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Law, Cinema, and Ideology: Hollywood Legal Films of the 1950s

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LAW, CINEMA, AND IDEOLOGY: HOLLYWOOD LEGAL FILMS OF THE 1950S

David Ray Papke*

The author focuses on the large number of striking American legal films from the late 1950s and early 1960s. He argues that these films glorified lawyers, courtroom trials, and the rule of law in general, thereby depicting a cinematic ideology. This production of law-related ideology, the author suggests, derived from not only the nation's long-standing legal faith but also from a determination in the 1950s to contrast Americanism with the perceived Communist menace. Forty years later, the films remain important cultural exemplars and also articulations of a powerful ideological presumption regarding law in American life.

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INTRODUCTION

Films about law, lawyers and legal institutions have been part of the American cinema since virtually its beginning. D.W. Griffith's *Falsely Accused!* (1908)¹ featured a devoted boyfriend screening a film in the courtroom in order to protect his true love from murder charges.² *On Trial*, a film derived from Elmer Rice's play of the same name,³ was shot originally in 1917,⁴ a second time as an early "talkie" in 1928,⁵ and then still again as a feature film in 1939.⁶ *Counsellor at Law* (1933)⁷ starred John Barrymore as

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1. *FALSELY ACCUSED!* (Biography Co. 1908).

2. Carol J. Clover discusses *Falsely Accused* in Carol J. Clover, "God Bless Juries!", in *REFIGURING AMERICAN FILM GENRES: HISTORY AND THEORY* 257 (Nick Browne ed., 1998).

3. *ELMER RICE, ON TRIAL* (1917)

4. *ON TRIAL* (The Essaynay Film Mfg. Co. 1917).

5. *ON TRIAL* (Warner Bros. 1928).

6. *ON TRIAL* (Warner Bros. 1939). See ROGER DOOLEY, *FROM SCARFACE TO SCARLETT: AMERICAN FILMS IN THE 1930S*, at 311 (1981).

7. *COUNSELLOR AT LAW* (Universal Pictures 1933).

a lawyer with offices in the new Empire State Building facing disbarment.⁸ But these films and others are relatively independent Hollywood excursions into the world of law and do not come together as a genre or a tradition. Only in the late 1950s and very early 1960s did Hollywood give filmgoers a large and similar group of feature films regarding law, lawyers, and legal institutions.

And what a cinematic feast it was: *12 Angry Men* (1957),⁹ *Witness for the Prosecution* (1957),¹⁰ *I Want to Live!* (1958),¹¹ *Anatomy of a Murder* (1959),¹² *The Young Philadelphians* (1959),¹³ *Compulsion* (1959),¹⁴ *Inherit the Wind* (1960),¹⁵ *Judgment at Nuremberg* (1961),¹⁶ and *To Kill a Mockingbird* (1962).¹⁷ Critics and film historians have been struck by this tremendous concentration of legal films. Francis Nevins has suggested these films of the late 1950s and very early 1960s constitute a “golden age” of the American legal film.¹⁸ Thinking primarily of the films’ dramatic trials, Thomas Harris has said the films constitute “the finest hour of the courtroom cinema in America.”¹⁹ Even Anthony Chase, a more critical scholar, says the lawyer portrayals in the films “represent a complete integration of the virtuous-lawyer archetype in popular culture—an elaborated image unprecedented . . . within the existing history of American mass cultural iconography.”²⁰

Imbedded within the sense of these films as a “golden age” or “the finest hour” are two types of praise—one obvious and one perhaps less so. The obvious praise is for the films’ superb writing, directing, and acting. Surely Hollywood was impressed. Using the four categories of best screenplay, director, actor, and picture, the nine films could have received a maximum of thirty-six Oscar nominations. In fact, the films did receive twenty-two

8. See *Counsellor at Law*, in THE MOTION PICTURE GUIDE, C-D 491 (Jay Robert Nash & Stanley Ralph Ross eds., 1985).

9. 12 ANGRY MEN (Orion-Nova Productions & United Artists 1957).

10. WITNESS FOR THE PROSECUTION (United Artists 1957).

11. I WANT TO LIVE! (Figaro Films & United Artists 1958).

12. ANATOMY OF A MURDER (Carlyle Productions & Columbia Pictures 1959).

13. THE YOUNG PHILADELPHIANS (Warner Bros. 1959).

14. COMPULSION (20th Century Fox 1959).

15. INHERIT THE WIND (Lomitas Productions, Inc. 1960).

16. JUDGMENT AT NUREMBERG (Roxlom & United Artists 1961).

17. TO KILL A MOCKINGBIRD (Universal International Pictures 1962).

18. See Francis M. Nevins, *Law, Lawyers and Justice in Popular Fiction and Film*, HUMAN EDUC., May 1984, at 4.

19. THOMAS J. HARRIS, COURTROOM’S FINEST HOUR IN AMERICAN CINEMA, at xiii (1987). Thomas Harris has chapters regarding eight films. He does not include *The Young Philadelphians* and *To Kill a Mockingbird*, two films from my list, but he does, somewhat curiously, have a chapter on *THE VERDICT* (20th Century Fox 1982).

20. Anthony Chase, *Lawyers and Popular Culture: A Review of Mass Media Portrayals of American Attorneys*, 1986 AM. B. FOUND. RES. J. 281, 284.

nominations.²¹ If we eliminate *The Young Philadelphians*, which nobody seemed to like, and *Compulsion*, which bore the burden of Hollywood critic Orson Welles in the starring role, the figures are even more striking. The legal films won twenty-two of a possible twenty-eight Oscar nominations for best writing, directing, acting, and picture. These films were neither minor nor unsuccessful. In the opinion of Hollywood itself, the legal films of the late 1950s and early 1960s are some of the very best films of the era.

More subtly, the films garner praise for what they tell us about law in American life. The films speak positively of law, lawyers, and legal institutions or, at least, of what law, lawyers, and legal institutions might provide for social life. For the most part, the films suggest lawyers are men of integrity committed to deserving clients. Courtroom trials are fair and provide closure to heated controversies. And law in general is a close ally of justice. Enamored with the same law-related sentiments as the films, critics liked the films for echoing their own beliefs.

This Essay scrutinizes the message of the legal films of the so-called "golden age." In Part I, I summarize the law-related content of the films. Part II critiques this message as law-related ideology, focusing in particular on *12 Angry Men* and *Judgment at Nuremberg*. Part III asks why Hollywood might have produced and distributed this filmic ideology in abundance beginning in the late 1950s. The Conclusion considers the importance of the legal films forty years later. I argue in this regard that these legal films are exemplars for the standard pop cultural legal drama and also that the films' ideological position remains powerful.

