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Roosevelt v. Newett: The Libel Trial of 1913

James McCommons

Imagine this unlikely scenario. A small, weekly newspaper in Michigan denounces a former U.S. president as an intemperate drunk. The president, possibly the most well-known personage in the world, sues the paper and its editor for defamation. Weeks later, the ex-president, most of his former cabinet, personal physicians, bodyguards, eminent personalities and relatives board a train in New York and travel to the remote Upper Peninsula to defend the president's honor.

In an ornate courtroom, these famous folk testify that the president drank lightly at state dinners and never uttered an oath saltier than "By Godfrey." The president takes the stand, declaring he's never been intoxicated in his life and calls the accusations "scurrilous." Reporters from the *New York Times*, the *London Times*, and major wire services report every word. The trial and its attendant speechmaking rivets the nation's attention.

The year is 1913. Theodore Roosevelt had been defeated in his attempt to recapture the White House. The preceding campaign had been rife with rumors of his insobriety. Now, he decided to quash the accusations once and for all by focusing his ire on the tiny *Ishpeming Iron Ore* and its bombastic editor, George Newett.¹

Today this libel suit would not make it to court. As a public figure, Roosevelt would have to prove real harm to his reputation—that the actions of a country editor of a tiny, weekly newspaper in a relatively empty quarter of the United States caused him a demonstrable loss of income or status. Also, he would have to prove that the defamation was undertaken with "actual malice"—meaning the paper printed the accusation knowing it was untrue or it had a reckless disregard for the truth. In fact, many people across the nation believed Roosevelt was an alcoholic and frequently exhibited unstable behavior and had said so in the press.²

A twenty-first century judge would throw out the suit on a summary judgement—which is exactly what The U.S. Supreme Court intended when in the middle of the twentieth century it ruled on such cases as the *New York Times v. Sullivan* (1964) *Curtis Publishing v. Butts* (1967) and *Associated Press v. Walker* (1967). All of these decisions made it more difficult for public officials, public figures and even private citizens who decide to thrust themselves into public

events to easily sue when they are criticized by the press or individuals. Democracy requires an open forum and robust debate, the court said, even when some of that speech may be hurtful, reckless and even false.³

But in 1912 when the courts had yet to set precedent with case law and Victorian ideals about personal honor were still in play, libel trials were more common. Politicians and celebrities frequently turned to the courts to heal hurt feelings, settle scores and punish detractors.

Roosevelt vs. Newett held in Marquette in May, 1913 was just such a case. The story begins with the election of William H. Taft, Roosevelt's vice president and handpicked successor who Roosevelt was sure would carry on his Progressive policies—most importantly his conservation of natural resources.

Taft, however, was not a firebrand conservationist and not long into his tenure, a schism developed between the new president and Gifford Pinchot, head of the U.S. Forest Service and James Garfield Jr, Secretary of the Interior Department. Both were carryovers from the Roosevelt Administration.

Eventually, Taft fired both men and replaced Garfield with Richard Ballinger, the former mayor of Seattle. Within weeks, Ballinger reversed policies from the Roosevelt era, and opened millions of acres of public land to development. It was a return to the old ways of resource exploitation and of politicians and bureaucrats being cozy with mining, ranching and timber interests

An investigative article in *Colliers*, a muckraking magazine, outlined the whole suspicious affair, leaving readers with the impression that Ballinger and Taft had been compromised by special interests.⁴

What became known as the Ballinger-Pinchot Controversy further divided the Republican Party between the Old Guard that had ruled since the United States' Civil War and the new Progressive wing, which had flourished under Theodore Roosevelt.⁵

Roosevelt initially tried to bring the factions together, but he soon concluded that Taft was not able to forward the progressive agenda. The Colonel, as Roosevelt liked to be called, clearly had a return to the White House in mind. He was restless. His year-long safari to Africa, tour of Europe and work as an editor at the *Outlook*, an influential literary magazine of the time, had not satiated his restless energy and desire to be wielding power on the national stage.

When Roosevelt announced he would challenge Taft for the nomination, Old Guard Republicans were beside themselves in anger and, in response, reinvigorated rumors that Roosevelt was a drunken, volatile and unstable man—one unfit for office.⁶

Rumors of intemperance had plagued Roosevelt for years. His strange way of talking, his excitability and animated behavior led people to believe the man was prone to drink. His behavior could be bizarre. When he was president, he took reporters and diplomats on walks that would include precarious rock climbing or stripping off one's clothes and swimming across the Potomac River. He often carried a pistol while traveling. He would interrupt a conversation to comment on a bird flying by his office window. He boxed and fought with pugil sticks with members of his administration. The first time the president met Gifford Pinchot, he challenged him to a wrestling match.

His odd behaviors, however, had nothing to do with alcohol, which had consumed his brother Elliott who began drinking at an early age and went through detoxification treatment several times. The father of the future first lady, Eleanor Roosevelt, Elliott killed himself by jumping out a window when he was thirty-four.⁷ Alcoholism was a public health problem in the United States. Many states had passed dry laws and there were calls for national prohibition. Politicians of the period were forced to choose sides—were they wet or dry? Most politicians voted dry and if they drank did so privately.⁸

In the fall of 1912, while Roosevelt was on a campaign swing in Atlanta, a reporter asked him about the drunkard charges. Roosevelt answered politely that he was no drinker. After the interview concluded, TR looked at his staff and other reporters and vowed that the next time a newspaper—one with enough assets to pay damages—published such a story, he would sue for libel. A few days later, *The Gazette* in Salinas, Kansas did so, but Roosevelt learned it was owned by an ex-Senator who had been imprisoned in a federal penitentiary for malfeasance. The *Gazette* could not pay damages, so he waited.⁹

He swept all the primaries that season, but in those days, most delegates were chosen by state party organizations and the Republican National Committee. Party bosses were in no mood to deny Howard Taft, a sitting president, his party's nomination.

