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## Lunch Keynote Address: A Historical Perspective on Justice and Journalism

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**LUNCH KEYNOTE ADDRESS:  
A HISTORICAL PERSPECTIVE ON JUSTICE AND  
JOURNALISM**

*John Seigenthaler*

AMY MOHAN: As a former journalist, there is no greater honor than introducing someone who continues to be a shining example of the importance and the integrity of journalism and is truly a living legend. We can spend this entire symposium on Mr. Seigenthaler's accomplishments, but in the interest of time, I would just like to name a few.

John Seigenthaler started his career as a newspaper reporter in Nashville, Tennessee. He then worked with Attorney General Robert Kennedy and the committee investigating organized crime, and then served as special assistant to Kennedy. Mr. Seigenthaler served as an intermediary between the federal government, the Freedom Riders and white segregation and state officials. His goal was to convince the Freedom Riders to cease their direct action and accept a cooling off period. As he stated in a PBS documentary, "I go in, my Southern accent dripping sorghum and molasses, and warm them up." Mr. Seigenthaler successfully arranged for the original core Freedom Riders to depart from Birmingham by plane after a lack of willing bus drivers threatened to hamper their mission.

Mr. Seigenthaler later returned to journalism and retired from the Tennessean as the editor, publisher and CEO. He also served as the founding editorial director of USA Today. In 1961, Mr. Seigenthaler founded the First Amendment Center at Vanderbilt University. The Center's mission is to create national discussion about First Amendment rights and values. Mr. Seigenthaler has been on the forefront of numerous causes involving journalism and justice, including advocating for Gaile Owens, recently

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released from prison after more than twenty-five years on death row.

We are excited and honored to have Mr. Seigenthaler here with us today at the UT College of Law to talk about his perspective on journalism and justice.

**JOHN SEIGENTHALER:** Thank you very much. And she's right, I am a legend in my own mind.

I have a fourteen year old grandson, and I talked with him last night. He checks on my conduct periodically. He asked last night, "What are you going to be doing tomorrow?" I told him I was going to be here with you. Then he asked me what the first thing I was going to say to you would be. I said, "Well, Jack, I suppose I'm just going to tell them how happy I am to be with them." He said, "Gran, you're eighty-four years old, you're happy to be anywhere." And you know, he's right.

But I'm particularly happy to be here today to talk with all of you about a subject that has continuing importance, largely because of the challenges that changing technology imposes on journalists and because of the legal and ethical questions that are raised because of the transformation that technology has brought about.

Several years ago, Howard Baker and I were on a program together here at the University and we were talking about those changes. Howard asked me what the difference was in covering politics today than when he was a candidate. And I said, well, Howard, the best way I can describe it to you is tell you that I recently saw Condoleezza Rice, now a professor of law, in a classroom. She was being cross examined after class by one of her students who was challenging her on the legality of torture. It was a hot issue and the exchange was quite tense. And I said, Howard, the difference with journalists today is that, unknown to Secretary Rice, a young man who was a fellow student of the one cross examining her had his cell phone

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open and was recording the entire exchange. And the next day it was on YouTube.

I came back to my Nashville office the next day, and the point was made poignant to me when my colleague, Jean Policinski, walked into my office and said “you and Howard Baker are on YouTube.” And sure enough, there was some person in that audience that opened their phone and there we were. I had not watched my words very carefully, but the grammar seemed adequate and the point was made.

I listen to so many able and distinguished journalists talk about this culture of which I have been a part all those years as a journalist. I was part of a culture different from the culture of the lawyer or other professions. But I listened to what they said here today. I listened to Al [Tompkins] on the difference between “off the record” and “not for attribution.” The definitions of those terms are part of that culture, and they’re understood by journalists. And often, as you heard from Joe Cheshire, they’re understood as well and sometimes used by lawyers. But I think about that culture and then wonder what will happen with this new technology which makes virtually every person with access to the internet a potential journalist. That’s where we are.

