Disorder in the Court!  Laws, Lawyers, and the Movies
By John C. Tibbetts

As early as 1905, at the dawn of the American film industry, the movies were already casting a jaundiced lens at courtroom justice. Edwin S. Porter’s The Kleptomaniacs was a wicked little fable about a double-dealing magistrate who releases a wealthy woman arrested on a charge of shoplifting and, at the same time, jails a poor woman convicted of stealing a loaf of bread for her starving children. The concluding scene reveals the allegorical Goddess of Justice, one eye covered by a bandage, the scales tipped by the weight of a bag of money.

In the intervening ninety-odd years the movies have not lost their sardonic fascination with the law and the courts. Just within the last decade or so a plethora of films—including The Thin Blue Line, Cape Fear, Presumed Innocent, Before and After, Sleepers, Class Action, The Firm, Defenseless, and Suspect—have exposed irregular and/or corrupt legal procedures. Moreover, virtually every aspect of the legal system itself has been grist for the Hollywood mill—capital punishment (for, Rampage; against, Dead Man Walking and The Chamber), wrongful conviction (In the Name of the Father, Let Him Have It, Cry in the Dark, The Thin Blue Line), circumstantial evidence (Reversal of Fortune), witness harassment (The Client), jury tampering (Trial By Jury), perjury (Prince of the City), military justice (A Few Good Men), vigilante lawyers and judges (Cape Fear, Richochet, An Eye for an Eye, Sleepers, A Time to Kill), and “insanity” pleas (Final Analysis, Rampage, Primal Fear). And other films have explored the courts’ involvement in a variety of social and political controversies—sexual harassment (Disclosure), child abuse (Sleepers), child custody (Losing Isaiah), rape (The Accused), prison reform (In the Name of the Father, Murder in the First), AIDS awareness (Philadelphia), euthanasia (Brother’s Keeper), political conspiracies (JFK), game show fraud (Quiz Show), satanism (Paradise Lost), police brutality (Q & A), and media coverage of trials (Cry in the Dark and Serial Mom).

Many of the aforementioned titles were based on real-life cases—The Accused on a 1983 gang rape in New Bedford, Massachusetts; Reversal of Fortune on the 1980 Klaus von Bulow trial; Murder in the First on a 1941 investigation into brutal conditions at Alcatraz Prison; Sleepers allegedly on the reform school experiences of Lorenzo Carcaterra; In the Name of the Father on the imprisonment in 1975 of alleged IRA terrorists Giuseppe and Gerry Conlon; JFK on the Clay Shaw trial; Brother’s Keeper on the 1990 murder trial of Delbert Ward; Let Him Have It on the wrongful execution in 1953 of Derek Bentley; Cry in the Dark on the 1983 murder trial of Mindy and Michael Chamberlain; and The Thin Blue Line on the conviction of Randall Adams for the 1976 murder of a police officer.

Somebody was watching these pictures. For example, the latter two
films had a direct impact on, respectively, pressure upon the Australian Northern Territories to compensate the Chamberlains, and the re-trial and subsequent release of Randall Adams. The plea in JFK for the release of secret government documents pertinent to the Kennedy assassination led to the release in 1992 of many papers hitherto withheld from the public.

As opposed to the related genres of the investigative detective and newspaper film, the police procedural film, and the gangster film, the courtroom genre (and I think, it qualifies as a genre) has its own distinctive arenas of action (lawyers’ offices, judges’ chambers, the jury room, the courtroom itself), character types (the unreliable witness, the shyster lawyer, the crusading District Attorney, the maverick judge, the stubborn jurist), ethical imperatives (the search for truth, the conflicts between private morality and civil justice, the question of punishment), and processes (the gathering of evidence, witness interrogations, jury deliberations, the appeal, etc.).

