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ARTHUR L. CORBIN

EUGENE V. ROSTOW*

Arthur Corbin is a paradox. He is not exactly what he seems. Or, more accurately, he is several people in addition to the legend he appears to be.

He is not, for example, the Mr. Chips of the Yale Law School. There is no sentimentality in him — loyalty, yes, and a wonderful gift for friendship, but nothing trivial or soft. Arthur Corbin was a warm-hearted and generous teacher, who cared about his students, and enjoyed them. Generations of students responded to him enthusiastically, and he is affectionately held in their memories, as they are in his. But he was always first a powerful and demanding mind, a scholar whose scholarship is directed by a powerful and demanding philosophical outlook. For him, classes were occasions of importance, although they were always to be enjoyed as well. The important goal of the classes was the sense of law and its goals they left in a student as a permanent residue, long after he had forgotten everything but the flagpole case and the crucial importance of action-in-reliance as a possible basis for contract.

For Corbin, the training of lawyers was a central task for the School. But he believed in training men who would be good lawyers because, and only because they understood law to be a living part of social experience, and legal rules as no more than working hypotheses to be tried, tested, discarded and reformulated, then tested again. He brought to commercial law the intellectual skepticism of the 'Nineties. For him, as for his friend Keller, Darwin and Huxley were important teachers, and the spirit of science was in the saddle. Data were collected and organized, cases sifted and resifted, classified and then reclassified. He never lost his enthusiasm for the quest, although he knew it would never end. Today, he complains vigorously about not being allowed to read the advance sheets, and only last year, in the bold strokes of an old painter, he wrote some brilliant and perceptive passages, glowing with mastery, both for this Journal he helped so much to build, and for the pocket supplements of his Treatise on Contracts.

The quality of his writing is another facet of the paradox of Arthur Corbin. He looks like a healthy, extroverted farmer, who played baseball in the annual Faculty-Law Journal baseball games until he was well past sixty. Walking vigorously and cheerfully around the School in high shoes and a cap, he did not remotely resemble the demigods of the English Department, or the other star performers of the Yale lecture halls of his time. But he always had a crisp and even elegant literary style, supple and vivid — a style that was no accident, but in itself an achievement of high sensibility. His books and articles do not belong among the pedestrian, calf-bound treatises which earned respectable

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reputations for so many worthy plodders in our profession. To an impeccable craftsmanship, balanced and precise, he added the grace of rhetoric and the salt of wit.

And his matter matched his manner. Looking back at the corpus of his work, one realizes that Corbin, more than any other single man, transformed the Yale Law School of Simeon Baldwin's time into the school of today. His remarkable gifts created an outlook, and his work established a standard: he brought his own ideas, and those of Hohfeld, Cardozo, Cook, and their fellows into a harmonious synthesis which has weathered well. His is a balanced view of law. He is a realist, but he laughs at the excesses and occasional absurdities of Legal Realism as an official creed. He never denied the necessity for rules as generalizations to organize the data of the law. But he never treated rules as more than steps on the way to law. Nor did he ever seek a facile escape from the duty of choosing the better path — the rule that made the most sense, in terms of human needs, and our ideas of social justice. At the same time, no one preached the gospel of Fact with more gusto, or more discrimination.

Thinking of this great man at ninety, my mind is filled with memories, all cheerful, all lit by his enthusiasm for some people, and his appreciation for the comedy of others — an appreciation, be it said, utterly without malice. I see him a happy gladiator in the celebrated Deanship row of 1939-40, when I first came to know him as a colleague. And I recall many visits, when I dropped into his office with a hard anti-trust case. He always received such interruptions with delight, as he tackled the case at length and in detail, as if he had never before thought or written about the problem, arguing every step of the way with me and with himself, to make sure that the view we reached really fitted the needs of business and the public interest, and represented the law as we thought it ought to be. I see him at dinner with the Benchers, a New Haven town-and-gown dining club he greatly enjoys, and at the celebrations of the Law School community, festal occasions joining students, faculty and graduates of the School in an atmosphere which means so much to him. And I recall also, in these last few years, the flow of his lively, spirited letters.

Of all these memories, let me close with an anecdote.

Last spring I told him that we were reviewing the rules about retirement policy, which compel retirement at 68. He urged us to leave the rules alone. "I was as healthy as anybody at 68, and as little touched in the head, too. But I had noticed for the last few years before retiring that I was telling the boys what the law is, not making them tell me. It was a lot easier, of course. But it was just as well I retired."

And he wrote recently of his adventures in reading advance sheets: "In no other way can one get a vision of appellate court action and quality. The weakest part is analytical power, and the worst field that of interpretation. Many believe they can at once grasp and recite 'the one true meaning' of words. Now and then, a bright mind turns up to relieve my mental weariness. There are some impure and simple boneheads... Probably it is the newly appointed
judges (like newly appointed teachers) who are most certain that they know 'the law.'"

Arthur Corbin's place in the history of the Yale Law School, and of Anglo-American law, is a splendid one. He was a great builder of this school, a teacher and scholar of genuine distinction, a spirit without peer. And above all, he is a man of judgment and character, whose good will and good sense have been trusted here for sixty years, and never in vain. President Griswold turned to him and to his old friend Judge Swan for advice when he had really hard problems to face. And so have we all.