

F. Madison

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"The Builders of PM&S--The Real People
Behind the Pictures in the Library"

Friday Morning School Lecture

by

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Some months ago, Francis Kirkham gave us a rundown on the history of Pillsbury, Madison & Sutro and in so doing naturally he talked a good deal about the activities and deeds of these people whose faces you see around the library. I am not going to cover that same ground, but what I want to talk about is the people themselves, what they were like, what you might have thought if you had seen them in person.

The starting point of that, of course, was E. S. Pillsbury and right there I have the handicap that I never met him (laughter) because two years before I came with the firm as its first experimental summer clerk, he had retired at the age of 88, and retired to his estate down in Montecito where he died some four years after that in his 95th year. When he retired he was practically blind. He used to come into the office and have his secretary read the newspaper to him, but he was really through in the practice of the law after a long career. Looking at that picture on my left, it always gave me the impression that he was a rather small man and insignificant looking--he wasn't. He was at least average size, a little under 6 feet, he was slight but he had a great deal of force and he was a much feared opponent in the court room. He had all the force that I think was necessary to be the real starter and builder of this firm. But that's all I can say about him not having known him.

Frank Madison, whose picture is next on the left, was a man of about average height for his generation. He carried some weight with his advancing years. His face looks as though it were carved out of granite and that's just exactly the way he looked. He had a kind of a perpetual frown which shows in the picture and it was a frown not of displeasure, however, but of intensity. He was actually a quiet man--he was notable to me in that he used to come into the library and do all his own research. He would sit there with a stack of books and read them all very thoroughly. He was an excellent lawyer. The thing that sticks with me the most though, was that he inhabited for years the office which was later cut up into the office which now houses Bud Dapello and Bob McCarthy and the hall between. It was I am sure the hottest room in the office. I know that to be true because I inhabited that office myself for some years--many years after that. Frank Madison always wore a

very heavy wool suit with a vest and a rather high, stiffish collar. He had a florid complexion and I always thought he was going to die of apoplexy in the next moment. Somehow he survived for a good long time.

The next man in the firm and the third man of the triumvirate who gave the firm its name was Alfred Sutro, whose picture is there on my right. Alfred Sutro was again about average height, somewhat fleshed with the advancing years. He walked with a very slight limp. Jack attempts to deny that... I guess he was used to it, but he did have a very slight limp which he acquired when he was carrying baby Jack, so the legend goes (laughter) during the earthquake of 1906 and stepped on a piece of a lamp which had fallen and broken on the floor. Alfred Sutro was a very kindly man, although when he was displeased he could roar. I remember once when he was sitting in his office which was on the far corner of the old wing and a workman started to walk on the railing of the balcony outside. Alfred Sutro turned and noticed that and all of a sudden he flung open the window and roared "Get down off there!" I thought the man was going to get down by falling off the ledge. Somehow he survived that. However, his roar and his displeasure were not evidenced all the time. He was, as I said, a very kindly man. He was a true family man. He doted on his beloved wife and his children. When his grandchildren came along, he wrote some children's books just for them and had them illustrated and printed, which was an act of real love. When he was a host at a dinner party, he would sit in the host's position and take bread without the crust and knead it. While the conversation was going on he would be kneading bread and come up with little animal figures, very life-like ones which was a delightful characteristic and a very human one. He loved books-- he was for a long time the president of the California Book Club and he had an immense collection of very valuable books. He used to haunt the antique book dealers, climb up on their ladders and fish around for the books at the top of the stack which had long been forgotten. He particularly hunted for books that contained fore-edge paintings--that is, paintings which appeared on the front edges of the pages when you took the book and opened it up at a slant, moving the pages so that all of a sudden where the edges of the book first appeared it made a painting appear. And he had quite a collection of those. His books were not just as collectors items or for show, but for reading and he was a voracious reader and he was a learned reader. He retained what he read. But above all, he was a real client's lawyer. When he got a problem for a client, that was his whole life until that problem was taken care of. When something came into the office which seemed like an emergency, he would charge into the library sometimes, just draft everybody in sight--"get to work on this" and assign them out and expect the answer to that problem. He got them, too. He was a very forceful man--he left nobody in doubt as to who really ran the

firm when he was there. Although he and Frank Madison were very close collaborators, they both had a lot of big cases and big clients and they worked closely together in a most friendly fashion.

