

HISTORICAL VIGNETTES

A dramatic presentation
to observe the 100th anniversary
of The Bar Association of
San Francisco

by
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SCENE: The stage is set with a simple arrangement of risers and on these are eight stools of various heights. Downstage is a clear acting area. At downstage right there is a podium. A second podium is at downstage left.

AT RISE: The stage is empty of actors. As the house lights fade down and out we hear a brief musical number appropriate of the year 1872 and during this NARRATOR I takes his position at the podium downstage right and NARRATOR II takes her position at the podium downstage left. Actors and actresses enter and take positions on the stage center stools. The music ends and a spot comes up on the podium at downstage right. NARRATOR I speaks:

NARRATOR I: On April 27th, 1872--exactly 100 years ago--
the Bar Association of San Francisco had its
beginning. From the very start our Association
has fostered a delicate blending of professional
strength with delightful fellowship. To one
another we say with Shakespeare's character,
Tranio:

"Do as adversaries do in law,
Strive mightily, but eat and drink as friends."

(A spot comes up on the stage left podium)

NARRATOR II: Fittingly, the Bar Association of San Francisco was conceived in one of the most fabled buildings in America--the Ark of Empire, Halleck's Folly, the Montgomery Block.

NARRATOR I: This, fittingly for a city such as ours, was not only the prime place for lawyers' offices, but also became the habitat of artists and poets. Here lived George Sterling...

NARRATOR II: Her sea is a voice that calls
And her star is a voice above,
And her wind is a voice on her walls
My cool, grey city of love.

NARRATOR I: The building was frequented by Robert Louis Stevenson. It also housed the offices of Judge Boalt, of Boalt Hall fame.

NARRATOR II: When Stevenson died in Samoa, Judge Boalt, with others, commissioned the sculpturing of the beloved little "Galleon" in his memory. It stands now as then in Portsmouth Square.

NARRATOR I: But now to the beginning of our Association, a hundred years ago. Downstairs in the "Monkey Block" there was an ornate bar called the Bank Exchange...

(Lighting fades out on the podiums and comes up at stage center. We see four men, the Founders, and a bartender.)

BARTENDER: Perhaps a bit of gin before lunch, Colonel Hoge?

HOGE: Gin before lunch! Never for a lawyer, sir!

BARTENDER: Sorry, sir.

HOGE: I'll have whiskey, please. (Turns to Pierson)
Now, then, William Pierson...

PIERSON: Yes Colonel?

HOGE: Pierson, it is remarkable that you, one of the youngest members of the bar, should have thought of an organization.

PIERSON: Well, it seemed to me that if a few prominent gentlemen like yourself could be interested...

HOGE: (With a laugh) You've done well, my boy. You have attracted Hall McAllister here, the luminary of our trial courts.

(McAllister bows and turns to the Bartender)

McALLISTER: (To Hoge) You do me proud, Colonel Hoge. (To Bartender) For me, please mix the pride of San Francisco - a pisco punch.

HOGE: ...And also Sam Wilson, lawyer for the Bank of California, Wells Fargo Bank and the Central Pacific Railway--fairly good accounts.

WILSON: (Nods, turns to Bartender) Whiskey for me, Bartender. (To Pierson) And you, Pierson?

PIERSON: (To Hoge) Forgive me, Colonel Hoge, but I shall have a touch of gin.

(Hoge looks displeased. McAllister and Wilson laugh)

WILSON: Colonel, you must put up with the foibles of a new generation. Particularly when they have good ideas like Pierson, here.

McALLISTER: Yes, tell us about it, Pierson.

PIERSON: Gentlemen, two years ago the New York lawyers, distressed by the scandalous position of bench and bar during the reign of Boss Tweed, formed the first association in this country.

HOGE: Commendable. Quite commendable.

PIERSON: I thought that we might found a society which would develop a nice tradition of ethics and of Comradeship.

WILSON: Hear! Hear!

McALLISTER: Sounds most worthwhile, Pierson.

