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WILLARD TELLER—A STUDY IN CONTRAST

By H. ROBINSON, JR.*

THE clients had waited in the reception room for fifteen minutes. In the adjoining office, a man furiously studied a buckram-bound legal volume. He seemed utterly unaware of his clients although they had been announced to him some time before. Suddenly he glanced up from his reading, saw that someone was waiting for him, and frowned.

"Come in," he grunted. "Sit down. What's your trouble?"

This reception was typical of Willard Teller, one of the keenest lawyers in the state. As one man once remarked, the best recognition Willard Teller ever "awarded even his closest friends was a nod or a grunt."¹

Perhaps the life of no other man presents more idiosyncracies, more contrasts, more unexplainable quirks than that of Willard Teller. Keen and intelligent, he could at times be extremely bigoted and illogical. Stern and cold, he was also kindly and humorous. He was orthodox and recusant. In short he was a confusing series of synonyms and anonyms of character, so much so, that any attempt to draw an adequate word-picture of the man is almost impossible.

One senses that Willard Teller was a man of firm convictions. He had an overabundant capacity of being right, coupled with the serene knowledge of that capacity. Unfortunately, neither of these qualities permit the formation of close friendships. Nor does the power of speech, which can on occasion hurl words, sparkling and crackling, like forked lightning, upon the heads of luckless opponents, encourage intimacy. For though great ability may command respect, it will not of itself bring friendship.

Hence Willard Teller was a solitary man. His clients seldom understood or appreciated him, save to recognize his ability as an attorney. But their lack of appreciation was mutual; for Teller was gruff and brusque to them all, regardless of their wealth or influence. His fellow lawyers, while distinctly respectful of his legal ability, made no pre-

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(1) Thomas F. Dawson, interview with Samuel L. Lindscott, manuscript written October 24, 1921; on file at State Museum.

tense of their lack of sympathetic understanding of the man. Indifferent to publicity—in fact at times openly hostile to reporters, seemingly withholding information for the pure joy of irking them—he made most of the newspapers of the day his avowed enemies. He shunned all clubs and organizations. He despised saloons. He rarely made any public appearances, except an occasional speech in behalf of his brother (Henry M. Teller) during the campaigns of the Senator, or except an occasional appearance as a toastmaster. And yet, he was an orator of recognized ability, and a toastmaster much sought after. He never entered into the struggle for political renown because he believed that “a lawyer cannot become a politician and do justice to his profession.”² And yet he was offered the Republican nomination for governor of this state, at a time when the nomination was equivalent to election. Needless to say, he refused the offer without a moment’s consideration.

Yes, Willard Teller was a lonely, solitary man. And yet—contrast upon contrast—he enjoyed a companionship and a love that few men knew. Mrs. Teller was his devoted wife and his constant companion. Shunning all other women, Willard Teller dedicated his life to Mrs. Teller. Perhaps one should add—and to his jealous mistress, the law. If Mrs. Teller could draw her husband’s portrait it would undoubtedly picture him as a kindly, tender, sympathetic and understanding man. Strikingly enough, her portrait would not be far from being accurate.

In the mind of Willard Teller, right and wrong occupied separate and very distinct compartments, and neither one was ever confused with the other. He believed in the inherent honesty of every man, and for that reason would never sign or draw a stipulation. To him the word of any man was sufficient and if it were not, then to put that word in writing was of no value. Sham, trickery, and make-believe in living and in law he could not and did not tolerate. To every question whether it pertained to life, love, or business, whether it was academic or real, whether it affected himself or others, Willard Teller admitted only one answer—the answer which

(2) Denver Times, October 5, 1905.

was right. Perhaps he did not know the correct answer, yet he strove to seek it and so far as he was concerned, he eventually found it. Not that he was egotistical, rather that to him right and justice were inherently bound up in nature and the answer therefore could be found if only diligently sought. Perhaps this philosophical attitude was responsible for his sternness, his devotion to duty, his lack of pretense and his hatred of prestidigitation. Passion or prejudice seldom, if ever, swayed him; principle and conviction had a powerful influence upon him. No better illustration of this assertion is needed than in the fact that he once voted against his brother, Henry M. Teller, to whom he was heartily devoted.

When the split came in the Republican party, Henry M. Teller lined up with the Silver Republicans. Willard Teller believed in the principles of metalism as outlined by the regular Republican convention. That year he went to the polls and voted against the ticket which had the power to make his brother a United States Senator.

Such is the completed portrait of Willard Teller—a quiet, unassuming citizen who did his work as a lawyer, excellently, and whose life was expended in the pursuit of legal learning, and in the company of his wife. It was a life quietly and scholarly spent. Its most colorful public moments came from the practice of the law.

