

Courtroom warrior: The combative career of William Travers Jerome

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This is the fourth installment for the Daily Journal (following reviews of Louis Nizer's *The Jury Returns*, John Kaplan's and Jon Waltz' *The Trial of Jacky Ruby*, and Evan Thomas' *The Man to See: Edward Bennett Williams*) of books for trial lawyers left to my firm by Bill Edlund, who passed in late 2016. The wisdom Bill curated is the basis for this series.



ROBERT H. BUNZEL

Managing Shareholder, Bartko Zankel Bunzel and Miller

Email: rbunzel@bzbm.com

Bartko Zankel Bunzel and Miller is a boutique complex litigation, real estate, and labor law firm in San Francisco.

This article concerns "Courtroom Warrior: The Combative Career of William Travers Jerome," by Richard O'Connor (Little Brown & Company, 1963). O'Connor, who died in 1975, was an actor, newspaper reporter and author of some 60 books, mostly lively biographies including of Al Smith, Jay Gould, Ambrose Bierce, Bret Harte, O. Henry and others -- including the anti-Tammany crusader and New York District Attorney William Travers Jerome.

A Reformer in Corrupt New York

The New York of Jerome's time (1859-1934) was a vital mix of seediness, brutal working conditions, and concentrated wealth that marked Manhattan through the gilded age and into the 20th century. Law was becoming a business, and attorneys described in this book include many who appear in modern Am Law firm names: John Cadwalader, Paul Cravath, Charles Perkins, William Cromwell, Richard Davis, Tom Dewey, William Elkins and Charles Evans Hughes. New York's infamous Tenderloin was worked by an estimated "twenty-five thousand prostitutes" in the late 19th century, and "no other city on earth" could "boast of so much wickedness per square mile." The "proprietors of bawdy houses and other protected enterprises were being taxed to death by the police" under direction of Tammany politicians including "Boss Dick Croker," who were the chief targets of reformist campaigns spearheaded by Jerome. At the DA's office, the young attorneys were all tithed "ten percent of their salaries to the omnipresent Organization." Election cycles see-sawed with the bosses being tossed out on waves of populist electioneering, only to be swept back into office with new promises of what graft can offer.

Jerome was a passionate reformer. "No man in political life at the turn of the century blazed up so spectacularly as William Travers Jerome. To the newspapers he was 'St George of Manhattan,' singlehandedly confronting the dragons of vice and crime. To the public, as a singularly swashbuckling type of judge and later as a fiery, intrepid prosecutor, he became as glamorous a figure as one of those gunfighting marshals of the Old West." The "budding novelist" Upton Sinclair "just out of college" watched

Jerome stump for reform and "took fire" from Jerome's oratory.

Jerome was the son of a Rochester port authority chief and New York City Alderman. His uncle was a major financier on Wall Street, and Winston Churchill was his first cousin. As a young attorney from a connected family, he was quickly invited into the district attorney's office in 1888 but quit after two years, disgusted with the corruption and favoritism of Tammany Hall and its reach into the courtroom. He began working for reform committees and in 1894 he managed the winning campaign of William Strong for New York mayor, whose new administration tossed out many sitting judges. Jerome was appointed to the "minor" bench of Special Sessions, which he fondly called "a little squirt of a court." Judge Jerome famously raided gambling houses, "with an axe in one hand and a Bible in his hip-pocket," and after smashing in the doors he would "haul out his Bible, post himself behind a craps table and declare court in session."

Jerome served as New York County's elected district attorney from 1902 to 1909. He was a stylish lawyer with "an ease of manner," but who also "drank highballs at the corner bar and cussed when he felt like it." He abjured "the fat cigar which jutted out of most politicians' faces" in favor of an "omnipresent cigarette." He was "tolerant of a certain amount of human frailty," and pursued the bosses and not their workers in the sin trades. He personally raided and shut down Dick Canfield's "elegant" gambling establishment at 5 East 44th Street, "next to Delmonico's." He sparred with Teddy Roosevelt, who "in Jerome's opinion, was a partisan Republican and johnny-come-lately to the reform movement." Here are capsules of two of his greatest cases enlivened by O'Connor and ending with the story of the prosecution against Henry Thaw for the murder of architect Stanford White.

The Extortion Trials of Colonel William Mann

Colonel William Mann, a Civil War hero and scandal-sheet publisher, stood "high on the roll call of Edwardian scoundrelly." He practiced a "fringe form of blackmail" by obtaining loans or advertising advances for his newspaper Town Topics, from "bigwigs," in Newport, Bar Harbor or Palm Beach who preferred to have their personal indiscretions kept out of the press. In 1905, Mann published a "blind" column about the habits of President Roosevelt's daughter Alice cavorting in Newport, R.I., writing that someone who must be her was seen "indulging freely in stimulants" and "flying all around Newport without a chaperone." An editor named Hapgood at Collier's Weekly "leaped to Alice Roosevelt's defense," and accused Mann in an editorial of "printing scandal about people who are not cowardly enough to pay for silence." When Hapgood was charged with criminal libel by the paper, Jerome had his vehicle to shut Mann down.