I’d like to focus for a few minutes on an experience that makes the point. Some of you may know about my encounter with Wikipedia. Five years ago I was sitting at a computer at home. An old friend called me and told me to Google myself on Wikipedia and then sue. So I Googled and I hit the Wikipedia link and there I was. There was a six sentence biography of me, which said that I had been administrative assistant to Robert Kennedy in the early 1960s, and that after the deaths of President and Attorney General Kennedy, I was a principal suspect in their assassinations, following which I had defected to the Soviet Union for twelve years.

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If you start a First Amendment Center, you're hardly going to sue somebody because they said something bad about you, so I didn't think for a moment about suing. And I'll come back to that in a little bit. But I laughed, as you did.

Later in the day, I heard from a young woman, a graduate student at the University of Alaska, who had interned with us at the First Amendment Center in Vanderbilt the year before. She was in tears. She said "Have you seen what they have said about you on Wikipedia?" I said that I had, and that she should not pay any attention to it. She said "I'm with foreign students here and many of them believe it, please do something about it."

That night, my son called. And I was still chuckling a bit about it. But he said, "Dad, please, you're not the only John Seigenthaler, there's me, there's your grandson, get that stuff down." And then he told me that there are twenty-four mirror sites of Wikipedia. So that libel had been repeated now twenty-four times, and I began to take it seriously.

I had seen Jimmy Wells, the founder of Wikipedia, in a C-Span interview with Brian Lamb, my friend. So the next day I called Brian, and he put me in touch with Jimmy Wells, who answered his own phone and went with me [on the website] to my biography. And I said, "I don't know whether you know it or not, but I was not a suspect and I didn't defect, and I want to know what you're going to do about it." He asked me if I was watching my screen; I said I was. And it vanished. He told me it was now in his archives and only twelve hundred of his editors can see it.

I said that was not adequate, because I did not want that anywhere anybody can read it. My son's worried about it, and it may reflect on my grandson. He said he had rules, he called his website a demonstration of online democracy, and he had done the best he could do.

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I said tell me just one thing, who did it? He said he did not have the slightest idea, that it was an anonymous posting, and that he did not have any way to find out. He said the only way to find out was to bring a Jane or John Doe lawsuit against the information service provider, and if I did that, then the Court may tell them to disclose the name. Otherwise, he said he did not know how I could find out.

I said, well, I'm not going to do that. Maybe I have enough investigative reporting skills to find out on my own. And I told Mr. Wells that I hoped I'd be able to call him one day and tell him who it was.

In the weeks that followed, I tried, and I was frustrated again and again. It went on for five months. Finally, frustrated, disgusted, a little bit angry, no longer laughing, I wrote an opinion column in USA Today, in which I said Wikipedia was an unreliable research resource. The article pretty well condemned Wikipedia. And in the next three weeks I was inundated by e-mails, telephone calls, and letters from people who had similarly been wronged and libeled by Wikipedia. That first reaction astounded me, but it made me think that I had done the right thing by writing that column. And again and again and again, the original posting reappeared.

Now I am on television and radio debating the credibility of Wikipedia with Jimmy Wales. I got nowhere, except that a number of people across the country were brought in on it, including members of the media. Kit Seelye from the New York Times stands out in my mind. A couple of AP reporters were interested, and they began to track what I was doing. One person who wrote me lived in San Antonio, Texas, and was a media guru. [He said] the same thing had happened to him, and he had launched a new website, Wikipedia Watch. He asked me for many of the complaints that had been filed with me, and I passed them on to him. He put them up, and he put mine up. The

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result was that more and more people responded again, saying it happened to them as well.

I didn't know at the time that if I had wanted to sue Wikipedia, Section 230 of the Communications Decency Act says that content service providers are immune. The law says they are not to be treated in matters of defamation as either publishers or speakers. In other words, if I can track the person who originated the posting, that person is vulnerable to a lawsuit. But Wikipedia and other sites that are content service providers are immune, and there is now a body of law [to that effect].