Then I'll go on briefly to Oscar Sutro; he's over on the right, too, next to Alfred Sutro--Alfred Sutro's younger brother. He was a big man--he was tall, he carried a good deal of weight in front--he looked just like that. He looked really like a Wall Street banker rather than a lawyer. I didn't have much contact with him because about the year before, after he had finished a nine-month trial of the then famous Hackfeld case, he was drafted by Standard Oil because the President suddenly, through retirements and deaths, found himself to be a general without a staff. He was desperately in need of people who had familiarity with the business and were also really executives in their character. So he drafted Oscar Sutro to come down to the 18th floor and there he stayed except for very brief visits up on the 19th floor, where, however, he maintained an office for a number of years after he had gone down to Standard. He was a very forceful man, very quick minded--in conversation when somebody made a point, he had it quickly. He showed a grasp that was really astonishing.

One of the things that sticks with me and all of those men--a characteristic that was common to them all--was that they were good listeners. They really exemplified the old saying that "you don't learn with your mouth open." When they asked a question and wanted the answer they listened and they listened thoroughly and they didn't interrupt--they got the whole story. Perhaps that comes from the fact that in those days they were all real trial men--they had a lot of trial experience. They were in court as much as they were out or perhaps more. Then perhaps that listening ability comes from the fact that trial people have to have times when they are talking but also times when they have to listen, so they are good listeners and they listen with restraint.

Well, I'm going to go on to some of the men who came later, although another one of the older generation there was H. D. Pillsbury, E. S. Pillsbury's son, and again he didn't appear very much over here when I was with the firm at the beginning because he was then the president of the telephone company and he spent almost all of his time over at 140 New Montgomery Street. He came over here, however, perhaps once or twice a week and very often to consult with Alfred Sutro who was really acting as General Counsel for the telephone company. He also had a little safe out in the hall across from his office. His office was the one now occupied by Joe Bare, the one which I also inhabited for a few years, later. And across the hall from that he had a little vault safe. I used to see him just kneeling down in front of it going over the contents, but he didn't spend enough time for me to get to know him very well. He looked just like the picture again.

He was average size; again he wore one of those frowns of intensity rather than displeasure. And I don't think I saw him smile very often--once in a while. I never saw Frank Madison smile, although I am sure he must have (laughter). One memory of H. D. Pillsbury which sticks in my mind is the one time I was summoned to Mr. Alfred Sutro's office and I opened the door and there sat Mr. Sutro, sitting beside his desk, and H. D. Pillsbury standing by his shoulder. The minute I opened the door Mr. Sutro said "Who said 'Carthage must be destroyed?'" And I said "Cato." He said "Thank you," and I turned to go out the door. I heard sotto voce behind me "I told you it wasn't Cicero." (Laughter) Those men had learning beyond their law practice. Their minds reached out into the classic world and I'm sure they had really full lives which went far beyond the humdrum although it wasn't very humdrum in those days of their law practice. There was something about them that also stands out. They all had a gracious dignity, which was impressive. It went with the position, their position, and with the position of the firm. In the years that Eugene Price was a partner of Mr. Alfred Sutro, for instance, I never heard him refer to or address Mr. Sutro as other than Mr. Sutro, which didn't diminish in any way the great bond of affection between those two men. But it was just recognition of the dignity of the position and they dignity of the man. To me, it was a great thing--a lasting thing.

Well, I go on. The next man in the firm around the corner here in the boy scout hat was Felix Smith. He is in the boy scout hat because that was the only picture that we were ever able to obtain of him. He never would allow his picture to be taken. So that is a snapshot of him as I understand it at his vacation place at Fish Lake north of Donner... (John A. Sutro, Sr. interrupts) "Frog Lake!" Frog Lake, pardon me, Frog Lake. (Laughter) Jack, I looked forward to the first correction. (Laughter) (John B. Bates interrupts "There have been many others, Fran.") "There must be other experiences..." (Laughter) (Sutro). "Well, I'll give you a second correction. That was his United States Army, World War I hat, and not a boy scout hat." (Laughter). Jack, I'm well aware of that (Laughter) Indulge me with my perveted sense of humor. (Laughter) Felix Smith, too, was a tall man, a big man and he was well fleshed-out. He was very impressive in his manner. I remember when one attorney, not connected with the firm, but a leading San Francisco lawyer, once told me: "There's one man in your firm that I can't stomach and that's Felix Smith. He's such an autocrat." Well, Felix Smith did give that impression--an autocratic impression. He was a man who looked his stature. He looked his stature to people who came in contact with him. (Francis Kirkham interrupts) "Fran, he's the only man I know that signed his club chits 'Smith.'" (Laughter) Very typical. He's the only man that I ever knew who could sign his name to a letter

