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“To Sue and Make Noise’: Legal Theatricality and Civic Didacticism in *Boston Legal*

[A client asks to be represented in suing the U.S. government for inactivity in the face of genocide in Darfur.]

Lawyer Lori Colson: “I have a crazy idea. [...] In tort law, you see a guy lying on the side of the street, you have no obligation to pull over and help. But if you do pull over, you incur a duty to complete that rescue, the theory being other would-be rescuers pass by thinking help is already on the scene. [...] The United States has declared a war on terrorism. We’ve talked the talk when it comes to Sudan. We’ve even given financial aid. Our theory of law would be analogous – other countries have stayed out, thinking America is stepping in when we’re not.”

Lawyer Paul Lewiston: “It’s not a winner.”

Colson: “But perhaps colorable enough to sue and make noise.”

(*Boston Legal*, “Schmidt Happens”)

The legal drama episode from which this dialogue is taken depicts an impossible case: A Sudanese immigrant, who lost most of his family to the violence in Darfur, wants to sue the U.S. government for failing to intervene in the face of obvious genocide. The case is unwinnable. Lori Colson’s construction of a legal basis for the case is more than shaky. But neither the client nor his lawyers expect to win the case. Their proclaimed objective – to “make noise” – pinpoints a significant cultural potential of litigation, of its ‘real’ practice in the courtroom and, even more importantly, in its various forms of mass-medialization and fictionalization: to raise public awareness about instances of injustice, to educate the public and encourage civic debate.

Legal drama,¹ the genre most immediately concerned with narratives of the law and litigation, figures as one of the most conspicuously didactic genres in contemporary popular culture. While it could be argued that the genre’s very design is didactic – centering on questions of ‘right’ and ‘wrong,’ on the vicissitudes of justice and how it ought to be achieved – recent legal drama bears witness to a shifting didactic focus, from primarily moral questions to questions of social justice.² Current tv legal drama, as

1 In this essay, I will use the term ‘legal drama’ in the sense of ‘courtroom drama,’ as referring to dramatic fictions that show a substantial interest in the themes, characters, and settings of courtroom litigation. Scholars with a more specific interest in the genre’s contours and internal subdivisions often work with a more nuanced terminology, distinguishing, e.g., courtroom dramas, courtroom ‘whodunits,’ and legal thrillers as subgenres of legal drama. See Kuzina 79-80; Robinson 32.

2 Elayne Rapping’s history of television legal drama would date the beginnings of this shift to the

cultural scholar Mary Beth Haralovich notes, often employs “the courtroom [as] a venue to present civic lessons [...] suspend[ing] verisimilitude to explore issues” (n.pg.). She further observes that “[r]ipped from today's headlines,' TV legal drama is more like docudrama than fiction, as the contending forces of constitutional rights and public safety are worked through TV legal drama for the civic audience” (n.pg.). In a similar vein, legal scholar Matthias Kuzina uses the term “social issue courtroom drama” to characterize the recent wave of films and tv productions that employ courtroom-settings to engage social and political issues in ways meant to educate the audience and encourage debate.

The television series *Boston Legal* (2004-2008) provides for an interesting case study in this context. On the one hand, the series accentuates the legal drama's didactic potential and adopts some of the classic conventions by which the genre has performed its didactic work. On the other hand, the series significantly adapts and amends these conventions and their didactic operations, seeking to update them for a postmodern mass culture (which is, in many ways, hostile to didactic orientations of culture). In the following, I want to use *Boston Legal* in general, and one of its episodes in particular, to explore the distinct didacticism of legal fictions. I will argue that this didacticism specifically exploits the performativity of the legal process that courtroom dramas represent. Performativity figures as a central yet ambiguous aspect of the law, an aspect that has played an instrumental role in the formation of media genres organized around (more or less) fictional representations of the law. While classical legal drama tames this performativity by way of a realist aesthetic, *Boston Legal* unleashes the law's theatricality by amending legal drama with legal comedy. This affects the series's self-consciously didactic work, outlining a (post-)modernized version of the legal drama's civic didacticism.

