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PROFILES

LITTLE GIANT

NEW YORK CITY owes Samuel Untermyer a ride on the Macom, the keys of the city, a scroll, a ticker-tape shower, a parade up Fifth Avenue, a dinner, and a statue. No other man has put the city under such obligations. He has presented the city and state with about five million dollars' worth of law.

His personal enemies—and few men can boast a more choice and complete set—say that his public work has been performed to gratify an inordinate vanity, to overcome the unpopularity he incurred by his pro-German propaganda before 1917, to pin a halo on himself in his latter days. These suggestions may have merit; but great public services, continued over a long period of years, strenuously pushed to important results, argue a faint spark of public spirit after all. In any event, it is not the city's place to look a gift horse in the mouth. The least the city can do is ferry him up the Bay and give him a distinguished visitor's welcome. What a scroll the Untermyer scroll will be when his ninety-nine lines in *Who's Who* are translated into the majestic municipal prose.

Some think Untermyer's greatest achievement was making Henry Ford apologize to the Jews; others give him more credit for his thirty years' war against the New York Stock Exchange, stampeding the Interborough into paying six million dollars into the city treasury, winning the five-cent-fare decision, exposing the "Money Trust," smashing the building-trades conspiracy and putting Brindell behind the bars, breaking the contractors' ring and sending Hettrick to the workhouse. Another Untermyer feat, however, is still more surprising; he burned electricity for eight years without paying his bill. The meter was wrong, he said. When John Doe complains that his meter is wrong, he gets one threatening letter, and then the jaws of darkness devour him. Untermyer did not pay a cent from September 28, 1903, to June 11, 1911. His bill ran up to seven thousand two hundred dollars. Ninety-three attempts were made to collect it. The bill might be running yet, if the Public Service Commission had not ordered the New York Edison Company to collect the money or darken Greystone, the lawyer's country place near Yonkers. In the cor-

respondence between the commission and the company, cold sweat can almost be seen starting from the brow of the corporation at the thought of irritating Untermyer, the most dangerous incendiary then alive, with the exception of Theodore Roosevelt. The substance of the company's letters was: "Why should we be compelled to get into trouble with the terrible Untermyer?" Between the lines the corporation soliloquizes: "If this high-class dynamiter gets mad, anything may happen to us; it may be rate reduction; it may be government ownership; it may be confiscation." The commission peremptorily ordered that the money be collected. The company finally crept into Untermyer's presence, proposed an arbitration, and let Mr. Untermyer name the arbitrator. The bill was cut in half and finally paid. No one has been so successful in helping himself to light since Prometheus.

SAMUEL UNTERMAYER is a connoisseur in the choice of enemies. His gallery of old foes includes the Morgans, the senior John D., Harriman, Henry Ford, the New York Stock Exchange, the "Money Trust," the United States Steel Corporation, and a fine selection of the biggest banks, railroads, insurance kings, labor czars, etc. Big enemies keep him young. Thirty or forty years ago, in the age of orators and advocates, the great courtroom wars furnished him with fit adversaries. The decay of the profession, however, has left New York without a practitioner who measures up to his idea of an interesting antagonist. He still tries cases now and then, but finds little pleasure or exercise in it since all hope of spirited resistance has vanished.

