

Two years after becoming law librarian of Congress, 29-year-old Edwin Borchard wrote *European Systems Of State Indemnity For Errors of Criminal Justice* in 1913.

¹ The 35-page document advocated providing compensation to a person victimized by a miscarriage of justice.

During his tenure as Congress' law librarian Borchard also wrote *Diplomatic Protection of Citizens Abroad* (1915), which is considered a classic text in its area.

After Borchard's appointment in 1917 as a professor at Yale University Law School, his specialized knowledge of international law resulted in contacts with the country's leading political and legal figures. He also traveled widely around the world as a result

Edwin Borchard – Pioneer In Analyzing Wrongful Convictions And Advocate For Compensation



of his involvement in resolving international disputes and participation in international law conferences. His legal stature internationally was such that he was the first American professor invited to lecture at the University of Berlin after WWI.

Knowing of Borchard's keen interest in legal reform, Harvard law professor and future Supreme Court Justice Felix Frankfurter suggested he write a book about the persistent problem of wrongful convictions. This

was shortly after Frankfurter's valiant failed effort to stave off the 1927 execution of Sacco and Vanzetti, whose innocence he passionately wrote about. ² Borchard acted on Frankfurter's suggestion and several years later *Convicting the Innocent: Sixty-Five Actual Errors of Criminal Justice*, was published by Yale University Press (1932).

Convicting the Innocent was widely read, and along with Borchard's behind the scenes advocacy, contributed to the enactment in 1938 of a federal law compensating persons erroneously convicted in federal court. *The New York Times* wrote, President Roosevelt "presented to Mr. Borchard the pen used in enacting the bill into law in

Borchard cont. on page 25

Alfred Hitchcock – Cinema's Greatest Friend Of The Wrongly Accused



Alfred Hitchcock is most well known for directing the classic psychological thriller *Psycho*. His fascination with directing psychologically suspenseful movies extended to an unusual film genre – a person wrongly accused of a crime. His interest in that subject matter was such that he directed more movies that have a wrongly accused person as part of the plot than any other director in cinematic history. Those movies, and the year they were released, are:

- *The Lodger* (1927)
- *The 39 Steps* (1935)
- *Young and Innocent* (1937)
- *Saboteur* (1942)
- *Spellbound* (1945)
- *Strangers on a Train* (1951)
- *I Confess* (1953)
- *To Catch a Thief* (1955)
- *The Wrong Man* (1957)
- *North By Northwest* (1959)
- *Frenzy* (1972)

An interesting tidbit about these eleven films is that only *The Wrong Man* was directly based on a true story. The theme of an innocent man on the run, hunted down by the police and self-righteous members of society, so dominated Hitchcock's work that it was in the plot of his first talking

movie, and his next to last movie – made 45 years apart. A number of Hitchcock's films also had the added element of a "double chase": while being pursued the innocent person pursues the guilty person.

Another Hitchcock movie, *The Paradine Case* (1947), had the twist that a young attractive woman claiming innocence of murdering her older wealthy husband was in fact guilty, and the truth came out during her trial.

Hitchcock also delved into an aspect of a person's false accusation that is rarely explored in films: its psychological effect on family members. In *The Wrong Man*, the wife of the wrongly accused man has a mental breakdown from the stress of the situation.

There has been much speculation as to what personal experiences contributed to Hitchcock's fascination with the theme of an innocent person's pursuit by authorities. Several events during his formative youthful years have been identified as possible influences.

