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INTRODUCTION TO THE 50TH ANNIVERSARY OF *12 ANGRY MEN*

NANCY S. MARDER*

INTRODUCTION

I have had the opportunity to organize two academic panels on the subject of this Symposium, *The 50th Anniversary of* 12 Angry Men. Each panel included several of the contributors to this Symposium. The first panel was held at the Association of American Law Schools ("AALS") Annual Meeting in Washington, D.C., in January 2007[1] and the second panel was held at the Law & Society Association Annual Meeting in Berlin, Germany, in July 2007.[2] As the organizer of these two panels, I felt that I owed it to the audiences to address at least two questions: Why this movie? Why now? These two questions are also a useful starting point for this Symposium.

I. WHY THIS MOVIE? WHY NOW?

12 Angry Men[3] came to mind as the topic of academic panels and as the subject of a law review symposium because I know it well; I show the movie every year in my jury course. I also knew that there were countless other professors and teachers who watch this movie and who delight in

* Professor of Law, Chicago-Kent College of Law. I want to thank Katie Vikingstad, the Editor-in-Chief of the *Chicago-Kent Law Review*, for making sure that this Symposium issue saw the light of day. Her assistance, even after she had graduated, studied for the bar, and begun her clerkship, went above and beyond the requirements of her position. Whenever editors-in-chief work well beyond their graduation in order to complete a Symposium, those of us who depend on their extraordinary commitment are very grateful. I also want to thank Jeremy Eden for his comments on early drafts and for his encouragement and enthusiasm for this Symposium.

1. The panelists for the presentation at the AALS included Robert Burns (Northwestern), Valerie Hans (Cornell), Bruce Hay (Harvard), Stephan Landsman (DePaul), Nancy Marder (Chicago-Kent), and Lawrence Solan (Brooklyn).

2. The panelists for the presentation at the Law & Society Annual Meeting included Mar Jimeno-Bulnes (University of Burgos, Spain), Nancy Marder (Chicago-Kent), and Stephen Thaman (Saint Louis). I have also had the good fortune to hear another contributor, Austin Sarat (Amherst), present his Symposium essay at a panel entitled "Law, Film, and Violence" at the Association for the Study of Law, Culture & the Humanities, 10th Annual Conference at Georgetown Law Center on March 23, 2007.

3. 12 ANGRY MEN (Orion-Nova Productions 1957).

introducing it to new groups of students year after year.[4] I have now seen *12 Angry Men* at least fourteen times, which is more than I have seen any other movie! Yet, I never tire of watching it. One reason is because it has a great ensemble cast. Another reason is that every year I gain something new from watching *12 Angry Men*. Some years, I glean a new insight from my students' reactions to the movie. Other years, I view the movie through the lens of whichever facet of the jury I happen to be focusing on in my own writing. Other professors have had similar reactions. They, too, find that they learn something new from the movie every time they return to it and share it with their students.[5]

The main reason to hold a symposium on *12 Angry Men* in 2007 is that this year marks the 50th anniversary of the movie, which was released in 1957. The movie did not enjoy much box office success initially, and in fact, it played to limited audiences in art house cinemas.[6] In spite of its rocky beginning, however, the movie has endured, and today, fifty years later, it is seen as a classic.

The movie was, and remains, an anomaly in the annals of jury movies.[7] Whereas most movies with a jury show the jurors as a silent, brooding presence whose main job is to observe what happens in the courtroom,[8] this movie focused on the jurors and their deliberations with only a passing shot of them as silent observers of the courtroom scene at the beginning of the movie. The jurors in *12 Angry Men* are the focus of the movie, and they are a loud, active[9] bunch of men[10] whose deliberations are fraught with con-

4. In fact, some law schools, such as Chicago-Kent College of Law, have shown this movie as part of an orientation program for first-year law students. Some courts show this movie as part of the orientation for jurors. *See, e.g.*, Panel Discussion, The 50th Anniversary of *12 Angry Men*, Assoc. of Am. Law Schools Annual Meeting (Jan. 5, 2007) (notes on file with author). High schools are even beginning to show this movie to their students, as one mother of an eleventh-grade student told me at a jury conference. Panel Discussion, The Public's Perception of the American Jury System as Drawn from Movies and Television, National Jury Summit 2007: Saving the Jury Trial (Feb. 8, 2007) (notes on file with author).

5. *See, e.g.*, Mar Jimeno-Bulnes, *A Different Story Line for* 12 Angry Men*: Verdicts Reached by Majority Rule. The Spanish Perspective*, 82 CHI.-KENT L. REV. 759, 763 (2007).

6. *See* Carol J. Clover, *Movie Juries*, 48 DEPAUL L. REV. 389, 403 (1998) ("*12 Angry Men* . . . was hardly a success in its day. Indeed, it was a box office mediocrity, not even close to the top ten grossing films of that year. Reviews were mixed, and not a few venture some version of the opinion that it was not a proper trial movie.").

7. *See, e.g.*, *id.* at 403 ("It should be clear by now that for all of the respect the film enjoys, it is something of an oddball in the tradition."); David Ray Papke, 12 Angry Men *Is Not an Archetype: Reflections on the Jury in Contemporary Popular Culture*, 82 CHI.-KENT L. REV. 735, 735 (2007) ("But alas, *12 Angry Men* is fundamentally atypical as a pop cultural portrayal of the jury.").

8. *See* Clover, *supra* note 6, at 390 ("Within the film's universe, the jury is a kind of visual and narrative blank, viewed as so much human furniture when present, but mostly just absent.").

9. Perhaps this jury is a precursor to the "active jurors" that former Judge Michael Dann envisaged when he urged courts to recognize that jurors need to be active learners rather than passive observers. *See* B. Michael Dann, *"Learning Lessons" and "Speaking Rights": Creating Educated and*

flict. Indeed, the dynamic of this group deliberation constitutes the drama of this movie.

12 Angry Men's portrayal of a jury did not alter the way that later movies portrayed juries. Subsequent movies returned to depicting the jury as a silent, passive group of courtroom observers.[11] Thus, *12 Angry Men* remains an anomaly. However, the movie did inspire several remakes. There was a television version of *12 Angry Men* in 1997.[12] In the 1997 version, the jury was more racially diverse than the 1957 version and included several African-American jurors. The 1997 script was almost the same as the 1957 script,[13] and the remake, like the original, included many gifted actors.[14] Yet, the 1997 version was not as powerful as the 1957 version, at least in my view.[15] The movie has since been made into a play, which was performed on Broadway in New York City beginning in 2004, at the Kennedy Center in Washington, D.C., in 2006, and at the Goodman Theater in Chicago in 2007. *12 Angry Men* has enjoyed a substantial run as a play, but it is the movie, and in particular the original 1957 version, that has demonstrated its staying power.

