

# Bringing Bogie Out of the Courtroom Closet: Law and Lawyers in Film

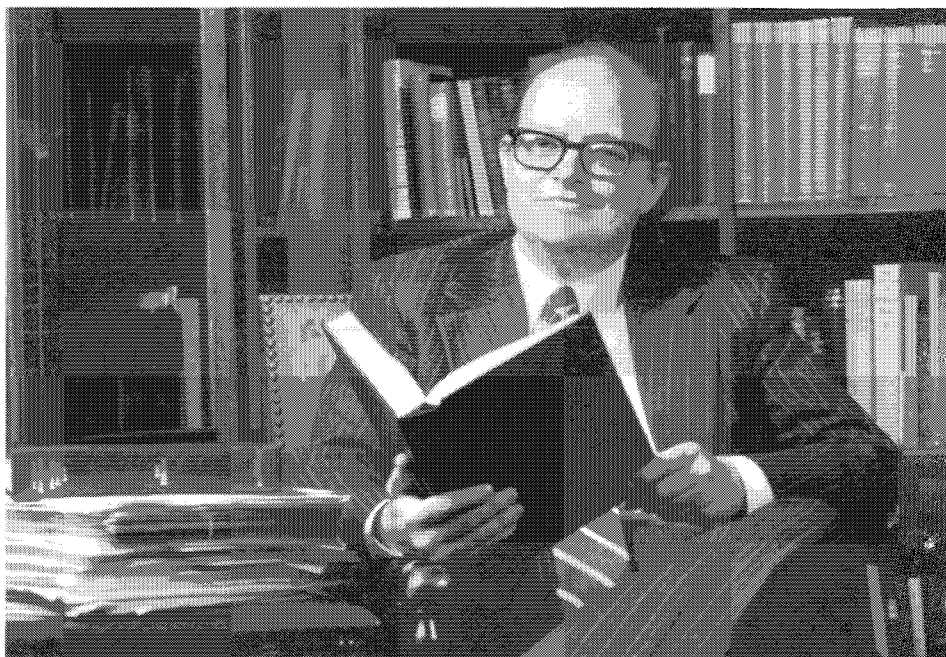
*Prof. Rennard Strickland*

*Casablanca* (1942) is a film of mystery and romance. Warner Brothers cultivated that aura of intrigue not only about the place *Casablanca* but also about the man Rick. His mysterious past is among the reasons *Casablanca* is ranked by general audiences as the most popular American film of all time. Questioning Rick's past seems almost subversive, somehow disloyal, unfair to the memory of Humphrey Bogart. And yet, there is no doubt about it: the mysterious Rick Blaine was a lawyer—a criminal attorney at that!

Rick, surely the most famous cinematic bar owner in history, was also admitted at the bar of justice. Before coming to *Casablanca* for the waters, Rick had been a practicing attorney first in New York City and then in Paris. The old Hollywood studio system was good at doing what it set out to do; in *Casablanca* it sought to obscure the past of the man Bogart immortalized on the screen. And the film did just that! It is absolutely impossible from the film itself to establish Rick's legal credentials. Closetting Rick was a deliberate decision by the film's producers.

The proof that Rick was a lawyer has been buried for almost half a century in yellowing corporate files at Warner Brothers. There it is—in black and white—in the "memorandum of screen development" from Stephen Karnot, dated 12/11/41. Just as the movie audience does not know Rick's legal background, the other film characters—save one—do not know, either. The studio memo sets forth Rick's past as follows:

*Rick Blaine . . . is a taciturn man of mystery to his patrons. . . . Only Rinaldo, French Prefect of Police, Rick's professed friend, knows of his background as a famous criminal lawyer [and of] his abandonment of career and flight into oblivion.*



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Even after you know that Rick is a lawyer, there are only the slightest ironic hints in the film, a subtle clue or two that might suggest his abandoned profession. Rick, when negotiating the sale of his cafe to Blue Parrot owner Sydney Greenstreet, represents his own interests about as badly as most lawyers do when repre-

senting themselves. Rick has also taken up running a bar and restaurant, the lawyer's favorite way to personal bankruptcy. Howard Koch, one of the screenwriters who transformed the script for the unproduced play *Everybody Comes to Rick's* into the Oscar winning scenario for *Casablanca*, was a Columbia Law School graduate and a member of the New York Bar.