Hitchcock was born in London, England in 1899, and his father was a strict disciplinarian. When Hitchcock was four or five, his father reacted to his disobedience by sending him to the local police station with a note. The note asked the police to lock Hitchcock in a cell for several minutes to teach him a lesson. A policeman followed the notes instructions, telling young Hitchcock as he was locked in the cell, "This is what we do to naughty boys." ¹ Several biographers refer to that incident as imbuing Hitchcock with a life-long ambivalence toward law enforcement. When asked years later by a New York *Herald Tribune* columnist what frightened him, Hitchcock's second answer was "Policeman." ²

Also when he was young, Hitchcock was a student at a Jesuit school in London. After becoming an acclaimed director, Hitchcock said in an interview, "It was probably during this period with the Jesuits that a strong sense of fear developed – moral fear – the fear of being involved in anything evil. I always tried to avoid it. Why? Perhaps out of physical fear. I was terrified of physical punishment." ³

Whatever the source of his inspiration, Hitchcock's movies have conveyed the idea to untold tens of millions of people how easily circumstances can result in an innocent person being wrongly accused or suspected of a crime. Complimenting that idea was Hitchcock's accompanying plot nuance that the pro-active efforts of the wrongly accused person was critical for the truth to come to light, and that the person's innocence was established in spite of, and not because of the efforts of the police.

Although he emigrated to the United States in 1939 and became a naturalized U.S. citizen in 1955, shortly before his death in April 1980 at the age of 80, Hitchcock was knighted by Queen Elizabeth II for his contribution to English cinema.

More than a quarter century after his death, Hitchcock's talent continues to be recognized. A December 2006 article in *The Atlantic Monthly*, "Influential Filmmakers," named Hitchcock as one of the five most influential persons in the first hundred years of filmmaking in the United States.

Endnotes:

¹ Alfred Joseph Hitchcock, *Dictionary of American Biography*, Supplement 10: 1976-1980, Charles Scribner's Sons, 1995.

² *Id.*

³ *Id.*

Borchard cont. from page 24

recognition of the role the Yale jurist played in the legislation.”³ The compensation amounts specified in that 1938 bill remained unchanged for 66 years, until they were increased by The Justice For All Act of 2004.

A less well-known aspect of Borchard’s career is that as one of the world’s leading experts on international law, he was a life-long advocate of U.S. neutrality. He was a vocal critic of the United States’ entry into WWI – arguing that there was no national interest to do so. He was also the country’s leading legal professional opposed to 1936’s so-called “Neutrality Bill.” In his January 1936 testimony before the House Foreign Affairs Committee, Borchard described the bill as misnamed because it altered established rules of international law that ensured the United States’ neutrality in disputes between other countries. Borchard prophetically told the Congressional committee that the bill “would be likely to draw this country into the wars it is intended to avoid.”⁴

In 1937 Borchard co-authored the seminal work advocating U.S. neutrality, *Neutrality for the United States* (rev. ed. 1940). After his worst fears about what would result from the failure of the U.S. to follow neutral policies were realized and the country became embroiled in WWII, Borchard opposed the federal government’s disregard for the rights of Americans in the name of national security. Borchard wrote briefs in two of the most important cases to reach the Supreme Court involving challenges to the U.S. military’s summary imprisonment of 120,000 innocent Japanese-Americans in concentration camps. The two cases were *Hirabayashi v. U.S.*, 320 U.S. 81 (1943), and *Korematsu v. U.S.*, 323 U.S. 214 (1944).⁵

In June 1950 Borchard retired after 33 years as a member of Yale Law School’s faculty. He died in July 1951 at the age of 66.

Sources:

Edwin Montefiore Borchard, *Dictionary of American Biography*, Supplement 5: 1951-1955.

Endnotes:

1 European Systems Of State Indemnity For Errors of Criminal Justice, by Edwin Borchard, 3 *J. Am. Inst. Crim. L. & Criminology* 685, May 1912 to March 1913. Available on JD’s website, www.justicedenied.org/borchard_1913.pdf

2 The Case of Sacco and Vanzetti, by Felix Frankfurter, *Atlantic Magazine*, 1927

3 Edwin Borchard, Law Expert Dead, Obituary, *New York Times*, July 22, 1951.

4 Neutrality Bill Is Called Peril, *New York Times*, January 10, 1936.

5 For background information about *Korematsu v. United States*, see, “In Memoriam, Fred Korematsu (1919-2005),” *Justice:Denied*, Issue 28, Spring 2005, p.5.