I. THE FILMS' SHARED LEGAL CONTENT

The major legal films from the late 1950s and early 1960s are hardly identical. The films are derived from successful plays, contemporary novels, and, in the case of *I Want to Live!*, a series of newspaper articles and a related collection of letters.²² For the films set in the United States, the specific settings range from the American South of the 1930s to Upper Michigan of the 1950s. In addition, *Judgment at Nuremberg* is set in post-World War II Germany and *Witness for the Prosecution* in London. Indeed, viewers can enjoy and interpret the films without focusing on their legal content but rather on other elements. *To Kill a Mockingbird* is about

21. I compiled my figures on Academy Awards from lists in THE MACMILLAN INTERNATIONAL FILM ENCYCLOPEDIA 3-7 (Ephraim Katz ed., 1998). I did not count in my totals Susan Hayward's Oscar for Best Actress for her work in *I Want to Live!*.

22. See PAUL BERGMAN & MICHAEL ASIMOW, REEL JUSTICE: THE COURTROOM GOES TO THE MOVIES 10 (1996).

growing up, *Compulsion* is about Nietzschean delusions, and so forth. But still, the nine films, as variable as they might be, do have a shared legal content. The films tell us similar stories about law, lawyers, and legal institutions.

The lawyers and judges in the films—all white men—are an appealing lot, in some sense the best bar association you could assemble. Some of the appeal is physical: Jimmy Stewart as Paul Biegler in *Anatomy of a Murder*, Gregory Peck as Atticus Finch in *To Kill a Mockingbird*, and Paul Newman as Tony Lawrence in *The Young Philadelphians* are fictional lawyers and genuine movie stars. In addition to being physically attractive, the Hollywood attorneys are articulate, forceful, and principled. Their appeal, in other words, derives from their character as much as their handsomeness.

Some of the lawyers become appealing after recovering psychologically and medically from what plagues them at the beginning of the various films. Tony Lawrence in *The Young Philadelphians*, for example, is devastated when his true love leaves for Europe and marries another man. The grouchy barrister Sir Wilfrid Robarts in *Witness for the Prosecution* is recovering from a heart attack. Attorney Paul Biegler has apparently stumbled into a mid-life crisis at the beginning of *Anatomy of a Murder*, and much to the consternation of his secretary, Biegler seems more interested in going fishing than in paying either the office bills or her salary. All eventually heal themselves as they pursue their lead cases. They become the way Atticus Finch in *To Kill a Mockingbird* was from the start: smart, stable, devoted to the profession, and blessed with the kind of moral authority that is most possible when one has deserving clients.

To some extent, this characterization depends on a political “centering” of the legal professionals. One might think, for example, that attorney Henry Drummond in *Inherit the Wind*, who is a fictionalized version of Clarence Darrow, would register as a leftist standing opposed to the rightists prosecuting and persecuting the teacher of Darwinian evolution. The real-life Darrow, after all, was frequently aligned with leftist causes and clients. In fact, the Drummond character defines himself with regard not only to the religious right but also to a cynical, jaded newspaper reporter named E.K. Hornbeck and played with an annoying cockiness by Gene Kelly. By the end of *Inherit the Wind*, Drummond seems very much the centrist.

The judges in the “golden age” legal films are comparably nonpartisan. Most are relatively minor characters, ruling with a steely eye on various motions and objections. Especially intriguing among these minor judicial characters is Judge Weaver in *Anatomy of a Murder*. Played by real-life attorney Joseph Welch, who stared down Joseph McCarthy in televised

Congressional hearings,²³ Weaver is an effective, precise proceduralist. His casting and performance no doubt pleased Robert Traver, the author of the best-selling novel from which the screenplay was derived.²⁴ Traver wanted a more realistic portrayal of the courtroom trial, a trial marked by “its very understatement, its pent and almost stifled quality”²⁵ Traver and Welch promoted their vision with Otto Preminger, the director of the film. Himself the son of a prosecutor and the holder of a law degree from the University of Vienna, Preminger was reportedly receptive.²⁶

In *Judgment at Nuremberg*, Judge Dan Haywood, the most developed judicial character, also takes a position at the center of the political spectrum. Played by Spencer Tracy, Haywood hails from Maine and describes himself as a “rock-ribbed Republican who thought Franklin Roosevelt was a great man.”²⁷ His nation calls on him to serve as a judge in the war crimes trial of four Nazis. Upon arriving in Nuremberg, Haywood appropriately enough seats himself in the middle between the other two judges and then proceeds to approach everything without any detectable partisanship.

The films’ positioning of the starring lawyers and judges at an almost depoliticized center facilitates the characters’ championing of a rule of law ideology. In Part II, I say more about this position as an ideological construct, but in essence those who champion the rule of law see law and legal institutions as admirably neutral and objective, as the kind of ordering devices that merit our deepest respect. When members of the Philadelphia elite pressure attorney Tony Lawrence in *The Young Philadelphians* to ease up in his defense of an accused murderer in order to prevent embarrassing the elite, Lawrence responds as viewers of the 1950s would like their Hollywood lawyers to respond. He dramatically refuses to compromise his professional responsibility or to abandon his principles. Trials and legal institutions, Lawrence says, are supposed to be about fairness and justice for individuals.

The legal institution with which these appealing and admirable cinematic lawyers work most closely is the trial court. In these films, as well as in most law-related film and television, the majority of lawyers are litigators, with the biggest stars especially likely to be criminal defense attorneys. To some extent, this specialization within the fictive Hollywood bar is perfectly predictable. Litigation and trial work, after all, have greater dramatic

23. See FRED J. COOK, *THE NIGHTMARE DECADE: THE LIFE AND LEGAL TIMES OF SENATOR JOE MCCARTHY* 517–18 (1971).

24. “Robert Traver” was the pen name of Judge John D. Voelker.