Jay Hayden, the Washington correspondent for the *Detroit News*, covered the 1912 GOP convention in Chicago. In Toledo, he boarded the train carrying TR to the convention and found the ex-president alone in a compartment quietly reading a book. The two men had a nice chat for

half an hour. The Colonel was quite sober, noted Hayden. But when the train arrived in Chicago, “Rumors had been set loose on Roosevelt . . . I scarcely had stepped from the train in Chicago, before I began hearing that Roosevelt had been roaring drunk on the trip and had smashed dishes in the dining car.”

It was a harbinger of the animus toward Roosevelt. The convention nominated Taft on the first ballot. Roosevelt walked out and formed the Progressive or “Bull Moose” party. The question of drinking did not elude him there. Shortly after Roosevelt accepted the nomination of the Progressives at the convention, a man stood on a chair and demanded, “Where do you stand on prohibition?” Roosevelt gritted his teeth and windmilled his arms, but no one heard what he said in the roar of the disapproving crowd—who simply did not want the matter raised. The man was hustled from the building.¹⁰

When Roosevelt began his third-party campaign, the Old Guard understood that The Colonel would take votes from Taft and likely throw the election to Woodrow Wilson and the Democrats—which is exactly what happened.¹¹

The coming campaign was fierce especially in Michigan where as one reporter noted “the name Roosevelt is as much as a red rag to a bull.” But in the Upper Peninsula, a region with a strong union following and thousands of people employed by iron and copper mines, Roosevelt’s message of a “Square Deal” resonated.¹² Marquette especially, was a Bull Moose town and Frank Russell, the publisher of the local paper, the *Mining Journal*, was a forthright Progressive. George Shiras III, Roosevelt’s good friend and a former congressman from Pennsylvania, spent his summers in Marquette. Shiras, a well-known conservationist and wildlife photographer, also served on the national Committee of Resolutions and Platform for the Progressive Party.¹³

In early October, Roosevelt went on a campaign swing through Michigan, covering small cities and villages in the Upper Peninsula. It might seem an odd, empty region to seek votes, but a century ago when steel was king and the riches of the country were bound up in iron ore, copper and timber, the region was flush with votes. Taft also visited Marquette in 1911.

Shiras was in the Upper Peninsula that fall. He spent several days setting up cameras with trip wires in the western part of Marquette County where a large beaver dam was discovered over the summer. Supposing that trappers would take all the animals that winter, he and a guide camped for two days to get a night picture of the animals.

On his last night in the woods, he lay in the tent and saw "...a faint flutter of light on the white canvas roof. Almost immediately, I heard the boom of the flashlight." He had his picture and the next morning headed back to town for Roosevelt's appearance in Marquette.¹⁴

Roosevelt began October 9, 1912 with two speeches before breakfast in Cheboygan. He crossed the Mackinac Straits on a ferry and then boarded a westbound train. Throughout the day, the train stopped at towns, stations, and rural junctions—sometimes for just two or three minutes—where Roosevelt came out to wave or speechify. In total, he was seen by 40,000 people.¹⁵

Much like today when candidates go on television or issue statements every few hours to sling mud and respond to charges, Roosevelt kept two secretaries busy, picking up telegrams with news of the other campaigns, sending out responses and issuing press releases, often to the reporters traveling with him on the train.

By mid-afternoon when he reached Marquette, about 6000 people awaited. As the train backed into the station and halted so he could step directly onto a special stage, TR scanned the crowd for Shiras. He was well aware that his friend had been in the woods the previous night and on a mission. Standing on the back rear platform with thousands of people on either side trying to get a look at him, Roosevelt found Shiras, waved and yelled, "Did you get a beaver picture last night?" Shiras cupped his hands, and hollered back that he wasn't certain. The plate had yet to be developed. He would let him know.¹⁶

Roosevelt spoke to the crowd for twenty-five minutes, delivering a decidedly populist message, well suited for a district of workers, many of them immigrants, toiling for the big trusts of copper, iron, and steel. The Progressive campaign, TR declared, was a great moral crusade for human rights that would answer one dominate question—"Shall the people rule rather than the money interests and the big corporations?"

He reminded his listeners of the party platform supporting: labor unions, worker's compensation, safety and health standards and more rights for women and child laborers. "...we have come with you Progressives to champion the right of the people themselves to rule. And it is not an empty phrase...let us bring nearer to the day when every man and every woman in this country shall have social and industrial justice." He called for direct primaries, and an end to party bosses. "Remember my friends, nominally they stole the nomination from me; really

they stole it from you. The bosses and the trusts should have but one vote, and not be in control of parties, governors and legislatures.”¹⁷

A man stood up in his car and called the president a liar. The two got into a shouting match. Philip Roosevelt, who had accompanied his famous cousin on the trip, recalled that as soon as TR discovered the man was an Old Guard Republican, “He tore the hide off the man’s words.”¹⁸

The speeches, however, were not amplified. Reporters estimated that three fourths of the crowd never heard the president and will “have to depend on published reports to gain an idea of his remarks.”

