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John L. Sullivan

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BOOK NOTES

GERRY SPENCE GUNNING FOR JUSTICE. By *Gerry Spence* and *Anthony Polk*.¹ New York: Doubleday & Company, Inc. 1982. Pp. 470. \$17.95.

Gunning for Justice is an interesting title for the story of the life and trials of Gerry Spence, although *Gunning for Victory* or *Gunning for Glory* might have been more appropriate. Regardless of the title choice, however, the book does provide an interesting insight into a highly visible American trial lawyer and a few of his more notable cases.

In the preface, Spence wisely advises the reader to consider the book as a whole, rather than as individual parts. This proves to be a healthy suggestion, because the cases generally provide fascinating stories of legal accomplishment,² while individual incidents appear to be presented strictly to satisfy the author's ego.³

Spence relates his legal accomplishments in a rather predictable pattern: 1) lawyer hesitates to take a case which no one can win; 2) against his better judgment, or the wishes of others, he takes it; 3) working against the odds he feverishly puts together a flawless case; and 4) to everyone's surprise, he wins the case. Such a scenario provides a safe, but unimaginative structure.

Spence begins by telling of his initial meeting with Ed Cantrell, a man Spence would later defend in a highly publicized murder trial. This encounter establishes Spence's self-image and provides the first instance of a recurring theme: his innate ability to sense another's

1 Although both authors are credited with the writing, *Gunning for Justice* tells Mr. Spence's story first person. Therefore, this review refers to Mr. Spence as the author without acknowledging Mr. Polk. This is not intended to slight Mr. Polk, but simply to provide an analysis more consistent with the tone of the book.

2 Four of Mr. Spence's most famous cases are discussed at length: the Karen Silkwood plutonium contamination trial against Kerr-McGee Corporation; the murder case of Ed Cantrell; the Mark Hopkinson murder case; and the Jody Bonnie case, where Spence took on a large American drug company.

3 The author intersperses many of his "winning statistics" throughout the book. For example, Spence graduated from law school first in his class (p. 46); received the largest personal injury verdict in Wyoming's history (p. 50); obtained the largest single settlement of its kind in Wyoming's history (although he never said so) (p. 83); had the longest preliminary hearing in Wyoming's history (who really cares?) (p. 125); won the largest verdict of its kind (in the Silkwood case) (p. 239); and again won the largest verdict until then in Wyoming's history (p. 247).

character. Whether dealing with a party to an action, a witness or a juror, Spence prides himself on his skill in understanding and relating to the other man.

When introducing the Ed Cantrell story, Spence also sets forth the book's dominant motif—the hunter and the hunted engaged in a fight to the death. Spence often graphically analogizes the hunt and courtroom experience, despite many philosophical inconsistencies.⁴

Spence presents one of the most vivid examples of this hunting parallel when he considers the possibility of defeat in the context of the Cantrell case. He states:

[Losing a case] is the final rejection, like a mortally wounded animal must feel when the bullet has rammed through its guts where the entry wound is small, just the size of a nice neat forty-five. But where it comes out through the liver it blasts a hole as big as a fist, dragging stomach and contents and other entrails out near the backbone, and one's adversary can see through that gaping hole and know he has killed (pp. 15-16).

The hunter may not always be that barbaric; as Spence later points out, “[T]here is the occasional man who can do his gunfighting with grace and skill and style, which is an art and transcends the act of killing, which is the ultimate performance in the courtroom” (p. 16). Yet the hunt—the stalk, the wait, the anticipation, the perfect moment to strike—are often graphically described in the context of a trial and the courtroom.⁵

After introducing the reader to the characters in his major trials and his hunter style, Spence digresses into his background and fam-

4 See text accompanying note 12 *infra*.

5 Some examples include:

But I had hunted all my life, and as the years sped by I had become a better hunter in the courtroom than in the forest. I no longer needed the meat. I was fed now by a different hunt and the thrill of killing some poor creature had been replaced by the hunt and stalk in the courtroom (pp. 65-66).