Legal Performativity, Courtroom Drama, and Pop Didacticism

I want to approach the legal drama's distinct didacticism by focusing on how the

1960s, when an increasing number of legal series featured lawyers who “sought to serve the indigent in the interest of social justice and the righting of broader social injustices” (22). Rapping refers to series like *The Defenders* (1961-65), *The Law and Mr. Jones* (1960-62), *Judd for the Defense* (1967-69), and *Owen Marshall* (1971-74). On a side note, *Boston Legal* specifically invokes this genealogy of its genre when one of its episodes, “Son of the Defender,” integrates footage from an episode of *The Defenders*.

genre exploits the law's performativity.³ This performativity or theatricality⁴ of courtroom litigation is a much belabored point in legal as well as law-and-the-media scholarship, which is often argued in terms of an analogy between trials and theater. Law-and-literature scholar Julie Stone Peters identifies such analogizations as “a trope central to the history of law and legal commentary” (180). And, she further observes, it is particularly the nature of courtroom litigation that sustains this trope⁵: “If law generally has a secondary textual half-life, the central events of law – trials – (it is observed) are normally performed before live audiences by those specially trained to shed their own identities and 'represent' others. Trials are the re-enactment of a conflict [...] whose essential narrative form is dialogue. They exploit iconic props as crucial clues to the unfolding of the narrative, and often rely on space, staging, costume, and spectacle in an attempt to bring back to life the dramatic event they are attempting to recount” (180-81).

Legal scholar Richard Harbinger's pioneering essay “Trial by Drama” exemplifies the kind of legal commentary on which Peters bases her diagnosis of a pervasive law-as-theater trope. Noting that “[a]n adversarial trial is a dramatic thing put to legal use” (122), Harbinger argues that (criminal) trials are characterized by two layers of drama, “a play within a play” (ibid.). The “play without,” or “courtroom drama,” is enacted by the trial's opposing lawyers and consists of their performances (as storytellers) in court: “The starring attorneys get most of the dialogue and the action and they do most of the emoting and agonizing. It is only in a legal sense that the defendants or the people win or lose; in a dramatic sense the attorneys win or lose” (124). The “play within,” or “crime drama,” concerns the events of the crime which are reconstructed – by way of two performed, oppositional narratives – in the courtroom. On these two levels, trials work like theatrical plays in which actors – chiefly the lawyers, but also witnesses, defendants, etc. – perform in front of an audience – chiefly, but not only, the jury.

This audience-orientation figures as a significant element of the law-as-theater trope,

3 This is not to imply that the structures and conventions of the media in which the law is fictionalized have no impact on the genre of legal drama, and I will address some of these in the course of my discussions. The point I want to make with my choice of focus is that there are also factors inherent in the subject and setting of legal drama that inform its conventions.

4 Julie Stone Peters eloquently discusses the terms 'theatricality,' 'performativity,' and 'performance' as different ways of talking about one and the same aspect of the law (182-86). The differences among them rest in the assumptions and interests they bring to the discussion of the law: While 'performativity' especially resonates with the various paradigms of performance studies, 'theatricality' bears a more diffusely negative connotation, “carr[y]ing with it the burden of [...] the 'antitheatrical prejudice’” (Peters 182). Seeking to distance my discussions from such assumptions and connotations (which will partly figure as object of my remarks), I will use these terms more or less interchangeably.

5 Thanks to its jury-system, the American legal system seems more conducive to theatricality than other legal systems. See Olson and Kayman for a plea for comparative studies of law and culture.

an aspect of courtroom litigation (especially of jury trials) specifically singled out to argue the law's theatricality.⁶ And while its theatricality seems to generally predispose the law for medialization and fictionalization, this audience-orientation, in particular, plays an instrumental role for the law's popular appeal, in ways that ultimately sustain the myriad forms in which trials are represented in the media. Although lawyers may gear their courtroom performances toward persuading their juries and judges, these may not be the only audiences they attract. Discussing high-profile trials, Richard Schechner speaks of “several audiences surrounding the trial in concentric circles. The courtroom itself is crowded with spectators and press. The proceedings may be televised” (177). Schechner's image of the concentric circles suggests that these groups of audiences watch the courtroom's performances in fundamentally similar ways. Audiences on the more peripheral of these circles may not be formally called upon to pass a verdict, but their engagement of the proceedings tends to resemble that of members of the jury: The pleasure of watching trials rests on a clearly defined suspension of disbelief – to pretend that the courtroom's performances are targeting oneself and to read these as if participating in the casting of the verdict. Media representations of the law specifically exploit the audience-oriented performativity of the courtroom, attracting audiences by offering them an opportunity to vicariously participate in trials from the privileged, authoritative position of jury or judge.