David Janssen – a.k.a. Dr. Richard Kimble a.k.a. The Fugitive



house who either murdered Kimble’s wife or knew who did. Kimble’s quest was hampered by being a fugitive from the police, since he escaped from the train taking him to the death house after he was wrongly convicted of his wife’s murder.

Although actor David Janssen starred in four television series from 1957 to 1975, his most memorable role was his four year portrayal as Kimble.¹

Janssen’s role as Kimble touched a nerve in viewers. Many prisoners wrote Janssen that they too had been wrongly convicted. People around the country reported sighting a suspicious one-armed man. A southern pris-

From 1963 to 1967, many millions of people throughout the world watched *The Fugitive* and Dr. Richard Kimble’s four-year pursuit of the one-armed man he saw running from his

on warden changed his mind when prisoners threatened to riot after he announced that he intended to stop them from watching *The Fugitive*. In England a grass-roots action committee formed by viewers was successful in persuading Granada TV to reverse its decision to take the program off the air as a bad influence.²

Kimble was exonerated when the mystery surrounding the death of his wife was resolved in *The Fugitive*’s final episode in August 1967. That program was the highest rated program in U.S. television history up to that time. Four decades later it is still the third highest rated episode of a television series in history.³ Janssen was so popular as Kimble that the series finale was seen by many times more people than saw the 1993 movie version in theaters, that starred Harrison Ford as Kimble.

David Janssen died of cancer at the age of 48 in 1980.

Endnotes:

1 David Janssen’s four series were:

• *Richard Diamond, Private Detective*. Four years, 1957-1961.

• *The Fugitive*. Four years, 1963-67.

• *O’Hare, United States Treasury*. One year, 1971.

• *Harry O*. Two years, 1974-75.

2 *The Fugitive* website,

<http://www.nostalgiacentral.com/tv/drama/fugitive.htm>

3 Only the final episode of *M*A*S*H* (1983) and the Who Shot JR? (1980) episode of *Dallas* outrank it. *All-Time Top-Rated TV Programs*,

http://www.chez.com/fibler/tvstats/misc/all_time.html

The Fugitive debuted on September 17, 1963 as an hour-long weekly ABC television series. The plot of *The Fugitive* was straightforward: Dr. Richard Kimble saw a one-armed man in his headlights running away from his house as he arrived home one night. When he went inside he found his wife Helen dead in their living room. Kimble had been seen by neighbors arguing with his wife earlier that evening – so the police didn’t believe his story about the one-armed man, and neither did the jury that convicted him of murdering her. It looked to them like he had murdered his wife and tried to manufacture an alibi for himself by leaving and then returning home. An innocent man sentenced to death, Kimble was able to escape when the train carrying him to death row wrecked. He was thus given a reprieve from the grim reaper, and a chance to embark on what turned into a four-year search for his wife’s killer.

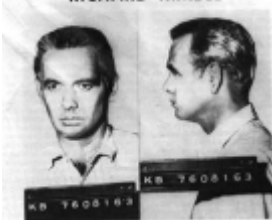
However a twist in the storyline of *The Fugitive* from the beginning of the series in 1963

The Lost Days Of The Fugitive

by Hans Sherrer

WANTED

INTERSTATE FLIGHT - MURDER
RICHARD KIMBLE



DESCRIPTION
Criminal Record

to its final episode in 1967, was what makes the series unique in television history. Week after week, year after year, as Kimble pursued his Don Quixote like quest for his wife’s killer, strangers from one end of this country to the other helped him. While not always knowing Kimble’s identity at the beginning of an episode, the people he befriended each week, who he rented a room from, or who had given him a job, knew who he was by the end of the program. Yet knowing he was an escaped convicted murderer – of his wife no less – those people believed in his innocence and helped him elude capture. How did they help Kimble? They would give him money, or a tip on where to maybe look next for the one-armed man, or try to keep the police one step behind him by telling them when questioned, that he went in a different direction than he had actually gone, or by denying that they had seen him.

Lieutenant Philip Gerard was Kimble’s nem-

Fugitive cont. on page 26