25. Introduction, *ANATOMY OF A MURDER* (St. Martin’s Press Commemorative Edition, 1983).

26. See Timothy Hoff, *Anatomy of a Murder*, 24 *LEGAL STUD. F.* 661, 661 (2000).

27. *JUDGMENT AT NUREMBERG*, *supra* note 16.

potential than the drafting of wills or the closing of real estate transactions. But still, Hollywood goes beyond merely relying on litigation and trials. Hollywood creates an idealized courtroom and courtroom proceeding, one which has little to do with the tawdry physical settings and bureaucratic realities of sentence-threatening and plea-bargaining that dominate most urban courthouses.²⁸

The films feature a range of striking courtrooms, all symmetrical and blessed with handsome accoutrements. Perhaps the most impressive are the courtrooms in Philadelphia and Chicago as displayed, respectively, in *The Young Philadelphians* and *Compulsion*.²⁹ Both are wood-paneled and lit by attractive lights mounted on the walls. Huge wooden doors are at the back, ready to swing open for dramatic and mysterious entries and departures. The ornate bench stands majestically at the center-front, and in *The Young Philadelphians*, globe lights on posts festoon the legal altar. The prosecution and defense tables are made of the sturdiest wood, and well-groomed citizens, eager for high theater, fill the seats beyond the bar.³⁰

Furthermore, courtroom grandeur in the films is hardly limited to the urban courtrooms. The trials in *Anatomy of a Murder*, *Inherit the Wind*, and *To Kill a Mockingbird* all take place in small-town America—Michigan's Upper Peninsula; Maycomb, Georgia; and Hillsboro, Tennessee, to be specific. The heat in the latter is oppressive, even leading volunteer prosecutor Matthew Brady, the character modeled after William Jennings Bryan, to move that counsel be allowed to remove their jackets. Yet Brady has no reason to complain about the courtroom, blessed as it is with ornaments and fixtures similar to those in fictional Philadelphia and Chicago. The courtroom in *Anatomy of a Murder* is comparably grand, including the type of globe lights on posts used in *The Young Philadelphians*. The courtroom in *To Kill a Mockingbird* is the most modest of the lot, with witnesses and others expected to testify in a free-standing chair placed in front of the simple bench. However, even in humble Depression-era Maycomb, the courtroom has a high, arched ceiling that enhances the dignity of the polite African Americans who may sit only in the balcony.

28. I contrast the importance of plea-bargaining in the real-life criminal process with its virtual absence in pop culture in David Ray Papke, *The American Courtroom Trial: Pop Culture, Courthouse Realities, and the Dream World of Justice*, 40 S. TEX. L. REV. 919, 926 (1999).

29. Excellent stills showing the courtrooms in *The Young Philadelphians* and *Compulsion* appear in BERGMAN & ASIMOW, *supra* note 22, at 310, 114.

30. Scholars decades ago commented on the theatrical aspects of the courtroom and the courtroom trial. See generally Milner S. Ball, *The Play's the Thing: An Unscientific Reflectic on Courts Under the Rubric of Theater*, 28 STAN. L. REV. 81 (1975); John E. Simonett, *The Trial as One of the Performing Arts*, 52 A.B.A. J. 1145 (1966).

More striking than the courtrooms themselves are the proceedings within them. The films vary greatly in terms of the proportion actually devoted to the rendering of a trial. *12 Angry Men* has only a brief image from the courtroom at the very beginning of the film. The courtroom trial in *The Young Philadelphians* is a twenty-minute crescendo at the end of a two-hour performance. Scenes from a courtroom trial are intercut throughout *Inherit the Wind*. Yet despite this variation, all the films include courtroom trials, and the trials bring dramatic power and special meaning to the films.

Within the trials themselves, the greatest drama involves the prosecutor and defense counsel examining and cross-examining parties on the stand. The lawyers puff and pout. They question aggressively and react strongly. Often they rise from their tables and strut about the well—the flat, unadorned space immediately in front of the bench. When the posturing and protesting gets out of hand, the judge calls the lawyers to the bench for a side-bar conference. Here the dialogue becomes especially intimate and earnest, and the judges seem somehow able to sort out controversies without the jury hearing and being prejudiced.

In the American cultural context, this variety of drama is quite engaging. Communications scholar Carol J. Clover describes it as “narrative parataxis—a stretch of textual bits and pieces, without coordinating conjunctions, as casually unbound as possible.”³¹ Put more colloquially, the drama is unpredictable and exciting. The examinations and cross-examinations of people on the stand are among the best moments in the history of American cinema. Examples include defense counsel Hans Rolfe’s cross-examination of Irene Hoffman (played by Judy Garland) in *Judgment at Nuremberg*, and Sir Wilfrid Robarts’s cross-examination of Christine Vole (played by Marlene Dietrich) in *Witness for the Prosecution*. Also striking is defense counsel Henry Drummond’s calling and demolishing of prosecutor Matthew Brady (played by Frederic March) in *Inherit the Wind*. Brady fancies himself an expert on the Bible, and his admissions regarding the Bible’s implausible teachings on creation disastrously undermine the prosecution.

The examinations and cross-examinations in the films are followed by the prosecution and defense’s closing arguments to the jury, much of which the camera invites us to watch from behind, over the shoulders of, and—at least vicariously—in the shoes of the jurors. Several of the closing statements from defense counsel are truly inspiring. In *To Kill a Mockingbird*, for example, Atticus Finch’s closing movingly addresses the subject of courts: “In this country our courts are the great levelers. In our courts all men are

31. Carol J. Clover, *Law and the Order of Popular Culture*, in *LAW IN THE DOMAINS OF CULTURE* 103 (Austin Sarat & Thomas R. Kearns eds., 1998).

created equal. I'm no idealist to believe firmly in the integrity of our courts and our jury system. That's no ideal to me. That is a living, working reality."³²

After the virtually mandatory dramatic closings, the films are mixed in terms of what, if any, parts of the trial process they portray. Most of *12 Angry Men* portrays jury deliberations in a hot and tension-packed courthouse room. In *Compulsion*, defense counsel Jonathan Wilk, played by Orson Welles, delivers a lengthy, almost Shakespearean argument against capital punishment at the sentencing stage.

A veteran litigator or actual trial court judge might find it difficult to watch these Hollywood proceedings. There is a great deal, after all, that might strike one as unrealistic or technically inaccurate. Actual attorneys are less handsome and articulate than Hollywood actors, and criminal defense counsel are most commonly public defenders with poor salaries and an impossible number of hopeless cases. Real-life examinations and cross-examinations are much less dramatic than they are in golden age law films. Attorneys rarely grill those on the stand or repeatedly object to lines of questioning, in part because they are not aggressive litigators and in part because jurors dislike delays and interruptions. Defendants frequently do not take the stand, sometimes to conceal prior records and sometimes because they would make lousy impressions. Police, meanwhile, are often the most effective givers of testimony, sometimes having benefited from formal training in how to testify. When side-bar conferences occur, they are often brief and businesslike, and while cinematic judges seem somehow to conduct these conferences in the courtroom without biasing jurors, real-life judges invite the lawyers into chambers.³³ Real-life closing arguments are frequently cut-and-dried, and in some jurisdictions lawyers face stringent time limits. Overall, actual trials do not necessarily have coherent story lines. Testimony and evidence are not parts of one big, emerging puzzle as they are in a Hollywood film.³⁴

32. TO KILL A MOCKINGBIRD, *supra* note 17. As inspiring as the words are, they lack the sharper edge of Harper Lee's original novel. In the novel's closing Atticus Finch says:

But there is one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller, the stupid man the equal of an Einstein, and the ignorant man the equal of any college president. That institution, gentlemen, is a court.