PIERSON: In the draft of a letter I write: "Among us are some of the choicest minds in the country, possessing the highest qualification for social enjoyment." Is that a bit smug?

HOGGE: Well...

McALLISTER: Not at all! Where else does the lawyer's talent mingle so graciously with the epicure's delight as offered by this free lunch table? Where else does culture mix so deliciously with bonhomie?

WILSON: There is no jury present, Hall.

McALLISTER: Sam, when the new codes which the legislature is considering are passed, there won't be much for you office lawyers to do in finding what the law is.

WILSON: Same with the courts. Nothing, I suppose, but a bit of interpretation.

HOGGE: Anyway, there will never be more than four codes.

(Emperor Norton enters.) (The Bartender bows.)

BARTENDER: Gentlemen, here is His Majesty, Emperor Norton.

NORTON: (Grandly) The bridge across the bay shall be built!

PIERSON: (Aside to Wilson) Might as well say a man could fly to the moon!

NORTON: (To Bartender) I deign to allow you to purchase my bond for fifty cents...due in 1888.

BARTENDER: (Buys bond) Now, your Majesty, my portfolio is full for the next two weeks.

HOGGE: (To McAllister) Hall, what do you think of this scheme of Andrew Hallidie?

McALLISTER: The cable car? Well, if it works it might be a fine improvement on the horse car lines.

WILSON: But will it work?

PIERSON: Gentlemen, you've got to make way for progress.

(Andrew Hallidie enters)

Ah, Mr. Hallidie. When will your first cable car climb our hills?

HALLIDIE: Next year. Later, they will run to our new Golden Gate park.

HOGGE: The horse car lines furnish fertilizer for the park. Your cable cars can't do that.

WILSON: Sir, it seems to me this progress thing is upsetting the balance of nature.

HALLIDIE: I am sure the future of the horse is assured. But the future of my cable cars will need support. And, of course, I shall need lawyers.

LAWYERS: (Crowding about him) Of course!

NORTON: And financing? (Bowing) Allow me to float your securities.

(They laugh. Hoge turns to Pierson.)

HOGES: Pierson, back to our purpose. What shall we call the new guild?

PIERSON: What about The Bar Association of San Francisco?

ALL: Good!

(Lights fade out at stage center and spots come up on the two podiums.)

NARRATOR II: This became the name and has remained so for a century.

NARRATOR I: Following the adoption of the codes in 1872 and of the constitution of 1879, there was a period described by Dean Orrin Kip McMurray..."One can scarcely point to any major developments in jurisprudence by the courts during the period; the statute book is equally devoid of novelty."

(Lights fade on the Narrators and up on the orchestra and singers. We hear a musical number of the late 1800's. Lights fade on musicians and singers and come again on the two Narrators.)

NARRATOR II: Historic trials marked the closing decades of the nineteenth century. Here is a scene from the lawsuit in 1888 of Sarah Althea Hill.

(Lighting comes up downstage center. Sarah and David Terry sit stage left. They pantomime animated but whispered conversation. Judge Field is at stage right.)

NARRATOR I: Sarah's husband, David S. Terry, was her lawyer. Thirty years before this trial Terry had resigned as Chief Justice of the California Supreme Court in order to fight a duel with Senator Broderick.

NARRATOR II: Any chief justice who is about to fight a duel should resign.

(Lighting fades out on the two podiums.)

SARAH: But, David, how can we lose? In the divorce case the California Supreme Court ruled in my favor. I was Senator Sharon's legal wife.

TERRY: Of course you were. And you shall have a large share of the estate he left.

SARAH: I don't see how the federal court comes into the picture when the state supreme court has said I was his wife.

TERRY: Well, they call this a bill of equity in a diversity of citizenship suit.

SARAH: What does that mean?

TERRY: It means that they are trying to annul your marriage contract with Senator Sharon.

SARAH: But, how can they do that?

TERRY: Shhhh!

(They hold in tableaux. Spots come up on the Narrators. Judge Field turns to face the audience.)