while he was reading it, and he characteristically did that. He would pick up a pen, sign the letter and read the letter at the same time. If he found a mistake he scratched out his signature and said "Do it over again." Actually, the impression that he gave, I am sure, came from the fact that he was an impatient man. He was impatient because his mind was so fast. He had, without doubt, the greatest, most capable mind I ever came in contact with. It was almost frightening. It was accompanied by a lightning grasp of problems in their entirety. You didn't have to use many words before he had the thing way ahead of you. In fact, it was rather traditional that when people went in to see him they soon got the idea that they ought to practice their little speech ahead of time so they wouldn't have him interrupt before they could get the first sentence out and be way ahead of them in asking "What are you trying to tell me?" I know that when I went in I would try to boil everything down to six words and I never got out of there without feeling that I had wasted three of them. He was a prodigious worker. He covered an unbelievable amount of matters each day and yet at the end of the day he went home with a fat brief case...so big... carrying that out there to get through in the evening and come back. But when he got through reading that sometimes he amused himself he told me by reading classic Greek... of course in the original, and enjoying that for relaxation to get his mind away from all of the cares of the day. One time when we were sitting at lunch I asked him "Are you still reading Greek for relaxation?" He said, "No, I've got a new toy. Did you ever hear of soap bubble mathematics?" I said, "No." Well he said, "You know the soap bubble is round and it floats freely through the air because it is round, and it has a radius and it has a circumference and it has a perimeter and a diameter, and volume, surface area and all those things. Which, of course, you can readily figure out by just knowing your geometric formulas, your old $4\pi r^2$, and so on. Well, he said, "You can do all that with one soap bubble very easily. But now you have two soap bubbles. And because they float in the air freely they are attracted and they float together. When they float together, of course, that makes a common wall. But that wall in between is going to be the same ~~d~~ensity and the same thickness of the rest of the wall and so the effect is that some of the soap where they join has flowed out to the rest of it. It has changed the tension; it hasn't changed the volume but it has changed the tension. It changes all the other measurements as a result. No, it has changed the volume because the lessening of the total tension has (Laughter) let the volume expand a bit. So you have to do a little working on your formulas to make them come out right and give you new diameters and new surface areas and new volumes. Well, he said, if you postulate two equal soap bubbles it's not too hard, but when you take two that are different sizes, say, one is twice as big as the other, and then you work out what has become of all of those measurements. Then he said I like to do that in my head driving

down to the office. (Laughter) I hadn't recovered from that one...before the age of 30.

Felix Smith didn't go into court very much...I think not at all. And the legend was that he didn't go into court because he couldn't handle it. He couldn't handle his own impatience. He got so impatient with the slow-witted judges that he had to face and couldn't help show it, and therefore he did the polite thing and stayed out. Jack is about to correct me again. (Laughter) You can have a 10-minute rebuttal. (John A. Sutro, Sr. interrupts: "He tried a very difficult protracted case in Judge Sure's court involving patent law.") He generally did not go into court and still the repute-- (Kirkham interrupts: "Correct.") (Laughter) I'm glad to have a claue.

Well, I'd better leave Felix Smith and go on to Marshall Madison, who is over on the right.

Marshall Madison was a really big man who was a couple of inches--two or three--over 6 feet. He was a strong man, a heritage from playing football in the old California days. Marshall Madison was a very impressive man. He was strong-minded and strong-willed and he didn't place much of a curb on his emotions. When he was displeased he showed that displeasure and he showed it in no uncertain terms, to the dismay of a good many of the younger people around from time to time. But that was a bit of a contradiction in terms because he was really a very kind-hearted man, and he had a great sense of humor. When he was pleased with something that occurred to him as funny he had a smile that was just boyish...a very cherubic smile, which was very winning and he, too, as I said was a prodigious worker...like Felix Smith. He just worked hard and intensely all day long and for long hours.