Within those parameters the variety is amazing—whether the courtroom be located on the American frontier (John Ford’s Young Mr. Lincoln, 1939), in Heaven (Powell and Pressburger’s Stairway to Heaven, 1947), and in Hell (William Dieterle’s The Devil and Daniel Webster, 1944); and whether the disputants be Sir Thomas More and Henry the Eighth (Fred Zinneman’s A Man for All Seasons, 1966), Santa Claus and Macy’s department store (Richard Seaton’s Miracle on 34th Street, 1947), and a quadraplegic fighting the state for the right to die (John Badham’s Whose Life Is It, Anyway?, 1981). Unforgettable moments abound: Like the whispered urgency of Gregory Peck’s closing words to the jury in Richard Mulligan’s To Kill a Mockingbird (1962): “In the name of God, do your duty!”; Spencer Tracy’s jibe at Katharine Hepburn in George Cukor’s Adam’s Rib (1949) after they’ve spent a hard day opposing each other in court: “All of a sudden I don’t like being married to what’s known as the new woman! I want a wife—not a competitor!”; Joseph Welch’s caustic comment to the court in Otto Preminger’s Anatomy of a Murder (1959): “The only difference [between judges] is maybe in the state of their digestions or in their proclivities for sleeping on the bench; and while I may appear to doze occasionally, you’ll find I’m easily awakened, particularly if shaken gently by a good lawyer with a fine point of law.”; the “pixilated” sisters in the trial scene in Frank Capra’s Mr. Deeds Goes to Town (1936); and the breathless moment in Costa-Govaras’ The Music Box (1989) when defense attorney Jessica Lange discovers in an old music box the photographs that prove her client—her own father—guilty of Nazi atrocities. . .

Courtroom stories really came into their own in the movies with the introduction of sound technology in 1927. Their emphasis on interior
settings, dialogue, and emotional conflict were ideal for early talkies in 1928-1929, like The Bellamy Trial, The Thirteenth Chair, The Trial of Mary Dugan, Coquette (for which Mary Pickford won an Oscar), and On Trial. The latter film’s extensive use of flashbacks during witness testimonies was a narrative device novel in its day, but one that has been widely imitated ever since. [1]

The aforementioned prototypes of lawyer and judge so familiar today—especially the flashy shyster, the dashing but brilliant crusader, the crackerbarrel sage—were well established by the mid-1930s. The celebrated lawyer Bill Fallon, “The Great Mouthpiece,” was the inspiration for the sharky opportunist in two John Barrymore pictures, George Arhainbaud’s State’s Attorney (1932) and the superb Counsellor at Law (1933), directed by William Wyler. Erle Stanley Gardner’s redoubtable “Perry Mason” was the model for a series of six films between 1934-1936. Actor Warren William’s Mason was a right thinking, irrepressible man of action. The emphasis here was on crime fighting rather than the protracted courtroom procedures of the 1950s Raymond Burr television series. (By the way, Mason does marry Della Street (Claire Dodd) in The Case of the Velvet Claws, 1936). And in John Ford’s Judge Priest (1935) Will Rogers upholds country justice in an adaptation of the beloved short stories of Irvin S. Cobb.

Depression America movies relied on the justice system to uphold the standards and promises of the New Deal. At the same time, Hollywood had its own “justice system” to answer to—The Production Code Administration. One of the Code’s “General Principles” decreed that “Law, natural or human, shall not be ridiculed, nor shall sympathy be created for its violation.” [2] William Wellman’s Wild Boys of the Road (1933), for example, concludes with a kindly judge dispensing compassion and wisdom to errant jobless boys, the emblem of the NRA eagle (“We Do Our Part”) prominently displayed behind his bench. But even in these censor-ridden days, Hollywood managed to suggest occasionally that America’s problems went beyond the reach of the law. Frustrated, self-anointed vigilantes pursued their own kinds of mob justice in Fritz Lang’s Fury (1935), Mervyn Leroy’s They Won’t Forget (1937), and Cecil B. DeMille’s This Day and Age (1933). The latter film remains one of the most bizarre entries in the history of law-related movies. Small-town teenagers, disgusted with the courts’ inadequacy to convict local bootleggers, take the law into their own hands. They forcibly abduct the gangsters, haul them to a kangaroo court, and extort confessions by dangling them head foremost over a pit of ravenous rats!