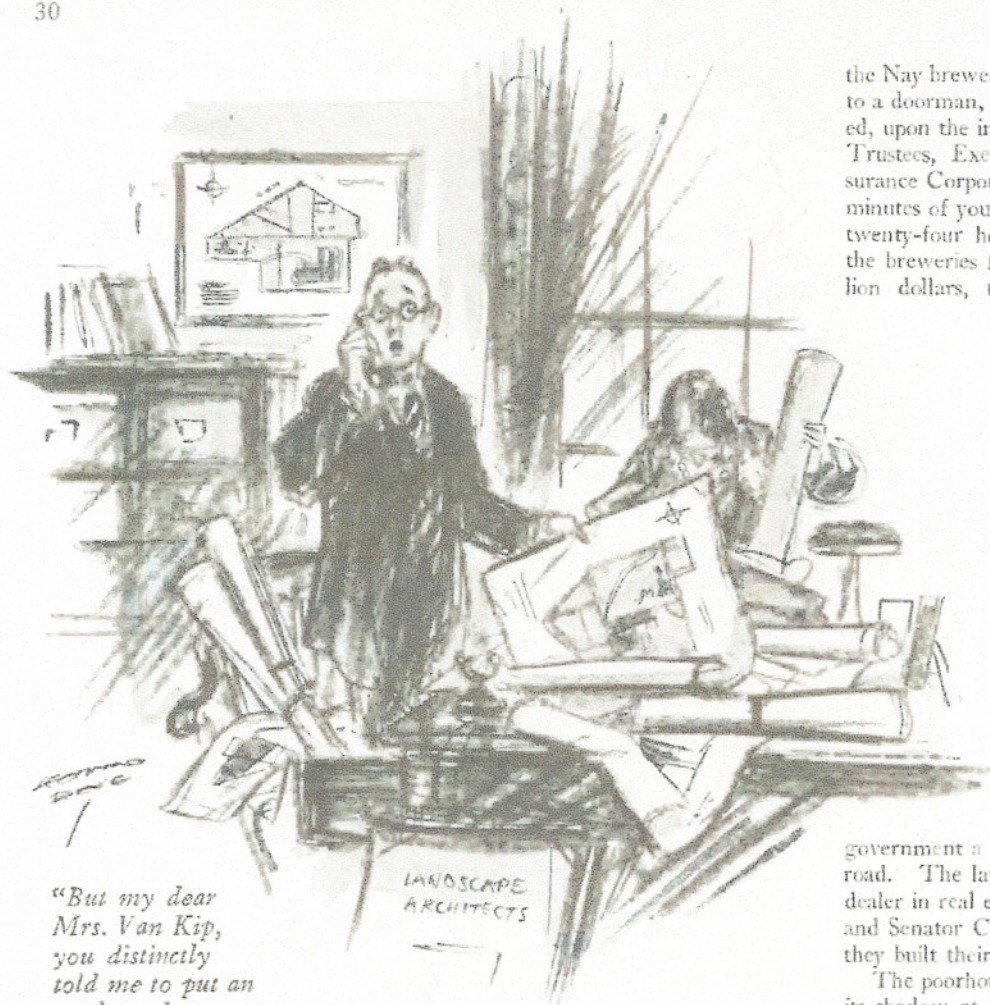
He always picked his enemies big. At the age of seven he picked Grant's army. When the Federals marched into Lynchburg, Virginia, in 1865, Sam ran up and down in front of his house in a boy's Confederate uniform shouting, "Hurrah for Jeff Davis!" The elder Untermyer, who came to this country from Bavaria nearly a century ago, became a tobacco planter and the owner of twelve hundred slaves. A zealot for the South, he sank his whole fortune in Confederate bonds. On the news of Lee's surrender, he dropped dead. Like many



Samuel Untermyer

others, Mrs. Untermyer had played it the other way, turned her possessions into gold, and had a hoard of ten thousand dollars at the end of the war. She came to New York with her children and opened a boarding house at Livingstone Place in Second Avenue, which was then the Faubourg St. Germain of Knickerbocker aristocracy. Her establishment grew until it occupied most of a block. Sam went to the Thirteenth Street boys' public school. He first attracted attention there by an original remark which still lives. Playing with his brother and some other boys on the school diamond, he lost a fly in the sun and shouted, "Oh, brother, come help me catch this ball!" "Old Thirteenth Street school grads still totter up to Untermyer and quaver derisively, "Oh, brother, help me catch this ball." At fifteen Sam became a messenger boy, clerk, and law student in his brother's law office at Fifty-fifth Street and Third Avenue, later taking law courses in City College and Columbia.

