with an imposing reputation, not only because he was first in our law school class, but also because he had enjoyed similar distinctions at Yale College and before. Still, he was younger than many of us, at a stage in life when that could be a

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disadvantage in argument, and his views of the law were far more grounded in precedent and history than most of the rest of us, who considered ourselves policy makers and legal realists. We sometimes thought of him as a brilliant anachronism, but if we tried to hammer that home in debate we were quite likely to have our arguments met and more than matched with surprising ease by Richard.

What was most striking then was that, although he liked to argue, he had no desire to dominate; that he believed more deeply than most of us in the law as an institution with its own rules; and that he was absolutely committed to intellectual as well as personal honesty. Even those who found his views too conservative would trust him to respond to their arguments openly, honestly, and respectfully.

Two other traits were already there although they would grow as the years went on. He had a sense of humor about himself, based in a deep sense of humanity and fallibility that has made him a great human being. And he had a sense of fairness to all that now shines through his opinions.

I was and am very lucky indeed to have Judge Arnold as a friend.

PRICE MARSHALL*

And thou shalt teach them ordinances and laws, and
shalt shew them the way wherein they must walk,
and the work that they must do.

Inscription on the front of Austin Hall at the
Harvard Law School, quoting *Exodus* 18:20.

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