During the war years, the Office of War Information had a profound impact on courtroom movies. Mandated with censorial powers over Hollywood, the OWI’s express intentions were to promote movies that contained positive depictions of American institutions. Thus, with the exception of the OWI-approved The Ox-Bow Incident (1943), a William
Wellman western which contained a powerful anti-lynch mob statement, most law-related pictures ignored problems in American courts and dealt instead with Nazi and Japanese injustices to American prisoners. In Lewis Milestone’s Purple Heart (1943), for example, a Japanese fascist court tries to torture confessions out of downed flyers. Smiling and unbroken, the flyers march bravely off to their execution. “[It proves] that human beings can subordinate their own interests and their lives to the cause of freedom,” declared William Cunningham, an OWI representative who reviewed and approved the film for distribution. [3]

Ironically, Hollywood and the television industry was on trial in 1947-52, when the House Un-American Activities Committee investigated purported communist activities. After some initial resistance, led by the Committee for the Preservation of the First Amendment, the film producers capitulated and initiated the infamous “blacklist” of the 1950s. So sensitive were these issues that it took thirty years to make The Front (1976), a Martin Ritt/Woody Allen vehicle which contained recreations of the congressional interrogations of the television community in the early 1950s (the film’s director and the majority of the cast members had been themselves victims of the blacklist). It took fifteen more years before Irwin Winkler made Guilty By Suspicion, (1991), which depicted theHUAC investigations of Hollywood in the late 1940s. And only in recent months has Arthur Miller’s The Crucible, a play about the 1692 Salem witch trials—written in 1953 as a direct response to the McCarthy era—reached the screen. Miller himself has left no doubt that the play reflected theHUAC proceedings: “The more I read into the Salem panic, the more it touched off corresponding images of common experiences in the fifties. . . . [M]any practices of the Salem trials were similar to those employed by the congressional committees. . . .” [4]

By the time theHUAC investigations and the Army-McCarthy hearings had run their course in the mid-1950s, it is hardly surprising that matters of law and judicial process were very much on Hollywood’s mind. Indeed, as Thomas J. Harris points out in his book, Courtroom’s Finest Hour in American Cinema (1987), “The courtroom films made in America between the mid-1950s and mid-1960s seem to provide the greatest opportunity for examining social problems of the past and present and for making statements about the validity of the judicial system.” [5]

The Caine Mutiny (1954), The Court-martial of Billy Mitchell (1955), Paths of Glory (1957), and Judgment at Nuremberg, for example, questioned the authoritarian tyranny of military justice. The Caine Mutiny was directed by Edward Dmytryk, one of the blacklisted “Hollywood Ten”). The story concerned Lieutenant Maryk (Van Johnson) who, under the provisions of Naval Regulation 184, and believing Commander Queeg (Humphrey Bogart) to be incompetent, relieves him of the command of the minesweeper U.S.S. Caine. Maryk is brought to trial on charges of mutiny.
and is successfully defended by Lieutenant Greenwald (Jose Ferrer). In a memorable scene, Queeg breaks down under cross-examination, his mental instability betrayed by his nervously rolling steel ball-bearings in his hands. In Otto Preminger’s *The Courtmartial of Billy Mitchell*, based on a 1925 court action, the famous aviation pioneer (Gary Cooper) publicly accuses his superiors of “incompetency, criminal negligence, and almost treasonable administration of the national defense.” Despite the best efforts of his lawyer, Frank Reed (Ralph Bellamy), Mitchell is convicted under section 134 of the Articles of War that prohibits conduct bringing discredit on the armed forces. In Stanley Kubrick’s *Paths of Glory*, a World War I drama, a more grim fate awaits three allegedly insubordinate French infantrymen. After failing to capture a German emplacement, they are selected as scapegoats to be court martialed. Despite the best efforts of their defense attorney, Col. Dax (Kirk Douglas), they are hustled through a virtual kangaroo court and are executed. Remarkably unsparing in its indictment of militarism and military justice, it remains a classic antiwar statement. Stanley Kramer’s *Judgement at Nuremberg*, a fictionalized account of the third of the thirteen Nuremberg trials—which dealt with the trial of German judges for enforcing Nazi laws—raised profound legal and moral questions regarding the responsibilities for crimes against humanity (a criminal offense that did not even exist until after World War II). Life sentences were meted out by Judge Haywood (a Spencer Tracy role based on Judge James T. Brand), who concluded: “This trial has shown that under a national crisis, able—even able and extraordinary men—can delude themselves into the commission of crimes so vast and heinous that they beggar the imagination.”

