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MEDIA MELODRAMA!

SENSATIONALISM AND THE 1907 TRIAL OF HARRY THAW

MARTHA MERRILL UMPHREY

On June 5, 1906, Harry Kendall Thaw shot the well-known architect Stanford White in the rooftop theater of the old Madison Square Garden, an opulent building of White's own design.¹ Thaw, the playboy son of a Pittsburgh millionaire, justified White's killing as an act avenging his wife Evelyn Nesbit Thaw's ("Nesbit") ruin at White's hands, and as one saving other young women from the predations of a dangerous libertine.² This high-society killing, and the salacious stories leading up to it, stoked the flames of New York's sensationalist press and turned Thaw's two trials for Stanford White's murder into the first "trials of the century."³ Because he shot White in a crowded theater, Thaw's defense turned on the question of culpability: should he be held legally responsible for White's death?⁴ With no question of self-defense, Thaw's attorneys had no choice but to argue that Thaw was insane at the time of the killing.⁵ Thaw himself, however, vehemently denied insanity, claiming instead that he ought to be exonerated on the basis of what was called the "unwritten law" because of the moral righteousness of his act.⁶ Thaw's first trial followed that line of defense, which was variously embraced and

1. See, e.g., ENCYCLOPÆDIA BRITANNICA ONLINE, Stanford White, <http://members.eb.com/bol/topic?eu=78848&sctn=1> (last visited Jan. 25, 2000); *TheCentury.com: Trials of the Century* http://abcnews.go.com/century/feature/trials2_980111.html (last modified Oct. 20, 1999).

2. HARRY K. THAW, *THE TRAITOR: BEING THE UNTAMPERED WITH, UNREVISED ACCOUNT OF THE TRIAL AND ALL THAT LED TO IT* (1926).

3. This essay focuses on Thaw's first trial, which resulted in a hung jury; at Thaw's second trial he was acquitted on the basis of an insanity plea and sent to Matteawan Asylum.

4. GERALD LANGFORD, *THE MURDER OF STANFORD WHITE* 19, 49 (Notable Trials Library 1996) (1962); See FRANCIS WHARTON, *THE LAW OF HOMICIDE* (1907), for a discussion of the law of criminal responsibility in the early 20th century.

5. See *id.*

6. *Justification to Be the Defense at Thaw's Trial*, N.Y. EVENING J., June 28, 1906, at 2.

ridiculed in the press.⁷ In the larger project of which this essay is a part, I am interested in the ways in which "popular" and "legal" accounts of certain core concepts like criminal responsibility come to clash and intermix and are made meaningful in relation to one another, and the ways in which those dynamic meanings circulate in, through, and again out of the domains of the trial and the popular press.⁸ To answer, at any given moment, the question "what does criminal responsibility mean?" requires that one look not only at formal legal rules, nor just at what medical experts write about sanity and insanity, but at the meanings produced about human agency and irrationality in particular trials, and the reception and reproduction of those meanings by audiences of listeners, both official (in the form of, for example, juries) and unofficial.

Law (particularly criminal law) and journalism share certain fundamental practices. They both investigate and uncover information about violence, scandal, or human relations in disarray; and they both try to contain the danger of that information by placing it within a moral framework that justifies a certain amount of prurience for the greater good: in the case of law, justice; in the case of journalism (at least at the turn of the century), pedagogy, reform, and entertainment. Reporting on trials presents to journalists the peculiar opportunity to investigate investigations and reveal revelations, offering to the general public information that was presented to a jury inside the courtroom. Ultimately, what newspapers say is made up largely of what others say, or of responses to what others have said, or of provocations to others (to buy, to sell, to re-

7. See *id.*

8. See Robert Hariman, *Performing the Laws: Popular Trials and Social Knowledge*, in *POPULAR TRIALS: RHETORIC, MASS MEDIA, AND THE LAW* 17 (R. Hariman ed., 1990), for a discussion of the popular trial as a genre of public discourse that "performs" the laws. This way of thinking about trials is, to use a concept developed by the literary philosopher Mikhail Bakhtin, "dialogic," that is, attentive to the ways in which language generally, and specific utterances in particular, are internally oriented to imagined or real addressees. Bakhtin's theories suggest that the meaning of any given utterance emerges from its relation to its context, or in its clash with other utterances or discourses, because every utterance is directed toward an anticipated answer. Trials are composed of various competing "utterances" or speech acts responding to each other; but those utterances also stand in relation to other utterances outside the courtroom, drawing upon them, responding to them, clashing with them. See generally Martha M. Umphrey, *The Dialogics of Legal Meaning: Spectacular Trials, the Unwritten Law, and Narratives of Criminal Responsibility*, 33 L. & SOC'Y REV. (1999); M. BAKHTIN, *THE DIALOGIC IMAGINATION: FOUR ESSAYS* (1981).

spond).⁹ But at the turn of the century, as now, newspapers adopted differing tones and had competing visions of the purpose of journalism. As the journalism historian Michael Schudson has argued, if the *New York Times* embodied respectability by emphasizing factuality and cool detachment for the educated middle classes, sensational newspapers established by William Randolph Hearst and Joseph Pulitzer made journalism into a form of entertainment, supplying not fact but story to the less well-educated middle and working classes.¹⁰ To understand the role that newspapers play in the production of meanings about criminal responsibility, then, one must examine the newspaper's relations with both its objects of reportage (in this case, trials) and its audience (the public for which it vies with other newspapers).

Within this framework, one can begin to specify in some detail the ways in which newspapers are literally built, word by word, out of the events and audiences they mediate. In the case of Thaw's trials, one can locate, for example, at least four stances that all newspapers took as a way of both informing and selling newspapers to the public. They offered what might be called pure reportage of events: literally transcribed testimony and argument, either in its own section or as part of an overall summary.¹¹ Newspapers were occasionally tutelary, using specialists to explain or translate legal or medical concepts to the public.¹² In varying degrees they also offered commentary, responding critically to the proceedings, its witnesses and officials.¹³ Finally one can find a kind of mimicry as newspapers repeated the rhetorical and gestural practices of the courtroom.

In this essay I focus upon the last of these as I explore the ways in which one of the city's most notoriously sensationalist newspapers, Hearst's *New York Evening Journal*, covered Thaw's first trial. I argue that this mimicry results from a homology between the rhetorical prac-

9. See *id.* That repetition exemplifies the dialogical nature of journalism itself; that is, its constitution as a discourse by the speech and practices of others (in Bakhtin's terms, its heteroglossia), and its fundamental orientation, both anticipatory and responsive, to its audience of readers (its dialogism).

10. MICHAEL SCHUDSON, *DISCOVERING THE NEWS* 89-90 (1978).

11. The *New York Times*, for example, offered almost complete transcriptions of each day's testimony throughout the trial.