Democratic Juries, 68 IND. L.J. 1229, 1241 (1993) ("[J]urors must be permitted to become more active in the trial."). Although Judge Dann focused on the tools that jurors need during the trial to be active listeners, the jurors in *12 Angry Men*, though hardly model jurors in so many ways, did manage to listen carefully to what was said at trial and to request exhibits during their deliberations when they needed more precise information.

10. For a brief description of why an American jury in 1957 was likely to consist of twelve, white men, see Nancy S. Marder, *Why* 12 Angry Men*? (1957): The Transformative Power of Jury Deliberations*, *in* SCREENING JUSTICE—THE CINEMA OF LAW 157, 158–59 (Rennard Strickland, Teree E. Foster & Taunya Lovell Banks eds., 2006).

11. *See* Clover, *supra* note 6, at 403 ("As a public, it seems, we prefer trial dramas that do not disturb our role as triers of fact, even if they are less smart and less well acted, and so it is that after this very small blip [*12 Angry Men*] on a very long horizon, we reverted to the security of the traditional arrangement.").

12. 12 ANGRY MEN (MGM Television 1997).

13. Conversation with Peter Robson at 50th Anniversary of *12 Angry Men*, Law & Society Assoc. Annual Meeting (July 28, 2007). For a detailed comparison between the 1957 and 1997 versions of *12 Angry Men*, see Peter Robson, Adapting and Re-Adapting—The Case of *Twelve Angry Men* (unpublished manuscript, on file with the author).

14. The 1997 movie included Jack Lemmon (in the Henry Fonda role) and George C. Scott (in the Lee J. Cobb role), as well as Courtney B. Vance, Ossie Davis, Armin Mueller-Stahl, Dorian Harewood, James Gandolfini, Tony Danza, Hume Cronyn, Mykelti Williamson, Edward James Olmos, and William L. Petersen. *See* Phoebe C. Ellsworth, *One Inspiring Jury*, 101 MICH. L. REV. 1387, 1388 n.7 (2003).

15. For another commentator who shares my assessment of the 1997 version of *12 Angry Men*, see Charles D. Weisselberg, *Good Film, Bad Jury*, 82 CHI.-KENT L. REV. 717, 726–27 (2007).

II. THE TRANSFORMATIVE POWER OF JURY DELIBERATIONS

One way to understand *12 Angry Men*[16] is to see it as a movie about the transformative power of jury deliberations.[17] Twelve men have been summoned to serve as jurors and have been placed together in a cramped, uncomfortable jury room in New York City on the hottest day of the year.[18] They have sat through six days of a murder trial and they want to complete their deliberations as quickly as possible and return to their private lives.

The jurors have not been given much guidance as to how to conduct their deliberations.[19] The foreman (Martin Balsam) suggests that they can proceed in one of two ways. Either they can vote, and then discuss the case if necessary, or they can discuss the case first.[20] They choose to vote immediately with the hope that the vote will be unanimous and that there will be no need for further discussion. Their decision to take an initial vote produces what several social scientists have described as "verdict-driven" deliberations.[21] Verdict-driven deliberations are characterized by an early public vote, the formation of coalitions, and potentially a more adversarial atmosphere as each side offers evidence in support of its position and stifles dissenting points of view.[22] Social scientists have contrasted this style of group deliberation with "evidence-driven" deliberations, in which there is greater emphasis on story construction, each individual's view is sought, and a vote is not taken until later in the process.[23]

When the initial vote results in eleven guilty votes and one not-guilty vote, with Juror #8 (Henry Fonda) casting the lone, dissenting vote, the jurors are not quite sure what to do. Fonda, who plays a critical role in

16. Reginald Rose, *Twelve Angry Men*, *in* FILM SCRIPTS TWO 156 (George P. Garrett, O.B. Hardison & Jane R. Gelfman eds., Irvington Publishers 1989) (1972) (screenplay version of 12 ANGRY MEN, *supra* note 3). I will cite the script rather than the movie throughout this essay, as will many of the contributors, because the script is in written form and allows for greater uniformity among writers and readers than individual transcriptions of the movie. However, the script does have the drawback of not reflecting changes that were made when the movie was filmed. Throughout this volume, the contributors will use the movie title, rather than the screenplay title, because the movie is the focus of this Symposium.

17. For a more detailed discussion, see Marder, *supra* note 10, at 158–67.

18. *See* Rose, *supra* note 16, at 164 ("Y'know something? I phoned up for the weather this morning. This is the hottest day of the year." (quoting Juror #7)).

19. This remains a problem even today. The American Judicature Society has created a brochure that judges can give jurors so that they have some information about the deliberation process. *See* AM. JUDICATURE SOC'Y, BEHIND CLOSED DOORS: A GUIDE FOR JURY DELIBERATIONS (1999).

20. *See* Rose, *supra* note 16, at 174 ("If we want to discuss it first and then vote, that's one way. Or we can vote right now to see how we stand." (quoting Juror #1, the foreman)).

21. *See* REID HASTIE, STEVEN D. PENROD & NANCY PENNINGTON, INSIDE THE JURY 163–65 (1983).

22. *See id.*

23. *See id.*

helping the men learn how to be jurors, suggests that they owe the defendant, who is on trial for his life, some "talk."[24] One juror thinks this means telling a story; another juror thinks this means doodling.[25] Fonda corrects these mistaken notions. Eventually, the jurors agree to go around the room and have each juror explain why he voted the way he did in an effort to convince Fonda of the error of his vote.[26] The jurors do manage to engage in a more evidence-driven style of deliberation, but they do not manage to have each juror give his view because they continue to interrupt and insult each other. Fonda cannot change the confrontational tone, but he has managed to slow down the pace of the deliberations so that the jurors begin to talk to each other.

In spite of the tone, the jurors do manage to achieve some of the benefits of an evidence-driven style of deliberation. Eventually, different jurors start contributing their recollections of the facts and evidence, without being concerned, as they had been initially, with whether their recollections support their verdict preferences. For example, Juror #5 (Jack Klugman), who described himself as having grown up in a slum, knows how to hold a switchblade knife and offers his opinion on how the knife would have been held and whether the defendant could have made the wound given that he was shorter than his father.[27] The other jurors do not have this knowledge because they did not grow up in places where such knives were commonplace. Similarly, Juror #9 (Joseph Sweeney) pays close attention to the elderly witness and understands how this witness might have exaggerated what he had seen and heard because he is elderly and feels ignored by the world.[28] Juror #9 understands this witness because he, too, is elderly. Fonda has begun to have an effect on the jurors, not only in terms of changing their votes, but also in terms of changing their approach to their role as jurors and their understanding of their responsibility during deliberations.