Among other important law-related films of the 1950s, Robert Wise’s *I Want to Live* (1958) and Richard Fleischer’s *Compulsion* (1959) conveyed powerful anti-death penalty messages; Stanley Kramer’s *Inherit the Wind* (1960) explored the separation of church and state; and Sidney Lumet’s *Twelve Angry Men* (1957) confined itself entirely to a jury’s post-trial deliberations. *I Want to Live* chronicled the prosecution and execution in 1955 of accused murderer Barbara Graham (Susan Hayward). It was one of the first films to depict in clinical and chilling detail the procedures of an execution. “When you hear the pellets drop,” says a guard to Graham before she enters the gas chamber, “breathe deep and it will be easier that way.” Graham replies, “How would you know?” It is the granddaddy of recent pictures like *Dead Man Walking*. *Compulsion* was based on the 1924 trial of Richard Loeb and Nathan Leopold for the murder of a young man named Robert Franks. A highlight was the lengthy closing argument by the defense attorney, Jonathan Wilk (Orson Welles), who, while he admits their guilt, so graphically described and attacked the “barbarism” of the hangman’s noose that the judge spared the defendants’ lives and sentenced them to life. Stanley Kramer’s *Inherit
the Wind (1960) was a loose retelling of the 1925 “Scopes Monkey Trial”—a media circus rivaling today’s O.J. Simpson notoriety. A school teacher named Scopes was charged with violating a Tennessee criminal statute barring the teaching of evolution in public schools. Tennessee’s right to decide what should be taught in public schools potentially ran afoul of the constitutional separation of church and state. In the film’s memorable climactic scene between the two attorneys, the wily Matthew Brady (Spencer Tracy) and Henry Drummond (Fredric March)—drawn from real-life figures Clarence Darrow and William Jennings Bryan—Drummond is forced to admit that the Bible could be interpreted in a non-literal fashion, thus making it possible to argue that evolution could be consistent with the Biblical account of creation. Twelve Angry Men opens in the Manhattan Court of General Sessions as a weary judge remands a first-degree manslaughter case to a perspiring jury. While the jury deliberates, we learn the facts of the case: The evidence against the accused is strong enough that the members—a cross-section of American society, including a coldly calculating stockbroker (E.G. Marshall), a loud-mouthed bull (Lee J. Cobb), and a racist garage owner (Ed Begley)—are prepared to vote for conviction. Juror No. 8, however, a soft-spoken liberal (Henry Fonda), is unconvinced that guilt has been established beyond a reasonable doubt. Fonda’s viewpoint prevails and the accused is eventually acquitted. Although the film implies that the accused may actually be guilty, it constitutes an effective confirmation of the value of the jury system. “Juries can serve as the conscience of the community,” concludes commentators Paul Bergman and Michael Asimow in their study of the film, “as one final protection against the risk that the criminal law machine may grind up an innocent person.” [6]

By contrast to the foregoing, Preminger’s Anatomy of a Murder and Billy Wilder’s Witness for the Prosecution (1958) are best classified as pure “entertainments.” Even so, both are high on the lists of everybody’s favorite courtroom movies—for excellent reasons. Anatomy was written by one “Robert Traver,” the pseudonym of former Michigan Supreme Court Justice John D. Voelker, and its detailed trial scenes between the defense attorney (Jimmy Stewart) and the slick prosecutor (George C. Scott) are like gritty sparring matches. The frank tone regarding the circumstances of an alleged rape marked a signal advance in the American film’s latitude to deal with sexually suggestive topics. Stealing the thunder, ironically, was the character of the wry Judge Weaver, portrayed by real-life celebrity Joseph N. Welch, a participant in the Army-McCarthy hearings. Witness for the Prosecution was an Agatha Christie romp full of colorful characters and plot twists, wherein a loveably eccentric London barrister, Sir Wilfrid Robarts (Charles Laughton), overturns a mountain of circumstantial evidence in winning the acquittal of his client, Leonard Vole (Tyrone Power). But Sir Wilfrid has been duped. In a plot twist that prefigures and closely resembles
the later Primal Fear (1996), Vole reveals he’s not the naive innocent he had pretended to be, but a wily killer.