12. See, e.g., Clark, *Expert Explains Law Rule Thaw's Case*, N.Y. *EVENING J.*, Jan. 29, 1907, at 2.

13. See, e.g., Madison C. Peters, *Time Wasted by Alienists, Says Dr. Peters*, N.Y. *Evening J.*, Mar. 16, 1907, at 2.

tices anchoring Thaw's defense of the unwritten law and those undergirding sensational journalism; that is, a correspondence of rhetoric and argument traceable to the circulation of one particular narrative formula: the melodrama. Melodrama, I argue, bridges the divide between the trial and its coverage, offering a common narrative mode for the production of a particular kind of story and set of understandings about criminal responsibility. We turn to narrative, as a general matter, because as the historian Hayden White suggests we desire to have real events "display the coherence, integrity, fullness, and closure of an image of life that is and can only be imaginary."¹⁴ In general, as a particular form of rhetorical practice, narrative structures accounts of events in ways that exclude and restrict material in order to satisfy that desire.¹⁵ This structure, White has argued, inevitably places a narrative within some kind of moral framework.¹⁶ All narratives display this moralizing impulse, though melodrama is an intensification of it. At the same time, because narrative is a transactional phenomenon—someone telling someone else that something happened, in Barbara Herrnstein Smith's concise formulation¹⁷—the fulfillment of its aspirations toward closure and the reconstitution of the stable moral universe that melodrama assumes depend upon the ways in which the story is received by its audience, which may respond with disdain, or enthusiasm, or something in between. To the extent that a story coincides with, or taps into, certain deeply felt ways of framing information, it carries with it the weight of a cultural common sense about what is right or natural; but to the extent that its meaning is determined in negotiation with its audience, it must *work to produce* that naturalizing effect, the feeling that this story is part of a genre, received and understood by its audience at face value, without irony or skepticism.

Both defense attorneys and journalists used the conventions of melodrama, I argue, in an attempt to contain and defuse the scandalous revelations of sexual excess and violence that emerged before and during the Thaw trials, and to persuade their audiences of Thaw's essential moral

14. Hayden White, *The Value of Narrativity in the Representation of Reality*, in ON NARRATIVE 232 (W.J.T. Mitchell ed., 1981).

15. See *id.*

16. See White, *supra* note 14, at 22 ("Where, in any account of reality, narrativity is present, we can be sure that morality or a moralizing impulse is present, too.")

17. See Smith, *Narrative Versions, Narrative Theories*, in ON NARRATIVE 232 (W.J.T. Mitchell ed., 1981).

rightness. True to melodramatic formula, both placed the “woman in the case,” Evelyn Nesbit Thaw, at the center of their narratives of justification, though the *Evening Journal* did so not just to win Thaw’s acquittal (though much of its coverage demanded just that) but also because Nesbit-as-melodramatic-victim fit so well into the journalistic mechanisms that fueled sensationalism’s public appeal. Yet in straining against the more complex picture emerging from both her testimony and her past, both attorney and newspaper dramatically overdetermined Nesbit’s status as a wronged victim and noble wife. Nesbit’s desires for fame, wealth, and love, and her status as icon in a world increasingly invested in the spectacle, undermined the credibility of that melodramatic characterization. Thus in what follows I trace the path of a failed narrative of justification, and suggest that the imperatives of sensationalism explain the *Evening Journal*’s tenacity in forwarding an increasingly imperiled interpretive frame even as it disintegrated within the courtroom, where Thaw’s reliance upon a melodramatic narrative of exoneration brought him close to conviction.

On June 26, 1906, New Yorkers awoke to these *New York Times* headlines:

THAW MURDERS STANFORD WHITE
Shoots Him on the Madison Square Roof Garden
ABOUT EVELYN NESBIT
“He Ruined My Wife,” Witness Says He Said
AUDIENCE IN A PANIC
Chairs and Tables are Overturned in a Wild Scramble For the
Exits

The headline, printed just below the recently adopted motto “All the News That’s Fit to Print,” spanned the width of the fifth column; the story filled eight columns in all.¹⁸ In Schudson’s typology, this headline exemplifies the “informational” quality of the *New York Times* and others like it, hiding any biases with a voice that distances itself from the scene, which was described without histrionics or much psychological

18. WILLIAM GROSVENORE BLEYER, *MAIN CURRENTS IN THE HISTORY OF AMERICAN JOURNALISM*, 406 (noting that the motto “All the News That’s Fit to Print” was first introduced in 1896).

resonance.¹⁹ Its straightforwardness was meant to signify accuracy, and its physical location both the significant nature of the shooting and a certain amount of detachment from it.

By way of contrast, the *New York Evening Journal's* banner headline read:

**HARRY DID JUST RIGHT!
HE DID A NOBLE ACT!
Wife in Whose Defense Young Pittsburgher Killed Architect
Lauds Husband's Courage—
Says Dead Man Persecuted Her.**²⁰

The tortured locution of this headline is ambiguous: while at first glance it appears to reflect the sentiments of the newspaper, it also apparently quotes Nesbit's purported statements just after the shooting. Center stage from the start, Nesbit is immediately implicated in the moral drama of the killing, in which a heroic husband thwarts the persecuting villain. Schudson would associate this approach, its screaming headlines and passionate tone, with a kind of sensational reportage that emphasizes "story" over information.²¹ Sensationalism, for Schudson, has less to do with the choice of a story than its mode of presentation, the extravagance with which news is displayed.²² Large, bold headlines and the profuse use of illustrations differentiated the yellow press from its staid counterparts in both aesthetics and circulation numbers.²³ Narrative interest and engagement, rather than detachment, defined its journalistic tenor.

Nesbit's words suggest that a killing done out of moral righteousness ought to be lauded rather than punished, and that Thaw ought to be exonerated from criminal responsibility. This claim mirrors the central argument of Thaw's defense in his first trial, the defense of the unwritten law,

19. SCHUDSON, *supra* note 10, at 118-19.

20. N.Y. EVENING J., June 26, 1906, at 1.

21. SCHUDSON, *supra* note 10, at 118.

22. *See id.* at 95.

