

# Puddin' Head Wilson, Legal Ethics, and Mark Twain's Commentaries on the Law

Travis R. Marker, JD, LLM  
Scrivener's Quill



2015 EDITION

# MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR  
PROFESSIONAL  
RESPONSIBILITY

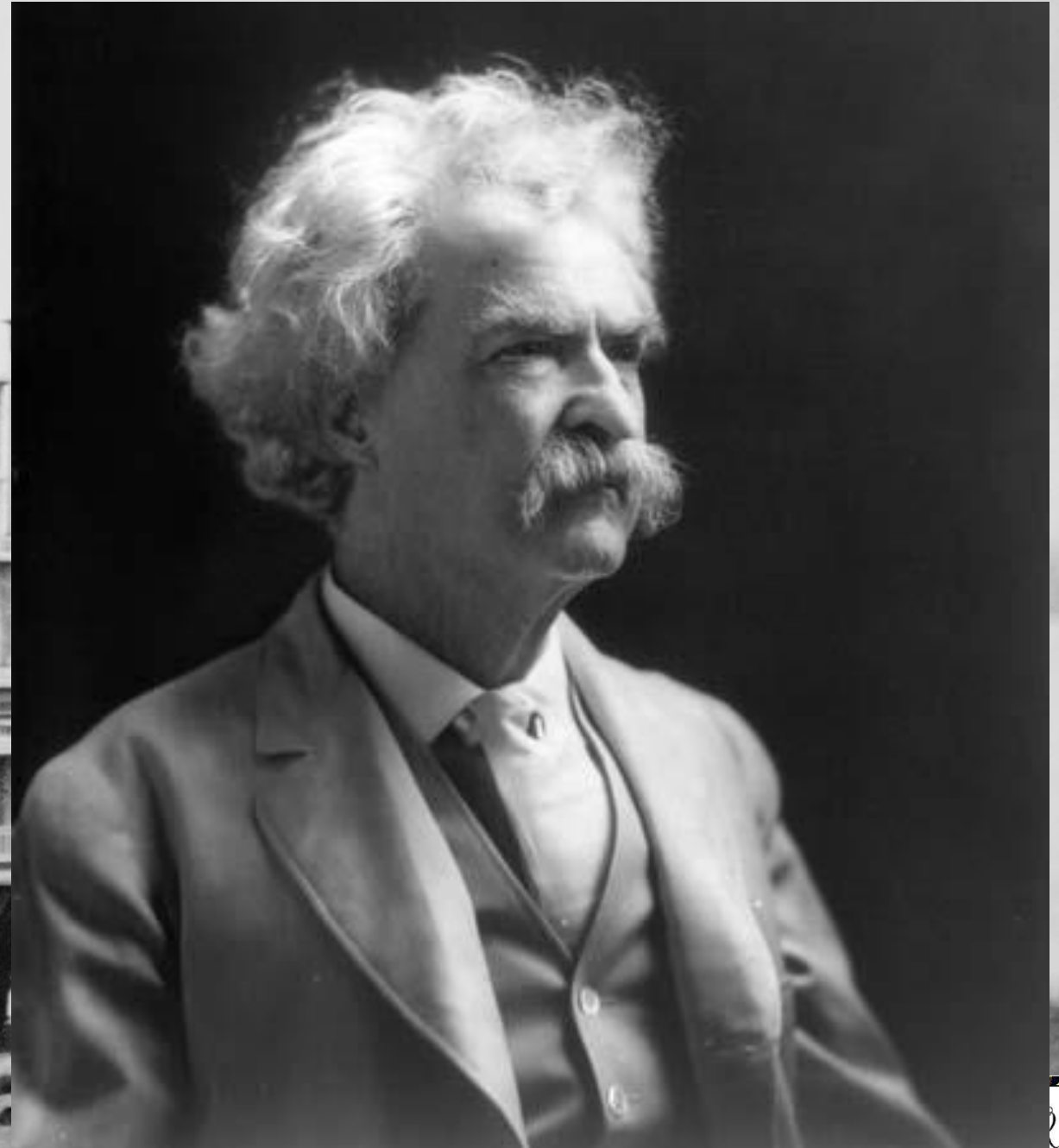
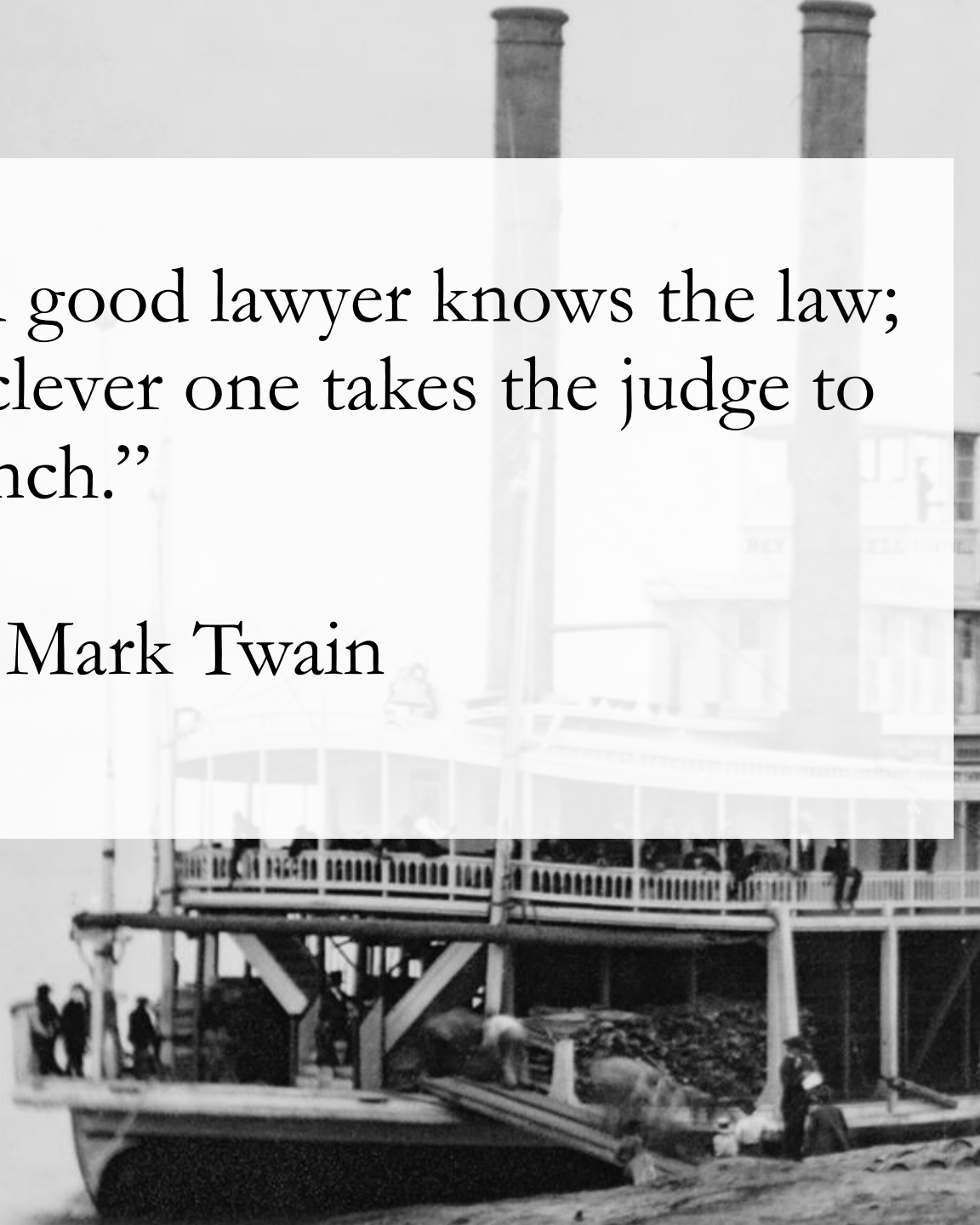
**ABA**  
AMERICAN BAR ASSOCIATION  
Defending Liberty  
Promoting Justice

- As **advocate**, a lawyer zealously asserts the client's position under the rules of the adversary system.
- As **negotiator**, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others.
- Model Rules of Professional Conduct, Preamble