Fonda does not know whether the defendant is guilty or not guilty, but he hopes that through careful deliberation and full participation of all the jurors that the jury will avoid an erroneous decision. He counts on the recollections and insights of all of the jurors. When Juror #11 (George Voskovec) wants the jury to consider a question that has troubled him, Juror #3 (Lee J. Cobb), a strong proponent for a guilty verdict, chides him for un-

24. *See* Rose, *supra* note 16, at 176–79.

25. *See id.* at 179, 182.

26. *See id.* at 183 ("I'm just thinking out loud, but it seems to me it's up to us to convince this gentleman (Indicating #8) that we're right and he's wrong. Maybe if we each took a minute or two." (quoting Juror #12)).

27. *See id.* at 305–07.

28. *See id.* at 241–42.

dercutting his earlier guilty vote.[29] Juror #11 explains that he does not have to limit his recollections or questions to one position or another.[30] When Juror #9 focuses on the indentations on the eyewitness's nose, which he surmised could only be made from eyeglasses and which called into question the reliability of this eyewitness because she was not wearing her glasses in court and was unlikely to have been wearing them when she awoke at night and witnessed the murder through a passing elevated train, Juror #3 questioned why the others, including the lawyers, did not notice this earlier.[31] Fonda pointed out that nobody had noticed this earlier, but that all of the jurors were now pooling their recollections and observations together and that Juror #3 should join in this effort.[32]

The group effort to recollect and to evaluate the evidence cannot persuade two of the jurors who are blinded by their own prejudices. They must acknowledge their prejudices and recognize that they have judged the defendant guilty, not based on what they had heard at trial, but based upon their preconceptions about the defendant. Juror #10 cannot be persuaded by the evidence (or lack of evidence) because he sees the defendant as a Puerto Rican and he sees all Puerto Ricans as people who "lie"[33] and who do not value human life.[34] Until Juror #10 is ostracized by the other jurors and made to confront his prejudice against Puerto Ricans, he cannot decide the case based on the evidence nor be open to arguments made by his fellow jurors. Similarly, Juror #3 cannot be persuaded by the evidence or the arguments because he sees the defendant as a young man who is about the same age as his estranged son.[35] Juror #3 wants to punish the defendant just like he wants to punish his son.[36] Only when he is made to see the connection between his guilty vote and his feelings toward his son is he able to be persuaded by the other jurors and to change his vote.

Fonda and the other jurors only know by the end of the deliberations that they have "reasonable doubt" about the defendant's guilt. Fonda had some doubts during the trial. Indeed, he wondered whether any case could

29. *See id.* at 250–52.

30. *See id.* at 252 ("I don't believe I must be loyal to one side or the other. I am simply asking questions." (quoting Juror #11)).

31. *See id.* at 326–32.

32. *See id.* at 328 ("There are twelve people in here concentrating on this case. Eleven of us didn't think of it [the eyeglass indentations] either." (quoting Juror #8)).

33. *Id.* at 312 ("Look, you know how these people lie! It's born in them." (quoting Juror #10)).

34. *Id.* at 313 ("Human life don't mean as much to them as it does to us!" (quoting Juror #10)).

35. *See id.* at 191–92.

36. *See id.* at 272–73 ("You want to see this boy die because you personally want it, not because of the facts." (quoting Juror #8, speaking to Juror #3)).

really be so open-and-shut as this case was presented at trial.[37] But the deliberative process helps him to reach the conclusion that he has reasonable doubt. The movie leaves open the question whether the defendant was guilty or not guilty. The audience knows no more than the jurors in the end. The open-ended question is just one way in which this movie invites multiple interpretations from the audience.

III. DIFFERENT MEANINGS FOR DIFFERENT VIEWERS

One goal of this Symposium is to bring together a diverse group of contributors who will bring a wide range of backgrounds, perspectives, and experiences to their interpretations of this movie. The contributors to this Symposium include law professors, film and cultural studies scholars, political and social scientists, judges, and even a former juror. Several of the contributors have backgrounds as trial lawyers. A few of the contributors are experts on juries in countries other than the United States and can offer insights into how the movie was received or reinvented in that country.

The movie inspires interpretations on many different levels. For some, it offers insights into how the American jury should or should not work. For others, it sparks debate about strengths and weaknesses of the American criminal justice system. For yet others, the movie centers on the jury as a symbol of American popular and political culture, and raises questions as to how this democratic institution can or cannot be introduced into other countries. Finally, for others, the movie transcends the particulars of the American jury or criminal justice system, and explores universal themes, such as father-son relationships, religious allegories, and the nature of evil.

A. The American Jury

Several of the contributors view *12 Angry Men* with an eye to what it tells us about the American jury. Graham Burnett,[38] who served as foreperson for a murder trial in New York, and who described the experience in *A Trial by Jury*,[39] cautions against making such comparisons. He notes in the *Foreword* that the precision that the jury demanded of the evidence in *12 Angry Men*, while perhaps useful in heightening a drama, was nowhere to be found in an actual jury deliberation, at least not the one in which he

37. *See id.* at 197 ("You know everybody sounded so positive that I started to get a peculiar feeling about this trial. I mean nothing is that positive." (quoting Juror #8)).

38. D. Graham Burnett, *Foreword*, 82 CHI.-KENT L. REV. 551 (2007).

39. D. GRAHAM BURNETT, A TRIAL BY JURY (2001).

participated.[40] Even if the fictional deliberation in a drama does not and should not replicate an actual jury deliberation, it can be a catalyst for thinking about the American jury system and how well it works or does not work.

Valerie Hans[41] considers the role of the hold-out juror and how likely it is that he or she can turn around the rest of the jury. She reports that earlier empirical studies found that when the initial jury vote was 11–1 or even 10–2, it was difficult for the hold-out juror or jurors to persuade the majority to their point of view. From her empirical work on hung juries with the National Center for State Courts, she found that while it is difficult, it is not impossible, and indeed, five percent of the juries in the study had small minorities who were able to persuade the other jurors to their point of view, particularly when the minority argued for acquittal rather than conviction.[42] She also found that hung juries are more likely in cases where the evidence presented at trial was ambiguous or when voting occurred early in the deliberations.[43]

Jeffrey Abramson[44] also focuses on the hold-out juror and observes the way in which the hold-out has gone from being regarded as heroic in the era of *12 Angry Men* to being seen as recalcitrant in a post-O.J. Simpson world. Fonda, as a hold-out, slowed down the pace of the deliberations and inspired his fellow jurors to engage in careful discussion. Today, hold-outs are seen as stubborn and wayward in the popular press[45] or as manipulative and conniving in popular novels.[46] Abramson looks to empirical studies[47] to show that hung juries have not increased very much in percentage compared to Kalven and Zeisel's finding back in 1966[48] and that popular perceptions and media accounts of hold-out jurors are based on anecdotal, rather than on empirical, evidence.[49]

40. Burnett, *supra* note 38, at 553.

41. Valerie P. Hans, *Deliberation and Dissent:* 12 Angry Men *Versus the Empirical Reality of Juries*, 82 CHI.-KENT L. REV.579 (2007).