That brings me really to Eugene Prince, whose picture is far back at the right near the administrative desk. I have difficulty in talking about Eugene Prince without being emotional because I had so many years of very close collaboration with him. And I looked upon him as sort of a legal father. Gene Prince was not a big man...he was smallish, slight. He was a homespun, simple sort of a person, and he never lost that homespun air. He was a very modest man. And when he disagreed with you, which he might do frequently, he expressed his disagreement in a rather shy, half-embarrassed way, as though he just hated to disagree with anybody--which was true, I think. His modesty prevented him from really forcing himself in any aggressive way, although he was a tenacious lawyer. But I remember when he was being proposed and urged to run for office in the Bar Association, his attitude was "Oh, others want it. Let them do it." Nevertheless, he was finally pressed into service and he became president of the Bar Association, and some years later, there was a repeat

of that when the State Bar really needed some leadership and he was urged to run for a position as a State Bar Governor. He refused to do it. Again, he said "There are others who want it...let them have it." But a vacancy came when someone was appointed a judge, some one of the governors, and he was then drafted...he was just appointed by the rest of the Bar Governors to that vacancy and at the end of his term he wound up as President of the State Bar and he ran that State Bar very capably, devoted his time to it unstintingly but at the same time with that very becoming modesty. Gene Prince was a prince in every way. He wanted the best for everybody... for himself, but more than that, for everybody else. He showed that, in all the things that he did. He loved books. He had a wonderful library. He read voraciously, he read usually far into the night. He had a great literary fund of knowledge and quotations. He could pull a quotation out for any purpose. He also had a very keen sense of humor which was right at the surface. Things titillated him. His humor was not the guffaw type, it was the chuckling type. He loved things to be funny and he loved to share them with other people in that way that they tickled him. He was a very gentle, wonderful man. He had a marvelous analytical mind and a wonderful, really organized mind which made him a master of oral and written argument. He was the greatest brief writer I've ever seen--he wrote the most wonderful briefs, because of his ability to size up a problem, size up the target of the problem, that is, the court which was going to read it, and then go directly to that target.

Well, I'd like to go on and talk about Gene Prince for a long time, but time does flit. I want to add just one thing and that is that I think that in his time he was the best-known lawyer in the state. I couldn't go anywhere at anytime and walk among lawyers or in court in any one of those counties without having someone say "How's Gene Prince?" Everybody knew him, everyone respected him and everyone liked him. The same kind of a mantle I now think has fallen on Jack where I get the same thing if I go abroad; it is always "How's Jack Sutro?" (Kirkham interrupts: "Correction.") (Laughter) I stand on my statement.

Next is Vincent Butler whose picture is over at the right. Vincent was tall, impressive and he had that little clipped moustache and that well-groomed air. What a perfect poise. When I met Vincent Butler for the first time I was overwhelmed. I thought many years afterwards if anybody ever could make a wonderful impression at first meeting he was the one who did it. He had been a Rhodes Scholar, spent some time at Oxford. It never deserted him. He acquired an English accent which was not annoying at all, it was a gentle English accent, rather pleasant than otherwise I'm sure. He kept his connection with the Rhodes Scholarship all the rest of his life. He was on the committee and eventually I guess he had had charge of the western states area of Rhodes Scholarship and had to

interview all their applicants and pass upon them and so forth. He did the tax work in the office. He spent a great deal of time practicing law on the telephone. Felix Smith always said "Vincent Butler is the perfect lawyer. He gets a call from a client, he always says 'Well, if I can't give you an answer, I'll find out somebody who can.'" And he would. He'd get on the telephone and find out someboy who gave him the answer and then he'd report back so he did a lot of work and satisfied his clients very well.

Next is Gene Bennett. His picture is far back on the right near the administrative desk, right with his very, very close friend Gene Prince. Gene Bennett had been the chief trial attorney in the United States Attorney's Office and was a marvelous trial man. He was smooth in court so that you could hardly believe...He was never hurried, always deliberate. He had a fine voice--he spoke with command. When he spoke, people listened. He was a handsome man. In his younger days before this picture was taken he was extremely handsome and again the legend is that he was just devastating to lady jurors, which I'm sure was true. With his long preparation for trial--preparation as a trial man--he was able to get around the trial preparation at lightning speed, in no time at all. I think the first time that I had to help him get a case ready for trial, I worked on it and worked and worked for a couple of weeks and I had interviewed all his witnesses, gotten their statements and I'd looked up the law and I had written memoranda. And then I tried to see him to tell him about it. He would always say "See you tomorrow; see you tomorrow." Well, this went on, and on and on. On the day before the trial he still hadn't seen me and I was getting really pretty nervous about it. Well, at 7 o'clock that night before the trial he called me in and he said "Well, let's go over this. What have you got?" And so I gave him my statements and memoranda and he read them very thoughtfully and he asked a couple of questions. He said O.K. and dismissed me about 9 o'clock. The next day he went into that trial--Oh, he had asked me before how long will it take to try and I said three days. Well, he went into trial and he tried that case in one afternoon and came out with a judgment off the bench--which showed me how a real master could do it. And he could do it always, in that same smooth, deliberate and yet very rapid way which kept to the essence and carried persuasion with it.