The first case I found out about involved not Wikipedia, but a dating board in Los Angeles. The company was called Metro Splash. The actress was Christianne Carafano, whose stage name is Chase Masterson. And one day Chase Masterson began to get telephone calls from people who wanted dates. She didn't know her real name, her stage name, her telephone number, her e-mail address, her physical dimensions, and her interest in a strong, hard man for a one night stand, was on this website until these calls began to inundate her. It was an anonymous posting.

She was able to find out that someone somewhere in Germany had posted this information anonymously about her, and she sued Metro Splash. I won't go into any detail about the case except to say that the judge, in ruling against her, found that the language in Section 230 said Congress did not mean for these information content providers to be sued. There is a whole body of law that has now developed that follows what the judge said in that case, as reprehensible as it is – Section 230 exempts Metro Splash. There are an awful lot of people in journalism and law, I have found, who aren't aware of that provision or what it means to this new world of communications.

As I said, I had no interest in bringing a lawsuit, but let me just deal with a couple of other instances. There is a

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comedian named Sinbad. His true name is David Adkins. David Adkins has died again and again, a hundred times and more, on Wikipedia. He's alive, he's well. His professional success depends upon national recognition that he's viable. But let's say you're a journalism student, and [your] professor says she would like to have a profile on a comedian. Sinbad's a natural. So where will you go? You'll go to Wikipedia, [and you will see that] Sinbad has died from an overdose of drugs, from a sexual assault in a public bathroom, from suicide. Quite often he dies simply because whoever it is who is trying to destroy his career simply enters under the date of his birth the date of his death.

Some of you may be interested in golf, and the name Fuzzy Zoeller is one you'll recognize. He had a big controversy one year. Fuzzy made some comments that weren't funny. He ultimately apologized to Tiger Woods for it, and that's there in his [Wikipedia] biography. But also in his [Wikipedia] biography is that Fuzzy Zoeller is an alcoholic, a drug addict, a wife beater and a child molester. Fuzzy Zoeller did sue Wikipedia, and then found Section 230 was there, and went beyond that and filed suit with AOL to find out the name of the customer.

If you're online, you have an internet protocol number. And very probably if you work in an office, you have the same IP number as your colleagues. This customer was the owner of a company in Miami and had forty-two employees. Fuzzy sued them. And the owner called his lawyer and said they didn't do it, that they were offended by what happened, and that they wanted to help find out who did it. They interviewed every single employee, and got total denial. There was no way to nail it down, and Fuzzy finally dropped the suit.

It's not just Wikipedia. You can go to Wikipedia and it is loaded with valuable, solid, and credible information, but that may not be where you go. And if that's the case, you're relying on that website for research



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that may be flawed. I think as a result of the controversy that emerged after I and others had problems, Wikipedia has made an effort to change its rules, but not enough to clean it up. Periodically someone will take a shot at me, much of the same stuff, sometimes much worse.

Finally, as a result of all the heat that was put on and the help from the [media] guru in San Antonio, I finally tracked the company. And then the media began to call the company. It was a company in Nashville called Rush Delivery. One morning I was on public radio debating Jimmy Wales, and when I came back to the office there was a letter. And the author said he apologized, he did it as a joke, his employer is getting all these calls from the New York Times and USA Today, and this morning they let him go. It started in May, and this was Christmas. It was just before Christmas, and he had been fired.

I started talking to him while at my office, but by the time the conversation ended, I was home talking to him on my cell phone. And I mentioned the fact that he had been fired, and my wife burst into tears, telling me I couldn't let that man be fired before Christmas. I wanted to say to hell with that man. But she got me to call his employer and tell them that I was angry at him and didn't understand it, and I still don't believe he did it as a joke, and I don't know what his motive is, but I did ask them to not to let him go. And I hope he stayed there until the company went defunct, and the company is defunct.

I dwell on this subject because, as I said, communications now involves several different cultures. And many of them are alien to the culture that Al [Tompkins] and Mark [Curriden] and I generally, and most often specifically, embrace. The question in my mind, as we look to the future, is who are going to be these professional journalists with whom these lawyers interact?