NARRATOR I: The judge is Stephen J. Field, justice of the United States Supreme Court, sitting in the Ninth Circuit Court.

NARRATOR II: Sarah and her husband are trying to prove that she was formerly married to the silver king, the late Senator Sharon. If she wins, Sarah will inherit fifteen million dollars from Sharon's estate.

(Spots black out on the two podiums. Judge Field raps for order.)

FIELD: It would seem that the learned judge of the trial court reached his conclusions without due regard to a principle in the weighing of testimony, as old as the hills, and which ought to be as eternal as the administration of justice--that the presentation knowingly of fabricated papers or false evidence, to sustain the story of a party, throws discredit upon his whole statement.

SARAH: (Half rising, almost inaudible) No...Oh, no!

FIELD: The court adjudges against Sarah Althea Hill.

SARAH: (Jumping to her feet) Judge Field, how much has the other side paid you? (She approaches the bench)

FIELD: Stop that woman! Marshal Neagle, remove her!

(Neagle tries to restrain her. Terry jumps up.)

TERRY: Don't touch my wife.

(The three struggle. Judge Field raps for order. After a moment Neagle has control. Terry stands before Judge Field.)

FIELD: Judge Terry, I sentence you to six months for contempt of court.

(Lighting blacks out at stage center and spots come up immediately on the two podiums.)

NARRATOR II: Terry served the full six months. Sarah's legal battles ended in failure. The California Supreme Court followed the federal ruling on an appeal from an order denying a new trial.

NARRATOR I: You cannot appeal from an order denying a new trial.

(A spot comes up on Sarah)

SARAH: (Dejectedly) In my day you could.

(The spot on Sarah blacks out)

NARRATOR II: Sarah received nothing from the huge Sharon estate. Her lawyer husband, Terry, was later killed by the same Marshal Neagle while he was supposed to be assaulting Judge Field---although Terry was unarmed.

NARRATOR I: The tragic incident gave rise to the case of In Re Neagle, Wherein it was held that Neagle was protected in his actions under the constitutional provision that the President shall take care that the laws be faithfully executed, and Neagle had been appointed by this executive to guard Justice Field.

(Lighting comes up on the singers and orchestra and we hear a short musical number circa 1906.)

NARRATOR II: Now came a mighty change in San Francisco. On an April night Enrico Caruso sang here in Carmen. Next morning the city was stricken. Caruso, fearful that the earthquake may have injured his voice, tried it out over New Montgomery Street from his room in the Palace Hotel.

(Brief fragment from Pagliacii. Lights out on singer and orchestra.)

NARRATOR I: Few lawyers moved from the City. They helped rebuild. They paid their bills, even for law books destroyed in the fire. But now all events were honorable. The stricken city was despoiled. Here, in 1907, is one lawyer, the "debonair scoundrel", Abe Ruef, talking with two supervisors.

(Lights come up at stage center. Spots on the podiums black out.)

RUEF: Well, gentlemen, it looks like District Attorney Bill Langdon and his ex-cowboy assistant, Francis Heney, are about to indict me - probably all of your board.

SUPERVISOR I: We know it, Abe, and we're scared.

SUPERVISOR II: What'll we do, Abe?

RUEF: The solution is obvious. I have called upon one of your colleagues who, at the moment, is acting Mayor.

SUPERVISOR I: But, what can he do?

RUEF: He will remove Langdon as District Attorney.

SUPERVISOR II: What about Heney?

RUEF: Simple. The new District Attorney will remove him.

SUPERVISOR I: Well, maybe...But who will be the new D. A.?

RUEF: I will.

BOTH
SUPERVISORS: YOu?

RUEF: Certainly. Who knows more about the case than I do?

(The Supervisors laugh. A Messenger enters and hands a paper to Ruef.)

SUPERVISOR I: Abe, you're a wonder.

