

Hall, Kermit L. and Melvin L. Urofsky. *New York Times v. Sullivan: Civil Rights, Libel Law and the Free Press*. Lawrence: University Press of Kansas, 2011. 222 pp. \$34.95.

When he heard the U.S. Supreme Court's decision in the landmark case, *Times v. Sullivan*, Alexander Meiklejohn declared the 6-3 ruling an occasion for dancing in the streets. In putting an end to the notion of seditious libel in this country and that there could even be such a thing as in the shadow of the First Amendment, the 1964 decision meant that citizens could say almost anything about a public person and their government, including something defamatory. This was reason enough for Meiklejohn, then ninety-two years old, to do a jubilatory jig.

Sometimes overlooked, however, at least in journalism and mass communication teaching, is the case's importance in the struggle for racial equality, the civil rights movement. When Justice William Brennan handed down his majority opinion on March 9, 1964, one of the truly great opinions in what was an accomplished judicial career, Congress was debating the Civil Rights Act. As a series of high court decisions beginning with *Brown v. Board of Education* had done a decade before, *Times v. Sullivan* put on trial an established, even entrenched, way of life that assumed the inferior social and political position of black Americans.

Correcting the oversight is a new book begun by Kermit L. Hall and finished by Melvin I. Urofsky: *New York Times v. Sullivan: Civil Rights, Libel Law and the Free Press*, which is part of the University of Kansas' Landmark Law Cases & American Society series. In its chronologically ordered narrative, first in Montgomery and then in Washington, D.C., this history is careful to contextualize what in reality was a series of

court cases by providing descriptions of Alabama's particular, peculiar social and cultural reality. Therefore, the authors demonstrate how law is, for better and for worse, a way for society to organize itself under or by a set of beliefs that are constitutive of that society. At the time of *Times v. Sullivan*, Alabama's notions of itself were in large part determined by or predicated upon race, an identity for which reputation and the defense of reputation were central. For the U.S. Supreme Court, by contrast, the country's larger society looked to it to determine—not review or consider but determine—the limits of constitutional protections for speech, press, and association when challenged or threatened by a state's laws.

Centered on a full-page protest advertisement placed in the *New York Times* in March 1960, which contained several errors of fact, the landmark court case has become a major point on several legal history timelines, including those for the First Amendment, libel law in the United States, state-level common law, and commercial speech. Among other things, the decision marked the end of strict scrutiny in libel cases; the advent of different plaintiff categories for libel actions, including a new, higher level of fault called actual malice; an expansion of protections for commercial speech; and a shift of the burden of proof in libel actions from a defendant to a plaintiff. These developments mark U.S. libel law as different from that of the rest of the world.

In explaining these developments, the authors also provide a compelling behind-the-scenes look at how the Supreme Court works and a valuable explanation of the common law tradition from which most

state law traces its roots. Hall and Urofsky do professors and students of media law a valuable service in illustrating, often with colorful anecdotes, many of the Court's standard practices and protocols, from granting writ to hearing oral arguments, to deliberations, and ultimately to assigning opinions and making a decision. In vividly describing the process of Brennan's drafting and re-drafting of his majority opinion, as well as his lobbying of fellow justices between revisions, the book helps readers connect with the law by communicating the humanity of the Court and the drama that unfolds behind and before every landmark Supreme Court case.

A future edition will need to correct one historical error: the drugstore sit-in movement did not begin at a Woolworth counter in Greensboro, North Carolina, in 1960. Sit-ins in Wichita, Kansas, pre-date those in Greensboro. Though largely unreported by local newspapers, the Wichita sit-ins at the Dockum Drug Store took place in 1958 and, as part of the larger sit-in movement, were, as Hall and Urofsky show, an important reason why national news media began sending reporters to cover the civil rights movement in the first place.

That understandable mistake aside, the book furnishes a rich, multi-faceted contribution to scholarship on the First Amendment, media law, and civil rights, and as such it would make an ideal text for courses on those subjects. Eminently accessible, the book, like the case it documents, is an occasion for dancing in the streets.

Brian Carroll
Berry College

Marcus, James, ed. *Second Read: Writers Look Back at Classic Works of Reportage*. New York: Columbia University Press, 2012. 208 pp. \$24.50.

In 2004, the *Columbia Journalism Review* began a regular series under the standing head "Second Read" for which accomplished writers were asked to discuss works of journalism that motivated and influenced their writings. James Marcus, a former contributing editor of *CJR* and currently deputy editor of *Harper's*, along with the staff of *CJR* have selected twenty-three of these essays for inclusion in *Second Read: Writers Look Back at Classic Works of Reportage*, beginning with the first in the series: *Village Voice* journalist Rick Perlstein's praise of Paul Cowan's 1979 *The Tribes of America*.

In his introduction, Marcus notes it was Perlstein's contribution to "Second Reading" that led the New Press to reprint Cowan's forgotten but memorable classic.

Marcus hopes this collection of twenty-two other "works that have fallen victim to shifts in literary taste or ideological fashion" will lead to similar reprints. Actually, of the twenty-three essays on long-form journalism in *Second Read*, all but three are available currently in paperback editions, which is what makes this collection so valuable to media historians and journalism educators. The three are: Ben Yagoda's description of

soldier-journalist Walter Bernstein's *Keep Your Head Down* and the reporting of World War II from the enlisted man's perspective; John Maxwell Hamilton's essay on Vincent Sheean's *Personal History* about events in his life as a foreign correspondent following World War I as Europe rushed toward another world war; and Thomas Malone's analysis of William Manchester's detailed reporting in *The Death of a President* about the minutiae surrounding the assassination and the burial of President John F. Kennedy.

What Marcus and the *CJR* staff provide in *Second Read* justifies inclusion of