42. *See id.* at 584.

43. *See id.* at 588.

44. Jeffrey Abramson, *Anger at Angry Jurors*, 82 CHI.-KENT L. REV. 591 (2007).

45. *See, e.g.*, Jeffrey Rosen, *One Angry Woman*, NEW YORKER, Feb. 24 & Mar. 3, 1997, at 54.

46. *See, e.g.*, JOHN GRISHAM, THE RUNAWAY JURY (1996).

47. *See, e.g.*, PAULA L. HANNAFORD-AGOR, VALERIE P. HANS, NICOLE L. MOTT & G. THOMAS MUNSTERMAN, NAT'L INST. OF JUSTICE, ARE HUNG JURIES A PROBLEM? 1, 2, 25 (2002), *available at* http://www.ncsconline.org/WC/Publications/Res_Juries_HungJuriesPub.pdf (surveying felony criminal trials from 1996–1998 in thirty state courts and finding a hung jury rate of 6.2%).

48. *See* HARRY KALVEN, JR. & HANS ZEISEL, THE AMERICAN JURY 456 (1966) (calculating hung jury rates in state courts at about 5.5%).

49. *See* Abramson, *supra* note 44, at 595–97.

Both Judge Nancy Gertner[50] and Chief Judge Judith Kaye,[51] who have made so many contributions to jury reform in their own court systems, focus on the ways in which the American jury has changed since the time of *12 Angry Men* and also on the ways in which it still needs to be changed.

For Judge Gertner, the jury in *12 Angry Men* is notable for its lack of representativeness, and while some of the legal barriers to jury service have since been dismantled, other barriers to a representative jury still remain undisturbed. In particular, she focuses on a case that came before her, *United States v. Green*,[52] in which the prosecutor's decision to bring the case in federal court meant that the defendants, African Americans charged with murder in aid of racketeering, would be tried by a jury drawn from a venire that included fewer African Americans than if they had been tried in state court. Judge Gertner interpreted the Jury Selection and Service Act[53] to require the Federal Jury Administrator to supplement the flawed lists from which the venire was drawn. She ordered a new batch of summonses to be sent to new names in the same zip codes from which summonses had been returned due to incorrect addresses or from which there had been no response.[54] The First Circuit, however, held that such efforts could not be made by a single district court judge, but had to be undertaken on a district-wide basis.[55] In Judge Gertner's view, the lack of a representative jury in *12 Angry Men* is a shortcoming that persists, at least in federal court, fifty years later.

Chief Judge Kaye also views *12 Angry Men* through the lens of a judge committed to jury reform. The movie is set in state court in New York—the court system over which Chief Judge Kaye presides. Even though Chief Judge Kaye has been the catalyst for so many important jury reforms in New York,[56] she believes that much remains to be done.[57] For example, when Chief Judge Kaye looks at the bare-bones jury room in *12 Angry Men*, she sees that not much has changed. Today's juries deliberate

50. Judge Nancy Gertner, 12 Angry Men *(and Women) in Federal Court*, 82 CHI.-KENT L. REV. 613 (2007).

51. Judith S. Kaye, *Why Every Chief Judge Should See* 12 Angry Men, 82 CHI.-KENT L. REV. 627 (2007).

52. 389 F. Supp. 2d 29 (D. Mass.), *rev'd in part sub nom. In re* United States, 426 F.3d 1 (1st Cir. 2005).

53. 28 U.S.C. §§ 1861–1868 (2000).

54. *See* Gertner, *supra* note 50, at 623.

55. *In re* United States, 426 F.3d at 9.

56. *See, e.g.*, Nancy S. Marder, *Bringing Jury Instructions into the Twenty-First Century*, 81 NOTRE DAME L. REV. 449, 483–85 (2006) (describing Chief Judge Judith Kaye's leadership in bringing about jury reform in New York).

57. *See* Kaye, *supra* note 51, at 630–31 (identifying several of the "innumerable new issues on Chief Judges' front burners that have a profound impact on today's jury experience").

in rooms that look very similar to the one shown in the movie (except that smoking is now prohibited).[58] When she looks at the fairly homogeneous jury in *12 Angry Men*, she hopes that New York, after having done away with the large number of exemptions—the largest number in the country at one time[59]—has opened the door to jury service by a far broader group of citizens than was possible in 1957.

Barbara Babcock and Ticien Sassoubre,[60] like Judge Gertner and Chief Judge Kaye, note the relative homogeneity of the jury in *12 Angry Men* and recognize the changes in the law that make it unlikely that such a homogeneous jury would be seated today. However, they also note the ways in which the jury in *12 Angry Men* is more diverse than appearances suggest. Even with a more diverse jury, however, Babcock, a former trial lawyer, cautions that jurors' votes cannot be predicted from their demographic characteristics, and lawyers who attempt such predictions will be disappointed. Moreover, the group deliberation process, which protects jurors from outside scrutiny, allows them to structure their deliberations so that they can work together and reach a judgment even in the face of uncertainty. Although the jurors are given little guidance, they ultimately learn that they should approach the process with impartiality and integrity.

Robert Burns[61] looks at *12 Angry Men* and focuses on features that are, as he describes them, "so obvious"[62] that they are likely to be missed. Like Chief Judge Kaye, he notes the bare jury room, and suggests it reflects the lack of esteem in which the jury is held as a participant in the judicial system. He also notes, as do Babcock and Sassoubre, that the jury in this particular case has to perform more than its job because the other institutional actors—the judge, the police, and the defense attorney—have failed to perform their jobs adequately. In addition, the jury in this case, unlike in many other cases, knows what is at stake for the defendant. The jurors know that a guilty verdict will result in a mandatory sentence of death. Burns focuses on the movie as drama and the ways in which it seeks to portray the "essence" of jury deliberations, rather than merely to recreate an actual jury deliberation on screen.

58. *See id.* at 628.

59. *See, e.g.*, G. Thomas Munsterman, *A Brief History of State Jury Reform Efforts*, 79 JUDICATURE 216, 218 (1996) (recounting how New York revised its exemption policy so that "the list of exemptions, once the longest in the nation, was eliminated").

