

My Professor: A Tribute To Nathaniel L. Nathanson

WILLARD H. PEDRICK*

I could not participate in the memorial service for Nathaniel L. Nathanson at the Northwestern Law School last winter. For the invitation of the University of San Diego Law Review to offer a short tribute to Professor Nathaniel L. Nathanson for this issue of the Review, I am especially grateful.

In retrospect, the light of reason surely dimmed a bit on the night of November 8, 1983, when a great mind, a great legal scholar, and a great teacher left our midst. For most of the world's population, of course, there was no reason to know of this loss. Legal scholars and law teachers, however renowned, are not public figures. But there are some of us who learned of his passing with shock, and who felt the loss, personally. Something over 5000 of us over nearly fifty years, had sat at the feet of that remarkable scholar and teacher, Professor Nathaniel L. Nathanson, as his students at Northwestern and at Arizona State and then at the University of San Diego. We knew what he had done to and for us as our minds were stretched and our spirits lifted by this great teacher. We, his former students, know he had lasting impact on how we think about law, its place in our society, and how we think about life.

Nor are we alone. There are others in India, where he assisted in the founding and development of the Indian Law Institute, and in Japan, where he served as a Visiting Professor. There are his faculty colleagues over the years, who are quick to attest how he taught them. There are the government lawyers with whom he labored for a time, who learned from him as they worked together. There were, as

* Professor Emeritus, Arizona State University College of Law.

well, those kindred spirits in the practicing profession and the larger community, who shared his passion for the protection of civil liberties. So there were many, an impressive array, who knew this gentle, warm, restless mind at first hand. There were still others who read his scholarly writings and learned in that way of the force of his intellect and the eloquence of his pen. A published bibliography extends over six tightly printed pages listing the output of his prodigious energy and creative scholarship.

Most of us are fortunate if we have, in this life, more than four or five real friends, true friends, on whom we can call any time for help. But this modest man of humility, in a calling that scarcely knows the meaning of that virtue, surely had friends, true friends by the score, who knew their debt and longed for an opportunity to somehow balance the books.

I first encountered Nathaniel L. Nathanson when I was a callow member of the Class of 1939, at the Northwestern University Law School. Our class was just entering law school. He was just entering upon a life of teaching and scholarship. We were his first class and thus, in a special way, he belonged to us. As one of the really junior members of the Northwestern Law Faculty, then in his first year of teaching, after graduate work at The Harvard Law School and Clerkships with Judge Mack and Justice Louis D. Brandeis, he was assigned, in true law school fashion, to a subject no other member of the faculty was willing to teach. So it turned out that this great legal scholar began his academic career teaching Agency to our entering class. For most of the legal world, he made his great scholarly reputation in administrative and constitutional law. For our class, he made his reputation in Agency. What we learned in particular about Agency in 1936, I can no more recall than I can recall what I learned in particular in any of my other law school courses. But what I do recall is that however simple the case seemed on its face, beneath the apparently innocuous words of the judicial opinion lurked mysteries of law and policy nearly impenetrable, nearly insoluble. We plumbed and, with our shepherd, we considered. We endeavored to formulate better legal propositions but somehow, we never seemed to get to the end.

One of our band, more courageous in an era when students really respected their teachers, bearded Professor Nathanson in his office, expressed concern that we weren't covering the material very rapidly, and offered to teach the course himself for one session to show that we could cover the ground and extract the meat from the cases at the same time. To our astonishment, the Professor agreed and the resulting, well meaning, but incredibly dull and boring session, laboring over black letter rules, gave us all early insight into what it meant to be taught by a teacher with a restless and inquiring mind,

blessed with wit and remarkable powers of lucid expression. So we learned Agency, at the time, and learned a great deal as well about the legal process, about analysis, about advocacy, and about values in life. We had Nathanson, most of us in the class of 1939, again in the subject of Public Control of Business. There we learned, at the time, about Public Control of Business, but more importantly, we learned about the judicial process, about high standards of workmanship, and about the role of values in society — not values to be dictated by a professor but values it was our task to sort out.

He left his mark on me and he left his mark on us all, all who were fortunate enough to come his way and it was my good fortune to come his way, not once, but again and again. Over nearly fifty years he was my friend.

I served as his colleague at Northwestern for twenty years and he eased my transition from former student to colleague so there was no stress at all. In a faculty of great law teachers, he was clearly a principal intellectual leader and one who could always find a way to mediate controversy, to find a solution that would commend itself to law teachers of differing views. Later, for a few seasons after I had forsaken honest, full-time law teaching for a deanship at Arizona State Law School, he served with us as a Visiting Professor. We offered every inducement, including sole ownership of the Grand Canyon to get him to come permanently to stay with us in Arizona, but he simply could not bear to cut his tie to Northwestern. Greater ingenuity was exhibited by the leadership of the University of San Diego Law School, when they persuaded him over a period of years, to simply divide his time with Northwestern.

There is a tale of the unlettered farmer who was asked whether he had seen a display, two nights earlier, of shooting stars. He replied that he had missed the event but had noticed the following night that the stars "seemed to have thinned out a bit." When Nat Nathanson left us, the stars did not thin out, for the gentle radiance of the spirit of this great man was passed on to us, to all of us. It will continue to glow and will sustain, through our work and through time, the very enlightenment this warm, lively, witty, unassuming, resolute, and wonderful man gave to us.