Also he was hoarse with a sore throat. A paper noted that an hour later when speaking in Ishpeming to a crowd of 8,000 that included iron miners who came directly from the shafts carrying their dinner buckets, “The Colonel Roosevelt, tired with his previous speaking, was heard but briefly and for all but those in the immediate vicinity of the car his remarks were no more than pantomime.”¹⁹

He recovered somewhat by the time he reached the Keweenaw Peninsula where tens of thousands of workers toiled in the mines and smelters of the copper industry. Reporters on the train marveled at the size of the crowd (10,000) at the “Amphidrome” a wooden building and the first arena in the U.S. built specifically for hockey. It was the largest crowd in all of Michigan.

The next day’s headline in the Marquette *Mining Journal* proclaimed, “Big Bull Moose’s U.P. Tour a Continual Triumph; Colonel Acclaimed by Cloverland Citizens from Early in the Morning until Late at Night.” The reference to Cloverland was an attempt by Russell and other regional boosters to rebrand the Upper Peninsula and market the region’s cutover lands to ranchers, farmers and immigrants.

Russell effused in his lead paragraph; “Colonel Theodore Roosevelt, the great warrior of modern times for human rights, the greatest quickener of the public consciousness the country has known since Lincoln, a man who the country has honored with its richest prize, and the most unusual estate among men the world has been pleased to honor came to the Upper Peninsula yesterday in one of the most significant fights in his full career, carrying the message of the Progressive Party to the electorate of the Twelfth District of Michigan.”²⁰

Republican papers tried to downplay what was clearly a successful campaign swing through the peninsula. George Newett, the editor of the *Iron Ore*, a weekly in Ishpeming, was the

voice of Old Guard Republicanism in the region. He served on the Republican state central committee and his good friend, Olin H. Young, who represented Northern Michigan in Congress for four terms, was up for reelection. Because of Roosevelt's jump to a third party, there was real danger that Young would lose to a Progressive candidate.²¹

In 1912, *The Iron Ore* had a circulation of just 3,000, but it reflected the views of the mining and steel conglomerates in the mining districts of Michigan, Colorado, Montana, Arizona and Nevada. Newett had a reputation for strong political opinion backing the big trusts. "Mr. Newett wields a merciless pen. His editorial columns lash his opponents....He has gone his way for years, leaving victims strewn around him," the *New York Times* wrote.

Newett was a teetotaler, too, who had "strong convictions on this subject." He did not use tobacco either.²² On October 12 in a scathing editorial headlined,

"The Roosevelt Way" Newett wrote that the ex-president was an intemperate, profane man who had problems with anyone who disagreed with him. "According to Roosevelt, he is the only man that can call others liars, rascals and thieves, terms he applied to Republicans generally... If anyone calls Roosevelt a liar, he raves and roars and takes on in an awful way and yet Roosevelt is a pretty good liar himself. Where a lie will serve to advance his position, he employs it. Roosevelt lies and curses in a most disgusting way; he gets drunk, too, and that not infrequently and all his intimates know it.

"...he acts like a madman if anyone dares criticize him. He must do all the swearing and abusing of people; no one else can question him. All who oppose him are wreckers of the country, liars, knaves and undesirables. He alone is pure and entitled to a halo. Rats. For so great a fighter, self-styled, he is the poorest loser we ever knew."²³

Strong words and plainly stated.

Most attacks were sly and insinuating like one from the *Marquette Chronicle*—a newspaper leaning toward the Old Guard. It described a brief stop Roosevelt's train made at Munising Junction, a rural crossroads where a group of 500 woods workers, railroaders and families gathered to see the ex-president. "Something was evidently wrong with Roosevelt, something more than there generally is. He acted as a man who was not himself. For some reason or other, his speech was thick and he had to stop from time to time for words and thoughts. He was unable to speak at once directly or clearly. Those in the party, though not Bull Moosers, who had been friendly toward the man were disgusted. They could not understand what was the matter. The entire party regretted that it had taken the time away from work to hear him." The report was unattributed and vague, but readers got the gist—Roosevelt was intoxicated.²⁴

Newett's mistake was being unambiguous and retelling as fact all those rumors regarding alcohol. He wrote for local consumption, out of anger and the desire to help his friend Rep. Young who had been telling Newett that all of Washington knew Roosevelt was a drunkard.

On October 14 while he was dining at a Chicago hotel, Roosevelt was given a copy of the *Iron Ore* by the secretary of the Progressive Party. Progressive sources had done a bit of inquiry about the paper and Newett's character. The *Iron Ore* was a small but reputable weekly. Newett was a man of good standing in the community and of means. He could pay damages. Roosevelt, still nursing his sore throat, reportedly whispered, "Let's go at him."²⁵

It was a historic, fateful day for TR and the Progressive Party but not because of this decision. After breakfast, Roosevelt took a train to Wisconsin for a speech at the Milwaukee Auditorium. While he stood up in a car to wave at the crowd, John Schrank, a barkeeper from New York stepped out and fired a .38 caliber bullet into Roosevelt's chest. He had stalked the candidate for three weeks through eight states. "Any man looking for a third term ought to be shot," Schrank said, revealing to police that that the ghost of William McKinley had dispatched him to shoot McKinley's former vice president.