60. Barbara Allen Babcock & Ticien Marie Sassoubre, *Deliberation in* 12 Angry Men, 82 CHI.-KENT L. REV. 633 (2007).

61. Robert P. Burns, *A Jury Between Fact and Norm*, 82 CHI.-KENT L. REV. 643 (2007).

62. *Id.*

B. *The American Criminal Justice System*

For other contributors, *12 Angry Men* provides an opportunity to reflect on strengths or weaknesses of the American criminal justice system. For Judge Hoffman,[63] the movie depicts a criminal justice system that is so enfeebled that it depends on the presence of a lone, dissenting juror (Henry Fonda) to do justice, and this portrayal leads him to reflect on the ways in which today's Innocence Projects and media reports portray a criminal justice system that is in utter disarray. The message of Innocence Projects is that the system is so flawed that these projects are needed to make sure that justice is done in the same way that Fonda was needed in *12 Angry Men*. Judge Hoffman takes issue with the idea that the criminal justice system, as a whole, is unreliable, as opposed to the idea that no system is infallible and that mistakes are occasionally made. He worries that this "myth of innocence," though not supported by empirical evidence, will nevertheless have real-world consequences, including a loss of public confidence in the criminal justice system, an undervaluing of public defenders and jurors, and a propensity for defendants to plead guilty even if they are innocent to avoid being judged by a system that they believe is broken.

Neil Vidmar, Sara Beale, Erwin Chemerinsky, and James Coleman,[64] all colleagues at Duke who watched *12 Angry Men* together, found their attention drawn to the evidence at issue in the movie, which in turn, led them to a broader discussion of the use of circumstantial evidence. The authors note that Fonda led the other jurors to question the reliability of the evidence, but in the authors' view, the jurors should have used the circumstantial evidence to consider an alternative story that favored guilt. They suggest that the jurors might not have done so because the prosecutor relied too heavily on direct evidence rather than circumstantial evidence. The authors compare this fictional account of jurors' use of circumstantial evidence with two actual cases, one in which the jury acquitted and one in which it convicted.

Michael Asimow,[65] like Vidmar and his colleagues, argues that the jurors should have found the defendant guilty. He relies on the "mass of circumstantial evidence,"[66] which he describes in some detail, and concludes that this jury held the prosecutor to a higher standard than beyond a reasonable doubt. Asimow, like Vidmar and his co-authors, argues that even

63. Morris B. Hoffman, *The Myth of Factual Innocence*, 82 CHI.-KENT L. REV. 663 (2007).

64. Neil Vidmar et al., *Was He Guilty As Charged? An Alternative Narrative Based on the Circumstantial Evidence from* 12 Angry Men, 82 CHI.-KENT L. REV. 691 (2007).

65. Michael Asimow, 12 Angry Men*: A Revisionist View*, 82 CHI.-KENT L. REV. 711 (2007).

66. *Id.* at 713.

without the eyewitness testimony, the circumstantial evidence was so overwhelming—providing close to one hundred percent certainty that the defendant was guilty—that the jury should have returned a guilty verdict.

Charles Weisselberg[67] urges readers to enjoy the movie but not to hold it up as a model of jury behavior. He is struck by the manifold instances of juror misconduct, including Fonda's account of his walk in the defendant's neighborhood and his introduction of the knife he purchased there, the jurors' estimation of the speed of a train, Fonda's reenactment of the elderly witness's testimony, and Juror #5's (Jack Klugman) expert opinion about the use of the switchblade knife. He points out that if such misconduct had been used to convict rather than to acquit, it would have been even more troubling. Moreover, the defense lawyer would have found it difficult to challenge juror misconduct in post-conviction proceedings because jury deliberations take place in secret and judges are careful to avoid inquiring into jury reasoning. Although Weisselberg does not argue for conviction, as Vidmar et al. and Asimow do, he does urge viewers to distinguish between appropriate juror conduct in movies versus in jury rooms.

C. 12 Angry Men *in Popular Cultures*

The essays in this section explore the role that *12 Angry Men* has played in several popular cultures, beginning with American popular culture, and moving on to popular culture in Spain, Germany, and Russia.

David Papke[68] traces the development of portrayals of the jury in American popular culture and shows how anomalous *12 Angry Men* is in that development. He canvasses movies and television programs that portray the jury and finds that juries help to set the scene in the courtroom, but do little else. At the end of the trial, the jurors file out, and at some point, they return with a verdict. In contrast, the jury in *12 Angry Men* is seen in the jury room, not just the courtroom, and the individual jurors are the focus, not just the backdrop. Moreover, the jurors in *12 Angry Men* are actually engaged in deliberation. Papke suggests that portrayals of the jury in American popular culture may reflect a growing public disregard for the jury "as an important manifestation of popular sovereignty."[69]

Stephan Landsman[70] situates *12 Angry Men* in the 1950s, a time when the American film industry was under considerable pressure from the

67. Weisselberg, *supra* note 15, at 717.
68. Papke, *supra* note 7, at 735.
69. *Id.* at 746.
70. Stephan Landsman, *Mad About* 12 Angry Men, 82 CHI.-KENT L. REV. 749 (2007).

House Un-American Activities Committee. The industry responded with several patriotic films, one of which was *12 Angry Men*. Landsman questions whether *12 Angry Men* should go the way of other popular icons of the time, such as the Edsel and the HulaHoop, because the world has changed significantly since then. Even though he offers a list of reasons to reject *12 Angry Men* as a relic in today's world, he is ultimately persuaded of its relevance because it still conveys "the essence of the jury process."[71] The movie reminds viewers that truth is contingent and involves struggle, and that there is dignity to this struggle.[72]

Mar Jimeno-Bulnes,[73] a professor who writes and teaches about the jury in Spain, notes that *12 Angry Men*, though immensely popular with her students, could not be made in Spain today. The Spanish jury system differs from the American jury system in at least two significant respects. First, the verdict rendered by a Spanish jury, unlike the verdict requirement in most American state court criminal cases and in all federal court cases, need not be unanimous. According to Spanish legislation passed in 1995,[74] a majority verdict will suffice. If *12 Angry Men* were based on the Spanish jury system today, the movie would be quite short. As soon as the jury entered the jury room and took a vote, which was 11–1 for conviction, the jury's work would be almost done. A second way in which Spanish juries differ from all American juries is that Spanish juries must provide reasons for their verdicts. If this requirement had to be met in *12 Angry Men*, the jurors might never have reached a verdict because different jurors were motivated by different reasons. Indeed, Juror #7 (Jack Warden), the marmalade salesman, seemed to have no reason at all for switching his vote and could offer none when pressed by Juror #11 (George Voskovec).[75] Jimeno-Bulnes focuses on the "reasoned verdict" requirement of the Spanish jury system, which allows judges to override jury verdicts by finding that the "reasons" are insufficient, and points to the need for reform.