23. *See* W. BLEYER, *supra* note 18, at 339. The term "yellow press" is derived from R.F. Outcault's popular comic "The Yellow Kid," the first to be printed using color. First published in 1893 by Pulitzer's *Sunday World*, it soon appeared in Hearst's *Sunday Evening Journal*, and the ensuing "war of comics" led an editor at another New York newspaper to coin the term "yellow journalism" in describing his sensationalist competitors.

a waning but still powerful claim that a man who killed a sexual rival ought to be fully exempt from criminal punishment because he killed in defense of honor—both his own and his wife's or daughter's.²⁴ Originating as an articulated defense in the 1850s with Congressman Daniel Sickles' murder of the son of the composer Francis Scott Key, who had been having an affair with Sickles' wife,²⁵ the unwritten law appealed to a cultural logic that imbued men with an almost territorial right to protect, with lethal violence, the exclusive and exclusionary sphere of marriage and household. As a formal legal defense, the unwritten law had no legitimacy in the courtroom; it was essentially an appeal to jurors to nullify the law of homicide in clear instances of intentional killing. Because of this formal illegitimacy, defense lawyers yoked unwritten law claims with a legally cognizable claim of insanity in a story that emphasized the righteous passion felt by the defendant upon hearing of his betrayal.²⁶ This claim of "passion" comported well with both an insanity defense (in which the accused was portrayed as having acted fundamentally irrationally) and an honor-based defense (in which the accused's attorneys argued that any honorable man would have acted with similar violence when confronted with such a humiliation).²⁷

The unwritten law as it was articulated in court relied upon the tropes and conventions of melodrama, an archetypal narrative mode that, as a number of scholars have argued, has powerfully structured the American cultural imaginary.²⁸ Fundamentally, melodrama is a narrative mode that

24. See generally Melissa Ganz, *Wicked Women and Veiled Ladies: Gendered Narratives of the McFarland-Richardson Trial*, 9 YALE J. L. & FEM. 255 (1997); Hendrik Hartog, *Lawyering, Husband's Rights, and 'the Unwritten Law' in Nineteenth-Century America*, 84 J. AM HIST. 67 (1997); Robert M. Ireland, *Insanity and the Unwritten Law*, 27 AM. J. LEG. HIST. 157 (1988); Robert M. Ireland, *The Libertine Must Die: Sexual Dishonor and the Unwritten Law in the Nineteenth-Century United States*, 23 J. SOC. HIST. 27 (1989); .

25. See THE WASHINGTON TRAGEDY (1859), compiled by A.R. Cazauban (n.d.).

26. See Robert M. Ireland, *Insanity and the Unwritten Law*, 27 AM. J. LEG. HIST. 157, 160 (1988).

27. *Id.*

28. See generally PETER BROOKS, *THE MELODRAMATIC IMAGINATION: BALZAC, HENRY JAMES, MELODRAMA, AND THE MODE OF EXCESS* (1976); JOHN G. CAWELTI, *ADVENTURE, MYSTERY, AND ROMANCE: FORMULA STORIES AS ART AND POPULAR CULTURE* (1973); CHRISTINE GLEDHILL, *HOME IS WHERE THE HEART IS: STUDIES IN MELODRAMA AND THE WOMAN'S FILM* (C. Gledhill ed., 1987); D. GRIMSTEAD, *MELODRAMA UNVEILED: AMERICAN THEATRE AND CULTURE 1800-1850* (1968); Wil-

imagines a world governed by benevolent moral principles, one in which, as Peter Brooks has argued, "the signs of ethical forces can be discovered and can be made legible."²⁹ It accomplishes that legibility in a number of specific ways. Its characters embody what Brooks calls "primary psychic roles," and clash in Manichaeian conflicts that lie just beneath the surface of visibility.³⁰ Virtue (usually embodied in a young heroine) is initially thwarted by evil (usually in the character of a villain) only to be recovered with the assistance of the hero, and acknowledged in a dramatic moment of public recognition.³¹ This unveiling and acknowledgment of virtue ultimately produces a happy, or at least morally satisfying, ending in which evil is punished and virtue and heroism are rewarded with the restoration of moral order.³²

The unwritten law relies upon this melodramatic rendering of villainy in order to cast the defendant as both hero and victim: heroic in the act of ridding the world of evil incarnate, yet victimized by an unjust legal system that misidentifies the hero as a criminal. Yet however successful the defense may have been in the rough-justice context of the mid-nineteenth century, Thaw raised it in a very different time and place: turn-of-the-century New York, a city filled with new money and new freedoms for both men and women, brash Broadway theaters and bright, champagne-filled lobster palaces. Indeed, as became clear during the trial, all of them—not just White but Thaw and Nesbit as well—were fully implicated in the "gay pleasures" of the Great White Way long before Nesbit married Thaw.³³ Indeed, though Evelyn Nesbit arrived in New York at age fifteen with her mother and brother after her father's death had left them impoverished, she had by sixteen joined the well-known Florodora sextette (all of whose members eventually married millionaires) and attracted White's attention, a married man well-known for his lavish generosity, love of beauty, and penchant for young women of the theater.³⁴ White courted Nesbit first as a paternal figure, but some

liams, *Melodrama Revised*, in REFIGURING AMERICAN FILM GENRES: HISTORY AND THEORY 42 (N. Browne ed., 1998);

29. BROOKS, *supra* note 28, at 20.

30. *Id.* at 4.

31. *See id.* at 27, 34.

32. *See id.* at 32.

33. *See generally*, LEWIS A. ERENBURG, STEPPIN' OUT: NEW YORK NIGHTLIFE AND THE TRANSFORMATION OF AMERICAN CULTURE, 1890-1930 (1981).

34. *See generally*, PAUL BAKER, STANNY: THE GILDED LIFE OF STANFORD WHITE (1989).

months into their friendship he took advantage of her as she lay unconscious from champagne (or perhaps a drug, as she would claim on the stand) in his mirrored penthouse bedroom.³⁵ In later years she would describe her role that night and in the ensuing relationship in contradictory ways: willing in some versions, unwilling in others.³⁶ Either way, she continued in the relationship for some time before it returned to a more platonic level.³⁷ Thaw, known for his own outlandish behavior (including riding a horse into an exclusive club and throwing a \$50,000 dinner party in honor of a French actress), soon began to pursue Nesbit assiduously, scandalously cavorting with her in luxury across Europe.³⁸ Eventually they married, but not before she accused him of attacking her viciously with a whip in a castle in the Austrian Tyrol.³⁹ Less than two years after their marriage and withdrawal to the more subdued social world of Pittsburgh, Thaw shot White.⁴⁰

Told in this manner, Nesbit and Thaw hardly appear to embody the symbolic, "monopathic"⁴¹ roles of melodramatic victim and hero. But Thaw insisted that his defense rely on these terms, dismissing several attorneys who proposed to defend him on the issue of insanity alone.⁴² Thaw's new attorney Delphin Delmas—a California lawyer well-known for his success with the unwritten law—relied heavily upon the melodramatic rhetoric that characterized earlier unwritten law trials: White was portrayed as a vicious libertine who had ruined Nesbit; and Nesbit's story of ruin, allegedly told to Thaw after his initial proposal of marriage, provoked in him an obsessive rage that eventually overwhelmed him and caused him to shoot White.⁴³ This kind of narrative, well-suited to court-

35. See generally, EVELYN NESBIT, *PRODIGAL DAYS: THE UNTOLD STORY* (1934) (detailing and evaluating her relationship with Thaw and White, as well as discussing her rape by White at 39-41); EVELYN NESBIT, *THE STORY OF MY LIFE* (1914) (detailing her rape by white at 72-8).