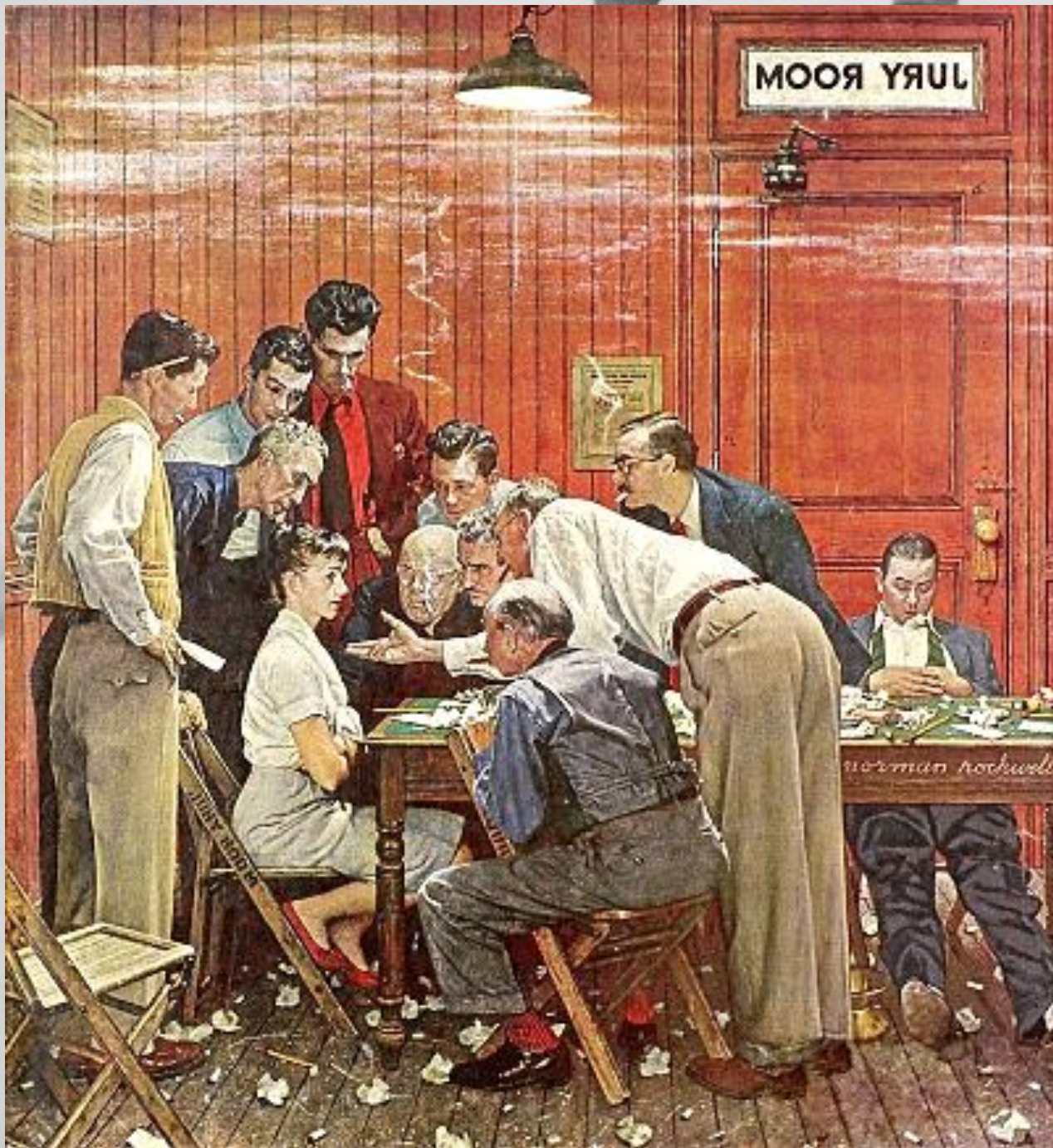


“A good lawyer knows the law;  
a clever one takes the judge to  
lunch.”

— Mark Twain





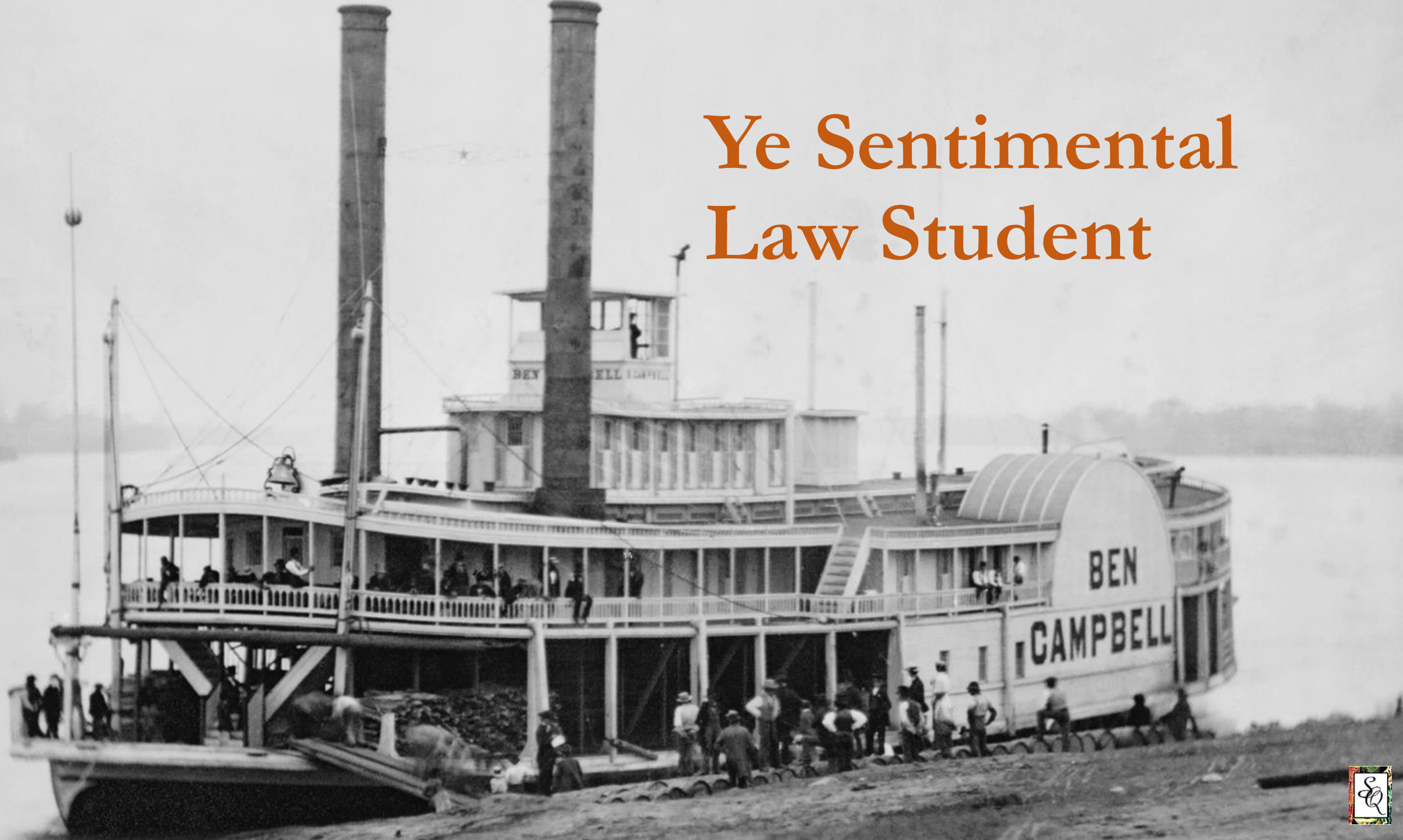


- “I desire to tamper with the jury law. I wish to alter it as to put a premium on intelligence and character, and close the jury box against idiots, blacklegs, and people who do not read newspapers.”

- — Mark Twain



# Ye Sentimental Law Student



- “But what a villain of a man must be to blend together the beautiful language of love and the infernal phraseology of the law in one and the same sentence!
- — Mark Twain, “Ye Sentimental Law Student.”