Rick is not the image most Americans conjure up when they think of silver screen lawyers. There are many more famous screen attorneys. Over more than eight decades the motion picture industry has produced courtrooms full of famous and infamous barristers. Cinematic lawyers have shaped the way Americans

think about the legal profession. In an exchange between the beautiful young assistant prosecutor and a handsome young partner in an early episode of "L.A. Law," they talk about their lawyer role models. "Like Gregory Peck in *To Kill a Mockingbird*, (1962)," he says. And she replies, "No, with me it was Spencer Tracy in *Inherit the Wind* (1960)."

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If the legal profession is to comprehend the public view of law and lawyers, American film must be seen as more than a pleasant or even challenging diversion. For the image of the lawyer—indeed even the behavior of lawyers themselves—has been significantly influenced by the magic of the great stereopticon. In fact, it has become so pervasive that the ABA Section on Tort and Insurance Practice recently published a guide for the use of films in teaching professional responsibility to law students. The future impact on both the public and the bar will be far greater with more than sixty-five percent of American television households equipped with VCRs. Ours is a visual culture and the moving image on the screen is a primary transmitter, indeed, creator of the culture.

Law is a kaleidoscopic profession. No doubt lawyers have a great many varied images of themselves and of their enterprise. And like the blind man and the elephant, the image of the profession depends upon whether you are grasping the trunk or the tail. Lawyers themselves live and work in a world of law, courtrooms, conferences, and libraries. For the vast majority of America's non-lawyers the longest, most continuous and sustained association with legal institutions is in the world of film. It is not in the bright light of a line-up, or from the jury box, or even standing before a judge that the average American learns about law. Most Americans know Perry Mason; fewer recognize even the name of William Rehnquist.



Law dominates American life and culture in ways not even imaginable to our founding fathers and certainly not comprehensible to the vast majority of our fellow inhabitants of this planet. There is continuing truth in Alex de Toqueville's oft-quoted dictum that in America, sooner or later, all questions become legal ones. It is also true, as Garth Jowett has asserted, film is a democratic art. Thus, it is only natural that in a society like America, the filmmaker and the lawmaker would have both a natural affinity and a jealous distrust.

Most screen lawyers are not as romantic as Rick and most settings are considerably more mundane than Casablanca. Nonetheless, some of the screen's most memorable moments belong to the law. Film and law seem to have been made for each other. Real-life courtroom dramas are themselves highly theatrical. John Waters, the quintessential outlaw moviemaker, notes in his autobiographical observations, *Shock Value* (1981), that "trials are the most entertaining of all American spectacles, always better than the theater, and except for a few special

cases, much more thrilling than the movies."

Almost from the beginning, trial scenes provided the infant film industry with an ideal setting in which the crude technology of the pioneer cinema could function. As sound came, the limited mobility of the courtroom added to the already attractive elements of filming on a single set; fixed points of sound and lighting combined with apt opportunity for dramatic revelations.