Stefan Machura,[76] after noting that Germany does not have a jury system but that *12 Angry Men* has been very popular in Germany, focuses on a German film, *Die Konferenz*, which is based on *12 Angry Men*, but involves a teachers' conference rather than a jury deliberation. The German movie, like its American counterpart, focuses on decision-making that would normally be conducted in secret. The plot of *Die Konferenz* centers

71. *Id.* at 757.
72. *Id.*
73. Jimeno-Bulnes, *supra* note 5, at 759.
74. *See* Art. 59(1) of the Ley Orgánica del Tribunal del Jurado (B.O.E. 1995, 122).
75. *See* Rose, *supra* note 16, at 308–11.
76. Stefan Machura, *The German Response to* 12 Angry Men, 82 CHI.-KENT L. REV. 777 (2007).

on whether a male student should be expelled from a school for allegedly raping a female student; the decision is to be made by a group of teachers. The teachers in *Die Konferenz*, like the jurors in *12 Angry Men*, must confront their biases before they can reach an independent judgment. Machura considers how the German movie also allows for exploration of changing gender roles.

Stephen Thaman's[77] essay focuses on the Russian response to *12 Angry Men*. In Russia, as in Germany and Spain, *12 Angry Men* enjoys enormous popularity, and in Russia, as in Germany, the movie has inspired a Russian version, though it has yet to play in the theaters. In his essay, Thaman recounts a brief history of the Russian jury, beginning with its introduction to Russia in 1864 by Alexander II, its abolition in 1917, and its reinstatement in 1993. Although the early juries acquitted about half the time,[78] Russian literature portrayed the jury system as leading to unjust convictions.[79] According to Thaman's interviews, *12 Angry Men*, which was first shown in Russia in 1961, led many lawyers and judges to view the jury system in a positive light. The Russian version of *12 Angry Men*, made by Nikita Mikhalkov, focuses on a defendant who is a young Chechen fighter. Thaman, like Machura, explores the ways in which the Russian version is tailored for Russian culture, and Thaman, like Jimeno-Bulnes, uses the movie to highlight the ways in which the Russian jury system differs from the American jury system.

D. Universal Themes

Bruce Hay[80] invites the reader to explore the subtext of *12 Angry Men*, which he sees as a religious allegory. The movie is rife with religious symbols—from the knife that is cross-like, to the role of Juror #3 (Lee J. Cobb) as God-like to the role of Juror #8 (Henry Fonda) as Christ-like. In an essay that juxtaposes dialogue, narrative, and images from the movie with quotations and stories from the Bible, Hay suggests that the filmmaker tried to make legal liberalism, as embodied in the role of the lone juror seeking justice, more compelling by connecting it to religious allegory that is omnipresent in the movie but never made explicit. Hay juxtaposes the stages of Christ's crucifixion with the symbols and story line of *12 Angry Men*.

77. Stephen C. Thaman, *The Good, the Bad, or the Indifferent:* 12 Angry Men *in Russia*, 82 CHI.-KENT L. REV. 791 (2007).

78. *Id.* at 793.

79. *Id.*

80. Bruce L. Hay, *Charades: Religious Allegory in* 12 Angry Men, 82 CHI.-KENT L. REV. 811 (2007).

The twelve jurors, including the viewer, eventually follow Fonda's lead and become the twelve apostles rather than the twelve elders who condemned Christ to death.

The theme of fathers and sons, which Hay alludes to because Fonda acts as both a father to the defendant and a son to the elderly juror, becomes central in Austin Sarat's essay.[81] Sarat juxtaposes two stories about fathers and sons. The first is the Biblical story of Abraham, a father who is called upon to sacrifice his son and who is ready to comply, believing that he is unable to protect his son from God's law. The second is *DeShaney v. Winnebago*,[82] in which the U.S. Supreme Court holds that the law was not obligated to protect Joshua from his violent and abusive father. Sarat explores the connections between fathers and sons and the protection that law does or does not afford, as suggested by these two narratives and *12 Angry Men*. The movie, in Sarat's words, "puts law and fatherhood on trial and invites its viewers to participate as judges and jurors."[83] In the movie, Fonda offers another image of fatherhood—the good father—as does Juror #9, who is a kind of father figure to Fonda, as both Sarat and Hay observe.

In the final essay in this volume, I explore the idea of evil, not as a monstrous deed, but as a small act of individual indifference.[84] The jurors in *12 Angry Men*, with the exception of Juror #8 (Henry Fonda), are prepared to vote guilty and to let the defendant be executed in the name of the state because they fail to understand the momentous decision with which they are faced. Instead, they approach this decision as they would any other in their everyday lives. They are willing to act out of haste or bias simply to put their jury service behind them. The other institutional actors, including the judge and defense attorney, are also culpable; they carry out their roles with indifference as well. But for Fonda, slowing down the deliberations and insisting that the jurors owe the defendant some "talk,"[85] the defendant would have been found guilty and received a mandatory death sentence. The movie illustrates that indifferent acts by ordinary men have the potential to lead to evil—the execution of a possibly innocent defendant in the name of the state. The movie also suggests that each of us must take individual responsibility to guard against that indifference because we will not always have Henry Fonda on our juries.

81. Austin Sarat, *Fathers in Law: Violence and Reason in* 12 Angry Men, 82 CHI.-KENT L. REV. 863 (2007).

82. 489 U.S. 189, 202 (1989).

83. Sarat, *supra* note 81, at 870.

84. *See* Nancy S. Marder, *The Banality of Evil: A Portrayal in* 12 Angry Men, 82 CHI.-KENT L. REV. 887 (2007).

85. *See* Rose, *supra* note 16, at 176–80.

IV. WILL THIS MOVIE ENDURE ANOTHER FIFTY YEARS?

12 Angry Men has endured for fifty years. Will it endure another fifty years? It is hard to predict. On the one hand, this movie seems unlikely to have lasted these past fifty years. On the other hand, this movie has seeped into our popular culture.

12 Angry Men seems like an unlikely movie to have lasted as long as it has. This movie is in black and white with no car chases and no special effects. There are no women and no sex scenes. In fact, *12 Angry Men* feels more like a play than a movie because there is no action and almost all of the drama takes place in one bare, claustrophobic jury room.