This interest in the courtroom's 'original' audience-oriented performativity shapes the forms and conventions of the law's representations, including those of television legal drama. Most obviously, it sustains a realist aesthetic. Legal drama especially depends on the kind of realism that John Fiske deems characteristic for tv fictions in general: “[Television] presents itself as an unmediated picture of external reality” (21), concealing the technologies of its own mediality and semiotic apparatus. In addition, legal drama incorporates all kinds of references to (lay people's notoriously skewed idea of) the 'real world' of legal practice, from meticulously designed courtroom-sets over ostentatious reproductions of courtroom protocol to references to real courts and cases. Carol Clover – whose observations about filmic courtroom dramas pertain to their televisual versions, as well – notes that the genre she calls 'trial movies' specifically employs such realist techniques to align its viewers with its diegetic juries. “[T]rial movies enact the structure and narrative procedures of real trials” (270), thus offering

6 For a most fascinating example, see David Ball's *Theater Tips and Strategies for Jury Trials*, which advises lawyers how to improve their persuasiveness by adopting acting and staging strategies from the theater.

their audiences reception experiences that present themselves as similar to the reception experiences of juries in 'real' trials. In addition, the camera-work and editing of these films encourage an “equation [...] between the diegetic jury and [the films'] spectators” (260)⁷ – techniques we will see at work in the *Boston Legal* episode to be discussed below. The conventions she identifies foreground the courtroom's 'own' theatricality (while downplaying the theatricality of the medium film or television by which this courtroom-theater is represented and fictionalized). They are oriented toward maximizing the illusion that viewers are participating as jurors in a potentially 'real' trial.

Clover describes the effect of these conventions as one of intensified viewer engagement: On-screen courtroom dramas hail their audiences “not as passive spectators, but as active ones, viewers with a job to do” (257). It is this distinct mode of audience address, then, that provides for legal drama's didactic potential. The viewers' 'job' to vicariously rule in a film's or episode's case entails learning-work – to learn not only what happened in the case at hand but also what these happenings mean and why they matter. Participating in the law's application ('really' or virtually) affords a quintessentially civic experience, an opportunity to immediately practice one's citizenship and engage the norms and social organization of one's community. In the words of Bernard Hibbitts, “[a] properly-conducted trial gives participants the opportunity and the cathartic satisfaction of approving the law by serving as the instruments of deliberation and decision. A properly-conducted trial democratizes the law by calling the community to witness, and by making it collectively responsible for the law's effectuation” (n.pg.). As we will see, legal drama's didactic operations – its capacity to thus offer 'civic lessons' – rely on implicating the viewer in the diegetic courtroom's deliberations.

There is one more aspect of the law's theatricality that informs legal drama's realist didacticism, and this concerns the ambiguity that theatricality is accorded in legal discourse. As Julie Stone Peters notes, legal discourse is all but schizophrenic about the law's performativity: “If law has historically exploited its theatricality – offering an exemplary spectacle of punishment, awing its subjects with its pomp and ceremony, replaying the crime, and dramatizing the defendant's story through impersonation – at the same time it has rebuked or abjured its own theatricality. [...] Theatricality is essential to the production of law. At the same time, theatricality in law often bears its

7 See also Jessica Silbey's discussion of the characteristic camera-work in trial films (especially 106-11).

historically negative charge: law is about accessing truth; theater is about presenting lies” (198). Much legal discourse is invested in disavowing the law's theatricality, insisting that the law is about texts and facts, and fundamentally different from a theater associated with “artifice, affectation, excess, melodrama, deception” (Peters 182). Bernard Hibbitts traces the law's “embarrassment” (n.pg.) about its own theatricality to the prevailing legal epistemology which “has consciously favored certainty, fixity, objectivity and rationality, 'scientific' values that seem better represented by text than by performance” (n.pg.). Both Hibbitts and Peters outline some of the ways in which legal discourse and practice accordingly try to manage this theatricality, to control and cap its most seductive and sensationalist aspects: “criminal trials must be public, but not too public; [...] evidence must be relevant, but not so dramatic as to be *too* relevant (no mutilated bodies on the legal stage); testimony must be live, but not be too lively (witnesses must stay in the box)” (Peters 199).

