

TRADE

Winds

EDITOR'S NOTE: While Bennett Cerf is on vacation TRADE WINDS will be written by Cleveland Amory, author of "The Proper Bostonians," "Home Town," and "The Last Resorts."

BURIED UNDER THE Army-McCarthy hearings during May and June, and given only minor mention in the daily press (which dislikes publicizing libel suits), there occurred an historic legal battle between two author adversaries. Both were first sports writers, later war correspondents, and both are Roman Catholics. One, a Franklin D. Roosevelt Democrat, is a big bear-like man whose chief talent is making the sentimental story credible and yet not cloy; his weakness is an over-optimistic belief in everybody—witness "The Man Who Wouldn't Talk," which started out as non-fiction and ended up as non-fact. The other, a James G. Blaine Republican, is a merchant of venom whose chief talent is pouring the salty phrase on the old wounds of live women, notably Eleanor Roosevelt, and dead men, notably Heywood Broun; his weakness is, or rather was, his cherished boast of never having been successfully sued for libel. "I love my nemies," he once said. "I get spiritual satisfaction out of hate."

IT ALL STARTED FIVE YEARS AGO, on November 29, 1949, when Quentin Reynolds read a column by Westbrook Pegler in which Pegler said Reynolds had "a yellow streak," "a mangy hide," and "a protuberant belly filled with something other than guts." He said that Reynolds "went nudging long the public road with his girl friend of the moment" and he also added that Reynolds had proposed to Heywood Broun's widow on the way to Broun's grave. (The latter turned out to be a particularly extraordinary accusation in view of the fact that Monsignor, now Bishop, Neenan was also in the funeral car.) After Pegler's charges appeared Quentin looked out the window for 70 days," says Mrs. Reynolds, "while told him, 'For once in your life get mad.' Finally he said, 'Do you mind I sue?' 'Mind!' I said. 'I'll leave you you don't!'"

Reynolds sought \$500,000 in compensatory damages as well as punitive damages. He charged that he had sold 11 articles to *Collier's* before Pegler's attack and none since; he also charged Pegler had hounded him by calling up

other speakers and VIP's at banquets, lecture platforms, etc., where Reynolds was to appear and intimating he was pro-Communist. In counter-suit, since dismissed, Pegler charged that Reynolds, in reviewing Dale Kramer's "Heywood Broun," had said that Pegler's attacks on Broun had so troubled Broun's last days (when he was dying) that Pegler was "morally guilty of homicide" and that this review had so provoked him (Pegler) that he had begun writing columns vs. Reynolds. So confident was the Hearst empire of inevitable victory that in answering Reynolds's charges they not only repeated their libels, they embellished them. Pegler and Hearst were alone involved; Reynolds could not afford to sue, in separate cities, the outside papers which still subscribe to Pegler's column.

IT WAS THE OLD anti-Army game. In McCarthy's book, if you attack McCarthy, you are a Communist. In Pegler's book, if you praise an enemy of Pegler, you are in for a large dose of the dirty-words-on-walls school of writing. The actual trial bore many similarities to the Army-McCarthy hearings. Like McCarthy, Pegler had little to lose except face; his contract provides that Hearst will pay all damages. Like Stevens (instead of

McCarthy), Reynolds (instead of Pegler) was really the man on trial. His character, not Pegler's, occupied the majority of the time in court. "I've got one piece of advice for everybody," says Reynolds. "You can't sue anybody unless you're clean as a whistle yourself." And, finally, there were physical similarities. McCarthy visited Pegler's home in Tucson, Arizona, just before the hearings began, and Pegler took the stand in New York the same day McCarthy took the stand in Washington. Here the similarities end. Reynolds proved a consistent and intelligent witness; his attorney, Louis Nizer, had a brilliantly prepared case which was unmarred by public cowardice or mistaken ideas of expediency.

Nizer's opponent, the Hearst lawyer, Charles Henry, was an elderly bachelor. "Remember," he said almost pathetically to Reynolds on one occasion, "we're adversaries, not enemies." By all odds the outstanding figure in court was Judge Edward Weinfeld, a magnetic man with a face like a prophet and a mind which anticipated everything several seconds before it happened. He went directly from high school to law school, was New York State's first housing commissioner, and, on becoming a judge, his first act was to find out what prison life was actually like. At one time or another, and through at least one meal, he has visited every Federal prison in this country except two. "I'll get to those," he says quietly. "I want to see every place I may be responsible for someone going." In such a man's court there were no points of disorder.



"We'll have to let you go, Shandrov. Your throbbing gypsy airs make people too sad to eat!"

When the ex-Communist Bella Dodd, a Pegler witness, failed to give evidence she had ever seen Reynolds before, Judge Weinfeld summarily dismissed her from the stand.