The slug tore through a steel eyeglass case and a folded fifty-page speech in Roosevelt's suit coat and then lodged in the chest wall, missing his internal organs. The old hunter coughed, spit, and made a self-diagnosis: no blood so the bullet likely missed his lungs. Despite pleas by doctors, Roosevelt went on stage, waved the bloodstained manuscript with a bullet hole through the sheets and proclaimed to the hall, "You see. It takes more than that to kill a Bull Moose." He nearly keeled over during the speech and spent eight days in the hospital. The bullet was never removed.²⁶

While Roosevelt was in the hospital, Shiras sent him nocturnal picture of a beaver repairing a dam. The inscription on the back read, "Here is the answer to your question of October 9."²⁷

The attempted assassination effectively ended TR's campaign. Marquette County voted overwhelming Progressive; the Colonel won the 12th district by more than 5,000 votes. His coattails helped elect the Progressive candidate and throw out H. Olin Young.²⁸ Roosevelt won the popular vote in Michigan, too, but Woodrow Wilson became president with 41.8 percent of the national vote. Roosevelt received 27.4, Taft 23.2 and the socialist Eugene Debs, 6 percent.²⁹

On October 25 just before the election, Roosevelt's lawyers filed a \$10,000 criminal libel suit at the Marquette County Courthouse against George Newett and the *Iron Ore*. Newett was arrested that afternoon "on a *capias*" warrant, essentially an order to appear in court. The *New York Times* reported, "Mr. Newett is quite wealthy and he was released on his own recognizance. He has given no hint what his defense will be. If Col. Roosevelt gets a judgment for \$10,000 there will be no difficult in collecting it."³⁰

Newett's best defense was to prove the charges of drunkenness were true. Alternatively, he could claim that he was simply repeating what was common knowledge and had a right to comment on the character of a public person running for public office.

However, Roosevelt was operating under the nineteenth century mores regarding reputation. As Lawrence Abbott, the editor of the *Outlook*, explained to readers... "This seemed to him to be not only a duty to himself and his family but a duty to the country. It has been a matter of shame and regret to all decent Americans that their presidents from the time of Washington down to the present have visited insidious gossip about their private lives and character."³¹

Several close associates of Roosevelt, including George Shiras III and editor Frank Russell, thought the libel suit unwise. It could invite a humiliating defeat or hung jury. The Marquette County sheriff, the jury commissioner and other court officials were Old Guard Republicans, part of the local anti-Roosevelt clique and, Shiras warned, they would work to pick an "unfair jury." Roosevelt scoffed and wrote to Shiras from New York, "...the issue was plain and I would not hesitate to go before a jury in any decent community demanding a hearing of my case."³²

In the months prior to the trial, a flurry of correspondence passed between the two friends. Shiras invited Roosevelt and his party to stay at his summer home in Marquette during the trial. Shiras was at his winter home in Ormond Beach, Florida but would come to Marquette to open and prepare the house. He did not want to miss the spectacle.

On January 21, 1913 Roosevelt accepted the invitation, thinking he would come north with two or three people. He wrote, "I am very indignant at this scoundrel Newett. When he started these libels against me, he may not have known that they were false, but he must know it now if he has made any inquiry."

Shiras told TR he was certain Newett was receiving help and encouragement from “outside the district.” He noted “...the local office holders and political machine will be against you, backed secretly by cunning politicians throughout the United States.” Yet, Shiras doubted it would come to a trial “because Newett will offer you an apology when he hears you are going to attend the trial or if you decline to accept the same that he will plead guilty and throw himself on the mercy of the court.”

Roosevelt hired James Pound of Detroit to represent him. Pound was a corpulent, aggressive man who wanted Roosevelt to ask for more damages. Roosevelt asked Shiras, “Is he the right man? May I send part of your letter to him? I would especially like to present to him what you say about taking care of the jury.”

On January 28, TR wrote Shiras again, saying Pound was coming to New York for consultations. He asked Frank Russell to come as well. “It looks as if we should have a very big fight. Undoubtedly, the scoundrel who is responsible for the libel is now being backed by outside money. He is sending around the country to get depositions.”³³

In fact, Newett had obtained nearly forty depositions, mostly from people on the campaign trail who said they had seen Roosevelt drunk while making a speech or stumbling through crowds supported on both sides by his bodyguards. Some depositions simply stated it was common gossip in Washington that Roosevelt drank to an excess.³⁴

Frank Russell warned Roosevelt that he should not come to Marquette with a bunch of outsiders. After meeting with Russell in New York, Roosevelt hired James Belden, a Marquette attorney.³⁵ Russell wrote to Shiras, “...at least we have called this matter to the Colonel’s attention and so he will be informed that at least in some minds there is a question whether his case will be in the best of hands. That lets us out.”³⁶

Newett’s lawyers worked for Cleveland Cliffs Iron Company part of the big steel trust that Roosevelt had railed against in his Upper Peninsula speeches. Ironically, Shiras was friends with William Mather, its president. The Shiras family owned a good deal of stock in the company, too.³⁷

Shiras came north in early May, first to New York where he went out to Roosevelt’s home on Long Island to talk over trial strategy and Progressive politics. Roosevelt wanted to know how things were in Florida because he had his eye on running again in 1916.³⁸

On the afternoon of May 23, TR and his party boarded the *Lake Shore Limited* at Grand Central Station in New York. They switched trains in Chicago and went north through Wisconsin along the Lake Michigan shoreline.³⁹

The Colonel brought along an impressive entourage of supporters and character witnesses. The New York Central attached a Pullman car especially for the Roosevelt party which included: William Loeb Jr. his White House secretary, Alexander Lambert, his personal physician, James Sloan, a secret serviceman, Jacob Riis, photographer and social reformer, Robert Bacon, the former secretary of state, and Philip Roosevelt and Emlen Roosevelt, cousins of the president. He also brought along Edwin Emerson, the regimental clerk for the Rough Riders, Edward Heller, a naturalist at the Smithsonian Institution, and, Frank H. Tyree, of the Secret Service who guarded Roosevelt when he was president. Also included were Gifford Pinchot and James R. Garfield Jr., who had lost their jobs in the Taft Administration.⁴⁰

The *New York World*, wrote “...to support his civil action, there have gone with him into that distant quarter a small army of notable divines, family physicians, eminent blood relatives, ex-governors of states, collectors of ports, ex-ambassadors, distinguished sociologists and real editors. Over the fate of this mighty expedition set out to crush a country editor, the nation sits in anxious interest.” Hearing that Roosevelt had left New York, Newett issued a statement that “he would not listen to the word compromise.”⁴¹

Interest in the trial was high—a cause célèbre—with wire services, major newspapers, and even foreign newspapers sending correspondents to the Upper Peninsula. Special telegraph wires were put into the courthouse so reporters could quickly file their stories. Messengers ran dispatches. Prior to Roosevelt’s arrival, reporters nosed around town.