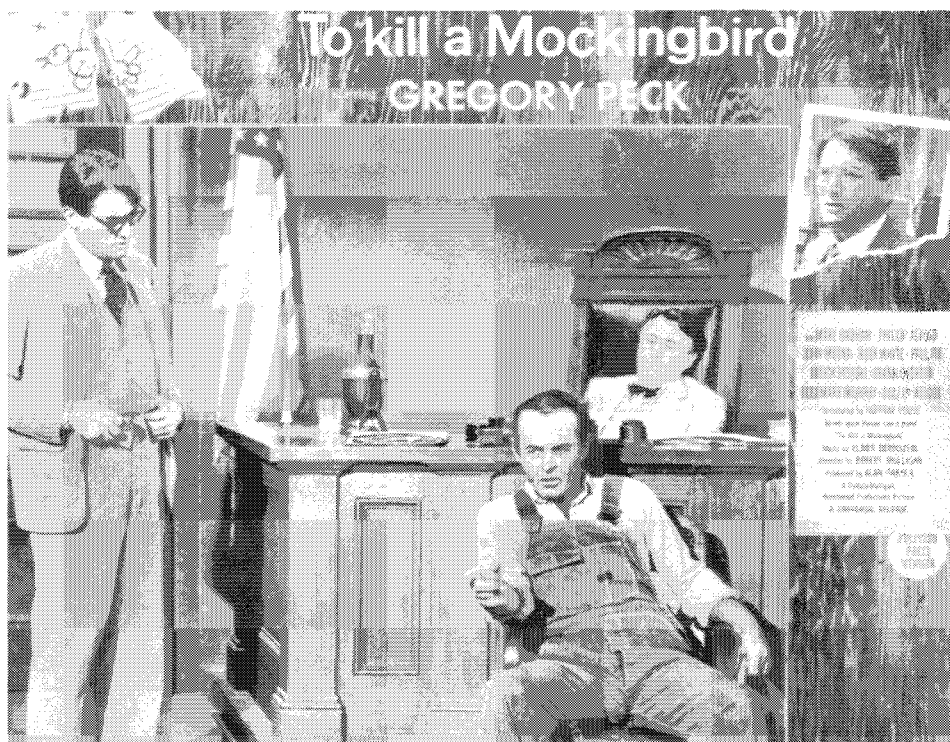
For almost a century now, law and lawyers have appeared in every imaginable genre of film. Not surprisingly, screen lawyers most frequently appear in crime and criminal dramas. Attorneys, and particularly judges, dominate many tales of western settlement and empire building. "True-life dramas," especially famous, notorious or sensational trials, provide rich opportunities for filmmaking. Screen biographies based on the lives of famous lawyers and jurists are fairly common. The classic social problem film often turns upon a legal issue or solution; the court-martial is a convenient forum for the greater issues of war and peace. The

so-called "Woman's Picture" is often entangled with a question of justice. Finally, the screen comedy, particularly the old-fashioned screwball kind, has contributed significantly to our image of law and lawyering. Futuristic or science fiction films often raise questions of justice. A great epic spectacular or even a musical may address legal issues. The best law and lawyer films are about the struggles of mankind, of great men and women and especially of ordinary citizens in extraordinary situations.

Humphrey Bogart's screen roles illustrate the range of film images of attorneys. The romantic Rick in *Casablanca* was neither Bogart's first nor last performance at bar. His lawyers reflect the extremes to which the screen has subjected the legal profession. Bogart's lawyers have varied from a crusading Thomas E. Dewey-like D.A. protecting Bette Davis when she turns "state's evidence" in *Marked Woman* (1937) to the crooked "mouthpiece" who steals tainted money from his co-conspirator James Cagney while Cagney "takes the rap" in *Angels With Dirty Faces* (1938).

The screen's view of the dichotomy in the legal profession—of *Society Lawyer* (1939) versus *Criminal Lawyer* (1951)—is no more vividly portrayed than in *Knock on Any Door* (1949). Bogart is forced to resign from his blue chip, silk stocking law firm when he chooses to represent young accused murderer John Derek. Years ago, Bogart had represented Derek's innocent father and now believes he provided an inadequate defense in the earlier trial. In a classic drama supporting the sociology of the forties and fifties, Bogart himself, the legal profession, and society at large bear the heavy burden for a good boy gone bad because his father's lawyer was too busy. Appropriately, Bogart's last screen performances for Warner Brothers is as the lawyer crusading, once again, against the kingpins of the underworld in *The Enforcer* (1951).

An even more striking black versus white view of law and lawyers comes out of MGM. No actor has ever, in such a short time, played such contrasting lawyers as did Louis Calhern, the great old workhorse of Mayer's stable. Both *The Asphalt Jungle* and *The Magnificent Yankee* were released in 1950. Calhern's crooked




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lawyer in *The Asphalt Jungle* master-minded a great caper and is then so disreputable that he double-crossed his partners in crime. An indelible screen image from this film of the early fifties is sleazy lawyer Calhern with Marilyn Monroe, his devastatingly beautiful mistress. Film historians believe the chance for Calhern to recreate his stage role of Oliver Wendell Holmes, Jr. in *The Magnificent Yankee* was Metro's reward to a faithful contract player. Certainly, his portrayal of this heroic United States Supreme Court Justice is one of the great idealized portraits

of law and lawyers in American life. Seen back-to-back, *The Asphalt Jungle* and *Magnificent Yankee* show the legal profession at its best and worst.