TO TESTIFY FOR REYNOLDS came three former *Collier's* executives, William Chenery, Albert Winger, and Richard Chaplin, as well as a Who's Who of Edward R. Murrow, John Gunther, Sidney Bernstein, Mrs. Heywood Broun, Patricia Broun, Mark Hanna, Lionel Shapiro, Ken Downs, Walter Kerr, Jock Lawrence, and Harry Butcher. There was a reference from Eisenhower, a letter from Winston Churchill, depositions from Viscount Mountbatten and Sir Walter Monckton, and even a message to Garcia from the Hon. Clare Boothe Luce (although it arrived too late). To testify for Pegler came, beside Miss

Dodd, Mrs. Pegler, a Pegler nephew, one *Collier's* ex-editor, a former Moscow priest, an ex-Canadian newspaperman, the third wife of the late Harold Ross, and a Pepsi-Cola executive. Not a single Hearst executive appeared to testify—a fact of which the shrewd Nizer made much in his summation. "Do you know why there is none here?" he asked, pointing to the empty witness chair. "Because he would have had to say that Pegler had a good reputation and I could have said to that empty chair, 'Mr. Hearst Executive, I am going to prove that there is not in this whole country a single writer with a worse reputation'."

For most people the high point of the eight-week trial came when Nizer cross-examined Pegler and made him admit 130 contradictions of testimony given in pre-trial examination with

his later statements under direct examination of his own counsel. At one point, when Nizer read him a statement by an unnamed author, Pegler branded it pro-Communist, then learned the author was Pegler. At another time Pegler demanded Nizer show him something. When Nizer handed it to him, Pegler raised his fist. "Get away from me," he snarled. Finally Pegler's manner, which varied from the four-letter-word rambunctious to the coldly injured unctious, was reduced to the breaking point. "I don't hate anybody," he sniffled. "It's against my religion." At this even the jury laughed out loud.

THE JUDGE'S CHARGE to the jury was stern, slow, and scholarly; he left no doubt that there were two distinct points of libel and that the Pegler column was definitely defamatory. In order for Reynolds to win anything, however, every member of the jury not only had to agree he should but also had to agree unanimously on the exact amount. (In a State court a 10-2 verdict is allowed, but not in a Federal). Earlier the trial had been three weeks underway when one juror was dismissed for discussing the case out of court and fined \$250; an alternate took his place and a Hearst legal assistant who knew about the juror's talking but had not brought it to the attention of the Judge was severely reprimanded. The final group consisted of a sewing machine executive as foreman, a motion picture man, a pilot, a bookkeeper, a maintenance man, a garageman, two salesmen, and four housewives. For thirteen hours they deliberated; four times they filed back into the courtroom to clear up points. Finally, in the interest of arriving at a decision, the eight favoring high compensatory plus high punitive damages compromised their high compensatory to win high punitive "It was like a tobacco auctioneer's convention," one later declared, "except for a guy who was so sleepy he kept his head on the table and kept mumbling, 'Aw, give 'im five thousand.'"

The verdict, delivered to a crowded courtroom at 1 o'clock on the morning of June 29, was for \$175,000 punitive damages and \$1 compensatory. It was the highest award in the history of American libel. For the Reynolds it marked the end of a steady four-and-a-half-year-to-the-day fight. They were exhausted, financially and physically. Mr. Reynolds, dazed at first thought the foreman said only \$175. But Mrs. Reynolds heard it correctly. Dead tired, standing in her stockings, she burst into tears and then ran over to kiss one of the housewives.

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RANDOM HOUSE, N. Y.



The Saturday Review

AUGUST 7, 1954

“WALDEN” ONE HUNDRED YEARS LATER



By HENRY SEIDEL CANBY

Thoreau's "Walden" was published on August 9, 1854, by Ticknor and Fields in Boston. In the intervening century it has become many things to many men and one of the indubitable American classics. Here it is reappraised by Henry Seidel Canby, dean of American literary critics and editor of The Saturday Review of Literature from its founding in 1924 until 1936.

“WALDEN, or Life in the Woods” is Henry Thoreau at his best. The book has had its ample praise, and, what would have pleased Thoreau better, its ardent readers all over the world. It has had its critiques, good, bad, and merely informative. It has had its recognition as one of the Great Books; as one of the few great books that are utterly and inevitably American in their contribution to world literature. In form it is only a series of essays; in content it ranges from the homely to the sublime. Every good reader of English literature has read it (or should read it) although it knows no boundaries of language. If you

insist upon a definition, it is a one-man symposium which begins in the woods and fields and carries on questionings into what concern lakes, birds, beasts, God, man—and how he can best live in the universe. I prefer to call it a book of great talk, sharpened and made durable by work and life in the solitude of nature. It is like the lumps of flint (and Thoreau would have approved of the figure) that the native artisan chips and polishes into arrowheads of beauty and power.

Thoreau was a rugged man in body and spirit. He was strenuous in endeavor, whether in conversation or on his back in wet woods studying the history of trees. His book “Wal-

den” can be gentle, as in his famous talks with a woodchuck, but it is tough in fabric—a Yankee toughness, elastic, adaptable, resilient in ideas. If you had asked the author what his profession was, he would have answered “surveyor,” or possibly “handyman.” But if you had the right look in your eyes, he might have replied “seeker.” He was not a philosopher. Like Socrates, he did not teach Absolute Truth, for he did not know what it was. Like Socrates, his search was not for absolute excellence, but to persuade men to learn what might be their own good life.

“Walden” is one of the most delightful books, because it is full of admirable description and narrative of a little region seen by the best observer and best transcriber of what his senses told him was reality. Yet this reality was made vivid and significant by his constant questions. What is the reality behind the senses, what is man’s spirit, what is the good life, and the dynamics of experience which make it worth living? Hence an account of the whippoorwill’s staccato, as Thoreau takes notes by moonlight, or the communications of his fisher-