Again from the *New York World*, “The home of George Shiras whose guests the party will be has the facilities for the utmost comfort of the visitors.” For several days, decorators, furnishers and other artisans have been at work. Accommodations for thirty people were provided. The mansion was stocked liberally with food. The visiting party found many things in the house to interest them. Sure enough, “the Colonel will find a congenial atmosphere in the Shiras home. It is a charming old house, roomy, rangy, perched upon the brow of a hill overlooking the lake. Mr. Shiras, who has followed the calling of naturalist for 40 years (without nature faking) has probably one of the country’s best collections of prints, photographs, and

books on the subject.”⁴² The *New York Times* wrote, “Col. Roosevelt will be the guest of his friend, George Shiras, who is famous as a photographer of wild animals in their native jungles.”

As the wire services disseminated the story and photographs of the mansion, Shiras began receiving “heavy mail.” Most letters came from people begging for money. One man asked Shiras to pay the installment on his farm. Other letters to Roosevelt and Newett offered advice on the trial.⁴³

At 7:45 a.m., the train pulled into the station at Negaunee a mining town not far from Marquette, where the entourage was met by Shiras and several hundred people. The men came down to Marquette by automobile. As they entered town and saw Lake Superior, the guests noticed that the people on the streets were wearing overcoats and woolen hats. Despite it being nearly June, the cool breeze off the lake made straw hats impractical.⁴⁴

There was a grand breakfast and then the men took up quarters in the main house and the nearby homes of Shiras’ nieces and nephews. Reporters noticed a courier arriving carrying a box that contained “medicated milk” and there was a great deal of speculation what this could be. In the *Outlook*, Lawrence Abbott had previously written that Roosevelt drank only milk and coffee to excess.⁴⁵

The *Roosevelt vs. Newett* was tried in the Marquette County Courthouse, a stately building erected in 1904 with the best Victorian touches: gold stenciling, Beaux Arts columns, copper clad dome, ceramic tiling, Italian marble wainscoting, and a hardwood interior.

Richard C. Flannigan, a young, scholarly judge, who later served on the Michigan Supreme Court, proved to be stern, fair, and capable on the bench, keeping good order in what was nearly a circus atmosphere. One of his first moves was to seat all the women on the left side of the courtroom and ask the men to fill the galleys because “it would be more gallant.”⁴⁶

Despite all the attention, Flannigan took the cases in order, hearing misdemeanor cases and then at 2 p.m. jury selection began for *Roosevelt vs. Newett*. Voir dire took until 11 p.m. and the cast of characters provided plenty of colorful copy for the reporters.⁴⁷

One potential juror was excused when it was learned he had been beating up any man in town who spoke against Roosevelt. Another came to court with a Bull Moose button on his lapel, but assured the lawyers he could be objective. He was excused. One man said he did not read newspapers and had never heard of the case, which astonished nearly everyone in the courtroom. He was chosen.

The jury was seated with four miners, three teamsters, two farmers, a blacksmith, a lumberjack and a locomotive fireman. In this era before women suffrage, all jurors were male. The jury was sequestered, sleeping on cots in an anteroom, and eating its meals under the eyes of court officials. They were “deprived of newspapers.”⁴⁸

The common practice in a libel suit was to force the defendant to prove his allegations by calling witnesses and presenting evidence, but this was a show trial and Roosevelt asked to go first. The world was to be enthralled by what the *New York Times* called, “the spectacle of the ex-president accounting in public with laborious pains the way in which he spent his time while at the head of the nation, describing his private life and answering questions about life in his own home among his guests.”⁴⁹

On the second day, Roosevelt led off, standing in the witness box just a few feet from the jury. He declared he had never drank a highball or cocktail. He did not like beer and limited his drinking to light wine and champagne, mainly at party and state functions. He occasionally took a little brandy under doctor’s orders and had once carried a flask of whisky for medicinal purposes when he was a ranchman in the Dakotas—as most cowboys did—but then found he did not need it.

When asked if he kept brandy and whiskey in the White House, he said the alcohol stock was a leftover from the McKinley administration. Through all the questions, Roosevelt was unequivocal, “I have never been drunk or in the slightest degree under the influence of liquor.”