Paradoxically, classical legal drama shares the law's embarrassment about its own theatricality – paradoxically because courtroom drama, of course, embodies exactly the kind of dramatically produced legal fictionality from which legal discourse seeks to distance itself. Nonetheless, legal drama tends to portray favorably courtrooms that tame the law's theatricality, and lawyers who abjure acting and directing and instead serve truth and justice.⁸ Legal dramas' realist aesthetic draws attention to the issues involved in their plots while downplaying the (theatrical) means by which these issues are produced – in the diegetic courtroom and in the film's or episode's representation of that courtroom. This realist issue-orientation shapes the genre's didacticism, directing viewers' attention to the social or moral issues in a given case without encouraging them to reflect on the contingent ways in which these issues are made issues in the fictional courtroom. What is more, the legal epistemology that underwrites the law's anti-theatricality further informs the way in which legal drama likes to present its issues: The “certainty, fixity, objectivity and rationality” (n.pg.) Hibbitts identifies echoes in the genre's tendency to cast 'truth' and 'justice' as absolute entities. Be its narratives optimistic or pessimistic about the legal system's propensity to elucidate truth and serve justice, the concepts of truth and justice underlying these narratives are typically singular and absolute. Legal drama tends to pit unambiguous right against unambiguous wrong. It likes to resolve the courtroom's confrontation of opposing narratives of the same events by singling out one narrative as 'correct' (by associating it with truth and

⁸ See, e.g., Rapping's survey of tv legal drama (22-47). For an example of a negative portrayal of legal theatricality, see *The Bonfire of the Vanities*.

justice). In courtroom dramas that are affirmative of the legal system, the diegetic court's ruling typically serves to authorize one of the performed narratives as 'truth' and to end the trial's epistemological uncertainty by providing narrative closure.

In sum, then, legal drama's didactic operations are significantly shaped by the troubled theatricality of the law that it fictionalizes. On the one hand, this theatricality enables the genre's didacticism by allowing its own performed narratives to 'hide' behind the courtroom's performativity and thus achieve an effect of distinct realism and immediacy; it engages the viewer by drawing her/him into the diegetic court's deliberations. On the other hand, the law's theatricality controls legal drama's didacticism by imparting its uncomfortableness with a theatricality conceived of as sensationalist and insincere and thus at odds with the law's self-fashioning as founded on objectivity and normative absolutes; it thereby encourages legal drama to tame the theatricality of the courtroom, and of its own representations of the court, by means of a realist aesthetic, and to contain and eventually resolve the narrative ambiguity of a trial by operating with absolute concepts of truth and justice and by offering authoritative narrative closure.

Boston Legal, as I will outline in the following, taps into these conventions of the legal drama but adapts and amends them by integrating scenes that un-tame the law's theatricality. This, I will argue, considerably affects the series's didactic work. It specifically targets and unfixes the assumptions about the law's "certainty, fixity, objectivity and rationality" (Hibbitts) that sustain the anti-theatrical bias in legal discourse, practice, and fiction. Avowing itself to the law's most theatrical performativity – and to its own medium's role in encouraging this legal theatricality – *Boston Legal* engages its viewers to not only deliberate social issues, but to also confront the complex and contingent ways in which these become issues.

Boston Legal

In many ways, *Boston Legal* is a typical specimen of television legal drama, adopting not only the conventions of this particular genre but of serial television in general. At the same time, the series participates in the self-conscious play with and pushing of such conventions that scholars like Jason Mittell deem characteristic of the innovative zest of contemporary 'quality' television. The series's self-reflexive engagement of the law's theatricality has to be seen in the larger context of this trend in

tv culture.