HARPER LEE, TO KILL A MOCKINGBIRD 209 (1960).

33. Janet Malcolm has noted that real-life lawyers completely abandon their dramatic courtroom posturing when they meet privately for a conference with the presiding judge. See Janet Malcolm, *The Side-Bar Conference*, in LAW'S STORIES: NARRATIVE AND RHETORIC IN THE LAW 106, 108 (Peter Brooks & Paul Gewirtz eds., 1996).

34. Alan Dershowitz has contrasted the way all pieces of evidence and plot developments ultimately fit together in the traditional play with the way real-life defense counsel often present

But none of this is to say that the legal films from the late 1950s and early 1960s should be rejected as simply inaccurate. The films do not purport to be documentaries. They do not attempt to be cinematic snapshots of the American legal profession, courtroom trial, or law in general. If there is a law-related goal the films share, it is not the realistic portrayal of legal procedures but rather the provocative juxtaposition of law and justice.

All of the important legal films from this period explore the ways in which lawyers, courtroom trials, and law in general relate to justice. As pop cultural artifacts, the films are not deep, probing, philosophical studies, but they do point to a range of topical concerns and ask if these concerns are addressed by the law in a fair and just way. In *12 Angry Men* and *Witness for the Prosecution*, for example, the defendants are members of minority groups and racism rears its ugly head. In *Judgment at Nuremberg* war crimes are at issue, and in *Inherit the Wind* the teaching of evolution collides with narrow-minded religious fundamentalism. The stories of the litigants and the lawyers all become bigger than accounts of individual crimes and controversies; all take on larger symbolic meaning.

Law and the courtroom trial, hence, serve as conventions or tropes. All cultures rely on such conventions or toposes. As Hayden White has pointed out, human beings living in their cultural contexts do not articulate and rely upon precise meanings; we instead work through standardized conventions and tropes toward meanings that can serve us.³⁵ The films effectively use the law to explore larger questions of personal and social justice, and viewers and critics for the most part found this cinematic contemplation of law's relationship to justice to be engaging.

II. THE FILMS UNDERSTOOD IDEOLOGICALLY

The trope of law and the courtroom trial in the Hollywood legal movie also had a political dimension and could be understood as ideological in nature. I introduce ideology as a central concept in my work with some trepidation. "Ideology," after all, is a complex and multifaceted term, and one must be careful to specify the particular usage one has in mind. In addition,

pieces of evidence and events merely to make a case seem more complex and confusing. See Alan M. Dershowitz, *Life Is Not a Dramatic Narrative*, in *LAW'S STORIES: NARRATIVE AND RHETORIC IN THE LAW*, *supra* note 33, at 99, 99–100. If, in general, we find differences between cinematic trials and actual ones, it is because we have "representation of one important cultural practice in the signifying terms of another." DAVID A. BLACK, *LAW IN FILM: RESONANCE AND REPRESENTATION 2* (1999).

35. See HAYDEN WHITE, *TROPICS OF DISCOURSE 1–2* (1978).

in the United States “ideology” strikes many as a foreign and dangerously subversive term, and one must therefore be aware of bias against the term.

For purposes of the Essay at hand, I do not for a second equate “ideology” with “propaganda.” The distinction became clear to me in 1987 during a Fulbright year in Taiwan. On several occasions that year I was invited to view and critique short films about Taiwan’s strategic importance that were in production in the government propaganda office. Propaganda emerged as a quite calculated, sometimes disingenuous product. Ideology, by contrast, is more generally normative, expressing the hopes and dreams of a society without necessarily attempting to dupe people. Indeed, the most effective and powerful ideology is that which nobody recognizes as such. It is simply taken for granted as an expression of the way a society, or perhaps the whole world, should be. “Any stable society will be organised [sic] around a preferred self-image. . . . The function of this representation is to reproduce its own conditions of existence, in other words to protect the status quo.”³⁶

The Hollywood film includes among its characteristics a significant ideological component. Films’ images, ideas, and narratives have a normativity to them. They convey messages that viewers might internalize. Many American viewers, both in the 1950s and even today, let these messages wash over them as somehow true. As a result, Robert Ray asserts, American cinema is “one of the most potent ideological tools ever constructed.”³⁷

Legal films from the 1950s and early 1960s are no exception, and in more specific terms they serve up a particular law-related ideology. The representation is not new, drawing as it does from a venerable American notion that our nation, among the world’s nations, is one with a particular degree of faithfulness to the rule of law. Thomas Paine, after all, in *Common Sense*,³⁸ told disgruntled colonists that in America the law could be king.³⁹ Many of the Founding Fathers shared Paine’s sentiments, and Alexis de Tocqueville, the French aristocrat who toured the United States in the 1830s, commented at length on the nation’s faith in law.⁴⁰ Law and a belief in law are cast as something noble and particularly American.

36. MIKE CORMACK, *IDEOLOGY AND CINEMATOGRAPHY IN HOLLYWOOD, 1930–39*, at 9 (1994).

37. ROBERT B. RAY, *A CERTAIN TENDENCY OF THE HOLLYWOOD CINEMA, 1930–1980*, at 55 (1985). For an extended discussion of ideology and film, see BILL NICHOLS, *IDEOLOGY AND THE IMAGE* (1981).

38. See *Id.* at 32.

39. THOMAS PAINE, *Common Sense*, in *COMMON SENSE AND OTHER POLITICAL WRITINGS* (Nelson F. Adkins ed., Liberal Arts Press 1953) (1835).

40. See ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 207–08 (Harper & Row 1968).

The group of legal films being critiqued in this Essay is one of the most concentrated and powerful projections of this law-related ideology in American cultural history. As noted at the outset, the films under consideration are “golden” in terms of not only the quality of their screenwriting, directing, and acting but also their presentations of lawyers, trials, and law in general. The films endorse the rule of law; they inspire belief in that rule of law.