That brings me to Sigvald Nielson, whose picture is far back to my right. (Sig was a Dane who had moved to Canada in his childhood, practiced law in Edmonton, and later taught law at Stanford--I took one of his courses--then at USF. In 1934 Vincent Butler was unhappily killed in a plane crash and all of a sudden with all the burgeoning tax work in the office there was nobody just to handle that as a specialty. So Sig was brought in to the office to take care of that. Sig was a tall man, spare, very positive speaker, very clear speaker.

And I will always remember him for one thing in particular and that is that he wrote the best letters, just on the average, that I ever read. They were the best because they were simple, they were very clear, very logical, very lucid; no one could fail just simply to read through the letter and get the whole story right there without any excess words. And that's the way he thought, too. A very, very splendid lawyer. His death, too, was untimely.

And finally I'm going to talk a little bit about Norbert Korte whose picture is way down at the left. Norbert was a great big man, an ex-football player at Santa Clara-- we called him "Moose." He was a man of real force of character. In the office he was the terror of the secretaries and young lawyer helpers, and all the messengers that came in. And yet there was a contradiction in terms there, because at heart again he was reasonably gentle. (Laughter) I don't want to detract from his force. In court he was a smooth, suave, polished gentleman. He dropped that in the office (laughter) where he was likely to be abrupt and somewhat impatient, but really a great fellow. I used to play Sunday golf with him and Mike Sutro, Jack's cousin, and Lee Groezinger who was in the office, every Sunday out at Ingleside about six o'clock in the morning. And while...when I flubbed a shot I was likely to throw my club right after the ball to see if I couldn't overthrow it, but when Moose Korte flubbed a shot, he just laughed. It was all play. In the office it was work...that was the career, but when he was outside the office he would play and he did it well. I always remember a couple of things. I remember one story he told about a trial that he was in--an intersection collision over in Berkeley. Of course, he prepared the case and he had his witness all prepared. On cross-examination the witness was asked by the opposing attorney: "How far was your car from the intersection when you saw my client's automobile?" And he said without hesitation, "137 feet." "Oh, 137 feet. How do you know it was 137 feet?" "Because I went out last night and I measured it." "Oh? How far was my client's car from the intersection when you first saw it?" "53 feet." "How do you know?" "Well, I went out last night and I measured that, too." "Well, by the way, how long is your car?" "Six feet." The witness had suddenly thought he was going to get the width of the car and misunderstood in his mind so he answered six feet. "Oh? how wide is your car?" "Six feet." (Laughter) "You say it is six feet long. You testified it is six feet long." "Yes." "And you testified it is six feet wide." "Yes." "Then your car must have been square." "Yes." (Laughter) The rest of that trial was a shambles, because every question that was asked by the opposing attorney referred to that square automobile.

A story I liked, too, about Norbert...he told that on himself, too. In those days you used to train trial people by having them help out with one of the trained trial lawyers

and sit through a trial or two during the trial until they really got the feel of it...how it was done. And so Norbert had gone through that apprenticeship, and eventually the time came when he was going to try his first case all alone. And he had been told that it was a good thing to do after the case was over to talk to some of the jurymen or women and see what impressed them because that was a great way to learn how to make your points and sell them. So he tried a small accident case and won it and when the jury was thanked and dismissed by the court he picked out a likely looking, kindly faced old lady and said: "Do you mind telling me what induced you to render your verdict in my favor?" And she said: "Oh, young man, I knew I was going to have to vote for you as soon as I saw that the opposing attorney was wearing white socks." (Laughter)

Well, that really brings me to the end of my story and it's hard to omit Jerry Levin, who was after all my contemporary and Larry Kuechler who came in after me, and Del Fuller who, although he came in some few years before, is nevertheless so fresh in our memory that I can't add to the impressions that you have yourself. I will only say that these people I have been talking about were the builders of PM&S. They were the ones who built it into a position pre-eminent in the western half of the country among all law firms. They did it because of their tremendously high standards of hard work, of excellence, of service to the profession, and of their humanity. And not a month or a week goes by but that I thank the kind fate that brought me first to the doors of PM&S. They were wonderful people, they have given me a wonderful, professional life and I thank them for it. I hope that sometime you'll all feel the same way, and God bless you all.