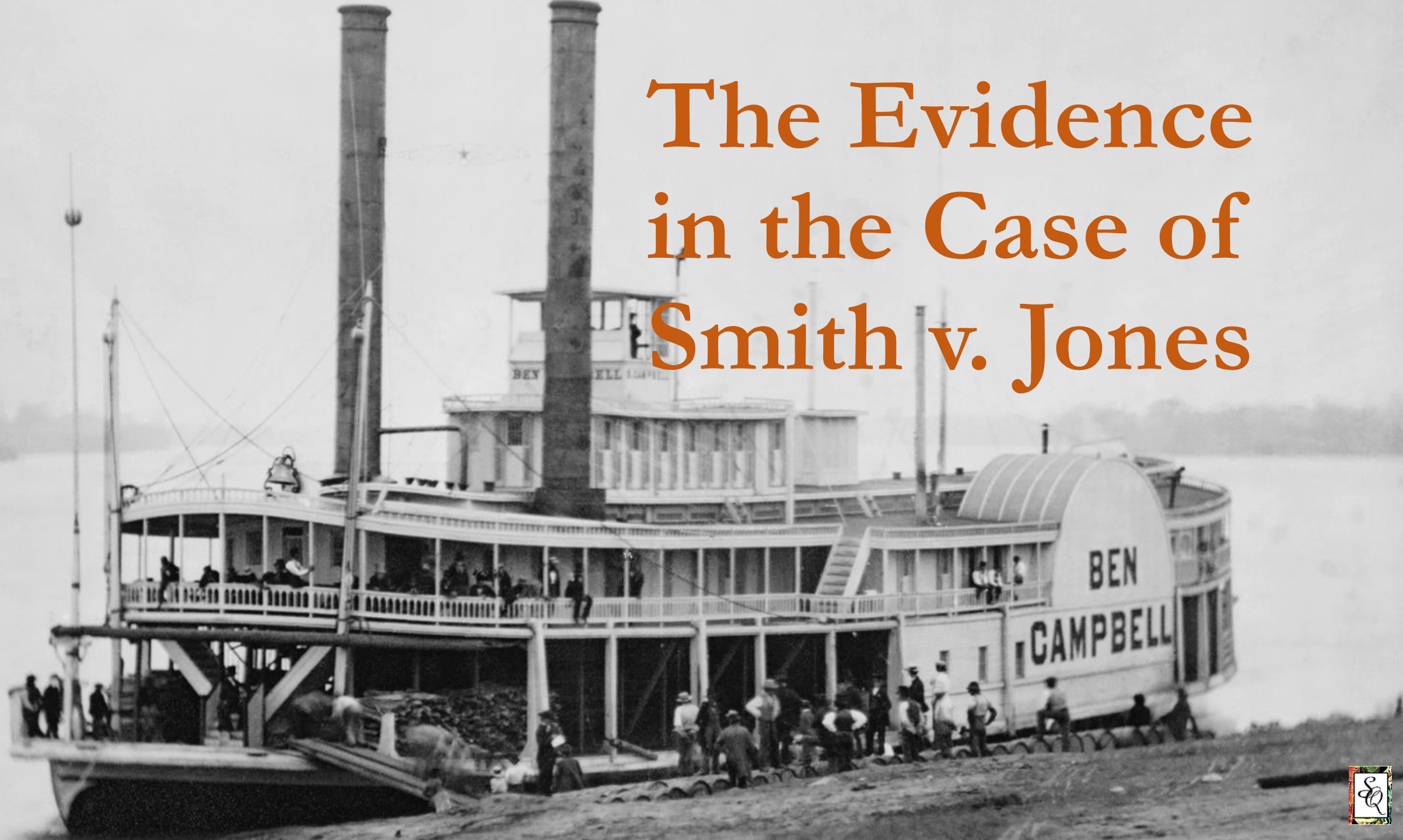




- “To the loveliness to whom these presents shall come, greeting: -- This is a lovely day, my own Mary; its unencumbered sunshine reminds me of your happy face, and in the imagination the same doth now appear before me. Such sights and scenes as this ever remind me, the party in the second part, of you, my Mary, the peerless party of the first part.”
- — Mark Twain, “The Judge’s ‘Spirited Woman.’”



# The Evidence in the Case of Smith v. Jones





- “I reported this trial simply for my own amusement, one idle day last week — but I have seen the facts in the case so distorted and misrepresented in the daily papers that I feel it my duty to come forward and do what I can to set the plaintiff and the defendant right before the public.”
- — Mark Twain, “The Evidence in the Case of Smith v. Jones.”

