

A BOOK FOR FIVE SHEKELS

Louis Waller

On a clear sunlit afternoon in June 1994, I stood in Rehov Melech Georg, *anglice* King George V Street in the centre of Jerusalem, looking at books. The books stood or lay in small piles on the shelves of two roughly-carpeted bookshelves on the footpath in front of Steins secondhand bookshop, a long-established and well-known haunt for a variegated readership. All the books on the top shelves were marked 'Five Shekels' – say, about \$1.50. There were books in English, in Hebrew, in German. There were a few in French. On top of one pile there was a little red book, its covers and spine barely joined. On the front cover was pasted a once-white label on which was printed:

Fifteen Decisive Battles of the Law

By

Ernest A. Jelf

I had never heard of the book, or of Ernest Jelf, but it was a law book so I picked it up. When I opened it I saw an inscription inside the front cover. I read it, shut the book, entered the shop, and gave it and five shekels to the grumpy proprietor. He put the book in a crumpled paper bag and I left.

The title page of the little red book bore a subtitle:

Being a Study of Some Leading Cases in the Law of England

Of the fifteen Jelf had selected, fourteen were civil cases, four or five of which I recognised because – 50 years after Jelf's book was published – I heard them cited in my lectures in Principles of Contract or Tort in the Melbourne law school. The only criminal case was *The Queen v Tolson*, decided by the Court for Crown Cases Reserved in 1889. All fourteen common law judges sat to hear it. Nine of them decided that the deserted and misinformed Mrs Tolson was not guilty of bigamy. She honestly and reasonably believed that she was a widow when she went through a second ceremony of marriage.

Nearly 50 years later the High Court of Australia decided, by a narrow majority, that a Constable Thomas was not guilty of bigamy when he

married a Miss Deed, deviously misled and mistaken in his belief that he was free to take her to be his lawfully wedded wife.

Ernest Jelf, I discovered, was a prolific author and successful barrister. He was appointed a Master of the Supreme Court, and attained the office of Senior Master and King's Remembrancer. Upon its publication in 1903, *Fifteen Decisive Battles of the Law* scored a very brief notice in 19LQR351:

A pleasantly written little book which may be of use to students as an introduction to the reports at large ...

It was successful, and there were subsequent editions.

I did not buy the book for its contents. I bought it because of what had been written, in clear black ink, inside the front cover:

*To Norman Bentwich
His First Book of the Law
From H. B. July 1903*

I decided the initials I had deciphered as H. B. stood for Herbert Bentwich. I knew both names. Herbert was Norman's father. I knew a lot about Norman and a little about Herbert, and there was a third Bentwich whom I remembered as I stood in King George Street.

Dr Ann Mitchell, who was the Monash University archivist, has undertaken extensive research into the Bentwich family. Some of it has resulted in several fascinating articles she has published in the *Australian Jewish Historical Society Journal*. I am indebted to Dr Mitchell for adding to my knowledge and understanding of both Norman and Herbert, and of the third family member.

Herbert was a Londoner born in Shoreditch, an Englishman and a Jew. He became a successful solicitor and an active member of the growing London Jewish community. When Theodor Herzl raised the banner of what came to be called Zionism, Herbert was one of the first English Jews to flock to it. In 1897 he led a group, which included the renowned writer Israel Zangwill, on a tour of Palestine. He finally settled in Jerusalem in 1929, and died there in 1932.

Herbert and his wife Susannah had eleven children, of whom ten outlived their parents. Norman was their second child and the first son.

Norman Bentwich was born in 1883. He was, from his early schooling, an outstanding student. From St Paul's School in London he went up to Trinity College, Cambridge, and received high academic distinctions in Classics. He proceeded to the law and, not surprisingly, also became a

Zionist, first visiting Palestine in 1908. Norman enlisted in the army when World War One began, and earned the MC in the Jerusalem campaign. He was appointed an OBE when the war ended, and joined the civil administration in Palestine in 1920. He became its first Attorney General when the League of Nations conferred the mandate on Great Britain. For the next ten years he took valuable initiatives in the development of civil law of Palestine, inherited by the State of Israel when it was founded in May 1948.

Norman Bentwich the Zionist was, again not surprisingly, unpopular with some Palestinian Arabs. In 1929, the year in which scores of Jews were savagely murdered in Hebron, Norman was shot in the thigh by a seventeen-year-old Arab employee of the Palestine police. Norman strongly sought clemency for his attacker, but he was convicted and sentenced to fifteen years hard labour.