Boston Legal centers on the professional and private adventures in the high-end law firm of Crane, Poole, and Schmidt. Especially in its early seasons, episodes tend to be organized around individual cases – usually two cases that appear to be very different yet reflect on each other in telling ways; cases tend to be concluded within one episode. With this structure, the series follows the typical pattern of television series.⁹ In later seasons, *Boston Legal* begins to vary this pattern by developing some cases across several episodes, an adaptation of narrative structures Mittell associates with tv series' new interest in narrative complexity, in “shifting [the] balance” between “episodic and serial forms,” “[r]ejecting the need for plot closure within each episode” (32). As my discussion of an exemplary episode will illustrate, this is only one of several strategies by which *Boston Legal* challenges conventions of narrative closure.

Another aspect in which *Boston Legal* reflects general conventions of serial television concerns its use of an ensemble cast, which provides the series with a degree of diversity and polyvocality. *Boston Legal* particularly exploits this possibility by emphasizing its characters' differences. The series's two main protagonists, lawyers Alan Shore and Denny Crane, are constructed as diametrically opposed characters, who, nonetheless, are the closest friends. Alan Shore is characterized by his political liberalism and his – at times cynical, at times rebellious – awareness of how his own lawyering participates in the manipulation of truth and commodification of justice. By contrast, Denny Crane, who will play a central role in the episode to be discussed later on, is an almost grotesquely overdrawn conservative, who adores President Bush, is very fond of guns and has complicated relationships with several types of minorities. Crane is cast as direct and uninhibited in venting his conservative opinions and anxieties as well as in his professional narcissism, a directness cushioned by his coy invocation of dementia as an excuse for all kinds of inappropriate behavior. There are several other characters that make the series's ensemble – many of them changing in the course of its five-year run – that add yet more narrative opportunities and voices. Another character that will play a role in the episode I want to discuss is Shirley Schmidt, one of the named partners in *Boston Legal*'s starring law firm, who embodies the law firm's demand of professionalism and market-orientation, which sometimes conflicts with her moral conscience and political convictions.¹⁰

9 For this and my subsequent observations about the conventions of television series, see, e.g., Butler (34-40); Newman.

10 My synopsis of these characters, in this brevity, cannot do justice to the actual complexity of their characterization. It is oriented toward preparing for the roles they will play in the sample episode I

The pronounced diversity of this ensemble conditions the way in which the series narrates social issues. *Boston Legal* likes to present issues from different perspectives, limiting its dialogism not to the narrative confrontations of the courtroom but extending it to the series's second main setting, the law firm, thus staging polyvocality as pervasive to legal and political discourse. The specific issues engaged in the course of the series's five seasons range from ethical questions of guilt and justice, and the lawyer's role in affecting or obstructing justice,¹¹ to issues that dominate contemporary political debate. Among others, the series has addressed the war in Iraq,¹² capital punishment,¹³ global warming,¹⁴ and corporate irresponsibility.¹⁵ The polyvocality in the dramatization of these issues not only rests in the narrative space given to different perspectives, but, in ways that distinguish *Boston Legal* from other legal series, it also extends to the different didactic modes by which these issues are addressed, amending the conventions of legal drama discussed above with comedic elements. The episode “A Whiff and a Prayer” shall serve as an example of how these two modes work and relate to each other, and how they engage the law's troubled theatricality in ways that (post-)modernize the didacticism of the legal drama genre.

“A Whiff and a Prayer”

The episode was aired in the series's second season and features the customary dual plot, narrated around two cases. In one of these, Alan Shore defends an old lady charged with murder; in the other – which shall concern us here – the law firm is hired to defend a Congressman who is sued by one of his donors for not keeping his campaign-promise to pass gun-control legislation. The Congressman, we learn, had committed to gun-control in the course of his electoral campaign, which the plaintiff claims had been a key factor in his decision to contribute more than \$ 2 million dollars. Once in Congress, the Congressman had to postpone his plans to initiate legislation against assault weapons when he realized that he could not garner sufficient support for it. The

will discuss.