RUEF: Ah, here is my appointment as District Attorney.
(He takes paper from pocket, hands it to Messenger)
And here is my surety bond. Now, gentlemen,
if you will excuse me, in my official capacity
I must attend to the matter of the proposed
prosecution of myself.

(Blackout. Spots up on podiums)

NARRATOR I: That is just what happened. But after stormy hearings
in Temple Sherith Isreal, the post-earthquake
courthouse, it was decided by Judge James Seawell,
that the Mayor did not have the power to remove
the District Attorney.

NARRATOR II: And a quick trial followed?

NARRATOR I: The trial of Abe Ruef took about five months.

NARRATOR II: And the jury?

NARRATOR I: Fourteen hundred were summond; 440 were questioned.
One of these shot the prosecutor, Francis Heney.

NARRATOR II: And the result?

NARRATOR I: There were fantastic technicalities so that of all the persons charged, several of whom admitted guilt, only Abe Ruef went to prison. By a quirk of fate, a technicality stood in the way of a Supreme Court rehearing for Ruef Himself.

NARRATOR II: What was that?

NARRATOR I: Well, one of the four justices necessary for rehearing joined three others. But after signing, he left the state on vacation. His vote was held invalid.

NARRATOR II: This would not invalidate the vacationer's vote today.

(A spot comes up on Ruef)

RUEF: (Forlornly) In my time it did.

(The spot on Ruef blacks out)

NARRATOR I: But from all this came the Article of the California Constitution which forbids reversals where there has been no miscarriage of justice. And then great figures appeared to support the cleansing of the City: James Phelan, Bartley Oliver, Fremont Older, Rudolph Spreckles. And the lawyers - Hiram Johnson and Matt Sullivan. The new Mayor of San Francisco was a lawyer, poet, physician and Dean of Hastings Law School - Edward Robeson Taylor. Taylor was wholly trustworthy. He restored confidence. And, he was something of a character. Here is Dean Taylor lecturing at Hastings.

(Spots on podiums black out. Lights up stage center.)

TAYLOR: My dear students...when you are preparing a brief have in mind the practice of old Judge Buckles of Solano County. (Shurgs) He would simply count the number of citations presented by each side.

STUDENT: You mean that a lawyer won just by citing more cases?

TAYLOR: No, he lost. The judge's theory was that if he had to cite so many, he must be wrong.

(Blackout. Lights up on singers and orchestra. We hear a musical number of the twenties.)

(Lights out on orchestra and singers as spots come up on the two podiums.)

NARRATOR I: The decades of the 20th century rolled on. The courts and the bar sprang into action to protect the profession. The Committee of Bar Examiners, the Judicial Council and the State Bar were created. The American Bar Association convened in San Francisco just fifty years ago in the historic meeting of court reform held by Chief Justice Taft. The San Francisco lawyers were leaders in all of these activities.

NARRATOR II: During the 1920's and 30's much of the time of the criminal courts was spent on prohibition cases.

(Podium spots black out; lighting comes up stage center.)

JUDGE: United States versus Vinorosso.

COUNSEL: Your honor, my client will plead nolo to possession of a small quantity of red wine for family use.

JUDGE: Five hundred gallons? This sustains possession for sale.

COUNSEL: The family is large. There are collateral as well as lineal relatives.

JUDGE: Didn't this man's brother plead guilty, too, this morning on your advice?

COUNSEL: Both brothers have charitably undertaken to supply their aged father with what he---mistakenly, of course---deems a necessity of life.

JUDGE: (To defendant) Mr. Vinorosso, do you and your family consume much of this wine?

VINOROSSO: Never, your honor! Me and the family? No, never touch...

COUNSEL: Of course you do, Paolo. Tell the judge.

VINOROSSO: But, it will make me guilty.

COUNSEL: No, Paolo.

VINOROSSO: But...I don't understand...

COUNSEL: It is a crime to make the wine or to possess it, but it is not a crime to drink it.

VINOROSSO: (Grins, turns to Judge) Judge, you come to my house in North Beach. We won't possess, we will just drink the good three-weeks-old red wine.

