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## Introduction to Dedicatory Address

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## Introduction to Dedicatory Address

Louis Nizer was my mentor, teacher, and has been my lifelong friend. I had the privilege of working with him on many cases during the period 1950 through 1988 when I was an associate and later his partner at Phillips, Nizer, Benjamin, Krim & Ballon. He founded the law firm with my father in 1925. Louis Nizer is by far the most brilliant trial lawyer I have had the opportunity to see perform in court.

Mr. Nizer, in his article, teaches us how important hard work and preparation is in the presentation of a case. He counseled us, when preparing a case, that we must first determine where the battleground will be fought. It will then be obvious where, how and when to use your guns. He expected endless hours from those working with him, for he himself labored long, often late through the night, arduously preparing for court. In his preparation he was meticulous to details. He studied the full record and each exhibit. When cross-examining a witness, or in closing arguments, he quoted extensively from the record. Although he knew by heart the testimony of each witness, he quoted the exact words from the record to emphasize the admission made. He has written that the lawyer and the orator both seek to persuade, and that preparation is by far the major factor in obtaining that objective. His dedication to preparation was largely the result of his great devotion to his client.

He demanded more from himself than from the team he assembled for the case. I recall when we were preparing an antitrust case, he asked me continually how we could explain what appeared to be a reprehensible act of one of our clients. Mr. Nizer kept reminding me that the alleged action violated his own rule of probabilities. He believed our client would not have acted in the alleged manner. Our client, after many hours of questioning by me, stated he could not explain away the apparent dangerous evidence. One night, at two in the morning, I accidentally found the answer in one line of an expense voucher submitted by the plaintiff. My mentor was correct. Our client's action was not at all as the plaintiff had alleged. Without Louis Nizer's drive to answer every argument, I do not know if I would have pursued this matter, or have been alert to the dangers that lurked and the truth when it appeared.

Louis followed the teaching of President Theodore Roosevelt, who said we should speak softly and carry a big stick. Mr. Nizer speaks very

softly, showing great respect to the court, to the witnesses and even his opponent. His big stick is the ammunition of facts he has marshalled. He detests the trickster, the lawyer who uses abusive litigation tactics and stonewalls or plays hardball for strategic purposes. He is a true professional who serves what he repeatedly calls our noble profession.

I have never heard him use profanity. If he wished to quote someone who has used a four-letter word, he referred to that word by the first letter, or he spelled the vulgarity.

He was indeed, a great teacher. He, at all times, showed the greatest respect to all of his colleagues. Each suggestion made by the most junior associate was considered as if it had been advanced by the most revered attorney.

His success, in many cases, I attribute to his decision to follow his gut feeling. He often would make a legal argument or pursue a line of questioning even though his co-counsel advised that the law was against the position he was advocating or that the court would be aggravated by his motion or by his questioning of the witness. In one specific case, most of the other lawyers thought our motion to disqualify plaintiff's counsel was ill-advised and legally incorrect. Mr. Nizer concluded that what the attorney had done was unethical. He authorized me to proceed with the motion. The court was not upset at all with our motion but, to the contrary, agreed with our position and successfully urged plaintiff's counsel to disqualify himself.

Mr. Nizer repeatedly taught those working with him that we would be hit during the trial but that we must turn disaster into triumph. He compared the task we would face to that which confronted great generals who turn a retreat into a mere recoil for a new attack. The great financiers have the same ability and make capital from their mistakes. The great lawyer displays that art by transforming disadvantage into victory. Louis Nizer proved that he was a great advocate many times, as he overcame what first appeared to be a disaster.

To this day, with each case I work on, I am assisted by his teachings.

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