Willard Teller was born—the inevitable cliché of biography—on a farm in Allegany County, New York, on April 17, 1834. His father, John Teller, a farmer of moderate means, was a descendant of Colonial Dutch stock, and his mother, Charlotte Moore, was a member of a family which had long resided in New England. Willard was named after his maternal grandfather.

Until he was sixteen, Willard attended the district school. Later he was enrolled in the academies at Rushford. Then he studied at Alfred University, and in his spare time, he taught in the elementary school. In 1855 he entered Oberlin, from which College, he was graduated in 1858 with a Bachelor of Arts degree.

After his graduation, he began the reading of law in the office of Judge Martin Grover, a judge in the New York Court of Appeals. In the year that Willard started his study

of law, Henry M. Teller, who had also read law in Judge Grover's office, was admitted to the New York Bar. Willard, however, completed his legal education in the office of Lebedie Kendall at Angelica and was admitted to the bar in Buffalo, in 1860.³

He commenced practice at Olean, Cattaraugus County, New York. There he met Weltha A. Gleason. By Christmas time of the following year, he had married her. While his courtship was progressing rapidly, his legal business had remained virtually at a standstill, and in an effort to increase his income, he moved to Morrison, Illinois, in 1861.

Henry M. Teller and H. A. Johnson had formed a partnership there in 1858, but gold fever had lured Johnson to Colorado in 1860, and a year later Henry Teller had followed him. Before he left he offered to turn the business of the firm over to Willard and this offer was accepted. The Willard Tellers remained in Morrison until 1864, when heeding the repeated requests of Henry, who was now practicing in Central City, they came to Colorado.

From 1864 until 1877, the Teller brothers practiced in Central City. When the mineral wealth of that town began to disappear, the Tellers moved to Denver where they practiced together until 1882, the year that Henry M. Teller was selected as Secretary of the Interior. Harper M. Orahood, who was associated with Teller and Teller, took Henry M. Teller's place and the firm was then known as Teller and Orahood, with Orahood doing most of the office work and Teller assuming the Court practice. Some years later, November 1, 1900, Clayton C. Dorsey replaced Orahood, and the new firm was known as Teller and Dorsey.

This partnership was the last one Teller formed and he was forced to withdraw from it several years before his death because of ill health. His last years were miserable ones. For three years he suffered with arteriosclerosis, succumbing to the disease on October 4, 1905, and two days later he was interred at Fairmount Cemetery. On the day of his funeral the courts of the city were closed and Judge Peter Palmer of the West Side Courts eulogized the memory of the man. His

(3) Byer's History of Colorado (1901), Vol. 1, Enc'y. of Biography.

death was the cause for the only public display Teller ever made.

Willard Teller was pre-eminently a lawyer. His life, on the surface, was the cold, unemotional life of reason. For a half-century, he held a position at the bar of Colorado, second only to that of his more distinguished brother, Henry. And there are many who place him above the Senator as did Judge Hallett, who unqualifiedly spoke of Willard Teller as the best attorney in Colorado.

In spite of his sarcastic speech, Willard Teller commanded the respect of any court in which he practiced. Judge Hallett relates that Teller once presented a motion which seemed to be entirely without merit. The Judge had intended to permit Teller to make only a perfunctory argument and then to overrule the motion. Teller, however, presented such an able and clever argument, that Judge Hallett not only listened to it in its entirety, but also sustained the motion.

Judge Hallett and Willard Teller were the best of friends, but they frequently clashed in the court-room. Many of the most entertaining of the Hallett legends are spun around Willard Teller. Perhaps the best known one concerns the little black dog that Teller carried with him. The dog, a three and one-half pound black and tan, fitted into Teller's coat pocket, and went everywhere with Teller, even to Court. Because the Tellers' were childless, friends jokingly referred to the dog as the "Teller Baby."

One day Teller was presenting an argument in Judge Hallett's court. The dog became thirsty and Teller drew some water in a drinking glass for the dog. Judge Hallett, noticing the procedure, loudly inquired, "Mr. Teller, is your dog drinking from my glass?"

"Yes, your Honor, but that is perfectly all right," composedly replied Teller, "I washed out the glass first."

Another time, Judge Hallett constantly overruled objections Teller was making to the introduction of certain evidence, but Teller continued to object. Finally Hallett impatiently exclaimed, "If I am wrong, you know how to correct me."

"Yes," replied Teller, "I've corrected you too many times not to know how to do it again."

As frequently, however, Teller bore the brunt of the witticism. Judge Hallett, threatening to fine Teller for contempt during an important trial, told him to be seated.

"But, if it pleases your Honor," objected Teller, "you cannot expect us to sit here like Stoughton Bottles."