The endorsement is especially evident in two films from the beginning and end of the “golden age”: *12 Angry Men* (1957) and *Judgment at Nuremberg* (1961). The former was adapted by Reginald Rose, a highly respected television and film writer, from his own teleplay.⁴¹ One coworker described Rose as “on the side of the angels and a little to the left.”⁴² His liberal political alignment was later quite evident in the television series *The Defenders*, which aired on CBS from 1961 until 1965.⁴³ *12 Angry Men* was the directing debut of Sidney Lumet, who went on to a long and distinguished directing career.⁴⁴ The film starred Henry Fonda as the single juror initially unwilling to convict an eighteen-year-old Puerto Rican of killing his father with a switchblade.⁴⁵ The Fonda character, a stately architect who does not sweat as much as the men around him, is clearly the film’s hero. The rest of the cast featured seasoned actors including Martin Balsam, Ed Begley, Lee J. Cobb, Jack Klugman, E.G. Marshall, and Jack Warden. With good reason, *12 Angry Men* received Academy Award nominations for best screenplay, director, and movie.

Especially relevant to considerations at hand is the film’s powerful evocation of a legal faith. Almost all of the film takes place in a smoky juror deliberation room, and as seen through the camera’s approving eye, the Fonda character nobly struggles to win over his fellow jurors. In one dramatic scene, he displays a switchblade similar to the supposedly unique

41. Reginald Rose was one of the most prolific television writers of the 1950s. He wrote his original teleplay for *12 Angry Men* for Westinghouse’s *Studio One* (CBS television broadcast, 1948–1958). See David Ray Papke, *The Defenders*, in *PRIME TIME LAW: FICTIONAL TELEVISION AS LEGAL NARRATIVE* 3, 4 (Robert M. Jarvis & Paul R. Joseph eds., 1998).

42. Mark T. Alvey, *Series Drama and the “Semi-Anthology”*: Sixties Television in Transition 8 (1995) (unpublished Ph.D. dissertation, University of Texas) (on file with author).

43. *The Defenders* (CBS television broadcast, 1961–1965); see also Papke, *supra* note 41, at 3–15.

44. Sidney Lumet had worked during the 1950s directing television dramas for *Kraft Television Theater* (NBC television broadcast, 1947–1958), *Playhouse 90* (CBS television broadcast, 1956–1961), and *Studio One*, *supra* note 41. His law-related films from later in his career include *SERPICO* (Paramount Pictures & Produzion De Laurentis 1973), *DOG DAY AFTERNOON* (Artists Entertainment Complex 1975), and *THE VERDICT* (20th Century Fox 1982). See 2 *INTERNATIONAL DICTIONARY OF FILMS AND FILMMAKERS* 342–43 (Christopher Lyon ed., 1984).

45. The defendant is never specifically identified as a Puerto Rican, but he appears Latin when shown in the film’s short trial scene. Bigoted jurors also attack him as a minority member.

murder weapon. The resourceful Fonda, it seems, had slipped from the courthouse and purchased the switchblade, quite in violation of proper juror conduct. In another powerful scene, the camera slow zooms in on the seated character as he carefully and calmly explains the standard of guilt beyond a reasonable doubt. The zoom, awkward for some, underscores the importance of what is being said and has the effect of bringing us into intimate communication with the hero.

A few of the jurors share their occupations, but all go unnamed, thereby emerging as symbolic everymen.⁴⁶ With the coaching of the Fonda character, the jurors one by one overcome their prejudices and their eagerness to convict. One of the jurors realizes he should not convict the defendant because of his falling out with his own son. Another stops worrying about the baseball game for which he has tickets. When the tide turns against conviction, an especially bigoted juror argues that the facts are irrelevant when dealing with a minority defendant. This desperate plea not only fails but also backfires.

At the end, the men find the defendant not guilty, and they exit through the lobby and down the grand steps of the august courthouse. Their daily lives await them; but they have demonstrated that under a genuinely honored rule of law, one can overcome bias and personal demons. *12 Angry Men* thus conveys the message that law leads to justice and also suggests that democracy is most possible under a rule of law.⁴⁷ In Peter Biskind's words, *12 Angry Men* is "in some sense, a film written by ideology."⁴⁸

Produced toward the end of the "golden age," *Judgment at Nuremberg* (1961) conveys some of the same ideological messages. The screenplay was written by Abby Mann, and the film was directed by Stanley Kramer. In the opinion of Thomas Cripps, the film suffers from "elephantiasis."⁴⁹ The film's pretentious lumbering is evident in its first three minutes, during which only the word "Overture" is projected on the screen while distinctively German music plays. When the overture ends, three hours and seven minutes more await the viewer. Yet superb writing and acting make the

46. Henry Fonda's character goes without a name throughout almost all of the film. At the very end, as he leaves the courthouse, he tells one of the other jurors that his name is "Davis," a predictably WASPy choice.

47. One scholar suggests that the film's "jury deliberations may even provide a microcosm of a larger democratic process." Norman Rosenberg, *Hollywood on Trials: Courts and Films, 1930-1960*, 12 LAW & HIST. REV. 341, 347 (1994).

48. PETER BISKIND, *SEEING IS BELIEVING: HOW HOLLYWOOD TAUGHT US TO STOP WORRYING AND LOVE THE FIFTIES* 15 (1983).

49. THOMAS CRIPPS, *HOLLYWOOD'S HIGH NOON: MOVIE MAKING & SOCIETY BEFORE TELEVISION* 224 (1997).

film powerful and provocative. Abby Mann won an Oscar for the adaptation of his own teleplay. Maximilian Schell received an Oscar for his portrayal of defense counsel Hans Rolfe. Spencer Tracy was also nominated for best actor, while Montgomery Clift and Judy Garland garnered nominations for best supporting actor and actress.

The dramatic centerpiece of the film is the fictional 1948 trial of four Nazi judges. Three of the judges are party hacks, but the fourth, Ernst Janning, is a brilliant legal scholar, a former leader of Weimar Germany, and head of the Ministry of Justice. We are invited to believe that, like some members of the traditional German elite and officers' corps, Janning hated Hitler and the Nazis. We also learn of Janning's disgust for his fellow defendants. Played with a kind of stoic remorse by Burt Lancaster, the Janning character prompts some sympathy.

Janning and his codefendants are judged from a decidedly American perspective. Three American judges conduct the trial in the American sector of occupied Germany, and for reasons that are unclear, a U.S. senator welcomes the judges and explains their charge. Dan Haywood, the chief judge played by Spencer Tracy, has a law clerk played by a youthful William Shatner in his pre-*Star Trek*⁵⁰ days. The clerk opens court each day by saying, "God Bless the United States and this honorable tribunal."⁵¹ The defense counsel, although German, quotes Oliver Wendell Holmes. Really, what we have is a bastardized American proceeding trying four Nazi judges for violating an American sense of the rule of law.