36. See EVELYN NESBIT, *PRODIGAL DAYS: THE UNTOLD STORY*, at 82 (describing her relationship with White as her "miserable friendship"); EVELYN NESBIT, *THE STORY OF MY LIFE*, at 43 (noting she was "head over heels in love with him.").

37. EVELYN NESBIT, *PRODIGAL DAYS: THE UNTOLD STORY*, at 46-51.

38. See *id.* at 79-94.

39. See *id.* at 102-113.

40. See *id.* at 172-182.

41. ROBERT B. HEILMAN, *TRAGEDY AND MELODRAMA: VERSIONS OF EXPERIENCE* 85 (1968) (defining the term "melopathic").

42. See *Thaw's Old Counsel Likely to Protest*, N.Y. TIMES, July 16, 1906 at 2.

43. See Umphrey, *supra* note 8.

room rhetoric, was also a particularly important constitutive element of sensationalism, which aimed to provoke deeply emotional responses—sympathy, righteous indignation, thrill—in readers.⁴⁴ Melodrama's power comes in large part from its staging of excess—its use of heightened effects in both rhetoric and gesture—to provoke just such emotions in its audiences—audiences made up of the very working and “uneducated” middle classes at which sensational newspapers were directed.

Indeed the *Evening Journal* had adopted the rhetoric and conventions of melodrama long before the trial, and Thaw's unwritten law defense, began. “Death, ending any man's life, can never be a more terrible figure than as it stands now at the coffin of Stanford White,” wrote *Evening Journal* columnist Charles Somerville literally the day after White's death.

It is not only the manner in which it came upon him, although that was very terrible—a man of large renown shot down as an unclean creature, kicking his legs grotesquely under a wine-stained table, blood spats on his white shirt front, clutching with distorted hands at his throat with a heavy, whitening face upturned in the glare of a thousand lights to show hundreds of strangers' eyes his death agony, while for his requiem there was the bitter tinkle of silly music.

It was not only the manner in which death came upon him, but even more terrible is the aspect it has since assumed. It has taken a torch with a relentless light into the secret ways of the life of this man of fame . . .

Madison Square Garden—the greatest monument of his high talents—has been disclosed as his den of sin and shame, even as it was here in the great building that his genius had wrought he was struck down as he sat with his bleared eyes conning the supple, lithe young dancers of the chorus—so like so many other choruses out of which he had with his wealth, his distinction, his subtleties born of keen knowledge of the world, lured to his side with villainous intent so many foolish young creatures.⁴⁵

44. See SCHUDSON, *supra* note 10, at 118.

45. Charles Sommerville, *Boasted of His Victims and Did Not Even Hold Childhood Sacred*, N.Y. EVENING J., June 27, 1906, at E3.

Two days later Ella Wheeler Wilcox called Stanford White a "moral leper . . . below the level of the wild animals" and a "professional destroyer of innocence"; and the newspaper enjoined its readers to respond via letter to the question, "Was Thaw Justified in Killing Stanford White?"⁴⁶ By July 3, only a week after White's death, the *Evening Journal* began to report the public's response: out of the first 100 letters, 69 argued that he was not guilty, "the great majority" endorsing the unwritten law as justification for Thaw's moral innocence.⁴⁷ Throughout the polling, numbers ran almost two to one in favor of Thaw.⁴⁸ "The killing of White was a great public service which all mothers and fathers should be thankful for," wrote T. Henry Smith.⁴⁹ "When a woman's honor and good name are gone, what is left to her?" asked a Newark widow.⁵⁰ "All real men are going to act precisely as Harry Thaw did," responded R.M. Townsend.⁵¹ N.H. Powell agreed: "It looks to me as if this trial will settle forever whether a man will have the right to do that thing which, at the altar, he took solemn oath to do, or not—to love, honor, and PROTECT his wife."⁵² While some argued that killing White was too extreme a reaction ("Thaw would have been justified in branding White in a way that would have burdened him through life," suggested Arden Foster⁵³) and others objected to Thaw's cowardice in shooting White in the back ("Had he been a gentleman he would have challenged him and fought in the open," declared "Justice"⁵⁴) and his expectation of acquittal (" . . . he is rich and can buy—to save his life, or to save him from jail—every one who will be in the way and who is willing to be bought," wrote "Civilized"⁵⁵), J.M.A. sneered, "A trial should be held at once to show the

46. Ella W. Wilcox, *Men Like White a Menace to the Nation*, N.Y. EVENING J., June 30, 1906, at 2.

47. *Guilty, Declare 31*, N.Y. EVENING J., July 3, 1906, at 3.

48. "Set Thaw Free," *Say Journal's Readers by a Vote of 2 to 1*, N.Y. EVENING J., July 4, 1906, at 3.

49. Charles Somerville, *Walks Two Hours in the Broiling Sun and Is Levelled to the Aspect of His Fellow Prisoners*, N.Y. EVENING J., July 3, 1906, at 2.

50. Ella W. Wilcox, *Architect Should Have Protected, Not Destroyed Innocence*, N.Y. EVENING J., July 5, 1906, at 2.

51. Somerville, *supra* note 49.

52. N.H. Powell, *Letter to the Editor*, N.Y. EVENING J., July 4, 1906, at 3.

53. *Id.*

54. Somerville, *supra* note 49.

55. Civilized, *Letter to the Editor*, N.Y. EVENING J., July 4, 1906, at 3.

world an honorable acquittal for the killing of such a reptile."⁵⁶

The *Evening Journal's* poll on the question of Thaw's responsibility may have had less to do with a serious examination of public opinion (it enjoined readers to respond rather than seeking out either them or a broader cross-section of the New York public) than with an effort to constitute a particular kind of public as a means of self-promotion. Self-advertisement, suggests Schudson, was the essence of sensationalism. "Everything," he says, "including news, should be advertisement."⁵⁷ The poll was a particularly ingenious way to promote itself: by asking a question that demanded response, the *Evening Journal* used news to *create* news, engaging its readers in order to report on their responses. One can see this strategy as both a form of market research (what beliefs do our readers wish to be confirmed?) and a strategy for increasing circulation (what do my fellow New Yorkers who read the *Evening Journal* think about this scandal?). Moreover, one can also view the *Evening Journal's* strategy as not just reporting upon but *producing* for and in its "public" a moral position on the case, rather than merely reflecting its readers' opinions, insofar as its coverage weighed heavily in favor of Thaw almost from the start.⁵⁸ This mutually constitutive and reinforcing relationship between newspaper and audience in turn produced a public, or a presumed public, imagined as a jury whose verdict was known prior to any formal adjudication.