He did, however, express a fondness for mint juleps, explaining there was a fine bed of mint at the White House and he would ask a servant to fix him a fresh drink, especially when relaxing and reading on the porch during hot, humid days in Washington. He estimated he drank maybe a dozen a year.⁵⁰

When this appeared in the next day’s papers, tourists in D.C. immediately asked White House police to show them the bed of mint, which was located beside lattice work on which laundresses hung clothes to dry. It had been planted at the request of President McKinley.⁵¹

From the very beginning, the defense was having a hard time. Roosevelt was a commanding figure and not at all cowed by cross-examination. Newett’s lawyers desperately tried to keep out all references to his colorful past: his war record, ability as a hunter, and even the assassination attempt in Milwaukee—all which they felt would prejudice the jury.⁵² It was an impossible task because so much of his life was wrapped up in big events. At one point, when

the testimony ranged on his drinking habits as a Rough Rider during the Spanish American War, Roosevelt rolled up his sleeve and showed a scar on his forearm where he had been shot. That was news in itself. It was not common knowledge. During a recess, he explained to reporters that he had never gone to an aid station but had someone wrap the wound in a bandage and he pressed on.

The defense objected when Roosevelt referred to the assassination attempt during the Progressive Campaign by prefacing a statement with “after I was shot.”⁵³ Frank Russell wrote in the *Marquette Mining Journal*, “If the sturdy-looking man who spent several years of his life in the duties of the presidency of the United States saw anything curious in his position of explaining to twelve simpler toilers of the woods and the mines that he was not really a drunkard, his confidence and his manner did not betray it.”⁵⁴

A *New York Times* reporter thought it advantageous that the jury was seated so close to the plaintiff where they could observe his curious demeanor and gesticulations, which during the campaign had led some listeners to think he was under the influence. “There are certain peculiar mannerisms of his, known to all who have seen him often, such as a muscular action of the jaw which bears his teeth when he is speaking very earnestly, and a falsetto sound in his voice when he seeks to be emphatic... Those who hear him speak imagine that these are intended as efforts of humor on his part, but they are natural, unconscious and unavoidable.”⁵⁵

As the parade of character witnesses testified, everyone watched Roosevelt’s reactions. His eyes glistened as old friend Jacob Riis testified to the strength of his character. Riis said he had known the president for more than two decades, had accompanied him on trips and never heard Roosevelt use an oath stronger than “Godfrey”—which Riis didn’t think was blasphemous. As for The Colonel being a drinking man, it was a “monstrous lie.”⁵⁶

Surgeon General Presley Rixley said he had attended Roosevelt nearly every day in seven and half years of his presidency and had never smelled liquor. On hunting and camping trips, The Colonel shot his rifles with an exceedingly steady hand, Rixley added. No drinking man could be such a marksman.⁵⁷

By the end of the second day, Republican leaders in Marquette County were aghast, certain the trial would end in victory for Roosevelt. They were depending on former Rep. H. Olin Young to testify about how rumors regarding Roosevelt’s drinking habits were rife and

common knowledge in Washington, D.C. but Young had made himself scarce. He was not even in Michigan.⁵⁸

For those intimates of Roosevelt, the trial and accommodations in Marquette turned out to be a smashing good time. On the second evening during dinner at the Shiras home, George III sat at the head of the table with Roosevelt to his right and Jacob Riis on the left. Roosevelt looked at Riis and said, “Jake, it was a fine thing for you to make this long trip on my behalf. You knew me when I was police commissioner and probably knew my habits better than anyone else in that city. I consider your testimony of the greatest value.” Then he said to Robert Bacon, who had also testified that day, that he too was grateful. Bacon said Roosevelt was a “special chum” at Harvard and had been a temperate young man.

The Colonel looked about the table with a transfixed expression, obviously moved. The silence was thick until Shiras quipped, “Colonel if this testimony keeps up a few days longer, you will believe it yourself.” Reportedly, the laughter and shouting rattled the china. Roosevelt blushed and joined in.⁵⁹

According to the *Pittsburgh Press*, The Colonel was “elated over the huge library and wonderful collection of animal pictures he found in the Shiras home.”⁶⁰ Later that day, nearly everyone but Shiras and Roosevelt left to go to the theater. After seeing them off, Shiras wandered into the library and found The Colonel writing a letter. Looking up, TR asked, “Shiras can you guess whom I am writing to?” “That it easy. You are writing to a very fine and very anxious wife you left behind.” “Not a bad guess at all,” remarked Roosevelt. “Only you have the wives mixed up for I am writing to yours.”⁶¹

His letter to Fanny Shiras, who has stayed in Florida with her daughter, thanked her for the use of her home and invited the Shirases to visit soon at Sagamore Hill on Oyster Bay. “All of your guests are having a delightful time; but we do wish our hostess were here...your husband is the best of hosts; the table is so delicious that I have been overeating scandalously; and my room is the kind of room I most like; and so the result as a whole is that what would otherwise be a peculiarly irritating and indeed mortifying experience has become almost a spree.”⁶²

As the *Outlook* reported in its June issue, “the witnesses who went out to Northern Michigan prepared to endure the discomforts of ordinary travel in their support of their friend, the plaintiff, found themselves members of most delightful house party so that the week in Marquette was really a vacation in charming surroundings.”⁶³

The next day Gifford Pinchot and other intimates testified. Pinchot spoke like a true Progressive and the father of the Forest Service's doctrine of multiple use. "I have always been especially interested in questions of efficiency. If I saw a man who was capable of unusual work, who was very efficient, I wanted to observe what he ate, what he drank, how much he slept, everything that might have a bearing on the questions of these things which make for or take from efficiency. I never in my life met any man who can do as much work as Colonel Roosevelt. That's why I kept my eye on him."⁶⁴

The young Roosevelt cousins talked about going on camping excursions and trips with TR while growing up. They took any intimation of drunkenness as personal affronts. Philip Roosevelt admitted that liquor was kept at Sagamore Hill. "A regular collection of liquor?" asked one of Newett's lawyers. "A regular gentlemen's cellar," said Philip Roosevelt. Later the butler testified there was very little use of the "gentleman's cellar."⁶⁵

It all was a hoot to the newspapermen—and to the country, too, who eagerly read the newspaper dispatches. The term "gentlemen's cellar" got a lot of copy. The lawyers wrangled over the definition of a drink: What was liquor and what was wine? How does one make medicated milk punch to soothe a sore throat?—apparently, a spoonful of brandy and a tumbler of milk.