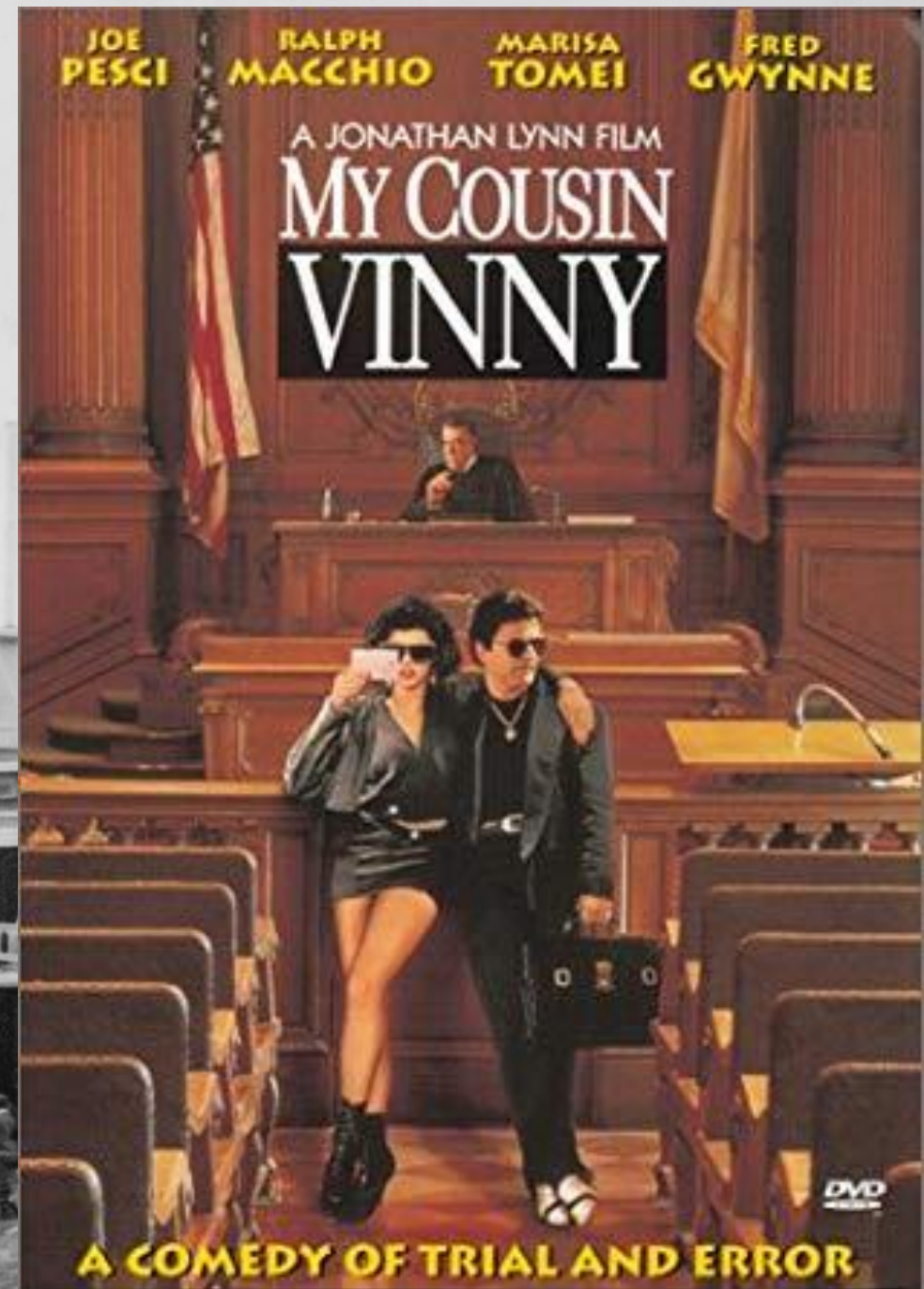




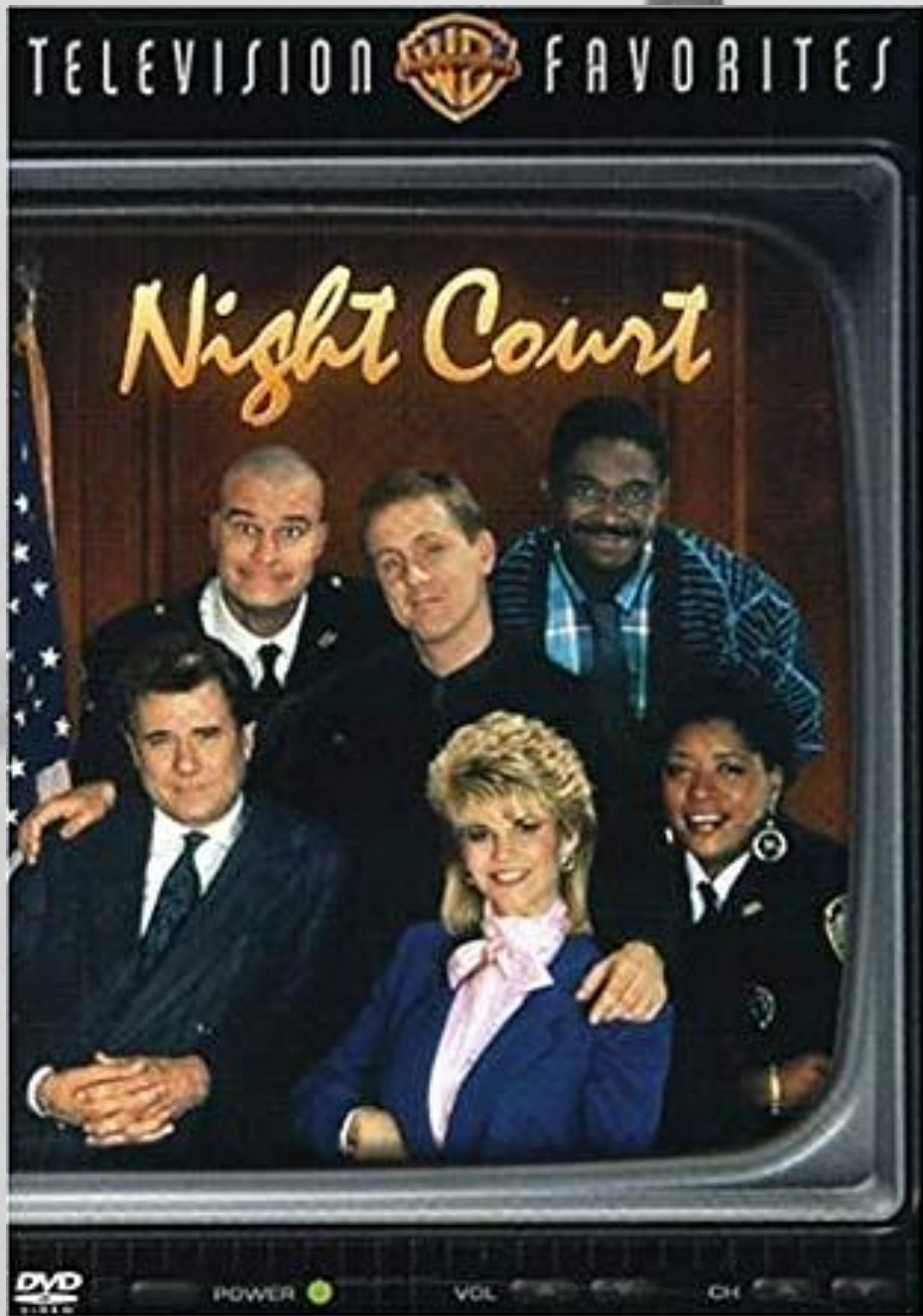
- “The two narratives differed from each other.
- In reality, I was half persuaded that these men were talking about two separate and distinct affairs altogether, inasmuch as no single circumstance mentioned by one was even remotely hinted at by the other.”
- — Mark Twain, “The Evidence in the Case of Smith v. Jones.”



- “Nothing was elicited on the cross-examination, except that the weapon used by Mr. Jones was a bowie knife instead of a Derringer, and that he made a number of desperate attempts to scalp the plaintiff instead of shoot him. It also came out that Sophronia . . . Did not faint, and was not present during the affray, she having been discharged from her situation on the previous evening.”
- — Mark Twain, “The Evidence in the Case of Smith v. Jones.”







- “I have arrived at the conclusion that the office of Police Judge is a profitable and a comfortable thing to have, but then, as the English hunter said about fighting tigers in India under a shortness of ammunition, ‘it has its little drawbacks.’ Hearing testimony must be worrying to a Police Judge sometimes, when he is in the right mind.”
- — Mark Twain, “The Evidence in the Case of Smith v. Jones.”



2015 EDITION

# MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR  
PROFESSIONAL  
RESPONSIBILITY

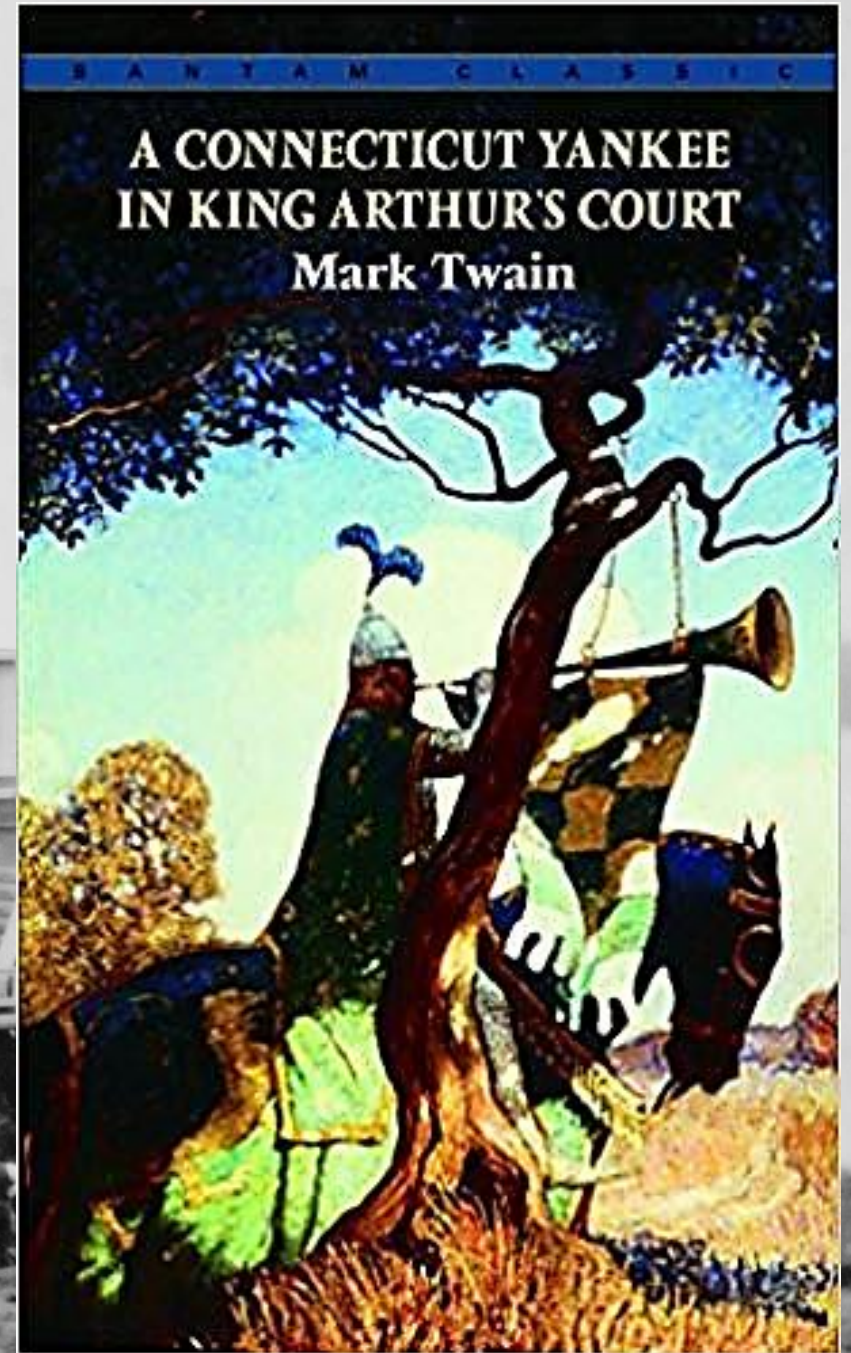
**ABA**  
Understanding & Resolving  
Disputes  
AMERICAN BAR ASSOCIATION

- A lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.
- Model Rules of Professional Conduct, Preamble