11 E.g., several episodes in which the lawyers know or assume their clients to be guilty (“The Good Lawyer”; “The Bride Wore Blood”); the multi-episode story arc in which a woman consults Alan Shore for guidance how to kill her daughter's acquitted killer in ways that will spare her punishment (“Hope and Gory”; “The Object of My Affection”)

12 “Witches of Mass Destruction”

13 “Death Be Not Proud”; “The Court Supreme”

14 “Truly, Madly, Deeply”; “Green Christmas”

15 E.g., in “Smoke Signals,” targeting the tobacco industry; “Guardians and Gatekeepers,” targeting the pharmaceutical industry; “Legal Deficits,” targeting the credit card industry

plaintiff, meanwhile, lost a family-member to an attack by assault weapons.

The episode stages this case as a difficult one, whose complexities make it a prime example of the kind of 'civic lessons' that Haralovich sees legal drama potentially provide. The civic questions it raises include: In how far can and should politicians be held accountable for their campaign-promises? Do political donors purchase a say in their donees' political work? What are the ethics involved in weighing one's political convictions against the realpolitik of day-to-day business (a question not only raised in the story about the Congressman, but also in the context of lawyer Shirley Schmidt whose political convictions in favor of gun-control make it difficult for her to argue the case)? And what factors shape Congressional politics on gun control – is it primarily the lobbying power of the NRA, or a broader, more deeply ingrained pro-gun culture? The narrative makes an effort to unfold rather than reduce the complexities involved in these questions. In the courtroom, it grants narrative space and plausible arguments to different perspectives on these questions, in ways that emphasize that there are no easy answers to them. In the law firm, it illustrates the extent to which gun control is a politically overdetermined issue that provokes powerful ideological reflexes (Republican Denny Crane shows himself more than eager to argue the case while Democrat Shirley Schmidt feels unable to represent the firm's client). Finally, the episode withholds the conventional narrative closure of a court ruling – by the episode's end, the jury is still in deliberation and the audience never learns how they ruled.

The episode thus leaves the lawyers' oppositional narratives of the case largely unframed, narratives that unfold in their examination of witnesses and, most centrally, in their closing arguments. The trial's two closing arguments not only propose different narratives of what the case is about and how it ought to be judged, they also performed in widely different ways: While the plaintiff's closing is an exemplary rendition of lawyering in a conventional legal drama – serious and issue-oriented, disciplining the courtroom's theatricality to persuade the jury a.k.a. the audience – the defendant's explodes this tamed theatricality in a rambunctious, openly theatrical performance, which, despite its violation of lawyerly codes and conventions, becomes strangely effective.

The plaintiff's closing operates along the conventions of legal drama: His performance is oriented toward focusing on the issues involved in the case – the Congressman's prior commitment to gun control, the power of the NRA to influence political decisions –, toward making the delivering lawyer appear sincere and

committed to the case he (actually only) 'represents.' While, diegetically, his performance is geared toward persuading the jury to rule in his client's favor, it also works to educate the episode's audience, conspicuously discussing the case against the backdrop of larger political questions:

Like [the defendant] says: "Everybody wants the ban on assault weapons." The Democrats. The Republicans. The police. Seventy-eight percent of the public. And yet, we don't have it. Why? The Senate majority leader has said, and I quote, "The will of the American people is consistent with letting it expire." Is that consistent with your will? With yours? What the hell is going on here? The NRA has them all terrified! How powerful is this lobby? Senator Kerry, in his bid to get elected President, was advised that he had to go out and shoot an animal and to be photographed doing so. He's a wind-surfer for God's sake! Well, enough is enough. It is time to hold Congress accountable. 30,000 deaths by firearms every year in this country. And we can't ban assault weapons? People need them for personal protection? To hunt? And now we actually have legislation pending in Washington that will literally shield the gun manufacturers from being sued. Even for negligence. We can sue doctors, big tobacco, asbestos, but the gun industry gets its own special legislation granting them immunity. What the hell is going on? Where are our elected officials? This one vowed to fight the gun industry. Took campaign contributions on the promise that he would. And what did [the plaintiff] get in return? His sixteen-year-old nephew, while buying a quart of milk, was mowed down by two AK47s.

The *mis-en-scène* of the closing employs the kind of techniques Clover discusses as affecting the audience's identification with the jury: The camera repeatedly shoots from the jury's position, sometimes from behind or seemingly within the jury-box, literally putting the viewer in their place. Such shots are intercut with pans across the jurors' faces, monitoring how the lawyer's arguments are resonating with them and effectively inviting the viewer to open up to these arguments, as well. On the rhetorical level, the closing's use of questions and its direct address to the jury / audience further serves to engage the viewer, to draw her/him into the deliberation of the case and its attendant political questions.