"It was enough to make a New York bartender tear out his hair," one reporter wrote.⁶⁶ Newett's lawyers were trying to show that TR had been drunk in Ohio during a campaign swing where he reportedly had to be helped through the crowds by his bodyguards. Anticipating this attack, Pound and Belden called Judge A. Z. Blair, a prominent figure in the anti-saloon league of Ohio. He had accompanied Roosevelt on the campaign train.

In a time before television, the reporters used observation and metaphors to give readers a picture of the actors in this courtroom drama. The *New York Times* reporter wrote, "Judge Blair is a sharp-eyed man, with a gray crest like a hawk, a nose like an eagle's beak, a strong voice and a Western roll to the letter R. His eyes are black and protected by gold-rimmed glasses." Blair saw no evidence of drinking on the train.⁶⁷

It was Roosevelt's bodyguards and the Secret Service who provided a behind-the-scenes look at the presidency and the recent campaign. James Sloan testified that he always sat within arm's length of the president, and carefully watched what he ate and drank. The Secret Service frequently planted agents at head tables and dressed one as a waiter, who either served the

president himself or helped keep an eye on the other waiters. Sloan never saw the president “half seas over.”

As for moving through crowds with assistance? Well, that was because he could be overwhelmed by the mob and obviously needed protection—after all three presidents had been assassinated in the past forty years and Roosevelt had been shot in Milwaukee. Sloan would take the president’s arm “because he was very near sighted and could stumble.”⁶⁸

On Decoration Day, the “Roosevelt Army” at the Shiras home broke into little groups and took long walks through Marquette. TR accompanied Shiras for a ten-mile automobile ride into the farming district, the part of the county away from the chill of Lake Superior where they might see deer. The Colonel declined to give a Decoration Day speech at the Opera House, thinking it would be impolitic considering the trial. But he met with veterans of the Grand Army of the Republic at the Shiras house. Pictures were taken on the front steps with the gray-haired and bearded ex-soldiers. Two of the veterans were brothers who fought on opposite sides. Roosevelt remarked that it was the first time he had met such men.⁶⁹

The Newett team caucused back in Ishpeming, agonizing over their bleak prospects—although Newett was still issuing statements that he would take his case to the Supreme Court if necessary. None of their witnesses were intimates of Roosevelt. Their knowledge was second hand and based on observation and innuendos.⁷⁰

Their most powerful, potential witness had been James Martin Miller a newspaperman who said in a deposition before trial that he saw Roosevelt drunk at the seventieth birthday party for “Uncle Joe” Cannon, the speaker of the House of Representatives. The Colonel already conceded that he attended the party and toasted Cannon but said he was never drunk. After giving his deposition before trial, Miller’s credibility was ruined when he wrote several bad checks in New York and fled to Canada to escape prosecution.⁷¹

Representative H. Olin Young continued to be missing in action. The *New York Times* quipped, “Mr. Newett has been sending out S.O.S. and C.Q.D. calls for a week but his wireless apparatus hasn’t been strong enough to reach Mr. Young’s station.”⁷²

Newett and his lawyers feared the jury might award the full \$10,000. They contacted James Garfield Jr., who was a lawyer as well as a Roosevelt confidant, intimating they were interested in a settlement. The lawyers got together the next morning along with the judge and worked out the details.⁷³

In the courtroom the next day, Newett stepped to the witness stand and read a four-page statement. There was a tense silence. He wrote his editorial, he said, because he felt Roosevelt had made unjust attacks on Olin Young while speaking in Marquette. He had believed Young when told of The Colonel's drinking, and while taking depositions that winter, his lawyers had found witnesses who were willing to swear they saw Roosevelt drunk during campaign appearances, but now these same witnesses were unwilling to testify.⁷⁴

Newton read: "It is fair to the plaintiff to state I have been unable to find in any section of the country any individual witness who is willing to state that he had personally seen Mr. Roosevelt drink to excess." "I have been profoundly impressed during the progress of this trial by the nature and extent of the evidence produced by the plaintiff to the effect he did not in fact use liquor to excess on any occasion." He now believed all the eminent people who testified. Obviously, they had more access to TR than any of his witnesses. They had no reason to lie. "...we have reached the conclusion that to continue to express or implicitly assert that Mr. Roosevelt drank to an excess or actually became intoxicated as set forth in the article would be to do him an injustice."⁷⁵

As Newett read the statement, it was obvious to everyone that he was capitulating. There was a shuffling of messengers as reporters began scribbling dispatches and tried to beat their competitors to the wires.⁷⁶

Roosevelt got up, moved to a chair, and whispered in the ear of his attorney Pound, who afterwards asked the judge if his client could make a statement. Roosevelt rose and said in a ringing voice, "I ask the court to instruct the jury that I desire only nominal damages. I did not go into this suit for money. I did not go into it with a vindictive purpose. I wished once and for all during my lifetime thoroughly and comprehensively to deal with these slanders so that never again will it be possible for any man in good faith to repeat them. I have achieved my purpose and I am content."⁷⁷

As he uttered his last sentence, Roosevelt thrust a clenched fist over his head. The judge called a recess, and the spectators in the courtroom leaped over the barristers and waved handkerchiefs in the air. "We put it through by George," Roosevelt shouted, trying to shake both hands with the crowd.