"Quite enough of that, Mr. Teller," retorted the judge, "you are an officer of the Court, and we cannot permit the comparison of an officer of the court to such an ignominious vessel as a Stoughton Bottle."

The press of the day delighted in featuring the bon-mots of these two men, partially, one suspects, because neither Hallett, nor Teller, were very sympathetic toward the papers or their reporters. As a matter of fact, the judge and the lawyer, the best of friends, enjoyed their verbal encounters as much as football players revel in a scrimmage, which may appear to spectators to be conducted with the most murderous intentions.

Illustrative of the glee which any discomfiture or embarrassment to Willard Teller aroused in the newspapers is the incident which occurred in Denver and Rio Grande-Santa Fe fight over the Royal Gorge. A suit was brought by the attorney-general of Colorado to enjoin the Santa Fe from operating in this state, and a suit was filed in Judge Bowen's court at Alamosa for the cancellation of the Santa Fe's thirty-year lease of the Rio Grande, and its right-of-way. As attorney for the Santa Fe railroad, Teller asked for a change of venue, alleging in unmistakable language, that Bowen was partial and that justice could not be obtained in his court.

Judge Bowen not only denied the motion, but in his decree even went so far as to issue a restraining order preventing the Santa Fe from operating in Colorado in spite of the fact that this matter was not before him. Teller asked and received a copy of the Court's opinion, and after much difficulty, finally boarded a train for Denver where he intended to institute further legal action.

The battle between the roads had been a long and bitter one, and so quite naturally the employees of the roads took a very definite stand in favor of their employer, doing whatever

was in their power to injure or halt the enemy road. On the train which Teller was riding to Denver was an employee of the Denver & Rio Grande railroad. The other side of Palmer Lake, this employee, a conductor, uncoupled the car in which Teller was riding and then disabled the locomotive. Of course, the press, whose sympathy was naturally with the Denver road, made all manner of fun at Teller sitting and fuming on a stranded train at Palmer Lake.

Teller, however, finally arrived in Denver, and had the case brought up before Judge Hallett, who declared Judge Bowen's decision void. In the meantime, the Rio Grande, lead by A. C. Hunt, and armed with the authority of Bowen's decision forcibly captured the Santa Fe road by a *coup d'etat*, within the short period of twenty-four hours; and when Bowen learned of Hallett's decision, he ordered the Rio Grande placed in the hands of a receiver.

Once again Teller rushed into the Federal Court and demanded a termination of the receivership; and Judge Hallett issued an order requiring that the receiver be discharged and the road be turned back to the Santa Fe within three days. The Rio Grande countered this move by requesting that the Santa Fe be restrained from using the Rio Grande right-of-way. Their request was granted, and a new receiver appointed. The battle, however, came to an end with dramatic, although disappointing, suddenness. One day Gould announced that he had acquired the controlling interest in the Denver and Rio Grande.⁴

For over thirty years, Teller was identified with practically every important railroad case which was tried or which arose in Colorado. He was counsel for the Union Pacific, the Santa Fe, and the Colorado Central railroads. One has but to thumb through those volumes of the Colorado reports from Volume One to the April term of Court in 1900, to see the name of Willard Teller appearing on nearly every one of the railroad cases.

And one has but to turn the pages to see his name as counsel on nearly all the important mining and irrigation cases. For example, during the year 1879, he was identified

(4) Santa Fe Magazine, January, 1923, Grand Canyon War, Cy Warman, page 59, Sec. 99, U. S. 463, 5 Colo. 60, 1879; 5 Colo. 39, 1879.

with over fifteen cases in which the Supreme Court announced its decisions. He was member of counsel in the Apex and Pelican-Dives cases. He was counsel for Samuel Lindscott, in the Lucky case.

Lindscott, in discussing this suit in later years, tells how Teller made a thorough examination of the mine, and how he appeared thoroughly acquainted with mining practice and technique. When the trial was had, Willard Teller seemed to be familiar with every decision and every precedent cited by either counsel. "And," adds Lindscott, "I never knew Willard to make a mistake on a legal point."

Judge W. R. Grosline once said that the "Teller boys" were the outstanding lawyers in Colorado, especially brilliant on any phase of mining law. And one of the opposing counsels from New York, in a famous mining case, once said, "I was never afraid of any man on a mining case except the 'Tellers' of Colorado. Of them, I had good cause to fear." Mary Lathrop paid this tribute to the man: "Willard Teller and Hugh Butler made irrigation and mining law, and Hallett announced it."