The defendant's closing – delivered by Denny Crane – works and teaches differently. In several ways, Crane's performance in court violates the codes and conventions of legal performativity by being openly, self-consciously theatrical. He enters the court in costume, dressed up as one of the Minutemen memorialized in U.S. history for their role in the American Revolution. His entrance is accentuated by a shot he 'accidentally' releases from the rifle that goes with his costume. Both his costume and the spectacle of his entrance align Crane's performance with precisely the kind of

theatricality that the law seeks to disavow. This alignment is further substantiated in the 'argument' he delivers:

It was a shot heard around the world. Remember? Not a punch. Not a stabbing. It was a shot. To rally the Minutemen to defeat the Red Coats at Lexington. This nation began with a gun. Will go down with a gun. Or maybe, if we have them, won't go down at all.

Let me tell you about assault weapons. The FBI now reports that terrorists are coming to America to get them because it's easier to procure them here. Now I ask you, how can we supply terrorists with AK47s and not give them to our own people?

[camera cuts to Shirley Schmidt and another colleague who both hide their faces in their hands.]

That may sound crazy but part of being an American in the Wild West was we came armed! It's in the Bill of Sale, for God's sake.

[cut to Shirley Schmidt, who whispers: "Bill of Rights."]

In our National Anthem, we've got bombs bursting in air, for God's sake. We drive around with our shotguns on the outside of our pickup so the neighbors will see them. And – no one talks about this out loud of course, but things might have turned out differently for the nephew of the plaintiff if he had had his own automatic weapon.

First sound of Democracy came from a gun like this one. And that's why the ban on assault weapons has been allowed to lapse. It's all about our basic civil rights. It's about democracy. It's about freedom!

[Denny Crane leaves the courtroom to the sound of "Glory, Glory, Hallelujah!"]

Throughout the closing, the camera captures the horror on the faces of his colleagues and the consternation on the faces of the jurors, underscoring the utter inappropriateness of Crane's performance to the courtroom setting and to his role as defense attorney. But by his conclusion, facial expressions suggest that his closing was strangely effective: It engages the jury / audience not so much by making an argument as, in fact, by performing one. In its carefully scripted insanity, it outlines that there is an insane pro-gun culture, widely spread and deeply ingrained in U.S. history, suggesting that this culture is actually to be blamed, rather than a single Congressman.

Crane's closing, then, employs a different didactic mode: Where the plaintiff's closing operates by telling, his operates by showing; where the plaintiff's adheres to a realist aesthetic, seeking to conceal the theatricality of its own construction, Crane's advertises its theatricality in most spectacular ways. Thus, the two closings – and the assumptions about legal performativity that they reflect – speak to each other. Denny Crane's closing throws into relief the performativity of the opposing lawyer's argument,

unmasking its more controlled theatricality. Crane's theatrical costume resonates with the other lawyer's costume – the high-end attorney's tailor-made suit; his use of stage-effects – the shot from the rifle – resonates with the other's deployment of rhetorical effects. Together, the dramatic and the comic closing engage the audience to not only deliberate the issues of the case but also the ways in which such issues are narrated, performed, 'sold' to them. The episode dramatizes a social issue without reducing it to a hermetically narrated lesson. It encourages not only knowledge about this issue but also literacy in reading and evaluating narratives of the issue.

To conclude, the dynamics of legal performativity provide a productive focus for an exploration of the courtroom drama's distinct didacticism. The law's theatricality, I have argued, both enables and controls the genre's didactic potential. *Boston Legal* makes for an instructive case study of how a contemporary legal tv series tries to (post-)modernize this didacticism by exploiting the ambiguity of legal theatricality: The series combines the tamed, issue-oriented performativity of the classical legal drama with a legal comedy that un-tames the law's theatricality. It thereby opens up new possibilities for legal fictions to 'make noise,' to recruit the fictional courtroom as “a venue to present civic lessons” (Haralovich n.pg.).

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