A reporter wrote, "He was in the center of a struggling mass that near tore him apart and kept him swishing and swirling about like a chip on a billow. The reporters finally made a flying

wedge and got through with a brutal disregard of the feelings of the population of Marquette County...”⁷⁸

Flannigan came back and charged the jury to find for the plaintiff the least possible amount, which in Michigan was six cents. One reporter noted it would cover the price of a “good newspaper.”

Pound grumbled to reporters about his client’s magnanimity. He felt damages should have been paid simply to reimburse Roosevelt for all his expenses. Newett’s lawyers tried to characterize the capitulation as merely a settlement but the Roosevelt side called it a complete vindication. The *New York Times* did, too. Its lead paragraph read: “Theodore Roosevelt was vindicated to-day in the most thorough and complete manner of the charge of drinking to an excess.” The headline proclaimed: “Newett Admits He was Wrong and Makes Full Apology on the Stand Colonel Waives Damages Verdict for Six Cents Follows Admission that Drinking Charge Was Most Unjust”⁷⁹

Roosevelt drove off in the Shiras automobile, tipping his hat to the “Chautauqua salute” (a waving of white handkerchiefs) being given by the crowd on the courthouse steps. Because the trial was expected to last up to ten days, the two men had planned a weekend trip to hunting camp where Shiras had taken many of his nocturnal photographs of wildlife. But the sudden conclusion of the trial changed plans. Eager to get back to New York, Roosevelt decided to leave on the evening train.⁸⁰

As the train passed through the cutover lands of northern Wisconsin, TR sat in his room and wrote a letter to his sister, Anna Roosevelt Cowles: “...the libeler finally capitulated. I deemed it best not to demand money damages; the man is a country editor and while I thoroughly despise him, I do not care to seem to persecute him ... the way my friends rallied has been really very touching. We have been very comfortable for we have been staying in the big pleasant house of George Shiras, who is a trump if ever there was one.”⁸¹

Later when he got back to New York, TR wrote to Shiras from his office at the *Outlook*. “It is very hard on one’s friends to be dragged into irksome and uncomfortable proceedings; but it is a mighty pleasant thing for a man to find out that he has friends who will stand the strain. My dear fellow, I have long valued your friendship, but I think I appreciate its full worth now. You have done invaluable service for me in this suit, and moreover by your openhanded hospitality you made our stay in Marquette a pleasure instead of a penance.”⁸²

Just a few weeks later, however, Roosevelt would be embroiled in another libel because he called the chairman of the Republican Party in New York “a political boss of the most obnoxious type.” This time TR sat on the other side the table as defendant. Because Roosevelt declared he could not get a fair trial in the capital of Albany, the trial was moved to Syracuse. The trial lasted five weeks He testified for nine days. TR won that battle, too, largely on the strength of his confident in-court mannerisms and rhetorical skills.⁸³ But he was tired of the strain. He wrote to his son, Kermit, soon after the verdict:

“...I have now become like an engine in a snow storm; I have plowed my way through until I have accumulated so much snow on the cow catcher that it has brought me to a halt. If I can get at men personally, as in the case of this jury, for a sufficient length of time, I can get most of them, if they are decent men, to come to my side; but the consistent and vicious attacks made upon me for many years have had a cumulative effect; and the majority of our people are bound now that I shall not come back into public life.”⁸⁴

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³ Media Resource Center, *Defamation FAQs*, “What is Libel?”, Accessed November 14, 2018, <http://www.medialaw.org/topics-page/defamation-faqs>

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⁵ James Chace, *1912 Wilson, Roosevelt, Taft and Debs--The Election that Changed the Country* (New York City, Simon and Schuster, 2004), 14-17.

⁶ *New York Times* “Roosevelt Going on with His Libel Suit,” May 21, 1913, 1.

⁷ H.W. Brands, *T.R. The Last Romantic* (New York City: Basic Books, 1997), 258-261.

⁸ *Detroit News*, “Jay Hayden Recalls: Teddy Roosevelt’s Day in Court,” March 28, 1965, C1.

⁹ *New York Times* “Roosevelt Libel Case Begins Monday,” May 24, 1913, 9.

¹⁰ *Detroit News* “Jay Hayden Recalls,” March 28, 1965, C1.

¹¹ Kearns-Goodwin, *The Bully Pulpit*, 320-335.

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¹³ Letterbook—“Correspondence Between Theodore Roosevelt and George Shiras, 3rd 1902-1919, in the George Shiras 3d papers. Part IV-The Roosevelt-Newett Libel Suit” MSS-242, 57-85. Central Upper Peninsula and Northern Michigan University Archives, (Marquette, Michigan: Northern Michigan University).

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¹⁵ *Ibid.*

¹⁶ Shiras 3d “Hunting Wild Life with Camera and Flashlight,” 312.

¹⁷ *Marquette Mining Journal*, “Big Bull Moose’s U.P. Tour a Continual Triumph,” October 10, 1912.

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¹⁹ *Marquette Mining Journal*, “Big Bull Moose’s U.P. Tour a Continual Triumph,” October 11, 1912

²⁰ *Ibid.*

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- ²⁶ Chace, 1912, 229-233.
- ²⁷ Shiras 3d “Hunting Wild Life with Camera and Flashlight,” 312.
- ²⁸ *Marquette Mining Journal*, May 26, 1913.
- ²⁹ Chace, 1912, 238.
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- ⁴³ *The New York Times*, “Ready for a Fight at Start,” May 26, 1913.
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