At the Hapgood trial, Jerome asked Mann whether he was aware of any "blackmail or extortion" at his paper, and Mann testified: "Absolutely no, and no one can say to the contrary." Oliver Belmont "of the banking family" then took the stand and relayed that Mann had demanded \$5,000 from him in exchange for stock in the paper or as a loan, and when Belmont refused Mann threatened Belmont and followed through with "unpleasant stories" about him in Town Topics. The jury acquitted Hapgood, and Mann was prosecuted on perjury charges.

At his trial, Mann was forced to admit he had "borrowed" as much as "\$200,000" from Wall Street and Fifth Avenue figures including William Vanderbilt, William Whitney and Collis Huntington. But Mann's attorney "Martin Littleton, whom Mann had paid a \$75,000 fee to defend him," gave a "voice throbbing" final argument--"one of the most moving pleas ever heard on behalf of a defendant," lionizing Mann "battle by battle almost saber stroke by saber stroke," and as the true hero of Gettysburg.

Littleton successfully persuaded the jurors, "whose bearded cheeks" were "matted with honest tears," to "send this gallant old hero from this courtroom a free man." And yet the prosecution "had achieved its purpose" of ending the extortion racket -- while those who had paid Mann off "were made to feel supremely ridiculous."

The Murder Trials of Stanford White

On June 25, 1906, Stanford White, "the most famous of American architects" was shot to death at point blank range in front of hundreds of theatre and dinner guests at the roof garden of the original Madison Square Garden, which White had designed and built in 1890. The shooter, incensed about White's dalliances with his young wife, was Henry Thaw, who stated to arresting officers: "He deserved it, he ruined my wife." The wife was Evelyn Nesbit, a dancer and magazine and calendar model with "perfectly regular features" and who was an "exquisitely lovely human being."

Public opinion after the murder quickly turned against the murdered White, portrayed as an elder "satyr" who had preyed on young Ms. Nesbit. Thaw, jealously insane, could have been committed to an institution in a plea deal, but he had become a press hero and he and his family sought public exoneration for protecting his wife's "sanctity." His 1907 "trial of the century" was a huge spectator event. The prosecution had the double task of proving guilt and disproving Thaw's "temporary insanity." Thaw's defense team was numerous and included Delphin Michael Delmas of San Francisco, "the Napoleon of the Pacific bar," who was paid \$50,000 "to deliver the closing argument." Jerome asked a prospective juror if he knew any of the many defense lawyers: "Is that all of them?" the juror responded, "I hope so!" Jerome retorted.

Evelyn Nesbit Thaw was the star witness to "save her husband's life," and she testified for three days. She wore conservative clothes to court, to "emphasize her self-portrait of innocence betrayed." She testified that she met White when she was 17, and that at one of his "hideaway studios" in New York, he had doctored her champagne, and when she awoke White was "completely" undressed and "all my clothes were pulled off." She was the "wronged maiden whom a man old enough to be her father had taken advantage of with such trappings as velvet draperies, drugged champagne, electric hansoms and mirrored rooms." She testified that White told her "all women did this kind of thing, and wise ones were not found out." Jerome thunderously objected to this hearsay, as "Mr. White is dead and in his grave." Jerome elicited evidence of Evelyn's later affectionate notes to White and her "yo-yo like bouncing between White and Thaw" after "whippings" by her husband, but he did not pierce her display of innocence destroyed. O'Connor writes that Congress stopped work to read the accounts of Evelyn Nesbit's testimony, which was "studied with more intensity" than any other words in American history -- "though possibly not the Gettysburg address."

The balance of the trial concerned Thaw's insanity defense. Jerome cornered one defense expert into "declining" to categorize insanity as within the expert's diagnosis of "melancholia." Jerome "barbecued" another defense psychiatrist, asking if he could name "any textbook on God's green earth" that supported the defense, to which the doctor answered, "I guess I can't. I only came here to testify. You have tried to convert me into an expert." Jerome replied, "Do you think the conversion will last?" The three-month trial ended in a hung jury.

In his second trial in 1908, Thaw was defended by Martin Littleton. This time, the trial was conducted "briskly" until 10:00 pm each evening and concluded in three weeks. Littleton complained that Jerome in his cross-examinations before the jury was "pacing this clearing like a lion in a den." The jury's verdict was not guilty by

reason of insanity, with which Jerome was "well satisfied," since this led to Thaw's confinement in a state asylum for the criminal insane. After many unsuccessful habeas writs by the Thaw family, Thaw in 1913 escaped from the asylum and fled to Canada. Out of office by then, Jerome was engaged to track Thaw down and after much legal wrangling in Quebec, Thaw was returned to New York, adjudged sane, and released.

Coda

Jerome lived into the 1930s and was a key investor and promoter of the Technicolor process that revolutionized the motion picture industry. O'Connor notes that Winston Churchill "professed great admiration for his American cousin." The two men met in the 1920's and while no record of their conversation survives, Sir Winston years later told one of Jerome's grandsons that Jerome "might have gone on to the Presidency had he wished to pay the price." 

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