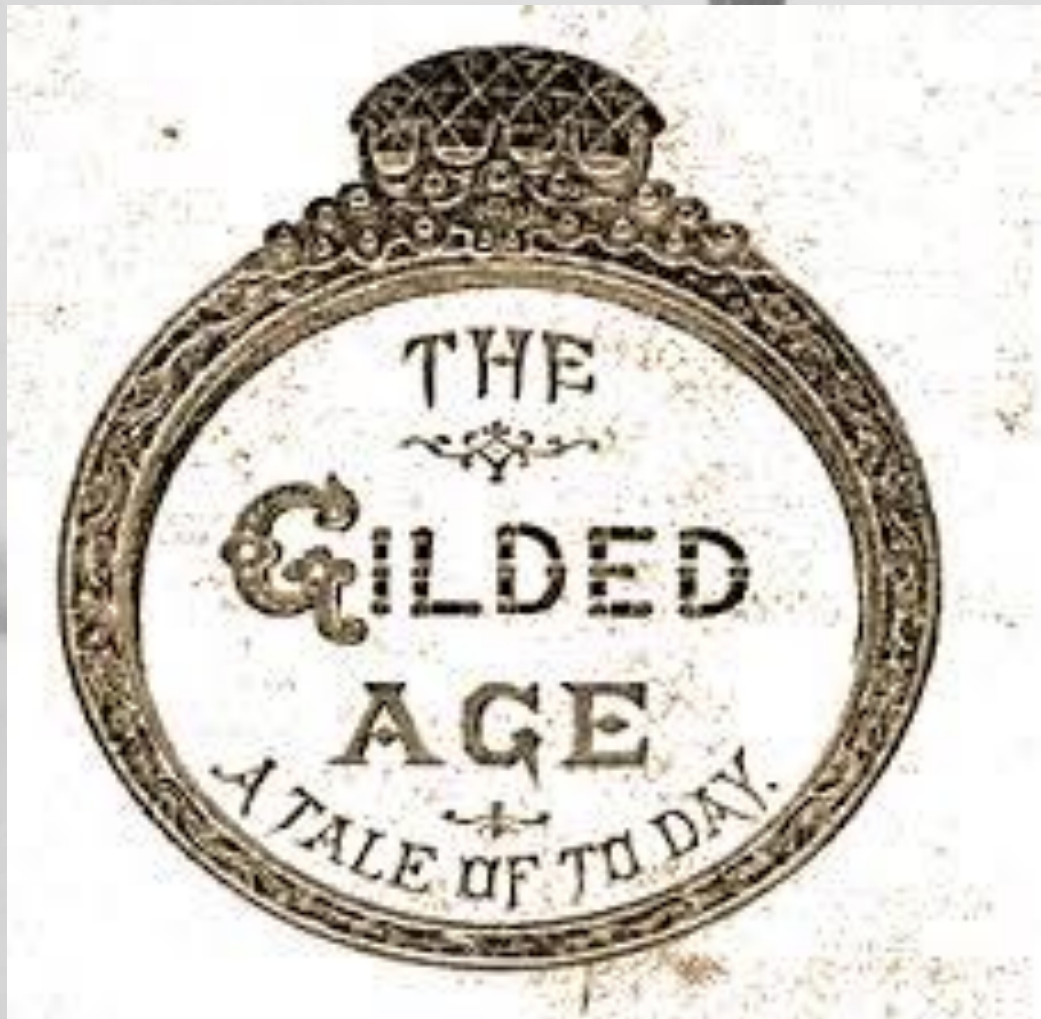


“I wanted to stop the whole thing and set the slaves free, but that would not do. I must not interfere too much and get myself a name for riding over the country's laws and the citizen's rights roughshod. If I lived and prospered I would be the death of slavery, that I was resolved upon; but I would try to fix it so that when I became its executioner it should be by command of the nation.”

— Mark Twain, *A Connecticut Yankee in King Arthur's Court*







- “No country can be well governed unless its citizens as a body keep religiously before their minds that they are the guardians of the law, and that the law officers are only the machinery for its execution, nothing more.”
- — Mark Twain, *The Gilded Age*

# The Judge's “Spirited Woman”





- “Well, the fact is, there warn’t any interest in a murder trial then, because the fellow was always brought in not guilty, the jury expecting him to do as much for them some time; and although the evidence was straight and square against the Spaniard, we knew we could not convict him without seeming to be rather high-handed and sort of reflecting on every gentleman in the community.”

- — Mark Twain, “The Judge’s ‘Spirited Woman.’”





- “But when the jury announced the verdict, Not Guilty, . . . that woman rose up till she appeared to be as tall and grand as a seventy-four-gun ship, and she says:
- ‘Judge, do I understand you to say that this man is not guilty, that murdered my husband without any cause before my own eyes and my little children’s, and that all has been done to him that ever justice and the law can do?’
- ‘the same,’ says I.
- — Mark Twain, “The Judge’s ‘Spirited Woman.’”





- “And then what do you reckon she did? Why she turned on that smirking Spanish fool like a wildcat, and out with a ‘navy’ and shot him dead in open court!
- “That was spirited, I am willing to admit.”
- Wasn’t it though? Said the judge, admiringly. “I wouldn’t have missed it for anything. I adjourned court right on the spot and we put on our coats and went out and took up a collection for her and her cubs, and sent them over the mountains to their friends. Ah, she was spirit!”
- — Mark Twain, “The Judge’s ‘Spirited Woman.’”



2015 EDITION

# MODEL RULES OF PROFESSIONAL CONDUCT



CENTER FOR  
PROFESSIONAL  
RESPONSIBILITY

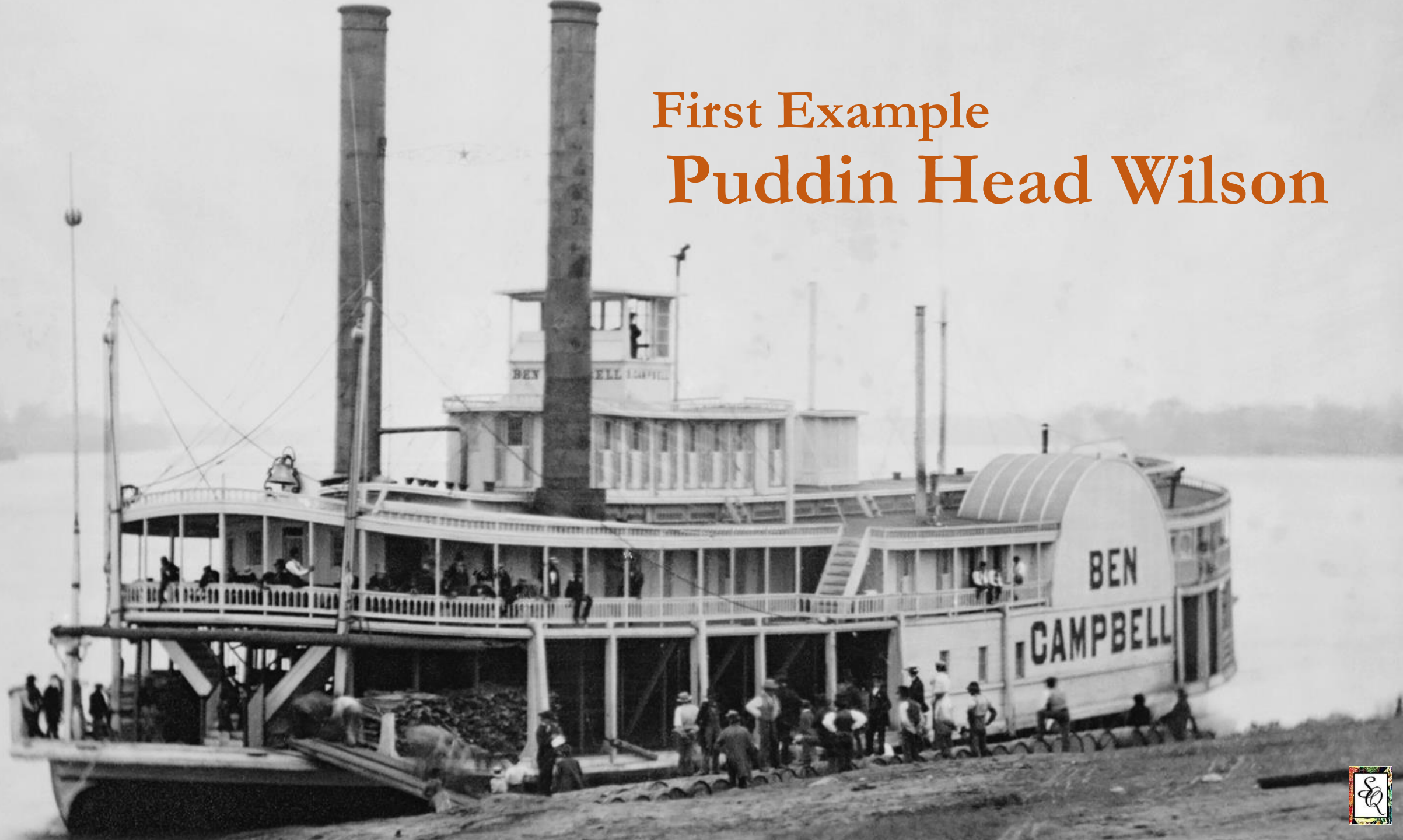
**ABA**  
AMERICAN BAR ASSOCIATION  
Defending & Restoring  
the Profession's Honor

- A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance.
- Model Rules of Professional Conduct, Preamble