The wealth and social profiles of both Thaw and White guaranteed a certain amount of attention, and Thaw helped to energize the media by waging a major public relations campaign in the months following White's shooting, commissioning plays, silent films, and books that cast White in the role of the villain whose victims were avenged by Thaw's heroic act of violence.⁵⁹ But the Thaw case became an event indelibly etched in the public's mind because of the presence and testimony of Evelyn Nesbit Thaw; and the *Evening Journal*, knowing that she would draw readers, focused on her at every opportunity. The press had known Nesbit well as a Broadway beauty who lived a fast and charmed life be-

56. Wilcox, *supra* note 46.

57. SCHUDSON, *supra* note 10, at 95.

58. *See supra* note 24.

59. *See* B. ATWELL, THE GREAT HARRY THAW CASE; OR, A WOMAN'S SACRIFICE (1907).

fore her marriage to a millionaire.⁶⁰ Nesbit was one of the era's most photographed beauties, her face captured by some of the city's greatest artists. When she moved to New York City, she carried letters of introduction from Pittsburgh that helped her enter the world of the city's greatest artists: photographers Rudolph Eickemeyer and Gertrude Kasebier, painters Carroll Beckworth and Charles Dana Gibson.⁶¹ When she re-emerged into public life in such a violent context, the press—particularly the sensational press—drew upon its extensive archive of images literally to frame its trial coverage with Nesbit's face and body.

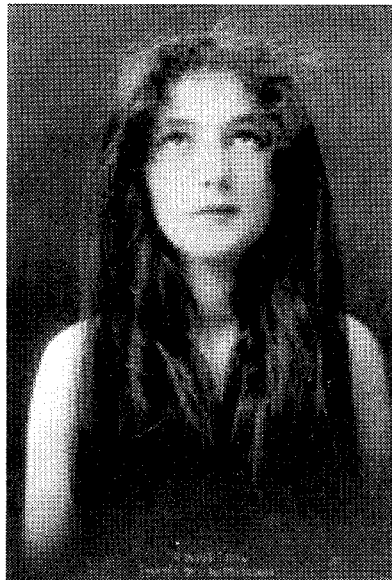
From the outset of the *Evening Journal's* coverage, then, one can see the two central journalistic gestures that Schudson associates with sensationalism centering on Nesbit: image and story. Even as the *Evening Journal* imparted to White's killing an immediate moral inflection, Nesbit was exploited as an icon, as image after image—any new image, every day—was brandished in front of readers' eyes.⁶² If its June 27 headlines ostensibly featured Nesbit's words, the newspaper filled the pages that followed with her face: three photographs of Nesbit as “winter maid,” “spanish dancer,” and “Mary Magdalen” on page two; four more, in various poses, on page three.⁶³

60. NESBIT, *supra* note 35, at 16 (noting that Nesbit had been the subject of several photographic spreads in newspapers as early as 1901, when she first arrived in New York City as a fifteen-year-old model).

61. MICHAEL MOONEY, *EVELYN NESBIT AND STANFORD WHITE: LOVE AND DEATH IN THE GILDED AGE* 27-30, 53 (1976).

62. See N.Y. *EVENING J.*, Jan. 19, 1907, at 3, for an example of a strikingly voluptuous full-page image of Nesbit.

63. Allen Sangree, *His Jealousy and Pride Drove Thaw to Shoot White*, N.Y. *EVENING J.*, June 27, 1906, at 4.



On first impression this excess of Nesbit imagery is curious: it feels archival, even slightly anachronistic, since most of the available photographs and sketches came from the years before Nesbit married Thaw; but it also feels odd that over the course of the next nine months, readers

encountered a barrage of Nesbit's images, as opposed to the relatively few representations of Stanford White or Harry Thaw—the two figures directly involved in the killing.⁶⁴ This oddity can be partly explained by the easy availability of materials. Yet the *Evening Journal's* profusion of images was not simply a question of quantity and convenience. Its incessant focus upon Nesbit replicated and reinforced a cultural logic both implicitly and explicitly articulated throughout its coverage: that her “beautiful face” had lead “one man to his death, another to the grim prospect of the electric chair.”⁶⁵

That take on Nesbit, along with the fact that she—with White dead and Thaw jailed—was the only of the three major characters to move about in public, placed Nesbit under intense scrutiny. Photographers tried to catch her in snapshots, artists in courtroom sketches; but most of the images stood as remnants of Evelyn Nesbit's former self, both an enigma and an icon to be studied and interpreted. In some she embodied the innocence of youth; but in others she appeared to be deeply sensual, even seductive. Images of Nesbit the temptress suggested a kind of agency at least potentially incompatible with the vilification of White as a satyr bringing ruin to young women. Nesbit's images, then, became an “image problem” requiring management and containment. Given her centrality in Thaw's narrative of justification, and the intensity of interest in both her beauty and her character, Nesbit's public appearances were carefully choreographed. In the months leading up to the trial she emerged from the confines of her hotel often to visit Harry in the Tombs.⁶⁶ And during the ordeal of her three weeks' testimony, she dressed in the round collars and braided hair of a schoolgirl (though she was twenty-three at the time) in order to underscore the horror of her “ruin” at White's hands when she was sixteen.⁶⁷ Ada Patterson, one of the *Evening Journal's* most frequent commentators, described Nesbit's first appearance on the stand this way:

As has been predicted, the white veil and the later blue one

64. This is not to say that the *Evening Journal*, and other newspapers, ran no images of Thaw and White, but rather to say that the *Evening Journal's* attention to Nesbit dwarfed its fix on the men in the case.

65. Ada Patterson, *Beauty Appeals to Most of Thaw Jurors*, N.Y. EVENING J., Jan. 30, 1907, at 4.

66. BAKER, *supra* note 34, at 386.

67. Dorothy Dix, *Delphin Delmas, David Belasco of Legal Profession*, N.Y. EVENING J., Feb. 12, 1907, at E1.

had been laid aside. All the melancholy, dark beauty of her face was turned alternately upon the judge, the jury, and her questioners.

It is a lovely face. The eyes are dark and look appealingly straight into those of the person whom she is addressing. Her nose and brow, by all the canons of classic beauty, are perfect. Her lips are as appealing as her eyes. They are doubly curved, sensitive, and had yesterday the sorrowful droop of an unhappy child's.