By 1876 a saying had arisen at the old Justices' Court in Fifty-seventh Street: "Get the little fellow with the cantor's beard and win." The cantor's beard was wagging on one side or the other in half the cases in that court. A few razor strokes would have unmasked the patriarch as eighteen-year-old Sam Untermyer; and at that time he had already been practicing nearly



"But my dear Mrs. Van Kip, you distinctly told me to put an outdoor theatre on your Glen Head estate, and not a bird-bath."

two years. Before he was old enough to vote, he had solemnly stroked his whiskers at the Court of Appeals on eight occasions. In his twenty-first year, his fees passed the seventy-five-thousand-dollar mark. At twenty-two, he built a house for his mother on Goat Hill, between Madison and Fifth Avenues in Ninety-second Street, nearly a mile away from the next big house, which was Colonel Jake Ruppert's.

THE boy grew the beard to tide him over adolescence; as soon as his voice stopped breaking, he shaved. At the age of twenty-four, he represented John F. Betz, a Philadelphia brewer, in an action involving forgery, against Henry Daily, Jr., a noted lawyer and former partner of Charles O'Connor, the greatest pleader of his day. Daily was defended by leaders of the bar who had appeared on either side in the Beecher-Tilton trial. There

were William A. Beach, William Fullerton, Francis N. Bangs, Hamilton Odell, and others; giants all, towering high, in the opinion of Mr. Untermeyer, over the pygmies we have today. In one corner were those half-a-dozen Titans; in the other, Samuel Untermeyer, unassisted. The trial lasted one hundred and six court days; Untermeyer won and was instantly in the forefront of the legal profession.

At twenty-eight he was earning one hundred thousand dollars a year. He was depressed. He saw that he was getting nowhere. He looked about for some way to amass a competence. London capitalists had just organized Bass', Guinness', and a few other big brewery combinations. It occurred to Untermeyer that a few New York breweries might be profitably consolidated. Money was scarce in this country, so he went to England with options on Clausen's, Flanagan's, and

the Noy breweries. Giving a sovereign to a doorman, he burst in, unannounced, upon the indignant directors of the Trustees, Executors & Securities Insurance Corporation, exclaiming "Five minutes of your time, gentlemen." In twenty-four hours, he had sold them the breweries for five and a half million dollars, taking a million-dollar profit for himself.

He brought eighty million dollars of British capital to this country. In McKinley's administration he interested British financiers in the Union Pacific Railroad, which had failed, owing sixty-five million dollars to the government. Mr. Untermeyer stated later that this was a gesture made because President McKinley called on him to help scare American bankers into paying the United States government a better price for the railroad. The lawyer has always been a dealer in real estate. He sold Carnegie and Senator Clark the plots on which they built their mansions.

The poorhouse now ceased to throw its shadow at him, but young Untermeyer wanted to feel a still greater sense of security, so he continued promoting enterprises until he had laid aside about five million dollars for a rainy day. Then he was able to settle down to the law, free from worry about the roof over his head and the next meal, and able to keep his mind on his work. His example is a good one for young men entering the legal profession.

PREPARATION, imagination, and audacity made Untermeyer a great lawyer. He has turned lifelong semi-invalidism to professional advantage, utilizing sleeplessness caused by asthma to increase his output of work. For years the day began for him at four a.m., when he would turn on the light, sit up in bed, and reach for the papers he kept on a table beside him. He would study and write for hours before breakfast and then dictate to a secretary on the way to his office. A single reading of a long document fixes every point in his mind for years to come. Hearing a telephone number once, he remembers it years after the