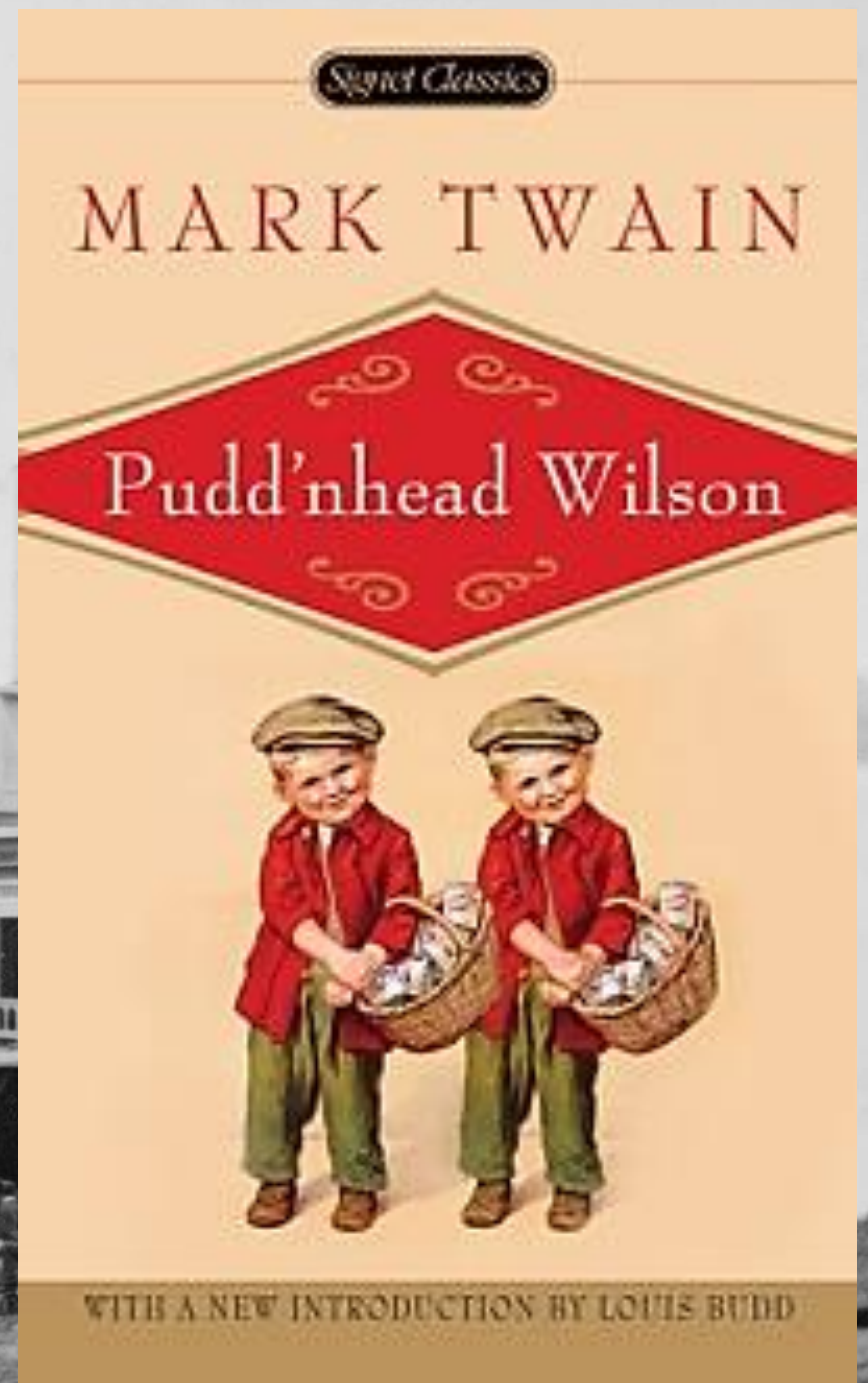


# First Example Puddin Head Wilson

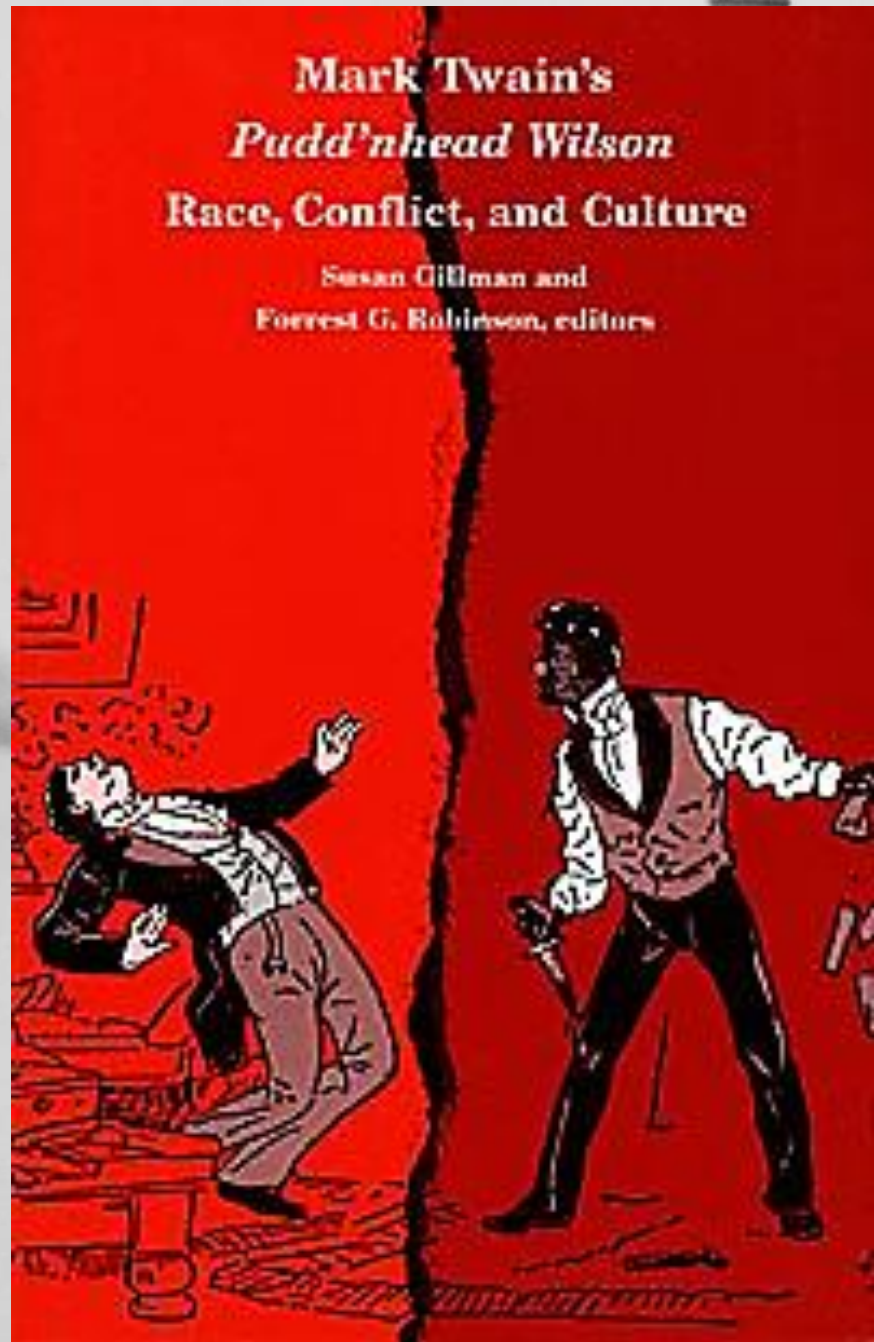


“To all intents and purposes Roxy was as white as anybody, but the one sixteenth of her which was black outvoted the other fifteen parts and made her a Negro. She was a slave, and salable as such.”