Beginning in the late 1970s, as a result of more than fifteen years of social upheaval, the Vietnam conflict, assassinations, political corruption, and conspiracy paranoia (not to mention a spate of disaster movies and crime series like the “Dirty Harry” and “Godfather” series), a post-Warren Court skepticism has cast doubt on our ability to explain and control events and to define ethical issues. Courtroom movies have turned darker, more pessimistic, and maddeningly ambivalent about issues of law and order, guilt and innocence, private and public morality, proper and improper legal procedures. Regarded in this light, the prototypical Anatomy of a Murder can be regarded as a warning shot across the bow: “People are, in Anatomy, shown to be unfathomable and contradictory,” note Adam Garbicz and Jacek Klinowski in their study of the film, “their motives as highly ambivalent, and the mood is one of disenchantment and equivocation. . . .” [7]

Released in 1979, Norman Jewison’s And Justice for All was a benchmark post-Warren Court film. It contained a darkly corrosive, albeit occasionally hysterical, portrait of a Baltimore criminal defense attorney, Arthur Kirkland (Al Pacino), who has been so battered and embittered by a corrupt legal system that he commits serious ethical violations of his own, including the admission in court that his own client—a trial judge, no less—is guilty of the rape charge against him. The film concludes with Kirkland sitting on the courthouse steps, confused, directionless, his law career finished.

The lid of Pandora’s box was flung open. To paraphrase Lord Byron, Dread Anarch now reigned. There was disorder in the court (to borrow a term from an anarchic Three Stooges short from 1936), the sort of cynical confusion that elicited a memorable line from Errol Morris’ documentary, The Thin Blue Line (1988): “The good lawyers get a conviction; the really good lawyers get a conviction of innocent people.” The prophecy uttered by Thomas More in Fred Zinneman’s A Man for All Seasons (1966), when he affirms civil law against Henry the Eighth’s personal whims, indeed seemed to have come to pass: “This country’s planted thick with laws from coast to coast—man’s laws, not God’s—and if you cut them down. . . d’you really think you could stand upright in the winds that would blow then?”

A sampling of just five of the many law-related films in the last decade further confirm the point:

(1. In Sidney Lumet’s The Verdict (1983) attorneys Frank Galvin (Paul Newman) and the super-slick Ed Concannon (James Mason) slug it out for “The Most Reprehensible Attorney of the Year” award. A comment by a trial witness sums it all up: “You lawyers are all the same. You don’t care who you hurt so long as you can make a buck—you’re a bunch of whores.”
Judge Stephen Hardin (Michael Douglas) is so fed up with dismissing criminals on Fourth Amendment technicalities, like the “exclusionary rule” (the Constitutional guarantee that citizens are protected from “unreasonable searches and seizures”) that he joins his former professor and fellow judge, Benjamin Caulfield (Hal Holbrook), in a modern-day Star Chamber. These nine judges meet secretly to consider hiring hit men to kill criminals who have escaped punishment due to technicalities. He reconsiders only when he discovers that two intended targets—killers he had released on such technicalities—are not guilty after all.

In Sidney Pollack’s The Firm (1993) Mitch McDeere (Tom Cruise), a Harvard whiz kid, is dismayed to find his Memphis law firm is in the employ of the Chicago mafia. McDeere ultimately nails the firm, but he does not reveal its Mafia connections. The FBI is satisfied and the Mob has to lay off McDeere because he knows too much. “I’m your lawyer,” he tells the mobsters, “and duty-bound not to discuss our business with others. You are safe.” Critic Richard Schickel commented: “However corrupt the Mob is, these lawyers are worse.”

In Greg Hoblit’s Primal Fear Chicago defense ace Martin Vail (Richard Gere) acquits his client, an admitted murderer named Aaron (Edward Norton), by manipulating the criminal trial from both ends. He maneuvers the unwitting defense counsel into the revelation that Aaron is not guilty by reason of insanity. In effect, it was not Aaron, but another self, a persona named “Roy,” who committed the dastardly deed. It is only after the acquittal that Vail learns the kid has used the split-personality device to fool him. “There is no Aaron,” the kid says; “there is only Roy. And I killed the Archbishop.” Gere retreats, stunned, realizing he’s saved the life of a vicious killer.