As in *12 Angry Men*, legally questionable events occur in *Judgment at Nuremberg*. For example, the prosecutor himself takes the stand and shows the court gruesome footage of the Nazi concentration camps. But these kinds of Hollywood liberties notwithstanding, the tribunal's work earns our admiration. Judge Haywood considers each motion carefully and judiciously. In his chambers, the judge pours over not only trial briefs and precedents but also Janning's scholarly works. One work, titled *The Meaning of Law*, shows Haywood that at one point at least Janning believed "what we believe"⁵²—an observation that tends less to exonerate Janning than to underscore his criminality. When it is time to decide, Haywood tells the other judges they should avoid "legal double-talk" and "rationalizations."⁵³ Janning and the

50. *Star Trek* (NBC television broadcast, 1966–1969).

51. JUDGMENT AT NUREMBERG, *supra* note 16.

52. *Id.*

53. *Id.*

others are found guilty and are sentenced to life in prison.⁵⁴ They were judges who themselves desecrated the temple of the law.

Judgment at Nuremberg conveys a profound respect for the rule of law. The American government did not merely use its army to round up the Nazi judges and put them to death. We tried them. What is more, at the trial, the American judges did not ride roughshod over the rights of the defendants and rush to convict. The judges accorded the defendants due process. When some suggested a growing Communist menace might dictate leniency for former German leaders, the judges ignored the argument. "This is what we stand for," Haywood says to the assembled, "justice, truth and the value of a single human being."⁵⁵ Even Janning, meeting with Haywood in a posttrial conference in a prison cell, tells the judge that the verdict "was a just one."⁵⁶

Major American legal films produced between *12 Angry Men* and *Judgment at Nuremberg* conveyed much the same message, but viewers should not equate this message with the simple idea that under a rule of law, the guilty are always convicted and the innocent set free. In *I Want to Live!*, for example, California party girl Barbara Graham is unfairly charged in the first place, and a conniving fellow inmate and her boyfriend pressure Graham into confessing before providing her with a much-needed alibi. Later, they report her phony confession at trial, thereby helping to secure Graham's conviction. In *Witness for the Prosecution* and *Anatomy of a Murder*, defense counsel have good reason to conclude that the men they have successfully defended were in fact guilty as charged. The legal process—even in the Hollywood film—does not always get things right; it does not always deliver justice.

But still, all the films speak to the possibility of justice under a rule of law. It is actually achieved in *12 Angry Men* and *Judgment at Nuremberg*. In *The Young Philadelphians*, an innocent defendant is set free. In the other films, justice under law is at least a promise. Duplicitous individuals or community prejudice might in a given case undermine the rule of law and prevent it from delivering on its promise. Yet, as viewers, we can clearly see that a true rule of law is desirable. The films assure us that our aspirations for honest lawyers, reliable courtrooms, and good laws are appropriate and prudent. The rule of law can and should inspire us.

54. One of the three judges is apparently prepared to find the defendants not guilty, but the camera cuts away before we can hear his dissent.

55. *JUDGMENT AT NUREMBERG*, *supra* note 16.

56. *Id.*

III. HISTORICIZING THE "GOLDEN AGE"

Given that the major legal films of the late 1950s and early 1960s were rife with law-related ideology, a question arises: Why were so many important law-related films produced and distributed in this period? My contention is that Hollywood grew increasingly determined to assert its "Americanism." One way to do this was to promote lawyers, legal proceedings, and the rule of law to a public which had itself become convinced that a faith in law was one thing that distinguished the United States from the Communist countries, especially the Soviet Union.

To say that Hollywood was sensitive to issues of its "Americanism" during the decade following World War II is an understatement indeed. Just as the War was ending, the U.S. Chamber of Commerce published a report warning that Communists were trying to take control of the film industry.⁵⁷ Indeed, the report asserted specifically that Communists already dominated the Screen Writers Guild. Other critics chimed in, and the Motion Picture Alliance for the Preservation of American Values, an organization of Hollywood conservatives, warned that Communists were infiltrating the industry.⁵⁸ Responding to these allegations and fears, the United States House of Representatives Un-American Activities Committee (HUAC) decided in 1947 to conduct hearings regarding subversion in Hollywood.

The congressmen found no shortage of "friendly" witnesses willing to testify. They included conservative management figures such as Walt Disney and Louis B. Meyer, and actors Gary Cooper, Robert Montgomery, George Murphy, Ronald Reagan, and Robert Taylor. "Unfriendly" witnesses, by contrast, refused to testify, and the famous "Hollywood Ten" even served prison terms for contempt of Congress.⁵⁹ Some congressmen worried that high-paid Hollywood Communists were contributing money to the Communist Party. Others thought Hollywood discriminated against anti-Communist writers and actors. Congressman Richard Nixon's greatest concern was the shortage of anti-Communist movies being produced in Hollywood.⁶⁰ Nixon urged Hollywood to get on board to help fight the growing Communist

57. See ROBERT SKLAR, *MOVIE-MADE AMERICA: A SOCIAL HISTORY OF AMERICAN MOVIES* 256-57 (1975).

58. See *id.* at 257.

59. The "Hollywood Ten" were screenwriters Alvah Bessie, Lester Cole, Ring Lardner, Jr., John Howard Lawson, Albert Maltz, Samuel Ornitz, Adrian Scott, and Dalton Trumbo, and directors Herbert Biberman and Edward Dmytryk. They were found in contempt of Congress for refusing to say if they were or ever had been members of the Communist Party.

60. See SKLAR, *supra* note 57, at 261.

menace. Time and again during the testimony and political posturing, one speaker or another raised the idea of barring Communists completely from Hollywood.

