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Roger Williams University School of Law

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Dean Logan's Blog

Lawyers and Journalists Gather at RWU Law to Discuss a Seminal First Amendment Case, 50 Years Later

Posted by David Logan on 03/28/2014 at 09:24 AM

In March 1964, in the midst of the Civil Rights movement, the Warren Court vindicated the watchdog role of journalists in the seminal case of *New York Times v. Sullivan*. Fifty years later, an impressive group of lawyers, judges, academics and working journalists gathered at RWU Law to discuss the case's enduring impact and legacy.

Two panels – one focused on legal theory, the other on journalistic practice – agreed that no contemporary U.S. Supreme Court case has done more to define modern freedom of the press. Capturing the spirit of contemporary reaction to the decision, Professor Alexander Meiklejohn called it an "occasion for dancing in the streets."

In the words of panelist Lillian BeVier, a constitutional law scholar at the University of Virginia, "pre-Warren Court First Amendment doctrine [consisted] of rules and methodologies that offered fragile and undependable protection."

By requiring that the victim of inaccurate news coverage prove that the journalist published despite "reckless disregard for the truth," *Sullivan* provided the media with "breathing space" from defamation actions, paving the way for generations of investigative journalism, as reporters no longer had to fear the threat of libel charges as a way of silencing criticism. From Bob Woodward and Carl Bernstein's *All the President's Men* to Seymour Hersh's *Chain of Command: The Road from 9/11 to Abu Ghraib*, some of the nation's most profound journalism is deeply indebted to *Sullivan*.

As panelist Dr. Melvin Urofsky, an award-winning historian has written, in *Sullivan* "the justices adopted a modern conception of libel law that was designed to encourage a robust exchange of ideas."

Due to *Sullivan* and its progeny, "libel law is only rarely a serious threat to the mainstream press," noted the conference's keynote speaker, Judge Robert D. Sack of the U.S. Court of Appeals for the Second Circuit. Judge Sack teaches Media Law at Columbia Law School and his reference work, *Sack on Defamation: Libel, Slander and Related Problems*, is the gold standard for practitioners. In his lecture, Sack traced the far different handling of a similar case in a Singapore court to illustrate the importance of the case to American civil discourse.

Participants in the "theory" panel were David Anderson, a media law scholar from the University of Texas; Professor BeVier; Professor Jared Goldstein, RWU's own constitutional law scholar; Dean Emeritus John Jeffries (another constitutional law scholar from UVa); David Partlett, a

comparative law scholar and former dean, of Emory Law School; and, award-winning historian Professor Urofsky.

The “in practice” panel featured Associate Justice William Robinson of the Rhode Island Supreme Court, a former counsel to various media entities; Tracy Breton, Pulitzer Prize winning investigative journalist from the *Providence Journal*; George Freeman, Jenner and Block, and the longtime “in-house” lawyer at the *New York Times*; Victor Kovner, Davis Wright Tremaine LLP, a renowned media law advocate; and John Schwartz, national correspondent and former national legal correspondent for the *Times*.

Here is a group picture from that lively and informative day.



Front row, L-R: Professor John Jeffries, (UVa); Professor Lillian BeVier (UVa); Judge Robert Sack (2nd Circuit); Tracy Breton (Providence Journal); Dean David Logan (RWU).

Back row: Professor Jared Goldstein (RWU); Justice William Robinson (RI Supreme Court); Professor Melvin Urofsky (VCU); Professor David Anderson (U Texas); Professor David Partlett (Emory); John Schwartz (NY Times); George Freeman (Jenner & Block).