A timorous Mandatory government and its pusillanimous Colonial Office master removed Norman from office in 1931. From 1932 to 1951 he was the foundation Professor of International Relations at the Hebrew University of Jerusalem, which had been inaugurated a few years earlier. His first lecture, on 'Jerusalem, City of Peace', was disrupted by some Jewish students who considered Norman was too pro-Arab. *Plus ça change*.

Since his academic duties at Hebrew University allowed Norman an enviable amount of non-teaching time, he spent some seven years working for the League of Nations High Commission for Refugees from Germany and in directing Jewish efforts, particularly in the UK, to save Jews in Germany, and after the *Anschluss*, in Austria. No doubt these activities are part of the reasons for Norman's appearance in the *Sonderfahndungsliste GB*, the special list prepared by the Germans in 1940 as part of Operation Sea Lion, the invasion and occupation of the British Isles. It came to be called the Black Book, and among the several thousand names in it were those of Noel Coward and Rebecca West. When West learned this, she sent Coward a telegram:

My Dear – the people we should have been seen dead with.

Norman wrote many books, including several autobiographies, and with his sister Margery he wrote *Herbert Bentwich, The Pilgrim Father*, published in 1940. He died in London in 1940, and left no children.

The third Bentwich, Elizabeth (Lizzie, Liz or Lizette) was born in Melbourne in 1874, and died in Melbourne in 1954. Her father Morris was a brother to Herbert's father Marks, making Lizzie and Herbert first

cousins. Cousins can be as close as they wish to be, or as distant – these cousins were very close. Dr Mitchell’s research has revealed that Lizzie was close to, and proud of, Norman. It was to Norman that Lizzie turned for advice when formulating instructions to her solicitor to draw up her will in 1952. Lizzie’s family had returned to London in the early years of the 20th century. In Melbourne, Lizzie had made friends with Vic Monash, wife of John. John Monash, now a general officer commanding the AIF in France, met Lizzie again when he was on leave in London in 1917. They became lovers. Lady Monash died in Melbourne in February 1920, and Lizzie returned to Melbourne in September 1920.

Until Sir John died in October 1931, they were an item in the society of our city. Monash’s biographer, Geoffrey Searle, does not definitively answer the question of why Lizzie and John did not become husband and wife, but the public acme of their relationship occurred a few months before Monash died. He was the official representative of the Commonwealth of Australia at the Durbar, which marked the launch of New Delhi as the capital of the Empire of India. Lizzie came as his companion, with a female friend as fig leaf, and they had calm weeks of sea travel and unique tours of India together.

Lizzie lived for 23 years after Monash’s death, mainly in Melbourne. In each of those years she inserted an *In Memoriam* notice in *The Argus*. Monash left her an annuity of £200 in his will. When Lizzie died she left an estate of 31,000 pounds. As Dr Mitchell writes:

A little over two-thirds ... was left for ongoing prizes and scholarships at the three institutions with which her menfolk had been identified: Trinity College Cambridge (for her cousins Norman and Joseph Bentwich), the Hebrew University of Jerusalem (especially for Norman again) and the University of Melbourne where the love of her life, Sir John Monash, had been Vice-Chancellor (then an honorary office) at the time of his death.

In a recent article Dr Mitchell writes:

The many post-graduate Lizzie Bentwich Scholarship holders include two ‘national treasures’ – our own Peter Sculthorpe (first holder from the University of Melbourne) and Yehuda Bauer of Israel, who went on to become one of the world’s most distinguished Holocaust scholars.

A legacy of learning ... people travel, so do their books. In my father's luggage he packed books I treasure today. If this little red book had, by some anachronistic *tour de main*, an embedded microchip, we could learn all its travels and every one of its passages. We know it was penned, published and purchased in London. We know it was taken to Jerusalem, as it was sold to me in that city. And now it sits on a shelf in my study in Melbourne, telling a tale of three cities, of the old world and the new.

What we know, we know. And then ... there is imagination.

Note

This is the text of a speech made by Professor Waller in a panel titled 'Legal Luminaries and their Books', presented by the Law Library of Victoria, in the Supreme Court Library, in July 2015, as part of Rare Book Week.