

Considered the father of the federal government's modern and more vigilant approach to antitrust, Thurman Arnold (1891-1969) was an influential and well-known New Deal liberal. During his busy career, he was a practicing lawyer, a law professor, an author, the head of the Antitrust Division of the Justice Department, a federal appellate judge, and a founding partner of a prototypical Washington law firm.

While a law professor at Yale and prior to working at the Justice Department, Arnold published two books, *The Symbols of Government* (1935) and *The Folklore of Capitalism* (1937). Both books were directed against the capitalist ideological assumptions of the day and stood in support of the experimental pragmatism of Franklin Roosevelt and the New Deal. As asserted by his biographer, Spencer Weber Waller, Arnold sought to oppose those who cited "the maxims and theories of good government, due process of law, or sound economics" in order to obstruct much needed government action. The following selection from *The Folklore of Capitalism* discusses the double standard that Arnold believed existed between the activities of business and those of government.

### **Thurman Arnold on the Capitalist Double Standard**

(Thurman W. Arnold, *The Folklore of Capitalism*, Yale University Press, 1937, pages 311-313, 318- 321, 326 & 329.)

...As we have seen, successful organization requires a folklore which, instead of hampering it in meeting its practical problems, allows it freedom to experiment. Nevertheless, the same folklore which justified freedom to experiment on the part of industrial organizations offered the greatest handicap to similar activity on the part of Government, even in fields where governmental activity was most imperatively needed. It set up standards by which the Government was judged by its failures, while an industrial organization was judged by its successes and its failures were excused.

This belief in the inherent malevolence of government resulted in a fiscal fairyland in which the following propositions, absurd though they were from an organizational point of view, appeared to be fundamental truths.

1. If government conserves our soil from floods and erosion in order to bequeath to posterity a more productive country, our children will be impoverished thereby and have to pay for it through the nose.
2. If government builds a large number of productive public works which can be used by posterity, posterity will be worse off.
3. We cannot afford to put available labor to work because that would burden posterity.
4. We cannot distribute consumer's goods now on hand, because that would burden posterity.
5. The less government does about controlling money and credit, the more orderly in their operation they become.

6. Credit inflation and depressions would be even worse than they are if government attempted to control them.

7. When a problem arises which concerns the production of goods, the question "Where is the money coming from?" is more important than "Where are the goods coming from?"

Therefore, we do not improve our country, or conserve its resources, or utilize its labor, or run its productive plant to its maximum capacity—out of consideration for our grandchildren.

What is the reason for the common feeling that we cannot afford to make such admitted improvements if they involve government spending, in the face of the fact that, from a common-sense point of view, they are both necessary and capable of producing income? The answer to that question is found in the fact that the Government possesses no acceptable bookkeeping to convey to the public the idea that such expenditures are a source of future wealth.

Private organization is protected from criticism of its expenditures by two important myths. The first is that any money which is wasted is "private" money and therefore of no concern to anyone. This is accomplished through the personification of the great industrial organization and has already been described at length in the preceding chapters.

The second important underlying myth which aids private organizations and hampers government activity along practical lines is the notion that the government has no "assets." When a private corporation spends money incalculably in excess of its current income for years to come, it nevertheless is able to "balance its budget" on the theory that it is acquiring "assets" in return for that expenditure. Therefore, it is not "spending" but "investing" in income-producing capital goods. These goods include assets without any tangible existence. The organization itself becomes its own greatest asset and its expectations and hopes are given money value. Even such current expenditures as advertising are considered an asset, because they are "income" producing. Advertising good will becomes a thing in itself and one of our national assets when the sum total of corporate assets are listed in terms of their money value. The fact that often (as in the case of many drug and food products) this advertising is in reality a social liability, which taxes the income of persons of moderate means by inducing them to pay tribute for useless things, does not prevent it from being protected as valuable private property is protected.