— Mark Twain, *Pudd'nhead Wilson*





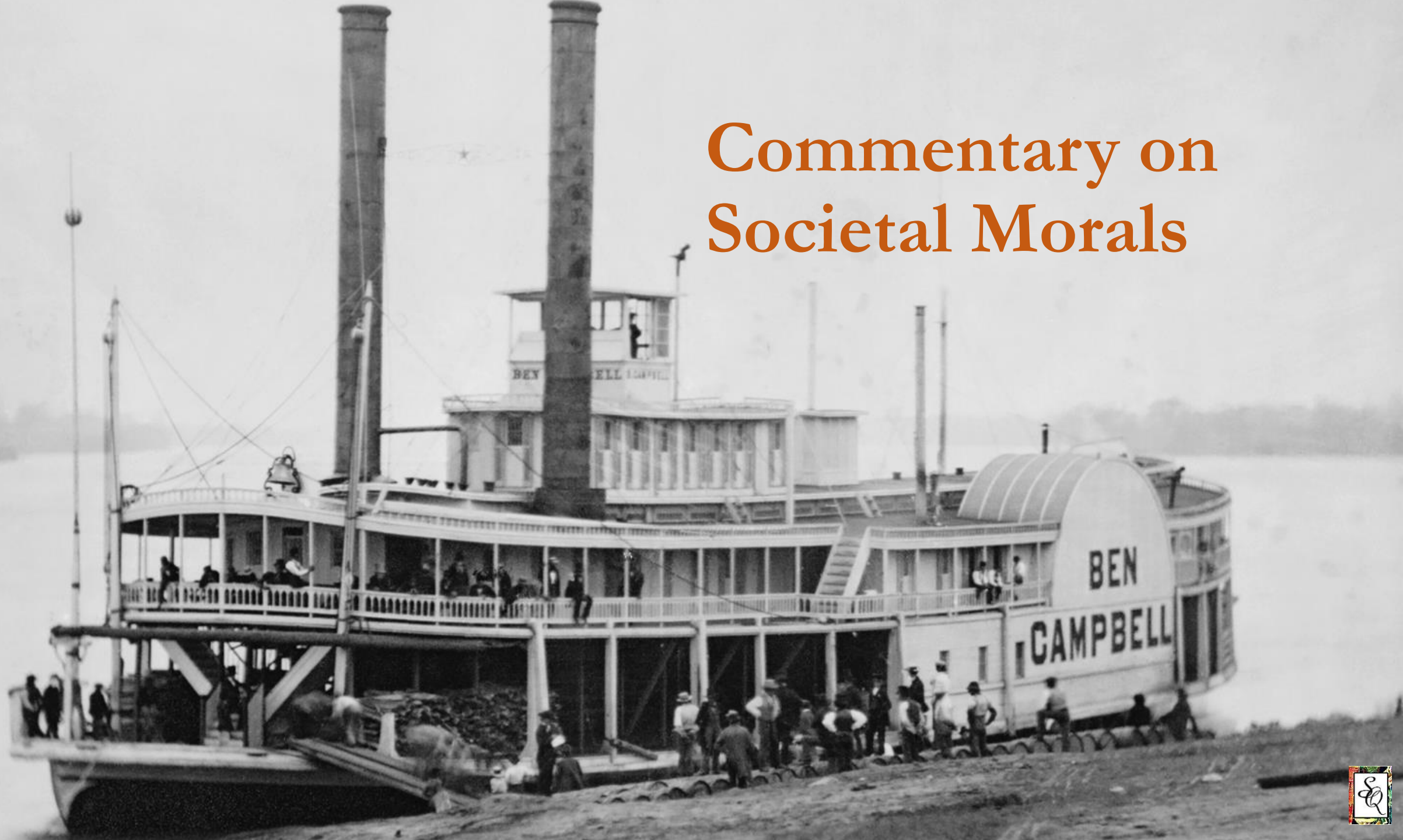


- “Ain't you my chile? En does you know anything dat a mother won't do for her chile? Day ain't nothin' a white mother won't do for her chile. Who made 'em so? De Lord done it. En who made de niggers? De Lord made 'em. In de inside, mothers is all de same. De good lord he made 'em so.”

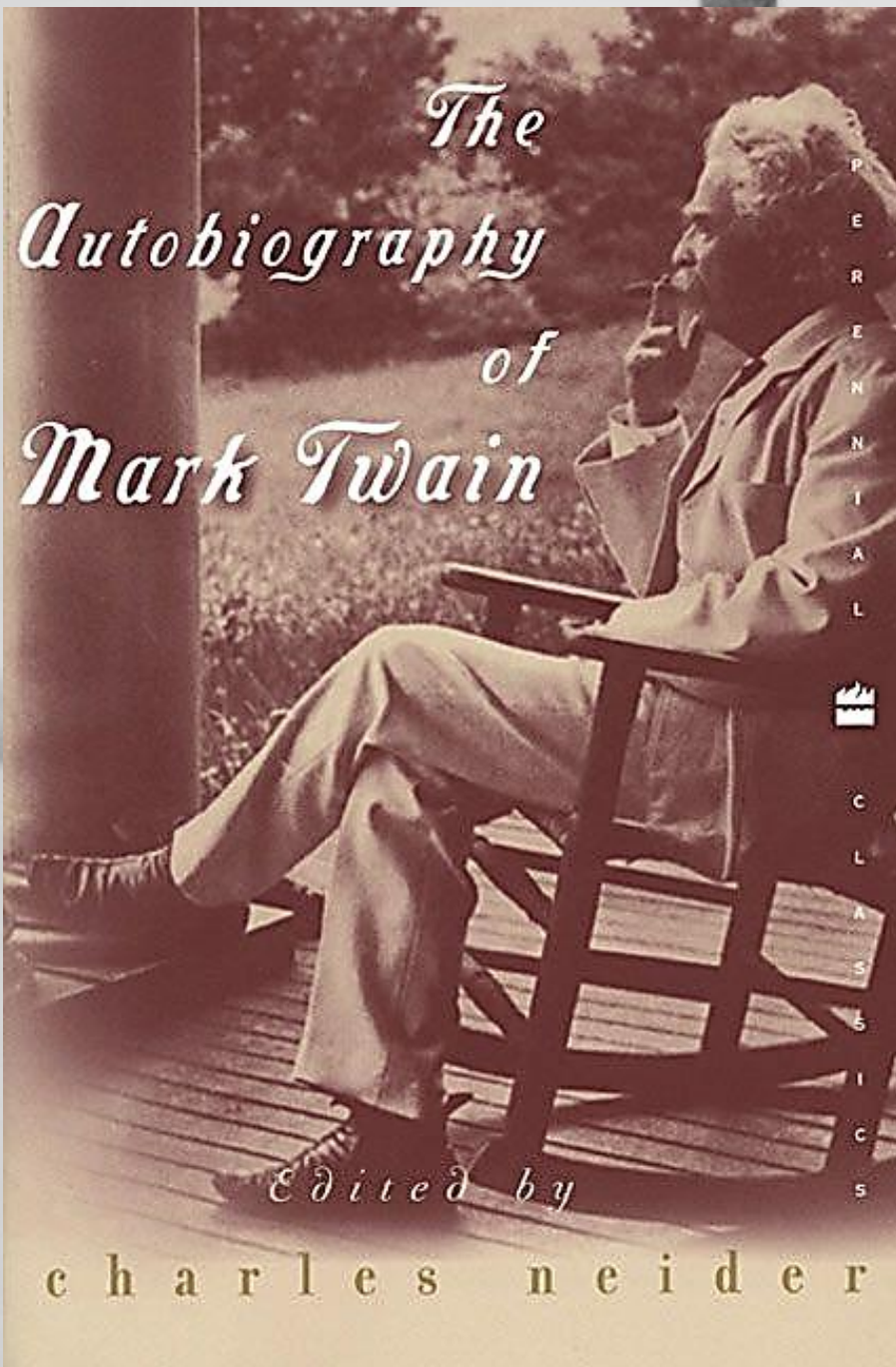
- — Mark Twain, *The Tragedy of Pudd'nhead Wilson*



# Commentary on Societal Morals







- “Under our infamous laws the seducer is not punished, and is not even disgraced, but his victim and all her family and kindred are smirched with a stain which is permanent—a stain which the years cannot remove, nor even modify. Our laws break the hearts and ruin the lives of the victim and of her people, and let the seducer go free. I am not of a harsh nature—I am the reverse of that—and yet if I could have my way the seducer should be flayed alive in the middle of the public plaza, with all the world to look on.”
- — Mark Twain, *Autobiography of Mark Twain, Volume 2: The Complete and Authoritative Edition*



# The New Crime





“Lately it does not seem possible for a man to so conduct himself, before killing another man, as not to be manifestly insane. . . . Really, what we want now, is not laws against crime, but a law against insanity. There is where the true evil lies”

— Mark Twain, “The New Crime.”



Lady Mordaunt in England – insane adultery – stayed married.





- “And the penalty attached should be imprisonment, not hanging. Then, it might be worth the trouble and expense of trying the General Coleses, and the General Sickleses and McFarlands, because juries might lock them up for a brief terms, in deference to the majesty of the law, but it is not likely that any of us will ever live to see the murderer of a seducer hanged. Perhaps if the truth were confessed, few of us wish to live that long.”