(Blackout. Lighting comes up on the singers and orchestra. We hear a number of the 40's. As the number ends lighting fades out on the orchestra area and a spot comes up on the stage left posium.)

NARRATOR II: As the decades moved on there was a vast amount of legal work to be done in San Francisco -- for its bridges, its fairs, its civic and cultural centers, its airport, and its downtown area. The courts were busy with personal injury trials, and here we see a fragment of one. The witness is Dr. Shingles, testifying for the defense. Defense counsel is Miss Joinder. Plaintiff is represented by the firm of Sick, Sore and Disabled. Disabled is in court.

(Spot blacks out and lighting comes up stage center.)

MISS JOINDER: And, Dr. Shingles, you are certified by the board of your speciality?

SHINGLES: Oh, yes. By the super-board.

JUDGE: The super-board?

SHINGLES: We have a western and an eastern division, your honor, and then, of course, there's the playoffs.

JUDGE: I see. Proceed, counsel.

MISS JOINDER: Doctor, I take it you disagree with the expert produced by my adversary.

SHINGLES: Oh, I wouldn't go so far as to disagree with Dr. Whiplash.

MISS JOINDER: You don't disagree?

SHINGLES: Yes. No! Well, that is, I simply say that Dr. Whiplash made an inadequate examination of the plaintiff, that his X-rays are phony and that his diagnosis is totally incorrect.

MISS JOINDER: But you examined the plaintiff at the request of the defense?

SHINGLES: Yes. Yes, I did. A young man representing... ah...someone...retained me.

MISS JOINDER: (Puzzled) A young man?

SHINGLES: I, ah...I don't know how to put this without getting into trouble, as I have before...

MISS JOINDER: (Quickly) Let's just go on, Doctor.

DISABLED: The doctor has not completed his answer.

JUDGE: Put your next question, counsel. Hurry.

MISS JOINDER: To get to the matter at once, doctor, give us your diagnosis.

SHINGLES: An intercostal micro-traumatic insult to the inferior posterior soft tissue between T4 and T5, accompanied by evenscent ecchymosis.

JUDGE: Could you simplify that?

SHINGLES: Sir?

JUDGE: Put in in layman's language.

SHINGLES: Colloquilly, sir, its a black and blue bruise.

(Disabled laughs derisively)

MISS JOINDER: Doctor, you were not here when my fried, plaintiff's attorney, produced this demonstrative evidence. (She displays a picture of a skeleton) Doctor, is that a male or female figure?

SHINGLES: (Without looking at the picture) Female, of course.

DISABLED: Your honor, he hasn't even looked at it.

JUDGE: That is correct. How did you know, Doctor?

SHINGLES: My learned friend (points to Disabled) likes to make trials sensational. He's bound to show a female.

DISABLED: Mistrial! Contempt! I cite every objection there is.

JUDGE: Continue, or I shall be forced to make a ruling.

MISS JOINDER: Now, doctor, you examined the plaintiff...

SHINGLES: Who?

MISS JOINDER: The plaintiff.

SHINGLES: Oh, that one. Yes, Yes I did.

MISS JOINDER: Did you find the plaintiff to be male or female?

SHINGLES: I...ah...I can't tell.

DISABLED: Mistrial again! Lawsuit, too. Slander!

JUDGE: Doctor, why can't you tell if the plaintiff is male or female?

SHINGLES: Well, your honor, these new laws forbid all kinds of discrimination between the sexes.

JUDGE: (Thoughtfully) I think we can avoid a final ruling. I am inclined to think the laws are not retroactive to the date of the examination.

(Blackout. Spot up on stage right podium.)

NARRATOR I: Seriously, trial lawyers were increasingly forced to face all manner of complex factual and sophisticated legal problems---expert witnesses---from psychiatrists to metallurgists...principles from subrogation and indemnity and collateral estoppel. The expertise of the skilled trial lawyer is akin to the deftness of the neurosurgeon.