Shortly after the hearings concluded, the film industry began black-listing Communists and alleged Communists. Twentieth Century Fox was the first studio to turn its back on perceived “Reds,” and then the whole motion picture producers association declared, “We will not knowingly employ a Communist or a member of any party or group which advocates the overthrow of the government of the United States by force or by illegal or unconstitutional methods.”⁶¹ Gradually a system of “clearance” settled into place for the industry, and estimates put the number of those blacklisted at roughly 200.⁶² The Screen Actors Guild, under the new leadership of actor Ronald Reagan, did not deplore the blacklist but rather required that its members take a loyalty oath.⁶³

Hardly satisfied by the bloodletting and abject cowering, Congress turned again on the film industry in the 1950s. In 1951, HUAC subpoenaed over 100 witnesses and demanded that they inform on Hollywood colleagues. The witnesses provided 212 names.⁶⁴ In 1952, the Senate Internal Security Subcommittee reopened the hearings, and witnesses provided still more names. Film careers crumbled in the blink of an eye, while some who had turned on colleagues seem to have been rewarded. For example, Elia Kazan directed *On the Waterfront* (1954),⁶⁵ which had been written by Budd Schulberg and starred, among others, Lee J. Cobb. An Oscar for best film followed even though (or perhaps because) Kazan, Schulberg, and Cobb had named names.⁶⁶

From our perch almost fifty years later in time, it is difficult to appreciate the impact the investigations, hysteria, and informing had on Hollywood. Beyond the individual casualties, films themselves suffered. “No one in Hollywood was willing to take the slightest chance on anything or anybody,” film historian David A. Cook has written. “Thus, vitiated, frightened and drained of creative vitality, Hollywood experienced in miniature what the whole of American society was to experience during the McCarthy-era witch-hunts—intellectual stagnation

61. This declaration from the fifty members of the Motion Picture Association of America came in the period to be called the “Waldorf Statement.” See DAVID A. COOK, *A HISTORY OF NARRATIVE FILM* 474 (1990).

62. See SKLAR, *supra* note 57, at 266.

63. See COOK, *supra* note 61, at 475.

64. See *id.*

65. *ON THE WATERFRONT* (Columbia Pictures 1954).

66. See COOK, *supra* note 61, at 476.

and moral paralysis.”⁶⁷ According to Robert Sklar, Hollywood films had traditionally been more iconoclastic than other forms of entertainment, “offering a version of American behavior and values more risqué, violent, comic and fantastic than the standard interpretation of traditional cultural elites. . . . And it was this trait that the anti-Communist crusade destroyed.”⁶⁸ “[E]very movie that was produced,” Peter Biskind adds, “no matter how trivial or apparently escapist, was made in the shadow of the anti-Communist witch-hunt”⁶⁹

Meanwhile, in the society at large, as McCarthyism’s tentacles reached in many directions, a belief in the rule of law took on added power as a way Americans could be distinguished from Communists. As previously noted, a belief in the rule of law and a sense that the nation was defined by its law date back to the beginning of the Republic. In the 1950s, this national self-impression became even more powerful than before because of the Cold War. Americans and especially American ideologues were anxious to distinguish themselves from and against the Communists. What did the United States have that the Soviet Union did not? How were Americans different from Communists? One answer, at least arguably, involved the United States’ respect for law and legal institutions.⁷⁰

No single date or even year marks the beginning of this ideological tendency to identify the Communists “other” through its purported disrespect for law. However, a range of incidents and developments from the mid-1950s demonstrate the growth of the tendency. In May 1953, for example, the prestigious International Commission of Jurists urged American attorneys to launch a crusade against “the corruption of law for political purposes in Communist countries.”⁷¹ In September of 1955, Harvard University held a conference on “Government Under Law,” which featured an opening address by United States Supreme Court Justice Felix

67. *Id.* at 477.

68. SKLAR, *supra* note 57, at 267.

69. BISKIND, *supra* note 48, at 4.

70. Leo Marx has noted, in discussing the founding of the influential American Studies Program at the University of Minnesota during this period, that the program presumed the nation’s distinctiveness. The program

assumed the importance of such singular political innovations as a written constitution; the rule of law; federalism; a commitment to the idea that government rests on the consent of the governed; and the notion (as Lincoln put it at Gettysburg), that the United States is a nation defined neither by its location nor its ethnic composition, but rather by a “proposition”—a cosmopolitan, multicultural, potentially universalizable set of principles.

Leo Marx, *Reflections on American Studies, Minnesota, and the 1950s*, AM. STUD., Summer 1999, at 39, 43.

71. *World Jurists Ask Help Against Reds*, N.Y. TIMES, May 5, 1953, at 17.

Frankfurter and closing remarks by Chief Justice Earl Warren.⁷² Members of the nation's legal elite attended, and speaker after speaker reminded the assembly that it was a belief in the rule of law that made the United States special. In 1958 the American Bar Association, under the leadership of President Charles S. Rhyne, began presenting "Gavel Awards" to books, magazine articles, newspaper reports, television shows, and films that fostered public awareness of the law and of America's system of justice. The first film to receive an award was *12 Angry Men*.⁷³

Before long, a drive began to convert general ideological sentiments into something more formal, into a government declaration of sorts. In particular, eager ideologues proposed a national holiday to be called "Law Day." President Dwight D. Eisenhower was receptive to the idea, and on February 5, 1958 he proclaimed that henceforth May 1 of each year would be Law Day, a date chosen to contrast with the Communist celebration of May Day on the same date.⁷⁴ When May 1 arrived, an estimated 20,000 celebrations and programs were mounted in schools, courthouses, and organized bar headquarters.⁷⁵ In a statement marking the holiday, Eisenhower said, "In a very real sense, the world no longer has a choice between force and law. If civilization is to survive it must choose the rule of law."⁷⁶ Ideologues, it is worth adding, frequently invoke the "real" or the "realistic" to bolster their claims.

It is hardly surprising that the film industry would, in the late 1950s, produce films extolling the rule of law. Hollywood wanted desperately to divert charges that it was infested with Communists. Led by a much-admired president, the public had come increasingly to see the American approach to law as one thing which favorably distinguished the nation from Communist countries. If Hollywood produced films glorifying law, this could serve the industry's need to appear patriotic while at the same time tapping into popular sentiment.

Hollywood, parenthetically, also produced and distributed in the period more than fifty directly and overtly anti-Communist films.⁷⁷ Vice President Richard Nixon received what he had demanded in his days as a congressman from California. One of the earliest and most creative of the anti-Communist films, *I Was a Communist for the FBI* (1951),⁷⁸ was developed

72. See *Warren Will Pay Marshall Honor*, N.Y. TIMES, Sept. 18, 1955, at 12.

73. See DIV. FOR PUB. EDUC., ABA, 40TH ANNIVERSARY GAVEL AWARDS FOR MEDIA AND THE ARTS 2 (Charles White & Howard Kaplan eds., 1997).