Like Bogart, there are others whose screen ethos has made them ideal cinematic lawyers. Spencer Tracy, Henry Fonda, James Stewart, Gregory Peck, Paul Newman, and Robert Redford have all grown up on the screen as lawyers moving from the green kid just out of law school to the beaten-down, threadbare, struggling hack or the wise and wily senior counselor. Of this group, Spencer Tracy deserves to hold the screen lawyer prize for sustained service at the bar, having started as a young lawyer in *It's A Small World* (1936), sparred with his attorney-wife Katherine Hepburn in *Adam's Rib* (1949), financed from his legal practice the elaborate wedding of daughter Elizabeth Taylor in *Father of the Bride* (1950), and repented of dubious behavior, giving his life to atone, in *The People Against O'Hara* (1951). Toward the end of his career, Tracy brought to the screen an

inspired recreation of a fictionalized Clarence Darrow in mortal combat with William Jennings Bryan in *Inherit the Wind* (1960) and the troubled judge presiding over Nazi war crime trials in *Judgment at Nuremberg* (1961).

A superb contrast in the various areas of law can be seen in Paul Newman's society lawyer, a big-firm tax manipulator, in *The Young Philadelphians* (1959), and in his failed slovenly alcoholic ambulance chaser of *The Verdict* (1982). Similarly, Jimmy Stewart's perpetually blushing bridegroom lawyer in *Made for Each Other* (1939) has become not only older but wiser by the time of *Anatomy of a Murder* (1959). Redford similarly goes from the bridegroom associate in *Barefoot in the Park* (1967) to the aging seducer in *Legal Eagles* (1986).

No actor ever felt the impact of the law from more angles than Henry Fonda. He is a struggling frontier barrister in *Young Mr. Lincoln* (1939), a grizzly old special counsel in *The Boston Strangler* (1968), a jurymen in *Twelve Angry Men* (1957), the eloquent everyman cowpoke

confronting mob violence and lynching in *The Ox-Bow Incident* (1943), and the tragically doomed prison escapee in *You Only Live Once* (1937).

Gregory Peck's Atticus Finch in *To Kill a Mockingbird* (1962) is a cinematic high point in the idealized portrayal of a lawyer as guardian of society. Small-town lawyer Finch is the quintessential American attorney. He is the dream that young lawyers hope to achieve and that old lawyers regret having lost. Atticus is an ideal, a standard of aspiration. He is, in so many ways, like a modern Abraham Lincoln, who is the favorite American dream of the country lawyer. Lincoln, himself, has been brought to the screen in films as heroic as John Ford's *Young Mr. Lincoln* (1939) and as poetic as Robert Sherwood's *Abe Lincoln in Illinois* (1940). If lawyers could choose but one film to argue for their role in civilization, surely it would be *To Kill a Mockingbird*.

Satirical comedies give us a less idealized lawyer. The attorney's professional pomposity is perfect for pricking and nobody did it better than Groucho Marx

as lawyer Thaddeus J. Loophole in *At The Circus* (1939). What a crazy, helter-skelter view of the self-important lawyer! And, of course, in the end Groucho saves the Big Top from bankruptcy while singing "Lydia the Tattooed Lady." In *I'm No Angel* (1933) Mae West argued her own case as her own attorney before a Judge she attempted to seduce. This courtroom scene is one the true masterpieces of her comedic art. The antics of lawyer Edward Everett Horton and his fraudulent effort to establish adultery provide the background for *The Gay Divorcee* (1934), the first Fred Astaire and Ginger Rogers starring-vehicle.

What red-white-and-blue-blooded American does not thrill at the thought of the American judicial system in action in *Bedtime for Bonzo* (1951)? District Attorney Jess White (destined to find more permanent employment as a Maytag repairman) and college professor Ronald Reagan (also to go on to other work) plea bargain the fate of the burglarizing chimp. Highlights among lawyer comedies include the slapstick of the Three Stooges in *Disorder in the Court* (1935); the Disney dilemma of our webfooted hero in *Donald Duck on Trial* (1947); the flower child antics of attorney Peter Sellers in *I Love You, Alice B. Toklas* (1968); the revelation of good-natured lawyer Jack Benny that he can win only by being nasty in *The Meanest Man in the World* (1943); the vaudeville sketch in which Edward Arnold propelled his client from a \$2 fine for littering to death row in *Ziegfeld Follies* (1946); and that wonderfully free-spirited trial at the conclusion of the musical *Oklahoma!* (1955) when Charlotte Greenwood threatens the territorial marshal with a fabricated tale of his indiscretion. And is there anything sillier than Benji in *The Shaggy D.A.* (1976)?