(Stage Right spot blacks out. Lighting comes up on the singers and orchestra. They do a number of the 70's. As the number ends the lights fade on the singers and orchestra and the stage left spot comes up.)

NARRATOR II: We just jump ahead to the present. Here is a nightmare of an interview as dreamed by a senior partner. The firm of Coke, Coke, Blackstone and Coke is represented here by its venerable head, Mr. Lemon Coke.

(Spot blacks out. Lights up stage center)

MISS
REMITTITUR: Mr. Coke, our first applicant is here--a Phi Beta Kappa...

COKE: (Gleefully) Splendid.

MISS R: He wrote a law review article on Organic Foods and the Organic Law

COKE: Thank you, Miss Remittitur. Did I tell you how I was awarded the...

MISS R: (Overlapping) Indeed you did.

COKE: Oh.

MISS R: (Consulting paper) Also, he was a reader for old Professor Reminderman.

COKE: Remainderman, my classmate?

MISS R: Yes, sir.

COKE: Still there, eh? Must be senile by now... No, no, I take that back! Ah...show the applicant in please.

MISS R: (calling off) Come in, Mr. Uptight.

(Uptight, a honghair, casually dressed type enters)

COKE: (Gasping) You are Uptight?

UPTIGHT: Right on!

COKE: But...but...I thought...

UPTIGHT: Now, I should like to question you, sir, on my pro bono work when I join the firm.

COKE: (Weakly) Well...we do have some pro bono things...

UPTIGHT: Like what?

COKE: Oh...ah...depletion allowances...alternative capital gains work...things like that.

UPTIGHT: I dig class actions in ecology things.

COKE: Class Actions! How would our accounting division take care of the billings?

UPTIGHT: Oh, we won't bill for most of the firm's work.

COKE: Not bill? But, but...

UPTIGHT: Now, in the criminal action I've planned, I won't charge anything for defending you.

COKE: Defending me? What for?

UPTIGHT: We'll have you busted in order to give tone to the case.

COKE: Me? Busted?

UPTIGHT: For possession of speed pills. Clearly unconstitutional.

COKE: (Slumping) Unconstitutional? Me?

UPTIGHT: Certainly. You need something to keep your vibes going.

COKE: (Defeated) Miss Remittitur, isn't this all a bit far out?

Miss R: Right on, sir.

(Blackout. Spot up on stage right podium.)

NARRATOR I: Throughout the years, lawyers have been leaders of cultural, civic and charitable organizations, drives and conferences. In the vast changes of the present, the Bar Association of San Francisco as a body has taken an active role in specific pro bono projects.

NARRATOR II: The Association sponsors the eminently successful and economically beneficial no bail project. Here are the applicants.

LEMON COKE: (Appearing before a judge who is not necessarily visible.) Your Honor, I am here with my partner, Mr. Uptight, to ask that Mr. McGuffey (this can be Vino Rosso) be OR'd. I have personally interviewed him in the city prison, which I had not visited for 40 years.

NARRATOR II: Then there is Law Day, with its broad educational program which the news media generously support. The Liberty Bell Award is a coveted prize. Here is a presentation by a President of the Association.

PRESIDENT: Preservation of the delicate balance between law and liberty is not easy to maintain. In Making this award, let me quote this succinct sentence of George Washington: "Happily, the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens in giving it on all occasions their effectual support."
(Hands award to invisible recipient.)

NARRATOR II: A host of other examples could be given. But, along with the serious activities of the Association, along with the conflicts which must exist in a profession essentially engaged in polemics, there is still time and disposition to..."Do as adversaries do in law
Strive mightily but eat and drink as friends."

NARRATOR I: And as all of us look back fondly on days of friendship with both friend and foe, in our out of the courtroom, let us think of the sentiment expressed in the final song which the beloved soprano Luisa Tetrazzini sang to San Franciscans.

(Lights fade up on orchestra and singers as they do Auld Lang Syne. Cast returns to stage as stage lights come up. They are joined by the Narrators for a final bow.)