When I walk into the courtroom I am only another hunter, cunning and dangerous, watchful and afraid, fighting there in that dark arena where men are the game and the hunter is also the hunted. (It sounds a bit like the short story *The Most Dangerous Game* by Richard Connell, but there the blood was real.) I stalk the witness on the witness stand, struggle with my adversary, and at some crucial moment it becomes a fight to the death, and when the verdict is in I have a sense of the fresh blood from the kill on my hands (p. 66).

Maybe they hate my bullying, my arrogance, my cruel and unloving craftsmanship, and maybe I had killed the witnesses the jury did not want killed. One may never kill without grace, nor without the permission of the jury (p. 120).

Lawyers often talk of the skillful cross-examination, the art of destroying a witness. But to Spence the act is one of killing: killing with or without the permission of the jury, smelling the fresh blood of the defeated.

ily. He had become a hunter at a young age (p. 33), both believing in humane killing (p. 34) and understanding the relationship between killing and loving (p. 35).⁶ This historical digression explains Spence's experience with the hunt and thus his ability to provide such realistic detail. It further explains why he maintains the blood-letting mentality throughout his courtroom experiences. Spence finds the hunt an ennobling experience, believing that among his best friends are members of the bar with whom he has fought mightily. Spence respects, even loves, those whom he has vanquished in the courtroom (p. 35). One might question the mutuality of that love and respect by one who has been disembowelled in the courtroom. He never speaks of the vanquished, whether himself or another, being able to love in return.

The first major court experience he describes is the Jody Bonnie case,⁷ the story of a child born without arms, legs, a chin or a tongue.⁸ Spence represented the Bonnies in an action against the drug company which manufactured a pregnancy test kit used by Mrs. Bonnie. This case marked Spence's first crusade for the "little guy" against the large corporation. Spence settled the case before the jury rendered a verdict. Although the size of the settlement is not given, Spence uses this as another opportunity for flaunting his statistics.⁹

Following the Bonnie trial, Spence departs into another look at his personal life, particularly his family. He speaks of his wife Anna and their children, and the transition in his life. He originally represented plaintiffs in small insurance claims. Then he began representing the large insurance companies, and winning big cases for them. He had fulfilled his earlier dreams of being a successful lawyer and father. Yet, he became confused and even bitter about his life and the law. He portrays himself as a very desperate man. He states:

6 Although Spence claims to understand this relationship between killing and loving, the reader may not. Spence states: "It was a part of living, this killing, to respect the creature, to love your victim, which gives itself up for you" (p. 35). To respect a creature for its majesty and cunning is understandable, but to love a creature (or an opponent) because it (he) provides an opportunity for the hunter's self-satisfaction in killing, is certainly less comprehensible.

7 The names, the places and all identifying information in this section are fictitious in order to protect the parties.

8 In keeping with his theme, the first thing about the child Spence acknowledges is that he will never hunt the moose (p. 67). Although possibly symbolic of something more, the moose hunt is a unique illustration of the many pleasures and activities which the child will never experience.

9 "There are those who, claiming to know, have stated the settlement of this case was the largest single settlement of its kind in the state's history, but no one has ever heard me say that" (p. 83).

We had failed each other, the law and I. I used the law as I chose, but it used me as well. I tried the cases, won the cases, laughed at the law, and turned my head sadly and tried not to see the broken bodies of poor men I had beaten in court, beaten not because they weren't entitled to justice for their injuries and the misery forced on them by the negligence of some insured defendant I represented—but because I had beaten those poor men's lawyers, who couldn't handle Gerry Spence (p. 100).

He then introduces Imaging, who would later become his second wife and faithful companion for the remainder of the book. After fighting to save his first marriage, he made the difficult decision to leave Anna and the children. He realized his relationship with Imaging was unique and perhaps even the changing point in his life. He had to be with her. He found a sense of satisfaction, a mutuality in their relationship, which provided a focus for his life and his legal career.