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Comedies like *The Fortune Cookie* (1966) and the more recent *From the Hip* (1987) raise serious questions about the actual operation of the legal system. Much of the popularly expressed dissatisfaction with the tort system flashes across the screen in *The Fortune Cookie*. Director Bill Wilder tells the tale of Jack Lemmon, the television sports cameraman, who is knocked down on the sidelines at a football game and of Walter Matthau, his ambulance-chasing lawyer/brother-in-law, who pressures this plaintiff into exaggerating damages. Thus, an all-too-familiar and popularly perceived lawyer-client-insurance company battle is underway. Matthau won a much-deserved Oscar for his on-target portrayal of the lawyer as shyster.

The struggle of law and outlaw is central to the world of the movie west. The broader American historical myth of a New Eden and of the coming of civilization to a savage land is intimately tied to these same struggles. The words "law," "lawless," "code," and "justice" appear in the titles of hundreds of westerns, particularly the backlot "B" Saturday Matinee films of Johnny Mack Brown, Rex Allen, the "Durango Kid," Whip Wilson, Tim Holt, and even Roy Rogers, Gene Autry, John Wayne, George O'Brien, and Hopalong Cassidy. Standards of the Cowboy genre include films with titles such

as *Buck Jones' Law for Tucson* (1936) or Johnny Mack Brown's *Oklahoma Justice* (1951). Just a few of the titles tell the story: *Ghost Town Law*, *Gun Law*, *Six-Shooter Justice*, *Land Without Law*, *Law of the Range*, *Lawless Range*, *Lawless Prairie*, and *Beyond the Law*.

In fact, there were probably more women lawyers on the screen in the thirties than there were in the courtroom. And yet, the portrayal was tragically stereotypic.

All of the elements of law and order in the settlement myth come together in John Ford's often underrated masterpiece *The Man Who Shot Liberty Valence* (1962). Jimmy Stewart as Ransom Stoddard is the young lawyer come west to Shinbone with law books in a valise. John Wayne as Tom Doniphon is the old hand ready with a gun, standing alert to protect his girl and even the greenhorn lawyer against the likes of Lee Marvin as Liberty Valence. In the opening scene Valence has stopped the stage, robbed the passen-

gers, and then to show his contempt for Stoddard actually tears the pages from his law books. In the final showdown, of course, it is Wayne with his gun who prepares the way for the election of the new United States Senator, Ransom Stoddard, known forever as "The Man Who Shot Liberty Valence." As the newspaperman notes when the aged senator tries to set the record straight, "This is the West and when the legend becomes fact, we print the legend." Law and lawyers are central to that legend.

The world of film *noir* or the dark cinema is inhabited with as disreputable a bunch of lawyers as ever flickered across the screen. Some of these attorneys are scheming and corrupt, like Calhern in *The Asphalt Jungle* (1950), others are the weak pawns of powerful, devastating femme fatales like Barbara Stanwyck who dominates Kirk Douglas in his very first film *The Strange Love of Martha Ivers* (1946). From works like *The Lady from Shanghai* (1948), through the neo-noir classic *Body Heat* (1981), the lawyer uses and is used in a world which is dark, bitter, and doomed. The lawyer both acts and is acted upon but seems always trapped by forces and fates which suggest the inevitability of defeat. These powers of moral corruption have rarely been more chillingly combined than in the story of John Garfield's ambitious lawyer in *Force of Evil* (1948).