As she mounted the witness stand, I thought of slim little schoolgirls mounting the school platform on "speaking day." She was as shy and downcast of eye and softly tremulous as they. Two strands of her dark hair fell loosely upon her forehead. They hung carelessly, and as though damp from the perspiration on her brow.⁶⁸

Patterson was clearly entranced: here her gaze is slow in its movement, even by the end sensuous as she paints this image of Nesbit. This desire to *see* seamlessly translates in the desire to *unveil*, to know and assess the details and explanations behind the instigating crime or public facade. Indeed, the intense scrutiny of Nesbit's body that she offers readers verges, at the end, near the prurient.

This gesture of unveiling is crucial to melodrama's impact: in classic melodrama it is the moment of virtue's recognition, the moment in which moral rightness is made legible. Thaw's case offers a version of this gesture somewhat more complicated than the usual stage melodrama, since Nesbit, like Thaw, inhabited the roles of both victim and heroine. If Thaw was victimized by an unjust legal system, Nesbit was a victim at White's hands, and misrecognized as a fallen woman. And if Thaw was a hero for ridding the world of a villain, Nesbit was a true heroine in sacrificing her own honor for Thaw's sake. His status as hero and victim is dependent upon hers insofar as her narrative of victimization catalyzed his; and her testimony at trial—as he sat mute—dramatically enacted melodrama's essential gesture, the victory of truth over appearance and the explanation of enigmatic and misleading signs.⁶⁹

68. Ada Patterson, *Fate of Evelyn a Warning to Girls*, N.Y. EVENING J., Feb. 8, 1907, at 3.

69. BROOKS, *supra* note 28, at 31.

Casting Nesbit as a schoolgirl as she told the story of her ruin built upon the double nature of the melodramatic heroine: she embodied both innocence and its loss as she sacrificed any last remnant of her own honor for the sake of her husband's life. Because the insanity defense allowed testimony normally excluded as irrelevant if it addressed the issue of Thaw's mental state, Nesbit was able to detail the story of her relations with White as she told that story to Thaw on the night he proposed, in order to suggest that her tale of White's villainy unhinged his mind.⁷⁰ This testimony, of course, also served the interests of the unwritten law argument insofar as it revealed White's black character; and the press anticipated with "inexhaustible curiosity," the moment when Nesbit would be forced to "bare her soul."⁷¹ But this soul-baring in itself posed great moral danger precisely because it provoked such an intense desire to hear the unspeakable. And Nesbit's testimony exceeded even the most sensationalist of predictions. In response to questions posed by Thaw's attorney Delphin Delmas, she told the jury of Stanford White's penthouse apartment with its red velvet swing, in which she sat and was pushed until her foot pierced a paper umbrella above; of posing in one of his kimonos for a series of sensuous photographs; and of the night he took her into a secreted bedroom full of mirrors and gave her a glass of champagne that she intimated had been drugged.⁷² The *Evening Journal* rendered in vivid detail the harrowing story of what followed:

"Finally, I took a drink. I don't know how long it was—it may be a minute or two—I heard a rumbling in my ears. The whole room seemed to go around. Everything got very black. When I recovered I found myself in bed."

"There were mirrors all around the room. There were mirrors to the right and to the left and to the foot of the bed."

After a few more words the witness broke down and commenced to cry and gave here testimony with great emotion.

"I began to scream and he came back and said: 'Keep quiet. It is all over.' But I began to scream louder. Then he

70. N.Y. TIMES, Feb. 8, 1907, at 2 (transcript of testimony).

71. Dorothy Dix, *Noted Writer Analyzes Tragedy*, N.Y. EVENING J., Jan. 23, 1907, at 3.

72. See *supra*, note 70

began to tell me I must not take it to heart. Everything was all right. He said I looked so nice and young. I must never get fat. He thought I had the most beautiful head he had ever seen. He told me only very young girls were nice.

"He laughed loudly and seemed to think it was a great joke. He made me swear I wouldn't tell my mother. He say I must never tell anybody."⁷³

The *Times*, by way of contrast, interrupted a transcription of the proceedings to summarize this critical moment:

Then the witness continued in detail. She told of awaking later, to find herself in a bed surrounded by mirrors. She screamed, and Stanford White asked her to please keep quiet. She screamed more than ever and he went out of the room. Then she went home and sat up all night.

She repeated the conversation she had with White the next day. He praised her beauty and her youth, told her how he liked girls, and said he would do a great many things for her.⁷⁴

The *Evening Journal's* insistence upon transcription here, when the starchier *New York Times* veered away from complete revelation, exemplifies the tendencies of sensationalism that Schudson highlights: its appeal to emotion and feeling, its revelation of intimate detail, its storytelling.⁷⁵ But for some, the details transcribed by the *Evening Journal* verged into the realm of the obscene and became a threat to the public's welfare. President Roosevelt himself, though unsuccessful, asked the Postmaster General to bar from the papers the "full disgusting particulars" of the Thaw case.⁷⁶ Across the nation grand juries were indicting local newspapers on obscenity charges, bills were introduced into legislatures to restrict the press and condemn the trial proceedings, and small storefronts prohibited discussion of the case.⁷⁷

73. *Id.*

74. *Evelyn Thaw Tells Her Story*, N.Y. TIMES, Feb. 8, 1907, at 3 (transcript of testimony).

75. SCHUDSON, *supra* note 10, at 118.

76. *Roosevelt Plans Thaw Censorship*, N.Y. TIMES, Feb. 12, 1907, at 1.

77. BAKER, *supra* note 34.

Though its editorial page bemoaned these “shocking and shameful revelations,” the *Evening Journal* nevertheless argued that full trial coverage was morally necessary.

It is a case sickening in its details, and yet one that should not be suppressed, FOR IT REFLECTS THE LIFE IN OUR DAY. It shows the people what is done WITH PART OF THE MONEY PILED UP IN MODERN ACCUMULATIONS. . . . it is to be hoped that we ourselves, living in the day when such lives and such murders occur, will be able to see the lesson in spite of our being so near to it, and learn enough from this murder trial to make up for its hideous and degrading features.⁷⁸

This kind of justification resonates with the political stances of the *Evening Journal*'s publisher, William Randolph Hearst, who had narrowly lost a bid for mayor of the city in 1905 and for the governorship of New York in 1906, running as a Democrat on a strong pro-morality, anti-trust line.⁷⁹ But the terms of this justification are so broad as to be banal. Less overtly political, and more pointedly gendered, were comments made by a guest writer, the “great emotional novelist” Laura Jean Libbey, who asked rhetorically, “SHOULD YOUNG GIRLS READ THE THAW CASE” and answering unequivocally that they should—unless they are girls who, like Evelyn Nesbit, are “fair of face, light of heart, and vain of mind”—because girls of well-balanced judgment will “learn where life’s shoals and pitfalls lie.”⁸⁰ The rest of the *Evening Journal*'s commentators followed this general line of argument, focusing heavily upon the beneficial effects such an airing of evil could have for the public. Nesbit had revealed, as Dorothy Dix saw it, the city's “darkest side.”