Teller was counsel in some of the very important cases; and he was likewise associated with some highly sensational ones. He and Amos Steck were attorneys for Mrs. Tabor when she secured her divorce. He was the attorney for Bush, repudiated agent of Tabor, in one of the most highly flavored trials in Colorado's history. He was also an attorney in the famous Daniels case.⁵

Teller's success at the bar can be traced, perhaps, to his ability to concentrate. He warded off the disturbances easily, oblivious to all else when studying. He held cases and principles firmly in mind, and his excellent memory seldom betrayed him. His ability as a cross-examiner has never been questioned. Illustrative of his memorizing ability, it is said that he was familiar with French, Greek, Latin, and Spanish.

In spite of his vast practice, he found time to undertake many cases without remuneration. Perhaps the outstanding

(5) See Tabor vs. Bush, and People vs. Tabor. The briefs for appeal of these cases, which lie in the Supreme Court, but which never came up for argument because the case was dismissed, present some of the most entertaining legal reading there is, and serve to throw a new light on some of the many angles to the life of Tabor which has never been reported.

case of this nature which he handled was the school episode at Central City. After the Civil War, the residents of Central City attempted to exclude negro children from attending the public school. Teller, who had been prominently identified with the anti-slavery movement in Illinois, even to aiding escaping negroes, voluntarily undertook the cause of the negro children and secured a writ of mandamus compelling the authorities to admit all children, regardless of race or color, to the public schools.

I have said that beneath his gruff exterior, Willard Teller was a kindly man. Judge Dennison will subscribe to that statement. When the Judge was very young, he was trying a case in Judge Hallett's court. Hallett ruled against him concerning the proper forms of action to bring. Teller introduced himself and proceeded to show Dennison how to plead the case properly. Another instance of his kindness, which the late Governor Ammons frequently repeated was as follows: One rainy day, Willard Teller was walking down the boardwalk, which was Denver's only sidewalk in those early days, when a poor old woman who was just ahead of him dropped a sack full of potatoes. Teller immediately set himself to the task of picking up the potatoes, which were hopelessly scattered into the muddy holes of the street and gutter, much to the detriment of his clothing, which became mud-bespattered. Teller gathered together all the potatoes and presented the sack full to the woman. He then courtly bowed, and turning aside her thanks, quickly strode into the entrance of the Barclay block, where his offices were then situated.

All unconsciously, Willard Teller wrote his own epitaph. The occasion was the memorial to another lawyer.⁶ In his speech in praise of the deceased, Teller set forth clearly the pathway, and perhaps all unconsciously, which his own life had taken, he said: "The life, services, and death of the ablest and best of the legal profession, are ordinarily, and too often, left without any record more enduring than the recollection of his colleagues at the bar, or on the bench than which nothing is more ephemeral. In other professions and callings the record of its foremost men is written in such ways

(6) 16 Colo., XVIII.

and characters as serve to attract the attention of the masses, and make him temporarily, or for all times, seen and known of men—not so with the lawyer, who, during a life, longer or shorter, has been only a lawyer. His victories and achievements are won, not by accident, nor by stirring words, nor emotional appeals; not by arguments addressed to friendly minds and sympathetic listeners, as is the case, in many instances, in political warfare, on the stump or in the halls of legislation. Neither have such efforts been the result of deliberate and careful preparation in the library, like those of the statesman, who is allowed his own time to prepare and deliver what he will say. Unlike all of these, the lawyer usually finds himself bound to make his greatest and best efforts amid, or at the close, perhaps, of a lengthy or exhaustive trial, in which he must attempt, at least, to apply great fundamental legal principles to a new state of facts—facts, which are constantly varying from hour to hour, thus rendering the exercise of all his powers of discrimination and reasoning, in the highest degree, immediate and necessary without disparagement to either of the other professions, or to the ability or pretenses of ability, or to the character of those who are more strictly deemed public men, it must be admitted that the evidences of character and ability afforded by a reputation as a lawyer in the front rank of his profession is, beyond all question, superior to that which is offered by the holding of any mere public position, or office ever has, or in itself can ever, afford.”

The last written tribute to Willard Teller appeared in the Colorado Bar Association Reports.⁷ The resolution there presented states:

“Willard Teller was in every sense of the word a great lawyer, he was esteemed both by the Bench and by the Bar as a man in every way above reproach. His integrity as a man and the uprightness of his character as a lawyer was never questioned. He never practiced nor tolerated the tricks of a shyster. He sought diligently for the rights of his client, but never stooped to win a case by practices that might induce the court unwittingly to render an unjust judgment.”⁸

(7) 8 Colo., Bar Reports.

(8) The writer wishes to acknowledge his indebtedness to Mr. Clayton Dorsey, Judge James Teller, and Mr. A. L. Doud for much of the information which they so willingly supplied.