Nathaniel L. Nathanson

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All of us are honored to have Justice Stevens as the first lecturer in the Nathaniel Nathanson Lecture Series. This occasion is designed as a memorial for Professor Nathanson, and my role is to reminisce about him. I welcome the opportunity, because emotionally I want to think about him. I have called him Nat for about forty years, and I shall do so now.

During the first twenty-eight years of his life, Nat carefully laid about as solid a foundation as anyone could. He grew up in New Haven, went to Yale College, and to the Yale Law School, where he became editor-in-chief of the Yale Law Journal. On top of that, he had a year at the Harvard Law School, where he was caught for awhile in the Frankfurter net. He was law clerk to Circuit Judge Julian Mack for a year, and law clerk to Justice Brandeis for a year. Then a year on the staff of the Securities and Exchange Commission completed his educational foundation.

One further vital fact about laying the foundation is that Nat married Leah. That Leah's general wisdom was added to his, and that their relationship was such a perfect one, must have been a special strengthening factor all along the line.

Nat began his lifetime work in 1936, at the age of twenty-eight, when he joined the faculty of Northwestern University School of Law, where he stayed for forty-one years, taking time out for wartime work in the Office of Price Administration, and expanding his horizons in various ways, including visits to such places as Japan and India. For five recent years, he taught one semester each year at Northwestern and one semester here at the University of San Diego.

Nat's accomplishments as a legal scholar cannot be measured sim-
ply by saying that he was author or coauthor of seven books and
author of more than fifty articles, for such numbers do not measure
the quality or the influence. The proper measure of his scholarship
might be the extent to which the legal system has responded to his
ideas. That response has been very considerable, in my opinion, and
I think it will long continue.

But I wonder whether Nat's accomplishments as a teacher may
have been even greater than his accomplishments as a legal scholar.
I think they may well be. That is what I will think about.

Nat's purpose was a far cry from dictating little summaries of
"the law" which students would write down, memorize, and then for-
get. He was not a peddler of information about the law. As a
teacher, he was an inquirer, and his objective was to help students to
be inquirers. His objective was to induce students to do their own
thinking about legal problems. The essence was to train the students
to penetrate legal problems and to work out their own solutions. My
opinion is that every good law teacher has that objective, but what is
distinctive about the Nathanson accomplishment is the degree of his
success in leading the students far, far into intricate problems that
do not necessarily have answers.

Now, what I have said so far about Nat's teaching methods is not
the whole story but only a beginning. Many law teachers emphasize
the method that I have described, or try to emphasize it. Some of the
people in this room know the rest of the story, for they have experi-
enced it as Nat's students, including Justice Stevens. Nat had an
unusual combination of patience, gentleness, and gentility. When a
student displeased him, he never expressed anger, irritation, or
displeasure.

His stance was always one of helping the student to understand,
helping the student to learn how to do his own thinking about legal
problems. Nat liked his students, even the less inspiring ones, and he
transmitted that liking to them. I remember how he would agonize
over a low grade, doing his best to find ways to give the student the
benefit of any doubt.

Student response to any law teacher's performance is always
mixed. Student response to Nat's teaching was mixed. His students
might be divided into two groups. One group liked Nat as a teacher.
The other group loved Nat as a teacher.

His teaching method was one of extraordinary thoroughness in the
analysis of a case. Instead of considering four or five cases in one
hour, he would often spend four or five hours or more on one case.
I'm reminded of a remark Thurman Arnold made about his two
partners, Porter and Fortas. He described how each of the three of
them would try a case involving the United Fruit Company. Arnold
said he would try the case carload by carload, Porter would try it
case by case, and Fortas would try it banana by banana. Well, I think Nat would go beyond Fortas; he would take apart each banana and analyze the texture, flavor, color, skin, and seeds. He was especially ingenious in that kind of thoroughness.

Maybe — I’m not sure — one could learn all that anyone would want to know about law by doing a thorough enough job on a single case. Indeed, if one could really understand everything about a single case, that would be far more than anyone has ever understood.

Tennyson beautifully captured that thought in a six-line poem.

Flower in the crannied wall,
I pluck you out of the crannies,
I hold you here, root and all, in my hand,
Little flower — but if I could understand
What you are, root and all, and all in all,
I should know what God and man is.

What if we substitute one little legal case for the one little flower? That is essentially what Nat did. One little legal case may be less poetic, but if one such case can be fully understood, then is not the way opened for understanding all that one wants to understand about law?

Grant Gilmore, in his great little book on The Death of Contract, suggests that law, like literature and art, might have classical and romantic periods that alternate. The classical period is neat, tidy, and logical — and frightfully dull. The romantic period is chaotic and confused but searching and experimental — and extremely interesting. Lawyers by nature seem to be classicists even in romantic periods, and that may be regrettable. Nat, I think, would be a romanticist even in a classical period. He would go on inquiring, and what he would find in the law would not be neat, tidy, and logical. He would not try to put constitutional law or administrative law into a black letter form. He would acknowledge some utility in black letter contract law, but his emphasis would never be on conveying the black letter to students. His purpose has always been to strive — and to induce his students to strive — to answer the unanswerable questions.

Nat’s whole life as a teacher was firmly committed to the legal counterpart of the quest for understanding the flower in the crannied wall, root and all, all in all.