It was a story of the slaughter of innocents; of vice preying upon virtue, of sophistication pitted against guilelessness; of wealth tempting poverty; of ignorance stumbling blindly into the

78. Laura J. Libbey, *Should Young Girls Read the Thaw Case*, N.Y. EVENING J., Jan. 22, 1907, at 3.

79. See W.A. SWANBERG, *CITIZEN HEARST: A BIOGRAPHY OF WILLIAM RANDOLPH HEARST* 239-264 (1961).

80. LIBBEY, *supra* note 78.

pit that had been digged [sic] for it.⁸¹

Moreover, most commentators expressed a deep sympathy for Nesbit in a way that expressed melodrama's conservative view of women—as models of virtue, paradoxically strong in their vulnerability, utterly loyal to their husbands—rather than asserting any sort of political solidarity, even at a moment of great agitation for women's rights.⁸² This conservative stance, in its ideologically charged conception of gender, flattened Nesbit into an almost unrecognizable shape, even as District Attorney William Traverse Jerome sharply undercut Nesbit's claim to virtue in cross-examination, questioning her not only about her continuing relations with White after the alleged rape, but also about her travels in Europe with Thaw and her allegations, made before their marriage, that Thaw had savaged her with a whip in an Austrian castle.⁸³ Rather than viewing this testimony as compromising Thaw's case, though, the *Evening Journal's* commentators struggled to recuperate Nesbit's credibility, characterizing Jerome's scathing interrogation as yet another attack on a vulnerable woman.⁸⁴ By the time she had completed her testimony, the "frail little butterfly," the "tiny creature" dressed "simply as a school girl" had become a triumph and a noble sacrifice.⁸⁵ She had "held firm" under fire from the District Attorney's relentless questioning⁸⁶ using her "excellently trained mind."⁸⁷ Ada Patterson called her "the most remarkable witness in history" because of her "marble-like calmness" and bravery under three weeks of questioning on subjects that most women would

81. Dorothy Dix, *Evelyn Thaw's Story Reveals City's Darkest Side*, N.Y. EVENING J., Feb. 8, 1907, at 3.

82. SCHUDSON, *supra* note 10, at 100 (Schudson notes that while women were an increasingly important audience, sensational newspapers could not embrace the politics of the "new woman" without alienating their working-class readers, so even as they provided more and more space for "women's issues," they preferred the subjects of etiquette, fashion, and domestic life to the more highly charged problems of suffrage and temperance.).

83. Dorothy Dix, *Evelyn Thaw Pitilessly Pursued Even in Court by Her Mother*, N.Y. EVENING J., Feb. 26, 1907, at 2.

84. Ada Patterson, "You're Saved," *Her Smile Tells Thaw*, N.Y. EVENING J., Feb. 27, 1907, at 3.

85. DIX, *supra* note 81.

86. Charles Somerville, *Prisoner's Wife Sobs on Stand as Jerome Drags Out Her Heart Secrets*, N.Y. EVENING J., Feb. 21, 1907, at 2.

87. *Id.* at 3.

"prefer a plain burning at the stake" than speak of.⁸⁸ Ultimately, Nesbit confirmed the claims that the *Evening Journal* had trumpeted all along. "New York Owes Thaw A Vote of Thanks," argued Rev. Peters; "compared with the unspeakable wretch his hand consigned to an inglorious grave, he might be styled not along a saint but an angel of light."⁸⁹ This rhetoric is the realization of melodrama's logic. Thaw, mistaken for a criminal, was dramatically unveiled as a hero;⁹⁰ and Nesbit, the wronged innocent, proved herself to be a woman of virtue in withstanding yet a second victimization at the hands of the district attorney, and was to these commentators redeemed by her self-sacrifice.

"It can be said distinctly," wrote Juror No. 6, Harry C. Brearley in the *New York Times*, "that the jury walked to their room with a deeply solemn sense of responsibility to render a careful, deliberate, fair-minded, and thoroughly conscientious verdict."⁹¹ To Thaw's, and the public's, disappointment, the first trial ended in a hung jury: seven to convict, five to acquit.⁹² Juror No. 3, Charles H. Fecke, reported afterward in the *Evening Journal* that the majority (of which he was an adamant member) "insisted on eliminating the story of Evelyn Nesbit and the plea of the unwritten law and all other matters which they considered extraneous" from their considerations.⁹³ Indeed, members of the minority, while praising Nesbit's noble sacrifice of her own reputation and calling her "a modern heroine, perhaps a greater one than in any fiction,"⁹⁴ generally seemed to address the soundness of Thaw's mind rather than the honor of his intentions. Drawn to Nesbit's performance, in the end they gave little explicit credence to the "claptrap" (as the *New York Times* insisted) of the unwritten law argument.⁹⁵ Both the *Evening Journal* and the anti-Thaw *Times* could only respond with bemusement to the jury's failure. "[W]e do not see," sniped the *Times* in its post-verdict editorial, "how this jury could have failed to satisfy the demands of jus-

88. See *infra* note 92.

89. Madison C. Peters, *City Owes Thaw a Vote of Thanks*, N.Y. EVENING J., Feb. 11, 1907, at 3.

90. See *id.*

91. Harry C. Brearley, *The Thaw Disagreement*, N.Y. TIMES, April 13, 1907, at 10.

92. Charles H. Fecke, *Juror's Story of Juryroom Scenes I*, N.Y. EVENING J., April 13, 1907, at 2.

93. *Id.*

94. *Id.*

95. BREALEY, *infra* note 91.

tice save through the obstinacy and unreasonableness of a few of its members."⁹⁶ The chastened *Evening Journal* was somewhat more equivocal: its melodrama fizzled, it could only rail against the role money had played in the trial of "a pretty bad man [who] shot a worse one."⁹⁷