The movie feels outdated in other respects too. The jury is all male,[86] all white,[87] and seemingly all middle class, with the exception of Juror #5 who grew up in a slum but who managed to escape from it as an adult.[88] Although the jury in *12 Angry Men* is somewhat diverse by class, profession, and age, it still looks fairly homogeneous. Today's juries are likely to look far more diverse and ideally they include women and men of all different races and ethnicities because of changes in statutes,[89] constitutional interpretations,[90] and local court efforts to summon jurors from as broad a swath of the population as possible.[91]

The movie has also been faulted for depicting an unlikely jury outcome. Social scientists who have studied actual and mock jury deliberations have found that it is difficult for the minority to persuade the majority

86. *See* Marder, *supra* note 10, at 168 n.3 (noting the legal barriers to women's service on juries at the time of *12 Angry Men*).

87. *See id.* at 158 (describing the legal barriers to African-American men's service on juries at the time of *12 Angry Men*).

88. *See* Rose, *supra* note 16, at 193 ("I used to play in a back yard that was filled with garbage. Maybe it still smells on me." (quoting Juror #5)).

89. In the Civil Rights Act of 1957, Pub. L. No. 85-315, § 152, 71 Stat. 634, 638 (codified as amended at 28 U.S.C. § 1861 (2000)), Congress created federal jury qualifications independent of state jury qualifications, thus making women eligible for federal jury service even in states that still barred women from state jury service.

90. *See* J.E.B. v. Alabama *ex rel.* T.B., 511 U.S. 127 (1994) (holding that gender-based peremptory challenges violate the Equal Protection Clause of the Fourteenth Amendment); Georgia v. McCollum, 505 U.S. 42 (1992) (extending *Batson* to defense attorneys); Edmonson v. Leesville Concrete Co., 500 U.S. 614 (1991) (holding that race-based peremptory challenges exercised in a civil case violate the Equal Protection Clause of the Fourteenth Amendment); Powers v. Ohio, 499 U.S. 400 (1991) (holding that a *Batson* challenge can be made regardless of the defendant's race or ethnicity); Batson v. Kentucky, 476 U.S. 79 (1986) (holding that a prosecutor's race-based peremptory challenge violates the Equal Protection Clause of the Fourteenth Amendment).

91. *See, e.g.*, JURY TRIAL INNOVATIONS 25–43 (G. Thomas Munsterman et al. eds., 1997) (providing numerous suggestions such as one-day/one-trial, multiple source lists, and stratified jury selection, as ways of reaching a broad array of citizens for jury service); Babcock & Sassoubre, *supra* note 60, at 640; Gertner, *supra* note 50, at 622–24; Kaye, *supra* note 51, at 628–29.

when the initial jury vote is 11–1 or even 10–2.[92] In such cases, the minority usually succumbs to the pressure of the majority and changes its vote accordingly.[93] A minority of three or four jurors is usually required to bring about the kind of turnaround depicted in *12 Angry Men*.

The movie also has been criticized for the combative tone of the jury deliberations. The deliberations are marked by fights, insults, and personal taunts. At one point, the jurors have to restrain Juror #3 (Lee J. Cobb) because he looks like he is about to strike Juror #8 (Henry Fonda) for having called him a "sadist" and a "self-appointed public avenger."[94] At another point, when Juror #3 is using Juror #8 to demonstrate how the defendant could have held the switchblade knife to make the kind of wound found on the victim, the other jurors leap to restrain Juror #3 because it looks like he might actually use the knife on Juror #8.[95]

Throughout the deliberations, the jurors constantly interrupt and denigrate each other. They do not even manage to have each juror state his views before some jurors interrupt the process.[96] The jurors are downright rude to each other for no apparent reason. Juror #3 (Lee J. Cobb) dismisses Juror #9's (Joseph Sweeney) comments as the ramblings of an old man. Juror #6 (Edward Binns), a laborer, finds these remarks so disrespectful that he threatens to pummel Juror #3.[97] Although bullying in the jury room is not unheard of,[98] certainly it is not a model of behavior to hold up to an audience.

92. *See, e.g.*, Abramson, *supra* note 44, at 599; Hans, *supra* note 41, at 584; Rita J. Simon, *Jury Nullification, or Prejudice and Ignorance in the Marion Barry Trial?*, 20 J. CRIM. JUST. 261, 263 (1992) ("There were no instances [in the data from the University of Chicago Experimental Jury Project] in which one juror or even two held out against the other ten or eleven and then succeeded in persuading them to adopt their position."); *see also* VALERIE P. HANS & NEIL VIDMAR, JUDGING THE JURY 110 (1986) (noting that the "[p]ressures to conform to the group are strong" and that "[i]t is only when a minority juror has initial support, in the form of other jurors with similar views, that the probability that a juror will sway the majority or hang the jury improves"); SAUL M. KASSIN & LAWRENCE S. WRIGHTSMAN, THE AMERICAN JURY ON TRIAL 182 (1988) ("To begin with, the stor[y] of Henry Fonda . . . [is] atypical. The majority almost always wins.").

93. *See, e.g.*, SCOTT E. SUNDBY, A LIFE AND DEATH DECISION: A JURY WEIGHS THE DEATH PENALTY 59–103 (2005) (describing the struggles of a capital case hold-out juror who eventually succumbed to the majority); William Finnegan, *Doubt*, NEW YORKER, Jan. 31, 1994, at 48, 53 (recounting the experience of one hold-out juror, who had the support of another juror, yet both eventually joined the majority).

94. Rose, *supra* note 16, at 273 (quoting Juror #8).

95. *See id.* at 302 ("#3 flicks open the knife, changes its position in his hand and holds it aloft, ready to stab downward. He looks steadily at #8 and #8 at him. Then suddenly he stabs downward hard. . . . Several of the jurors run over to #'s 3 and 8.").

96. *See id.* at 199.

97. *See id.* at 240 ("A guy who talks like that to an old man oughta really get stepped on, y'know." (quoting Juror #6)).

98. *See, e.g.*, *Female Jurors Assert Sexism Hurt Menendez Deliberations*, N.Y. TIMES, Jan. 31, 1994, at A13 ("'It was hostile in there . . . . There were insults, sexual comments. They [the male jurors]

Even Juror #8 (Henry Fonda), a model of juror behavior in so many respects, is not immune from criticism.[99] Today, he would be in violation of Federal Rule of Evidence 606(b)[100] if this case had been brought in federal court because he introduced extraneous evidence into the jury room. Today, he also might be in violation of a cautionary instruction that judges often give jurors that they are not to conduct any independent investigation.[101] Despite the possible admonition at the time, Fonda had walked around the defendant's neighborhood and had come across a pawnshop that sold the same kind of switchblade knife as the murder weapon. He purchased the knife and brought it into the jury room. He would have been able to do so because this was long before metal detectors were placed at entrances to courthouses. Fonda introduced his knife to the other jurors so that they could see that the murder weapon's elaborately carved handle was not as "unusual" as the shopkeeper's testimony had suggested.[102] Juror #4 criticized Juror #8 for having purchased a switchblade knife when it was against the law to do so. Fonda acknowledged as much, but believes that the infraction is less important than performing his broader role as a juror, which is to reach a just verdict.