74. See *May 1 to Be "Law Day,"* N.Y. TIMES, Feb. 5, 1958, at 8.

75. See *President Calls Law Key to World Peace*, N.Y. TIMES, May 1, 1958, at 14.

76. *Id.*

77. See COOK, *supra* note 61, at 515.

78. *I WAS A COMMUNIST FOR THE FBI* (Warner Bros. 1951).

into the immensely popular television series *I Led Three Lives* (1953–1956).⁷⁹ The film and the television series featured the character Herbert T. Philbrick. He worked as a Boston advertising man, was a member of the Communist Party, and—most importantly—served as a counterespionage agent for the FBI. The television series had J. Edgar Hoover’s endorsement, and the FBI approved all scripts.⁸⁰ Other anti-Communist films were less original and had no formal stamp of approval. Some simply borrowed from World War II espionage movies, replacing dastardly Nazis with equally dastardly Communists. Others such as *The FBI Story* (1959)⁸¹ cast Communists as gangsters. Whatever the case, these films “pleased neither the public nor the critics, and did badly at the box office.”⁸²

The difference between public reactions to these films and to the legal films further clarifies the distinction between propaganda and ideology mentioned earlier in this Essay. The industry foisted the overt anti-Communist films on the public in keeping with an industry agenda. The legal films, meanwhile, were more genuinely integrated with popular attitudes and beliefs. No conniving meetings had to be held behind closed doors at the Hollywood studios. Excellent writers, directors, and actors came willingly to the legal film projects, and the public and critics, themselves enamored with a rule of law ideology, delighted in the films once they were released.

CONCLUSION

Hollywood blacklists and the general perception of a Communist threat are things of the past, but the legal films of the late 1950s and early 1960s are still culturally and politically significant today. Beyond their availability as video rentals, the films remain important cultural exemplars for American legal film and television. Many contemporary pop cultural works continue to draw on the conventions the films established. The “golden age” films and the subsequent films and television series they inspired also continue to represent and contribute to law-related American

79. *I Led Three Lives* (nationally syndicated television broadcast, 1953–1956); see THE COMPLETE GUIDE TO PRIME TIME NETWORK AND CABLE TV SHOWS, 1946–PRESENT 491 (Tim Brooks & Earle Marsh eds., 1995).

80. See THE COMPLETE GUIDE TO PRIME TIME NETWORK AND CABLE TV SHOWS, 1946–PRESENT, *supra* note 78. “In later episodes, as the writers began to run out of material, the stories strayed further and further from actual events. One episode even had the Commies plotting to undermine the U.S. guided-missile program by converting vacuum cleaners into bomb launchers.” *Id.*

81. THE FBI STORY (Warner Bros. 1959).

82. BISKIND, *supra* note 48, at 3.

ideology. Cynicism about lawyers and the legal system notwithstanding, a majority of Americans believe in the rule of law, and ideologues of all political affiliations are able to call up and draw upon this belief.

In the cultural realm, the term exemplar refers to an individual pop cultural work or a group of works that becomes a norm, the success of which prompts subsequent attempts to replicate or resemble the exemplar. As noted at the beginning of this Essay, films with legal content were a part of American cinema since virtually its founding. However, it was the films of the late 1950s and early 1960s that established the now classic tale of noble and articulate lawyers representing deserving clients, primarily in courtroom trials. Television's *Perry Mason*⁸³ series, itself preceded by novels, movies, and a radio drama featuring the same character, also helped establish the cultural norm.⁸⁴

Literally hundreds of later films and television series followed, continuing right up to the present with the likes of *A Civil Action* (1998)⁸⁵ on the large screen and *the practice* (1997–current)⁸⁶ on television. These films and television series might have a grittier veneer than works from the 1950s. They might include fictionalized plea-bargaining and work their way to unhappy, imperfect compromises. They might even revolve around civil trials, albeit ones with features more typical of a criminal proceeding. But the images of lawyers, courts, and the law in these works generally mimic the images in earlier works from the “golden age.”

Even films and television series that poke fun at the dominant law-related tales rely on the exemplars. In Woody Allen's *Bananas* (1971),⁸⁷ for example, Fielding Melish races back and forth from the witness stand to defense counsel's table examining himself. At a later point, Melish breaks down a hostile witness on the stand even though he, Melish, is gagged and able to make only muffled sounds. These scenes are humorous in large part because they play off familiar images of the heroic defense lawyer prevailing in the dramatic courtroom trial. Similarly, the goofy lawyers and their hijinks at trial in *Ally McBeal* (1997–current)⁸⁸ would fall flat without the power and influence of legal films from forty years ago. The comic effect of parody is impossible without a standard to mock.

83. *Perry Mason* (CBS television broadcast, 1957–1966).

84. A recent volume tracing the evolution of the Perry Mason character in fiction, radio, film and television is J. DENNIS BOUNDS, *PERRY MASON: THE AUTHORSHIP AND REPRODUCTION OF A POPULAR HERO* (1996). It is the television series, in particular, which dovetails with the films under consideration in lionizing lawyers, trials, and the law in general.

85. *A CIVIL ACTION* (Paramount Pictures et al. 1998).

86. *the practice* (ABC television broadcast, 1997–current).

87. *BANANAS* (United Artists et al. 1971).

88. *Ally McBeal* (Fox Network television broadcast, 1997–current).

In addition, the ideological power of the “golden age” films lives on. The Soviet Union has collapsed, and the Communist presence in the world grows smaller every day. But it is worth remembering that the American version of the Cold War had distinctive heroes as well as villains. While communism and the Communists were the latter, the American way of life, its representative democracy, and its market economy were the heroes. These socioeconomic configurations were both prepared to defend the “Free World” and were worthy of emulation. Law, lawyers, and legal institutions buoyed the other parts of the system, and a belief in the rule of law was not peripheral to, but rather at the center of, the dominant American ideology.

These sentiments might seem quaint in the world of postmodern academics, but they remain powerful in American politics and political commentary. In explaining to the American public the launching of a war with Iraq, President George Bush in 1991 contrasted our nation’s belief in a rule of law with Iraq’s dangerous embodiment of the “law of the jungle.”⁸⁹ In the domestic setting, pundits and politicians routinely and often unthinkingly invoked the rule of law during the Bill Clinton impeachment proceedings and during the 2000 presidential election dispute involving Florida votes. Admittedly, both sides in both controversies asserted that the rule of law supported their positions, but this does not negate the commitment to a rule of law as a dominant American ideological premise.

The legal films of the late 1950s and early 1960s in and of themselves hardly explain this phenomenon. American ideologues championed their nation’s commitment to a rule of law before and after the films were popular. However, if we scrutinize the legal films as exemplars of law-related popular culture and as ideological constructs, we will be better able to develop the type of critical consciousness necessary in the contemporary setting. Exemplars are not necessarily exemplary. Ideology should be poked and prodded and exposed for what it is. With regard to law and in general, critical contemplation of the pop culture which is increasingly becoming our whole culture is crucial to an active, self-actualizing political life.

89. Strobe Talbott, *The Gulf War*, TIME, Jan. 28, 1991, at 14.