In Barry Levinson’s Sleepers (1996) prosecutor Brad Pitt, defense attorney Dustin Hoffman, and a priest (Robert DeNiro) conspire before an unsuspecting judge to acquit two accused murderers. A measure of the film’s power is that it enlists the viewer’s emotional support in their collusion, although the stomach turns at its twisted ethics. “It’s truly a moral conundrum,” notes Levinson. “What is right and wrong? You’ve got a priest involved and he perceives it in terms of his God. Then there’s the concept of street justice versus the judicial system. In the final analysis, it’s a tragedy no matter what.”

In another category belong two astonishing documentaries that tracked with amazing objectivity the daily progress of real-life murder trials, Joe Berlinger and Bruce Sinofsky’s Brother’s Keeper (1993) and Paradise Lost (1996). Despite the filmmakers’ objective commitment to recording the progress of these cases over a considerable period of time, and despite the jury verdicts (“not guilty” in the first; “guilty” in the second), the viewer comes away confused and dissatisfied.
The essential issues of motive, guilt, and punishment remain unresolved. To paraphrase a G.K. Chesterton “Father Brown” detective story, truth was found, but it made no sense.”[9]

Inevitably, perhaps, courtroom movies have become useful resources in the classroom. The law library at the University of Texas at Austin provides students with an extensive collection of law-related motion pictures. Since 1981, Professor Francis M. Nevins of the St. Louis University Law School has taught a seminar, “Law, Lawyers, and Justice in Popular Fiction and Film.” Susan Brody, a Professor of Law and Associate Dean of Academic Affairs at the John Marshall Law School in Chicago teaches a class called “Law and Diversity” in which motion pictures like The Verdict and Philadelphia are cited in discussions of legal issues involving gender and race. Another Marshall law professor, John Corkery, is enthusiastic about the educational potentials of courtroom movies. “I think some of the more interesting ones, like Prince of the City, Sleepers, Absence of Malice, and And Justice for All raise interesting issues,” he says. “We see dramatized very real ethical conflicts, not to mention the intense pressures that come to bear upon attorneys and judges. Even the outrageous distortions, like the tactics of the two lawyers in Sleepers have a value when they are addressed and disputed in class.”


It is entirely to the point that most courtroom films, past and present, willingly distort the letter of the law and the practices of judicial procedure. Perhaps they are no different from biographies, history films, and other social problem pictures in that they bend their subjects to the formulas of popular entertainment. Indeed, they may be compared to the legal system itself, representing, like seismic readings, the changing patterns of our behavior and social organization. “The moviemaker’s art is not all that different from the lawyer’s,” proposes Alex Kozinski, a United States Circuit judge, “—especially the courtroom advocate’s.” Kozinski goes on to point out that both filmmaker and lawyer have to select and arrange materials in their appeals to emotion and reason;
both have to know when to script and when to improvise; and both have to tailor the message effectively to a given audience group and/or jury. [10] A decision in court is delivered by the judge and/or the jury. The verdict in the instance of the movies is, of course, left to that ultimate arbiter—the viewer.

John C. Tibbetts

DISORDER IN THE COURT

Endnotes:


[10] Interview with the author, 29 November 1996.


Copyright 1997, 2005 John C. Tibbetts
After graduation from law school, he joined the firm of Rosenberg and Rosenberg, and became a partner in the firm. Wayne was a member of the American College of Trial Lawyers, American Bar Association, Illinois Bar Association, and the Decatur Bar Association. In 2018 he retired from Bickes, Wilson, & Moss, after serving as an attorney for over 50 years. He was honored as the Illinois Law School Alum of the Month and received the Service Award as the Pro Bono Attorney of the Year in 2002. In 2009, in recognition of his outstanding career as an attorney and member of the community, he was named a Pillar of the Bar. Chad Allen ’01. Johns, an associate at Morgan, Lewis & Bockius, practices antitrust law and litigation. Robert Johnson ’93. The UIC John Marshall Law School is a public law school in Chicago, Illinois. It was founded in 1899 and initially accredited by the American Bar Association in 1951. The school was named for the influential nineteenth-century U.S. Supreme Court Chief Justice John Marshall. It merged with the University of Illinois at Chicago on August 16, 2019, according to a plan announced by both schools in 2018.