In spite of the movie's shortcomings, *12 Angry Men* has seeped into American popular culture. American television shows, like *Monk*[103] and *Veronica Mars*[104] have had episodes based on *12 Angry Men*.[105] The movie has become a short-hand for the scenario in which one juror votes contrary to the other eleven jurors (with the main character, such as Monk or Veron-

tried to outshout us.'" (quoting Tracy Miller, a female juror in the trial of Erik and Lyle Menendez)); *Woman Juror: Men Bullied Her to Convict*, L.A. DAILY J., Jan. 4, 1994, at 3 ("A female juror who voted to convict a man of bank robbery now contends she was bullied by nine male jurors into changing her position in a case of alleged gender bias.").

99. *See* Weisselberg, *supra* note 15, at 723.

100. *See* FED. R. EVID. 606(b). New York has not adopted the UNIFORM R. EVID. (1974), which has a rule similar to FED. R. EVID. 606(b). Thus, it seems unlikely that at the time of *12 Angry Men*, New York had such a rule in effect. I thank Lucy Moss for her research on this point.

101. In California, for example, judges today caution jurors as follows:

> Do not investigate the case or conduct any experiments. . . . Do not visit or view the scene of any event involved in this case. If you happen to pass by the scene, do not stop or investigate. All jurors must see or hear the same evidence at the same time. If you do need to view the scene during the trial, you will be taken there as a group under proper supervision.

JUDICIAL COUNCIL OF CAL., CIVIL JURY INSTRUCTIONS (CACI), No. 100 (2003).

102. *See* Rose, *supra* note 16, at 201, 203, 205.

103. *See Monk: Mr. Monk Gets Jury Duty* (Universal Studios Home Entertainment: Season Four, Disc Four). My thanks to David Robin, a student in my Fall 2004 *Juries, Judges & Trials* course, for bringing this episode to my attention.

104. *See Veronica Mars: One Angry Veronica* (Warner Bros. Home Video: Second Season, Episode 10, originally broadcast on Dec. 7, 2005). My thanks to Steven Heyman, a colleague at Chicago-Kent College of Law, for bringing this episode to my attention.

105. Some of the contributors also refer to television episodes that are spoofs of *12 Angry Men*. *See* Hoffman, *supra* note 63, at 667; Landsman, *supra* note 70, at 756; Papke, *supra* note 7, at 748.

ica Mars, playing the lone, dissenting juror). The lone, dissenting juror forces the jury, which must reach a unanimous verdict, to discuss the case. The other jurors resent the hold-out for lengthening the deliberative process. However, the hold-out helps the jurors to work together and to reach insights that they did not have on their own. The jurors struggle, and eventually, they change their votes to agree with the hold-out. In the end, the jury reaches the "correct" outcome, at least in the popular television versions.

Of course, the personality of the main character shapes the deliberations. For example, in *Monk*, the main character is a former police officer with obsessive-compulsive tendencies who works as a consultant to the police force and who assists with particularly challenging crimes or assignments. When Monk serves on a jury and votes not guilty even though all the other jurors vote guilty, he is oblivious to the resentment that the other jurors feel toward him because he misses social cues and has trouble interacting with people. Yet, his ineptitude in discerning social cues leaves him free to observe clues about objects that others miss. Monk is accustomed to working on his own to solve crimes. Whereas Henry Fonda turned to his fellow jurors to help him put together the disparate pieces of evidence, Monk has to solve the case in spite of the presence of his fellow jurors. By the end of the episode, he not only manages to persuade the other jurors of the correct answer so that they change their votes, but also he solves another case that is being handled in another courtroom in the same courthouse.

One problem with the popular television episodes based on *12 Angry Men* is that they oversimplify in ways that the 1957 movie did not. The *Monk* episode of *12 Angry Men* suggests that there is a right or wrong answer and that Monk will discover the right answer and persuade the other jurors to take his point of view. Ironically, the 1957 movie is more postmodern than the modern television shows because it leaves open such questions as: What is truth? Can there be more than one truth? How are truths known? The television episodes also suffer from some of the same problems as the original 1957 movie in that they do not show how hard it is to be a lone, dissenting juror and how difficult it is to turn around the votes of everyone else in the jury room. In spite of these limitations, the popular television episodes based on *12 Angry Men* make the movie familiar to a new generation of viewers.

Even today, fifty years after the original *12 Angry Men*, the movie and its popular television show reincarnations continue to teach lessons about what it takes to be a responsible juror. The movie holds up Henry Fonda,

the lone, dissenting juror, as the antidote to the tyranny of the majority and asks each of us to stand our ground if we believe in the merits of our position.[106] The movie also asks viewers to consider how much deliberation is required and what it means for a group of jurors to participate and to add their various perspectives to achieve "the wisdom of crowds."[107] The jury's role is particularly important when other institutional actors, such as the judge, police, and defense attorney, fall short, as they do in this movie.

CONCLUSION: NEW QUESTIONS

For panels of academics and for contributors to a law review symposium, *12 Angry Men*, a fifty-year-old movie, continues to raise new questions. Among the questions that the contributors to this Symposium address are the following: How should juries deliberate? What tools should courts give jurors to aid them in their deliberations? How should we regard the role of the hold-out juror? How well does this movie, a fictional account of a jury deliberation, depict how actual juries deliberate, particularly in light of empirical studies of jury deliberations over the past fifty years? How is this movie understood in other countries? How does this movie address universal themes? And finally, why has this movie endured, and is it likely to endure another fifty years?

My hope is that the essays contained in this volume, offering novel interpretations of this now classic movie, will provide readers with new ways of understanding *12 Angry Men* no matter how many times they have viewed it before.

106. Professor Hans Zeisel has described the hung jury, which is the result of one or more jurors adhering to their views but failing to convince others, as a "treasured, paradoxical phenomenon." Hans Zeisel, . . . *And Then There Were None: The Diminution of the Federal Jury*, 38 U. CHI. L. REV. 710, 719 (1971). He explained that the hung jury is "treasured because it represents the legal system's respect for the minority viewpoint that is held strongly enough to thwart the will of the majority," and it is paradoxical because the hung jury can only be tolerated in "moderation"—"too many hung juries would impede the effective functioning of the courts." *Id.* at 719 n.42.

107. JAMES SUROWIECKI, THE WISDOM OF CROWDS (2005).