...According to current ideas, government should not tax to subsidize needed industrial activities (except in "emergencies"), because this is an expenditure that will have to be borne by the taxpayer. However, if the tax can be correlated with a familiar symbol, it escapes this taboo. For example, the state has always built roads. Hence, government can spend billions of dollars in subsidizing the automobile industry by making concrete roads to every hamlet for automobiles to run on. Without this subsidy, the present development of the automobile industry would have been impossible. Compare this with the building industry. It is probable that today houses could be built like Fords, by standardized

production on a large scale. Yet building is slow in getting started, and, in spite of pressing demand, nonstandardized building material is the rule in the industry, and a bathroom costs more than a complicated machine like a Ford. It is probable that if the Government could subsidize a place to put these new houses, as it subsidized a place to put the automobile, the industry might rebuild our slums and create not only a building boom but a pleasanter, more attractive country with a higher standard of living. It is certain that the country would not be "poorer" if a few million more houses of good construction were built. Nevertheless, the subsidy to this industry by purchasing and preparing land cannot be given, since the myths of the time do not sanction it. We need slum clearance more than roads. It would pay for itself, as roads did. However, it is infinitely more difficult to start than the road construction was because the myths and portents of our folklore stand in the way. When we examine the entrails of our economic geese, such activities are attended by dire portents, unspecific as such portents always are, but nevertheless sounding in gloom.

Of course the above will be considered by the economic scholar as too simple an explanation of the complicated set of social pressures which handicaps housing in this country. The criticism will be valid in the sense that in the present tangled situation a subsidy for land on which houses could be erected might not be an effective way of encouraging the development of cheap housing. Such a proposal might be twisted and distorted by strongly entrenched organizations and might result only in the further increase of land value. We are using it as an illustration, not as a legislative proposal. The practical objections to the present adoption of such a subsidy to advance better housing arise because of other fixed ideals which might prevent the subsidy from becoming as effective for housing as it was for automobiles. An examination of all the psychological factors which complicate sensible real-estate improvement cannot be made here.

What may be called "selfish vested interests" are important factors preventing change. However, such interests, unsupported by ideals and folklore, are not so difficult to defeat. Selfish interests cannot form powerful organizations if they frankly recognize that they are selfish and fail to tie themselves up with some respectable social myth. For example, the selfish interests of hundreds of owners of office buildings were opposed to the construction of Rockefeller Center in New York, which drained them of their tenants. They even went so far as to commence a suit. However, their efforts were ineffective, because Rockefeller Center did not violate any current taboos. This fact prevented the opposition from uniting with any enthusiasm. They could not find a magic inscription with which to fight Rockefeller Center and therefore could not give their selfish interests the color of a campaign for right, truth, and justice—even to themselves. People who fight for selfish interests, realizing that it is selfish interests they are fighting for, are always ineffective. They fail to get the support of loyal crusaders. They fail to be loyal crusaders themselves. Had it been the Government which was erecting Rockefeller Center, it could have been hampered with real effectiveness at every turn, by the same group, which would have had the backing of all right-thinking men and women who desired to preserve their ancient liberties. The Government may build roads, but not buildings.

...attitudes became marked during the depression because of the great pressures which compelled government to extend its activities in areas where private industrial

organization had failed. Such activity, colliding with the folklore we have been describing, created more spiritual discomfort than had been known since Darwinism collided with the Christian religion. Every priestly organization threw itself into the breach. The campaign of 1936 was a regular revival meeting in which supposedly intelligent men talked and acted with the kind of idiocy usually exhibited by scholars and intellectuals when they become excited. The Supreme Court of the United States courageously deserted all known forms of legal logic to throw itself into the economic breach and set the nation back on the proper social course.

...To be sure, in creating new organizations to solve these problems the old attitude refused to recognize that such organizations are the product of growth. Organizations, like any army, are necessarily inefficient when they are formed. Yet the standards of the day require that a *governmental* should be mature when it is born. Standards for private organizations are more practical. They recognized that the United States Steel Corporation today is a gradual development from complete anarchy. They realize that a large number of automobile companies had to rise and fall before the present highly effective combinations appeared. This thinking is possible through the symbolism of private property. The notion is that nobody "pays" for the mistakes of private organizations, except the investors, the laborers, and the purchasers, and that their loss is not a tax but is something due to their own fault for investing in, working for, and purchasing from, the particular organizations. In the case of governmental organization, every mistake is a tax on posterity.

Actually, the progress of any organization necessarily begins with a vague idea of the sort of enterprise which is to be undertaken. Then follows a constant change in the details by which the objective is accomplished. Legislation which grants a charter to a new activity cannot be a blueprint of the future. Its only function is that of a sort of political platform. Had Henry Ford, when he started, tried to follow a blueprint of what he thought organization would be today, he would have failed within a year. This simple fact is, naturally, not observable to those caught in current folklore about government waste...