After briefly describing the Cantrell case, Spence begins presenting the Karen Silkwood case, a well-woven story of Spence again protecting the little people. This case covers a large portion of the book, providing detail on Ms. Silkwood, the witnesses, the evidence, the jury, trial counsel, the media and numerous interests groups involved. The depiction of the courtroom drama is very reminiscent of that provided by Louis Nizer in *My Life in Court*.¹⁰

Within his account of this fascinating trial, however, Spence inserts a discourse on money and what it means to those who have it and to those who do not. This temporary meandering into philosophy disrupts the momentum which he had built in presenting the trial. The reader senses that Spence felt compelled to say something about money, but did not know where to include it. Despite the distraction, the Silkwood case provides an insider's view of a very significant decision. The perspective is certainly biased, but Spence tells the story with sufficient detail to allow the reader to rationally evaluate the jury's verdict.

Spence moves quickly from the Silkwood case into the Hopkinson murder trial. This trial presented two unique situations for Spence. First, although normally a defense attorney, he served as a special prosecutor. He agreed to perform the sizable role reversal because the victim had been a long time friend of his. Supposedly, he was the only lawyer in the state good enough to handle the case (p. 247). Second, as the prosecutor, Spence was obliged to seek the

10 L. NIZER, *MY LIFE IN COURT* (1961).

death penalty, while at the same time personally opposing capital punishment. In a stirring discourse to the jury, Spence resolves his dilemma by characterizing capital punishment not as society's right to retribution (he considered that to be a mockery), but as society's right to self-defense (pp. 369-71). Spence sought and obtained the death penalty. Spence's characterization of himself as a mighty warrior, however, sacrificing anything for the kill, renders such a crisis of conscience much less compelling.

This raises the question: what does Gerry Spence truly stand for? When outside the courtroom, lecturing, reminiscing or contemplating, he appears to advocate a civilized legal system with a greater degree of love and compassion in the courtroom. In a speech to the ABA Convention, Spence attacked the ABA, calling for a new kind of courtroom warrior and a new kind of American justice. His thesis was that the system is currently based on fear—fear of the law, not respect for it (p. 381). He proclaimed:

We need *persons* in the courtroom. We need *persons* who have learned the secret of this ugly game of intimidation. We need men and women who have learned about forgotten things, about poetry, and rhythm and sound and cadence, and who have learned about being, who are not embarrassed to love and to feel and to touch others with their feeling (p. 382).

Yet when inside the courtroom, Spence displays none of those attributes himself. He is a mighty warrior, a hunter relentlessly going for the kill. "I walk into a courtroom . . . [a] hunter, cunning and dangerous . . ." (p. 66). It is only after he himself has killed that justice has been served. His in-court behavior and out-of-court philosophies blatantly contradict each other. Granted, American justice is based on the adversarial process. The Model Code of Professional Responsibility requires that a lawyer represent his client zealously within the bounds of the law.¹¹ Yet even Spence's own descriptions of his attitude and philosophy of practice raise questions regarding the reasonableness of his behavior. A lawyer certainly should be convinced that he must win for his client, but Spence's concept of winning includes "hunting" and "killing" those who stand in his way.

Spence finishes the book where he began it, with the trial of Ed Cantrell. After the other trials, this was anticlimactic. There was never a doubt that Spence would win an acquittal for his client, that he would hunt and kill another adversary.

11 MODEL CODE OF PROFESSIONAL RESPONSIBILITY Canon 7 (1979).

The title *Gunning for Justice* presents two very distinct and often times irreconcilable elements—"gunning" and "justice." The "gunning" element is very appropriate, since Spence views his life as a continuous hunt. The "justice" element raises the question: what does justice mean to Gerry Spence? This could be the central question of the book, with the answer changing depending upon Spence's circumstances. When taking on a corporation or insurance company, justice entails beating them at their own game and fighting for the little guy to win. Whether defending or prosecuting an alleged murderer, it means stalking, hunting and killing the adversary. Before the ABA, however, justice means instilling love and compassion in the courtroom.

Gunning for Justice takes the reader on the big game hunt which has been Gerry Spence's life. Spence provides a personal view of his trials and of personal elements in his life. Although he boasts of achieving the biggest and best of just about everything legal in Wyoming,¹² the reader cannot help but question the significance of those statistics when considering the objective of justice. While the book provides generally enjoyable reading and does provide some insight into a notable American trial lawyer, one cannot help but finish the book by asking—what is Gerry Spence truly gunning for?

John L. Sullivan

12 See note 3 *supra*.

