

## Mr. Justice Brandeis: A Rabbi's Recollection

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In his extremely interesting memoir, "Mr. Justice Brandeis: A Law Clerk's Recollections of the October Term, 1934," which appeared in the April, 1963, issue of the *American Jewish Archives*,\* Professor Nathaniel L. Nathanson refers to an interview which Mr. Justice Louis D. Brandeis granted me when I was a young rabbi in New Haven, Connecticut. Dr. Nathanson mentions that in arranging the interview, he used as "additional bait" the disclosure that my "congregation was largely non-Zionist, but that the rabbi was open to persuasion." Since reading the article, I have been trying to summon my own recollections of that meeting.

Although the meeting took place nearly thirty years ago, I clearly recall its general context. When Professor Nathanson — then Mr. Nathanson — learned that I was going to be in Washington, he suggested that he might be able to arrange an interview with the Justice, whose clerk he was at that time. I jumped at the opportunity. He told me nothing about the Zionist bait which he expected to use on the Justice. For my part, I was somewhat apprehensive about my ability to participate intelligibly in conversation with so distinguished a personage. The appointment was set for eleven o'clock on Sunday morning, and I was warned to be there in good time.

Shortly before eleven, I entered the modest, red-brick apartment building where the Justice lived, and I climbed the stairs to the third floor. Mr. Nathanson admitted me to the apartment, which was the office where he and the Justice worked. It was rather dingy and furnished sparsely with nondescript office furniture. The inevitable law books in their buckram bindings occupied the shelves of a bookcase. No pictures hung on the walls. No color brightened the room.

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\* Vol. XV, p. 15.

It was sunny outside, but there was little light here. Mr. Nathanson told me that the Justice and his wife lived in the apartment below.

Promptly at eleven, Mr. Brandeis walked in. He was quite tall, although slightly stooped. His hair was iron grey, his face rough-hewn. The word that comes to mind as I remember his appearance is gaunt. He took off the derby hat and topcoat which he was wearing and hung them on a halltree near the door. He shook my hand and smiled a wan smile which never quite caught up with the twinkle in his eye. He moved rather briskly to a chair behind the desk and sat down. We began talking.

I have often wished that I had taken notes of the conversation that ensued. I cannot say that I recall everything we talked about. But I remember some of the subjects we discussed and the general views which the Justice expressed. In the light of Professor Nathanson's memoir, it is not surprising that Zionism took up much of the conversation. I recall my surprise at the Justice's familiarity with all the shades of opinion which made the American Jewish scene of that day so noisy and rancorous a battleground. I had imagined him too immersed in the larger issues of national welfare to be aware of current controversies in the Jewish camp. Obviously, he had a thorough knowledge of what was going on. Later testimony in the autobiographies of Zionist leaders has since revealed that Mr. Brandeis maintained a lively interest in Zionist policy and a personal association with Zionist leaders throughout his life.

Mr. Nathanson recalls the picture painted by the Justice of the future of the Middle East and of the role which a Jewish Palestine would play in it. My recollection differs somewhat from his. In the Justice's projection of the future, as remembered by Mr. Nathanson, Palestine would serve "as the bridge to bring to the whole Arab world a synthesis of the finest cultural achievements of Western Civilization, which synthesis would in turn generate a rebirth of Arab Civilization." As I remember it, Mr. Brandeis spoke of the Palestine of tomorrow as a bridge where the values of the West would meet those of the East, where Western science and technology would cross-fertilize Eastern mysticism and religion. Out of this intermingling of cultures would come a new way of life which might serve as a model for the world. Mr. Brandeis' picture of the

future, as I recall it, saw Palestine as a country where Jew and Arab would live peaceably side by side as they developed a common culture drawn from the distinctive heritage of each. This would accord with the widely held view of the time, which envisioned Palestine not as a wholly Jewish State, but rather as a territory where Jews and Arabs would live in a state of cultural symbiosis.

Mr. Brandeis spoke of Zionist leaders in Soviet Russia who had been interned in Siberian prisons. Jewish nationalism was considered counterrevolutionary, and the government had suppressed the movement and banished its leaders. In his calm and detached way, he stated that some of the most promising figures in the rise of Zionism were among them, and their removal from the Jewish scene was a serious loss for the movement. I was surprised to hear Mr. Brandeis speak of these events with such finality, as though they were undisputed fact. Reports of the fate of the Russian Zionist leaders had indeed appeared, but many Jews at the time were disinclined to believe them. The Justice was obviously under no illusions regarding the attitude of the Soviet authorities towards their Jewish minority. Thirty years later, when few people any longer deny the hostile moves of the Soviet government against the Jews, I have often thought of Mr. Brandeis' reference to the exiling of Zionist leaders to Siberia.

We discussed the controversy which raged around his confirmation as Justice of the Supreme Court. He brought up the question of anti-Semitism. "Some people," he said, "felt that the opposition was motivated by anti-Semitism, that some of the Senators were against me because I was a Jew. But I never felt that it was. They may have opposed me because I had advocated certain legislation or represented a point of view with which they had no sympathy. But my being a Jew had little to do with it." I remember wondering whether he really believed this. But his simple words carried conviction, and I concluded that he did.

At twelve o'clock the phone rang. It was Mrs. Brandeis calling from below and reminding her husband that lunch was ready. Apparently, the Justice was in no mood to go, for we continued talking. The phone rang several times. Each time he would place the receiver to his ear, nod, smile, say a reassuring word, and replace the

receiver. When he finally bestirred himself and got up to leave, it was one-thirty. We had been talking for two and a half hours.

One memory remains especially strong: Mr. Brandeis did not monopolize the conversation. He seemed interested in me and in my opinions. He was never oracular, quite without pretentiousness or affectation. I never felt that he was trying to convert me to a point of view. He impressed me as being a gentle, humble man of deep wisdom, wry humor, and calm conviction. His "high looks" and "lofty countenance" seemed the outward signs of an inward, unassailable strength. I left the apartment in that modest brick building on that Sunday afternoon feeling that I had been in the presence of a great man.

### A Gentleman of the Law—1773

*Lawyers will surely appreciate the following comment addressed to his "dearest friend," the merchant-prince Aaron Lopez, of Newport, Rhode Island, by Cullen Pollock, of Edenton, North Carolina. Pollock, whose father had been a governor of proprietary North Carolina, appears to have had a rather typical eighteenth-century view of the legal profession. His letter was published by the Massachusetts Historical Society in Commerce of Rhode Island (Boston, 1893), I, 430:*

... [I am distressed by] the loss of a most particular friend, by a fall from his horse, which fractured his skull, and [he] dyed two days before I came home. He was a gentleman of the law possessed of every virtue, and of a liberal education. He was the only one of that profession, that I ever knew, whose acquaintance with the most vilinous part of mankind had not deprived [him] of the feelings of humanity for the better part, and whose sentiments were as delicate as possible . . .