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BOOK REVIEW

MY LIFE IN COURT. By Louis Nizer. New York: Doubleday & Co., 1961. Pp. 524. \$5.95.

There are probably other lawyers with the legal acumen of Louis Nizer pleading in a courtroom, but few can write with such literary flair, such a gift for the bon mot, and such grace.

In this recital of his experiences in nine cases in various courts, Mr. Nizer favors the reader with his own penchant for studious preparation, undivided concentration, and imperturbable cocksureness.

He insists that no play or movie of a trial has ever equalled the dramatic excitement, the electric atmosphere, of a real contest before the Bar. If it be so, lawyers must be superb actors and men of strong constitutions to survive.

Two cases are about libel suits. It is difficult to win such a suit, he says, and even more difficult to gain any significant award of damages. In the trial initiated by Quentin Reynolds against Westbrook Pegler, the plaintiff won \$1.00 in compensatory damages, and \$175,000 in punitive damages, which is all to the good, since punitive damages are not taxable. (Mr. Reynolds told me, on his recent visit to Denver, that the trial cost \$100,000 to prepare.) Among the libelous statements which Mr. Pegler put into his column attacking Mr. Reynolds, was one that Reynolds practiced nudism. Nizer's rebuttal was classic—that Reynolds had such sensitive skin that any exposure to sunshine was a serious danger to his health. Another libel was that Reynolds proposed marriage to the widow of Heywood Broun in the funeral car on the way to Broun's burial. The refutation consisted of showing that along with them in the car were Monsignor Fulton Sheen and Heywood Broun's son, hardly a cozy tete-a-tete for a marriage proposal. To counter the charge by Pegler that Reynolds was cowardly, Nizer went to England and brought attestations from the highest authorities in British military and political life about the courage Reynolds had shown under fire.

In the case of Professor Friedrich Foerster against Victor Ridder, Nizer succeeded in tearing away the mask of liberalism and American patriotism from the defendant Ridder, and exposing him as a collaborator with the Nazis, despite the apparent facade of respectability enjoyed by Ridder from his association with Governor Herbert Lehman, Rabbi Stephen Wise, the Catholic hierarchy and others.

In one of the three divorce suits described in rather unsavory detail, the author tells of the case of John Jacob Astor whose diverse divorce actions in various jurisdictions brought about the apparent anomaly of holding that Astor was legally married to two different women simultaneously, without being guilty of bigamy—the one marriage valid only in New York, the other only in Florida.

He describes a plagiarism suit over a popular song in which he represented the plaintiff, and found himself forced to contest the supposed expertise of one of the foremost musicologists of America, Dr. Sigmund Spaeth. Yet painstakingly Nizer whittled

away at the competence of the expert and gained a verdict for his client.

I would guess that lawyers would find most interest in two cases of personal injury. One involved the death of a parturient mother, in which Nizer sued the doctor civilly for malpractice and negligence in not delivering the woman by Caesarian section. In his zeal, the lawyer spoke in summation of "criminal negligence," and this apparently oversold his case. A hung jury resulted and, on inquiring from the jurors, Nizer discovered that they had feared to find for his client lest the doctor be subjected to criminal proceedings afterwards, just because he had used that unfortunate adjective.

The other contest dealt with the death of a thirty year old husband and father in a railroad accident. The writer represented the widow and developed his case by projecting the life span of the victim and the widow according to the latest actuarial tables, despite the reluctance of the court to accept any but long established tables of life expectancy. Nizer also used some psychological tests taken some time before the accident by the deceased as a basis for demonstrating superior abilities which, given a normal life duration, would have brought him and his family ever higher monetary rewards which the accident cut short. Apparently his daring presentation affected the railroad company, because they settled out of court for four and a half times their original offer.

In what must have been one of his most trying cases, Mr. Nizer describes the proxy battle for the control of Loew's. In the many complicated developments of this titantic struggle he found himself arguing in a Delaware court against the precedent seemingly established by the presiding judge himself. Can a minority of a Board of Directors, who do not constitute a quorum, act to select sufficient other members to the Board so as to constitute a quorum and proceed with the business of the corporation? In the Chelsea Exchange case, the Chancery Court of Delaware had ruled that where no quorum existed the minority might expand its numbers and then proceed to act. On the face of it this position was adverse to the side which Nizer represented. But, argued the lawyer, this ruling only applies where the quorum was made impossible because of death or resignation of the other members of the Board. In the *Loew* case there was a sufficient number of directors alive and able to attend if they chose to, so that no such contingency existed which could permit the minority to constitute itself an acting group, and to select other directors. This argument prevailed and was one of the turning points of the entire series of actions that resulted finally in vindicating Nizer's client, the management of the corporation.

This is a fascinating book. It is not to be wondered at that it has headed the best-seller list for so many weeks. Legal action has a great fascination for all people, and when it is described with Mr. Nizer's melodramatic flair, it is truly exciting.

Dr. Manuel Laderman*

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