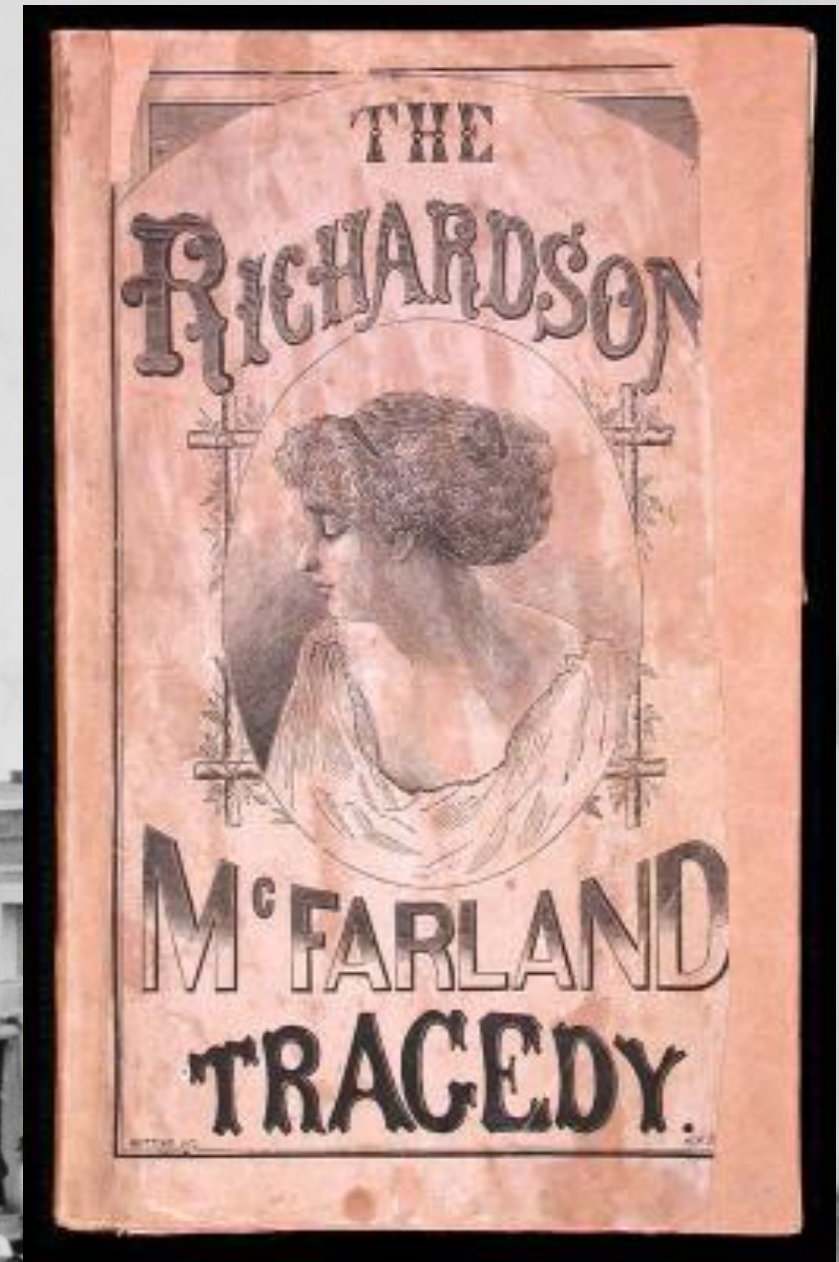
— Mark Twain, “The New Crime.”



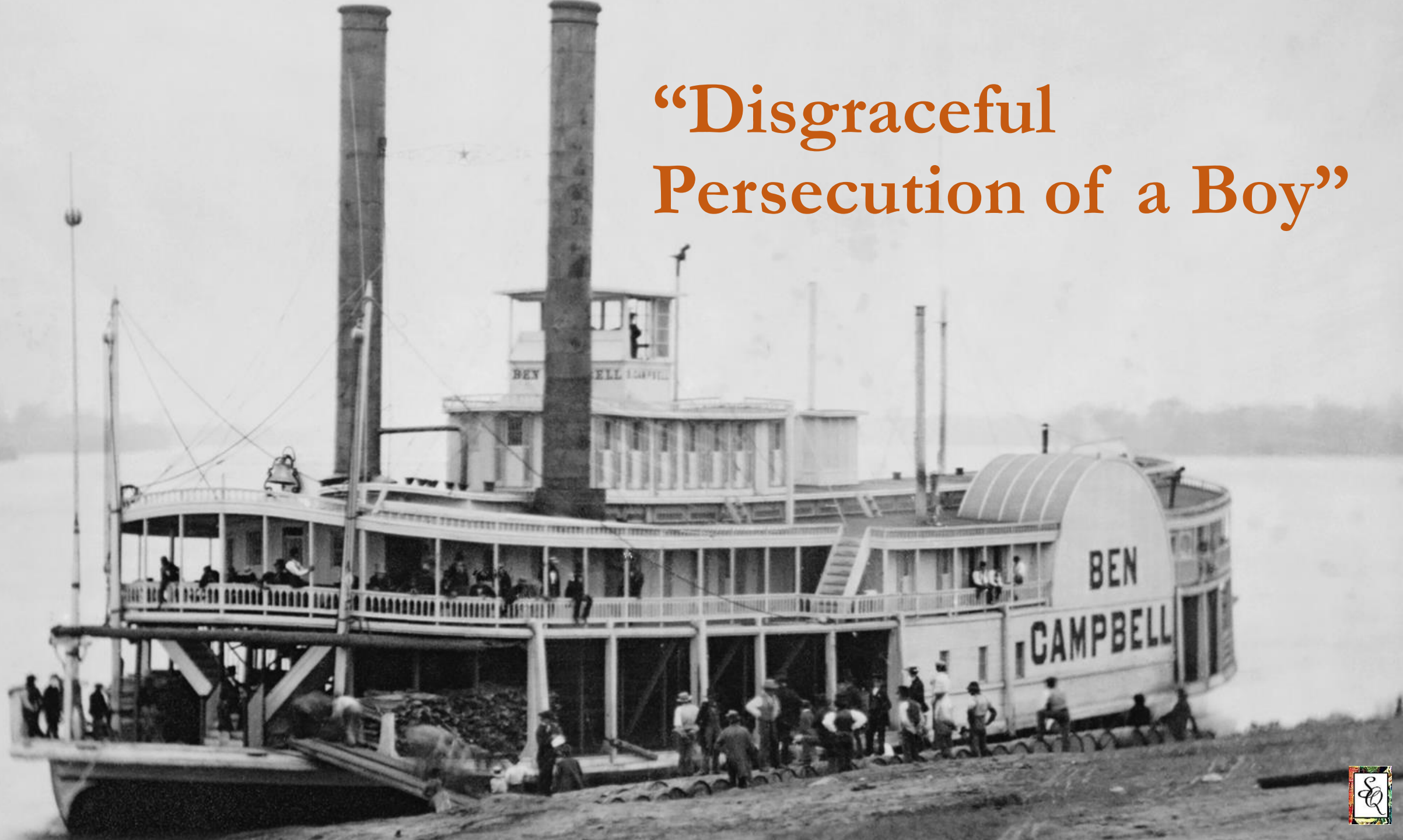


“No, when a man abuses his wife as McFarland seems to have abused his, any jury would punish him severely, and do it with relish. But when a man kills the seducer of his wife, a jury cannot be found that will condemn him to suffer for murder. Therefore, it is fair to consider that McFarland’s real crime is not in court in New York, now, but is left of the indictment.”

— Mark Twain, “The New Crime.”



# “Disgraceful Persecution of a Boy”





“In San Francisco, ‘well-dressed boy, on his way to Sunday School, was arrested and thrown into the city prison for stoning Chinamen.’ What a commentary this is upon human justice! . . . What had the child’s education been? How should he suppose it was wrong to stone a Chinaman?”

— Mark Twain, “Disgraceful Persecution of a Boy.”







- “It was in this way that the boy found out that the Legislature, being aware that the Constitution has made America an asylum for the poor and the oppressed of all nation, and that therefore the poor and oppressed who fly to our shelter must not be charged a disabling admission fee, made a law that every Chinaman, upon landing must be vaccinated upon the wharf, and pay to the State’s appointed officer ten dollars for the service, when there are plenty of doctors in San Francisco who would gladly enough do it for him for fifty cents.”

— Mark Twain, “Disgraceful Persecution of a Boy.”





“And, therefore, what could have been more natural than for this sunny-hearted boy, tripping along to Sunday School, with his mind teeming with freshly-learned incentives to high and virtuous action, to say to himself: ‘Ah, there goes a Chinaman! God will not love me if I do not stone him.’ And for this he was arrested and put in the city jail.”

— Mark Twain, “Disgraceful Persecution of a Boy.”



# Commentary on Copyright Laws





“Only one thing is impossible  
for God: To find any sense in  
any copyright law on the  
planet.”

— Mark Twain, Letters from the Earth:  
Uncensored Writings