Race, the great and haunting issue of American civilization, has tested law and lawyers on the screen just as it continues to test every fiber of American society. *To Kill a Mockingbird* (1962) is, in the final analysis, about how law and lawyers deal with justice and race. Similarly, *Intruder in the Dust* (1949) places Faulkner's lawyer Gavin Stevens in the center of an exploding racial crisis. Hollywood's reflection of society's cowardice, fear, and ambivalence on the hard questions of race surfaced in Twentieth Century Fox's cutting of John Ford's *Judge Priest* (1934). In the version Fox ultimately released, Will Rogers seems to be the classic Southern benevolent bigot while old Steppin Fetchit comes across as the worst of the shuffling stereotypic Black clowns. Unfortunately, the sensitive motion picture Ford believed he created cannot be reconstructed because after their editing Fox destroyed the film negatives. Ford later remade the picture as *The Sun Shines Bright* (1953) because in the earlier version Fox had excised the pivotal and humanizing scene in which Judge Priest saves the Black from lynch-



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ing. Whatever his presidential record on civil rights, the actor Ronald Reagan stood up as the battling Southern liberal district attorney fighting the Ku Klux Klan in *Storm Warning* (1950).

Many of the best films about law were rooted in real cases or actual incidents. Dramatic conflicts as in the Dreyfus case have appeared again and again in critically praised films such as *The Life of Emile Zola* (1937) and the lesser *I Accuse!* (1958). Maxwell Anderson's *Winterset* (1936), the popular poetic verse rendition of a Sacco-Vanzetti-like drama, was lifted almost directly from stage to screen, bringing to Hollywood experienced New York actors who were prepared to handle the difficult dialogue. Films such as

*Inherit the Wind* (1960), *Witness for the Prosecution* (1957), *The Night of January 16th* (1941), *Rope* (1948), and *The Magnificent Yankee* (1950) originated on the stage. Others such as *Twelve Angry Men* (1957) were first performed on television. The epic historical dimension of the stage drama *A Man for All Seasons* (1966) translated into a truly great film which raises fundamental questions about law and the law's servants.

Films recognize that in law there is both formal and informal authority. Fritz Lang captured this in the classic *M* (1931), his transcendent view of the ambivalence of justice in Berlin between the wars. Peter Lorre, the tragic child murderer, is cornered by criminals of the Berlin underworld who bring him to trial in their own way and on their own terms. Val Lewtons's *Bedlam* (1946) is an equally satisfying depiction of the ironic turning of justice. Boris Karloff, as the sadistic head of the infamous English asylum, is tried by inmates including Anna Lee who has been falsely committed by Karloff. The question of the law, and what law is, troubles the trapped passengers in Alfred Hitchcock's *Lifeboat* (1944). John Hodiak asks: "Whose law? We're on our own here. We can make our own law."

Not surprisingly, the broadest juris-

prudential questions come to the screen in the filming of important literary works. Not often successful films, either artistically or financially, the "classics" nonetheless ask significant questions about law. The dilemma is there on the screen in Herman Melville's *Billy Budd* (1962) and the film of William Golding's *Lord of the Flies* (1963) raised the frightening spectre of the origins and enforcement of law. Ronald Coleman made lawyer Sidney Carton truly heroic in *A Tale of Two Cities* (1935); there was something magical about Lillian Gish's Hester in the silent adaptation of Nathaniel Hawthorne's *The Scarlett Letter* (1926). One wishes that *The Brothers Karamozov* (1958) could have been more lively but the ultimate questions of the Grand Inquisitor are still shattering.

Women and minorities as lawyers are not as new to the screen as might be suspected. In fact, there were probably more women lawyers on the screen in the thirties than there were in the courtroom. And yet, the portrayal was tragically stereotypic. *The Lady Objects* (1938) is the "lady lawyer" film at its most absurd. It is a sort of combination musical, gangster, romance in which, as the one-sheet advertising poster proclaims, "a man [is] on trial for his life with his wife [as] his mouthpiece." The message was as sexist as it was mixed. A promotional card for *The Lady Objects*, distributed to theaters to be displayed in the lobby, contained the following confession of the lawyer/wife: "Gentlemen of the Jury! If my husband murdered this other woman . . . I am to blame! I've been a success as a lawyer . . . but a failure as a wife!" Is it any wonder that women must still struggle against such images? Another film of this time which featured a female lawyer is Claire Trevor's *Career Women* (1936) which proclaimed in the one-sheet, "All I Wanted was Love and Now They Want to Hang me!"