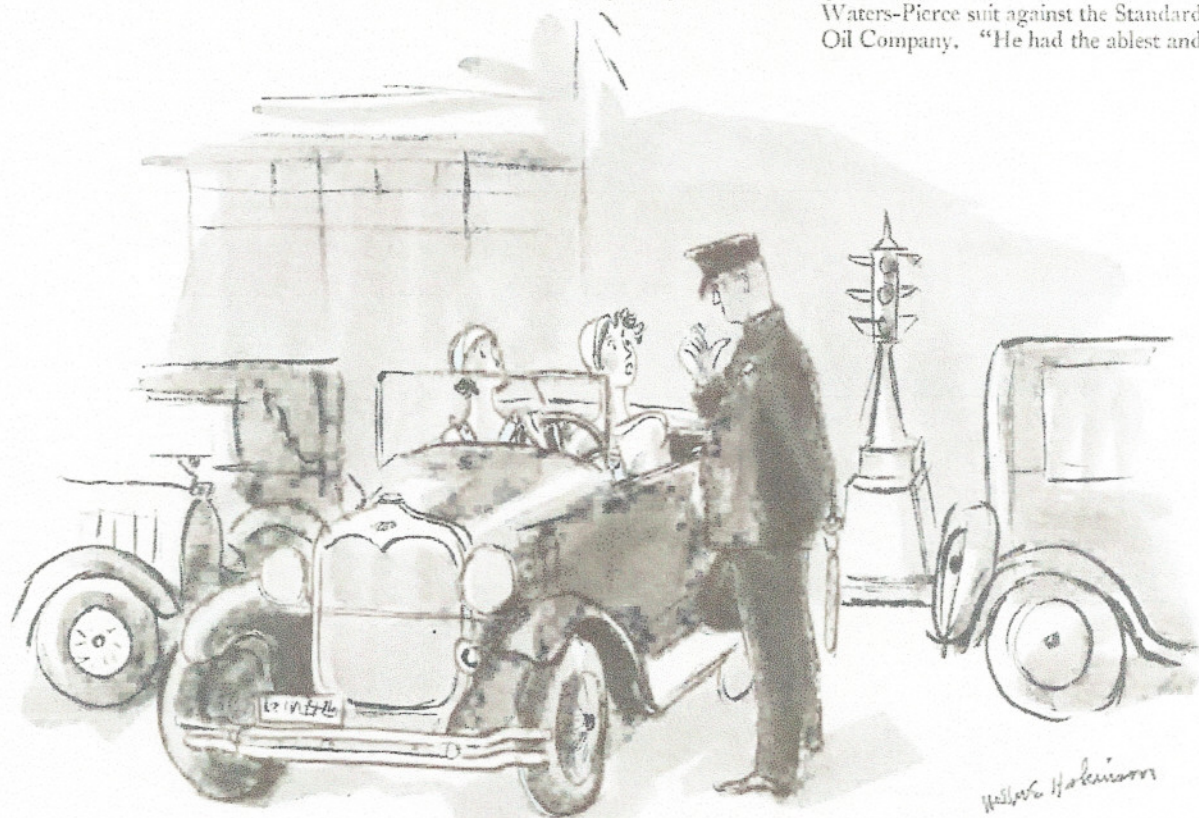
Telephone Company has changed it. His imagination is at its best in divining the hidden weaknesses of an opponent. The city, for example, had sought ineffectually for years to induce the Interborough to pay over the city's share of its profits; Untermeyer, with his instinct for demoralizing an adversary, announced that he would sue to tie up the revenues of the company until a settlement was made; the Interborough hastily handed the city a cheque for six million dollars. By an equally simple maneuver, Untermeyer changed Ford from a Jew-baiter to a Semitophile. Millions of pamphlets in thirty languages, blaming the Jews for all that was wrong with the world, had been circulated by Ford agencies all over the world; Ford stated in the *Dearborn Independent* that he had obtained his data from Herman Bernstein on the Ford peace trip. Against the advice of his partner, the late Louis Marshall, and other Jewish leaders, who believed that litigation would only increase the bitterness of Ford, Untermeyer started suit for libel on behalf of Bernstein. The maneuver that made Ford a buddy of Israel was a notice of examination before trial. The manufac-

turer surrendered and avoided questioning by Untermeyer, whose prowess as a cross-examiner is legendary. Untermeyer cross-examinations have put witnesses under the care of physicians. Ford apologized and settled; that was not enough; at Untermeyer's insistence he agreed to dragnet the world for his pamphlets, to destroy them, and to substitute a pro-Semitic crusade for his anti-Semitic one.

