

3-25-2011

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### Recommended Citation

Roger Williams University School of Law, "Newsroom: Dean Logan on 'Silencing the Messenger'" (2011). *Life of the Law School (1993- )*. 284.

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# Newsroom

## Dean Logan on 'Silencing the Messenger'

As Middle East nations discover the power of free-flowing information, Dean David Logan reflects on parallel experiences in the 1960s American South.

From The Charlotte Observer of Charlotte, N.C.: "[Silencing the messenger: Today's Middle East. South in '60s](#)" by David A. Logan, dean at the Roger Williams University School of Law in Bristol, R.I.



**Friday, Mar. 25, 2011:** Recent events in the Middle East

underscore how broad social change is tied to a free flow of information, and the efforts of despotic governments to restrict their citizens' access to the Internet reminds us that challenges to the status quo may be met by attempts to silence the messenger.

A similar story unfolded in the United States a generation ago.

At the dawn of the 1960s, most Americans knew little about the reality -- and brutality -- of the Jim Crow regime still in place across much of the southern United States. This began to change when national news organizations began covering the efforts by activists, often black, to push back against the forces that made them second-class citizens. This unflattering media coverage vexed state and local officials invested in maintaining the status quo against the "alien ideas" about race mixing that were being imported by "outside agitators."

One cudgel of choice for segregationists was the libel action. Alabama law provided scant protection for a newspaper that published factual inaccuracies about public officials. Recognizing this, the governor and other officials filed a flurry of lawsuits, seeking \$3 million in damages from the *New York Times* for a piece it published that contained minor factual errors about clashes between police and demonstrators. This tactic created staggering financial risk for even a deep-pocketed media defendant, and raised a dilemma: Should it continue its hard-hitting journalism when the occasional factual error could put an entire news organization at risk?

The *Times* mounted a spirited defense, but the deck was stacked against it. The judge who presided over the libel trial -- Walter Jones, whose father served with Robert E. Lee at Appomattox -- was unafraid to reveal his bias, extolling "white man's justice, a justice born centuries ago in England, brought over to this country by the Anglo-Saxon race." The all-white jury deliberated for only two hours, returning a verdict of \$500,000, the largest in Alabama history.

Unsurprisingly, the Alabama Supreme Court affirmed, setting the stage for one of the most important cases ever to come before the U.S. Supreme Court, *New York Times v. Sullivan*.

The Supreme Court reversed. The lead opinion, by Justice William Brennan, has become a touchstone for understanding the essential role of a free flow of information in a democracy. Justice Brennan observed, "whether or not a newspaper can survive a succession of such judgments, the pall of fear and timidity imposed upon those who would give voice to public criticism is an atmosphere in which the First Amendment freedoms cannot survive." The Court concluded that the Constitution precluded a public official from recovering damages for a false statement unless he could prove that the newspaper published despite having serious doubts about the story's accuracy.

This high barrier imposed by *Sullivan* significantly cabined government officials' power to punish those who dared to criticize their policies and deeds. As the closed societies of the Middle East proceed down the road toward democracy, they will have to learn such lessons for themselves.

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