*Adam's Rib* (1949) was probably the best of the Tracy/Hepburn comedies and presents a woman as a lawyer who is the equal of her lawyer husband. As the ending reveals, it is still a product of the times. As early as *Bordertown* (1935) the Hispanic lawyer came to the screen but hardly in a flattering profile. With few exceptions, early black attorneys were the intellectual and moral equivalents of Amos 'n Andy's Lawyer Calhoun. Recently black lawyers have been subject to the same screen indignities as white attorneys in films like *Action Jackson*





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the horrors of a legal system in which the ends of justice seem lost. *The Star Chamber* (1983) chronicles the perceived failures of courts which let loose guilty criminals on "mere technicalities" and the even greater dangers when officers of the law surrender to lawlessness. *Cape Fear* (1962) is a thoughtful and disturbingly violent enactment of the dilemma of the lawful lawyer versus the lawless outlaw. In this film, Gregory Peck is driven to violate the law by the savagery of Robert Mitchum whom he has earlier sent to prison. The human dimensions of this film make Peck's seeming inevitable choice of violence truly devastating. The film provides a brutal contrast with *To Kill a Mockingbird* which was released in the same year.

Courtroom films are notoriously inaccurate. Critics and lawyers who see these

errors generally pass them over in the name of dramatic license. Occasionally the mistakes are so irritating and grossly in error that the profession rises up. Sidney Lumet's highly acclaimed film *The Verdict* (1982) was at the center of such serious attacks from the bar. Attorneys were particularly offended at the cavalier misuse of the rules of evidence, the patently absurd conduct of James Mason and his twelve associates, and the hero Paul Newman's own less-than-ethical behavior. The concern was not that the screen must portray all lawyers as pure, or the legal system as incorruptible, but that the arena in which the struggles take place ought at least reasonably to reflect the way the law itself operates.

In conclusion, let us look at contrasting movie images of a lawyer as shyster and a lawyer as savior. A pair of classic films released in 1947, *Kiss of Death* and *Miracle on 34th Street*, represent the extremes of the screen lawyer. *Kiss of Death* is remembered as the noir classic in which Richard Widmark laughingly pushed Mildred Dunnock in her wheelchair down a flight of stairs. And yet the real villains of *Kiss of Death* are District Attorney D'Angelo, played as a corrupting destroyer of the downtrodden, and the backroom lawyers who protect the criminal and betray the law itself. These lawyers are at best an extremely dirty gray. The ethical failure of Brian Donlevy

as the district attorney sets into motion the tragic and escalating dilemma of ex-con Victor Mature. In *Miracle on 34th Street*, bachelor lawyer John Payne saves Edmund Gwenn's Santa Claus, restores little Natalie Wood's faith, and marries her mother, the beautiful Maureen O'Hara. And all of this occurs because as Kris Kringle's attorney, Payne gets introduced into evidence in Santa's sanity hearing several tons of Santa's mail which the U.S. Post Office delivers to the courtroom.

In truth, most lawyers are neither Santas nor sadists. Much of the everyday life of the American attorney is not the stuff of which dreams are made; the real world lawyer is rarely the subject of cinematic drama. In a society dominated by the mass media, the Atticus Finches and Thaddeus J. Loopholes inevitably seize the screen, understandably overshadowing the lawyer who reads abstracts, files wills, and defends shoplifters. For this reason the intelligent and entertaining documentary is so important.

The legal profession, indeed, the organized bar itself, ought to be about the business of supporting the production of vivid and interesting accounts of the world of law and lawyering. The profession needs first-rate, highly accurate portrayals of the important real world work of the American lawyer. The last thing we need is chauvinistic lawyer propaganda trumpeting a message that the world is getting better and better because in America the lawyer is our most important product.

Production of honest, entertaining, and exciting films is possible; there could even be an audience, particularly through educational television. It is not accidental that the most gripping—indeed, the most disturbing and energizing—documentaries of the post-War era are the work of Frederick Wiseman, a lawyer turned cinema master. The commercial film is not able to be so honest. Without documentary film, the lawyer in the mind's eye will no doubt remain a bizarre combination of Groucho Marx, Gregory Peck, and Mae West.

One of the reasons for the extremely low level image of the legal profession today is that too many lawyers like Humphrey Bogart's Rick have closeted their humanity and are reluctant to reveal this side of their professional as well as personal life. Rick says, "I don't stick my neck out for nobody." We love Rick and we love the movie *Casablanca* precisely because that is not so—and we know that it is not so.