The Untermeyer philosophy of attack and his prophetic sense of the vulnerability of an enemy were demonstrated in the Riggs Bank case, in Washington. The bank charged that McAdoo and Comptroller John Skelton Williams had conspired to ruin it by causing government departments to withdraw funds. The Wilson administration was disturbed; its legal advisors feared defeat and wanted to compromise. Untermeyer, who was usually knee-deep in the affairs of the Wilson administration, was called to Washington. It was like Sheridan's arrival at Shenandoah. Defence was instantly changed to attack. He dived into a sea of figures and started a sensational onslaught on the bank. His clients were triumphantly vindicated.

Flushed with its unexpected victory, the administration now wanted Untermeyer to turn around and prosecute the bank. "No," he said. "I'm on top, and I want to stay there." He refused to have anything further to do with the case, but the government foolishly overplayed its luck, prosecuted the bank officers, and was disastrously beaten.

A GIFT for seeing deep into other men's minds makes Untermeyer great as a cross-examiner. He has a singular power to open the skull of a witness and exhibit the contents to a jury. He fears only one witness, a rare one, the absolutely veracious man. During a cross-examination in a trial growing out of the Lockwood hearings, he stopped abruptly and asked a man to leave the stand. "What's wrong with that witness?" asked an associate. "One hundred per cent honest," replied Untermeyer. Had the witness been but ninety-nine per cent honest, the man might have been torn to bits. The lawyer concedes a draw to only one person who ever faced him in a courtroom fencing bout—John D. Rockefeller, Sr., whom he questioned for several hours in the Waters-Pierce suit against the Standard Oil Company. "He had the ablest and



"What! No left turns at all?"

most agile mind I ever encountered on the witness stand," the lawyer said. "He saw five or six questions ahead all the time. An expression like a glint of recognition appeared in his eye; that meant that he saw where I was heading."

Untermeyer is never so dangerous as when he seems a tired, broken old man, with a faint, croupy voice, hardly strength enough to lift his eyelids, a feebly groping intellect, every gasp apparently his last. He is a master of the art of dramatic dying. Suddenly the moribund veteran comes alive and attacks with the aggressiveness of a wildcat. Snapping out of a sinking spell, he once had the hardboiled Grover Whalen in tears over some ashes which the latter's trucking firm had thriftily dumped in the handiest city property. In his public hearings, Mr. Untermeyer shows a fine sense of dramatic construction. Every day the hearing is built like a three-act melodrama: three big punches, one for the noon editions of the newspapers, one for the late afternoon's, one for the morning's; three bombshells a day, timed to the second. However, he does not always put on a good show. One disappointment was the Stokes divorce case. The illustrious Unter-

myer was on one side, the illustrious Steuer on the other. Here seemed to be a great educational opportunity. Ambitious young lawyers flocked to it as ambitious young doctors flock to a Mayo clinic. Instead of the forensic duel of the century, it was a fishwives' brawl. Untermeyer was repeatedly scolded from the bench and threatened with punishment for contempt. He won the case, however, by giving the jury the impression that all the world was against him and his wronged little client. A San Francisco lawyer, who was at Washington to argue cases before the United States Supreme Court, made a trip to New York to improve himself by witnessing the encounter of two geniuses. "It was the damndest cut-and-dog fight I ever saw in a courtroom," he complained afterward. "We wouldn't have allowed it in a police court in San Francisco."

—ALVA JOHNSTON

(This is the first of two articles on Mr. Untermeyer.)

THE APIARY

My head is rather like a hive;
At least, its shape is like a dome,
And there industriously move
The bees of thought. It is their home.

Sometimes they travel far afield
To beds of bergamot and thyme
And fill the cellulose of the brain
With little clover tops of rhyme.

It's nice of them to take the pains
But I would really not prefer
To think at all, yet they possess
My vacuum with buzz and stir.

My thoughts go on without my will,
Mechanical as is the breath;
Some day they'll swarm and fly away—
The gesture that is known as death.

They work in darkness all unseen
Determined and as sure as fate,
Such toiling for that small reward—
A bit of honey on a plate.
—PERSIS GREELY ANDERSON



"My Gawd, don't your kind never eat?"