The Thaw jury's intransigent forty-seven-hour debate suggests deep uncertainty about the proper way to cast the problem of criminal responsibility. But given that the bulk of the *Evening Journal* and its readers seemed to embrace the unwritten law defense so heartily, how can one explain its apparent dismissal in the jury room? Partly the answer lies in the particular ways in which the trial structures narrative and constitutes audience. On the most obvious level, the defense's melodrama competed with another narrative of responsibility forwarded by the prosecution, one that again and again undercut the Manichaean assumptions and flattened psychology of melodrama. If in the defense's story Nesbit was a wronged innocent, in the prosecution's version of events she appeared quite willing to accommodate herself to White's overtures in exchange for money, to revel in scandalous behavior, and to fuel the fires of Thaw's obsessive jealousy of White. Rather than characterizing White's killing as an act of justice and a restoration of moral order, District Attorney Jerome saw it as "a mere, common, sordid, vulgar, everyday Tenderloin homicide,"⁹⁸ effectively undercutting melodrama's powerful emotional effects with his grueling cross-examination of a complex, rather than cardboard, woman.⁹⁹ But the newspapers witnessed this dismantling of melodramatic codes alongside the jury without acceding to it, at least fully. Though the *Evening Journal* may have softened its wholesale embrace of Thaw after hearing of Nesbit's Austrian whipping, it remained committed to a heroic vision of Nesbit: the values fueling the *Evening Journal's* coverage—a desire to promote itself, to dazzle its readers with images and pluck their sympathies—demanded that the newspaper hold fast to such a view. Perhaps more importantly, because it drew in its readers by offering them the pleasure of salacious intimacies, the *Evening Journal* had to impose a moral narrative on otherwise dan-

96. *Id.*

97. *End of the Thaw Trial*, N.Y. EVENING J., April 13, 1907, at 12.

98. *Thaw's Fate With The Jury*, N.Y. TIMES, April 11, 1907, at 2.

99. This trial was unusual in having Nesbit testify, at least in the context of the prior sensational unwritten law trials mentioned in the press. See, e.g., Cazauran, *supra* note 25.

gerous revelations, or it would cross the thin boundary separating sensationalism from obscenity.

One might speculate further that melodrama's associations with excessive emotionality coded it as an appeal to "feminine" sentiment, which could explain its relatively weak appeal to Thaw's all-male jury. Though one must be careful not to overdetermine such an argument (witness the number and vehemence of responses from men to the *Evening Journal's* poll), nevertheless in the twentieth century melodrama has been identified in popular culture as a "women's genre," particularly in its cinematic guises.¹⁰⁰ Moreover, in the context of Thaw's trials, those reporters most forcefully forwarding a melodramatic view of the cases were, for the most part, women (dubbed "sob sisters" by the rather more hard-nosed reporter for Pulitzer's *World*, Irwin Cobb¹⁰¹) who directed their commentary and advice to sensationalism's audience of traditional women.¹⁰² To the extent that Dorothy Dix and Ada Patterson's melodramatic approach to reporting coincided with, and indeed constituted, a major part of sensationalism's emphasis upon "story" over "information," one can argue that sensational journalism itself was partly a "feminine" genre of journalism. To the extent that such gendered distinctions are meaningful (and they clearly were in the minds of both male and female commentators at the turn of the century), melodrama's appeal to women may explain its corollary dismissal by men, particularly jurymen with a strong sense of loyalty to legal duty.

Ultimately, because of the peculiarities of the unwritten law the jurors were offered another way to frame the question of criminal responsibility—through the lens of the insanity defense. "Insanity" was the third term that destabilized the defense's melodramatic narrative of exonerated, taking the question of Thaw's responsibility out of a moral arena and into the realm of capacity and consciousness. Though Delphin Delmas clearly subsumed the insanity plea within unwritten law arguments rather than articulating it in any meaningful way, a significant minority on the jury took seriously the problem of determining criminal

100. See generally, WILLIAMS, *supra* note 28; GLEDHILL, *supra* note 28.

101. See P. ABRAMSON, SOB SISTER JOURNALISM 61 (1990); A. DOUGLAS, THE FEMINIZATION OF AMERICAN CULTURE (1977). The *Evening Journal* columns by the Rev. Madison Peters are the exception to this rule of gender, but not a surprising one, given the affinity Ann Douglas has charted between organized religion and "feminine" sentimentality in the late nineteenth century.

102. SCHUDSON, *supra* note 10.

intent.¹⁰³ Presaging Thaw's acquittal in his second trial on the basis of an insanity defense alone, those jurors emphasized a different kind of narrative—a narrative of physical and mental degeneration, of hereditary taint and erratic behavior rather than of good and evil.¹⁰⁴ But the sensational press derided the authority and testimony of medical experts on both sides as a comedy ("Never before," wrote Dix, "were there so many theories and so much 'bughouse' knowledge dumped at one time at the feet of justice"¹⁰⁵) rather than a plausible basis upon which to measure culpability.¹⁰⁶ Fundamentally, the *Evening Journal* gauged the power of exonerative narratives by judging the success of those who "performed" them in court, and keyed that judgment to the constituent values of sensationalism. If the Thaw jurors took seriously their duty to follow only the precepts of formal law, eschewing the illegitimate narrative of the unwritten law, the *Evening Journal's* response to Thaw's case was shaped by other strictures: the laws of the market, and the desires of its readers.

Ironically, in the eyes of both jury and press Evelyn Nesbit emerged a heroine precisely because of her re-victimization on the stand. A "noble sacrifice" to jurors and reporters alike, her presence turned the trial itself into a melodrama that pitted the young victim against the overwhelming forces of the state and the press. On their own analysis she triumphed over them both, sustaining her dignity even as they—prosecutor and reporter alike—raked through her past in front of an astonished public. If in the end the moral legibility of this particular melodrama was obscured by an uncertain jury, an insane husband, and a future of insecurity and hardship,¹⁰⁷ perhaps that is because life offers itself to us in narratives

103. Fecke, *supra* note 92.

104. *Id.*

105. Dorothy Dix, *Evelyn Thaw Against Hummel, a Lady or the Tiger Query for Jury*, N.Y. EVENING J., Mar. 15, 1907, at 2.

106. *See Id.*

107. Nesbit again took the stand in Thaw's second trial, perhaps because of a rumored monetary settlement from the Thaw family that in the end arrived much diminished because of, as one commentator has put it, her "private indiscretions." G. LANGFORD, *THE MURDER OF STANFORD WHITE* 241 (1962). Nesbit and Thaw (who remained in Matteawan Asylum until 1915, but for a dramatic 1913 escape to Canada), eventually divorced after she bore a son she claimed was his. For a good part of her life, the tainted reputation she garnered in testifying on the witness stand kept her from respectable stage engagements. Though she had periods of great financial success she also lived through periods of poverty, drug addiction, and attempted suicide. She finally settled into life as a sculptor, and died in California in 1967. For further summaries of the

less tidy than we care to publish.

Thaw trials and aftermath, see F.A. MACKENZIE, *THE TRIAL OF HARRY THAW* (1928); F. COLLINS, *GLAMOROUS SINNERS* (1932); MOONEY, *supra* note 61; BAKER, *supra* note 34. *See also* SUZANNAH LESSARD, *THE ARCHITECT OF DESIRE: BEAUTY AND DANGER IN THE STANFORD WHITE FAMILY* (1996).