About five years ago, just about the time I was having that first encounter with Jimmy Wales, Vartan

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Gregorian who heads the Carnegie Foundation, and Alberto Ibarguen who heads the Knight Foundation, entered into a joint effort to look at the future of journalism education. A series of studies have flown from that. And while there are four salient points, the one that's most relevant and pertinent here is that given the shortages in newsrooms as a result of a down economy, older and more experienced journalists ingrained in that culture are being laid off, bought out, or furloughed and are being replaced by young, inexperienced ones. I'm happy I'm not part of that culture today.

I know that every editor I know seeks to do more with less. But when you think about the relationship between the lawyer and the media on behalf of a client, the ground rules may change because the journalist is so inexperienced.

Jim Duff is here. He's the head of the Freedom Forum. Twelve years ago the Freedom Forum, largely as a result of an initiative by Gene Policinski and myself at the First Amendment Center, launched an initiative with federal judges and journalists. When we had that first session, with the help of the Committee of the Judicial Conference, we sought to try, as best we could, to break down the barriers that existed between the journalists and the judicial officers. And over about five years, we were successful. The judges became amenable to the idea that journalists could help by telling the court's story, by building support. And they also acknowledged that the judiciary is a human institution and that press monitoring was a healthy thing.

After five years, we began to hear from the judges that these young people we were sending to them knew nothing. They said they had to educate them, and it was becoming a bit of a burden. And a year ago, it was a different concern on their part – they started to say they hadn't seen a journalist in their courtrooms throughout the

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last term. That's the result of the slashing of those staffs. We're doing more with less, but not nearly enough to provide the basis for maintaining that culture. And so we must confront the reality that this relationship will be dramatically different in the future.

I'll give you one response as a result of that Carnegie/Knight study. The Cronkite School, the journalism school at Arizona State University, now covers the state legislature for the newspaper. Journalism students are covering the legislature as working reporters. Their value as professionals will be immeasurably enhanced as a result of the experience. The question is whether that idea has viability and will catch on elsewhere. I think about my own youth as a journalist, the days I covered the courts. I think back on that time, and I know that there always has been tension between the institution of the news media and the institution of government. It's a natural tension and it should exist. I guess I'd even say it must exist. It should not be a hostile relationship, but the tension, I think, is healthy and serves democracy.

When I first began to talk about the press and the role of the press, I used to love to quote Thomas Jefferson, who said "Were it left for me to choose government without newspapers or newspapers without government, I would not hesitate to choose the latter."<sup>122</sup> And there's so many people today who would say, Mr. President, there's not going to be any newspapers, the culture's going to change.

Thank you all very much.

AMY MOHAN: We have time for one or two questions for Mr. Seigenthaler.

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<sup>122</sup> THE PAPERS OF THOMAS JEFFERSON (Julian P. Boyd et al., eds., 1950).

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**UNKNOWN SPEAKER:** If we're losing concentration of journalism, what reporting model do you see rising in the future?

**JOHN SEIGENTHALER:** There is not a news organization that doesn't have an online website. No newspaper, no television station, no radio station. And the theory is that if you can make your website as interesting, as informative, and as entertaining as the bloggers make theirs, then readers will be drawn like a magnet to that content. If readers are drawn there, if readers chase the content, advertisers will then chase the readers. The profit margins will never come back where they were when I was a publisher and editor. Part of it is the economy, and part of it is just the fractionalization of readership, or in television and radio audiences. And while I don't believe there is a daily newspaper in this country that's not making a profit, it is significantly less profit and might even be compared with that percentage of loss of staff members. It has been dramatic, and it won't come back.

I think you have to supplement coverage in a variety of new ways. And I like this idea about using journalism education as a place to fill some of that gap, but that's also going to mean journalism education has to be willing to take more professionals to train these journalists who are going to perform before their time as reporters.

There are other possibilities. Citizen journalists can also be trained. The only thing I'm sure of, in answer to your question, is that there are going to have to be journalists, citizen journalists, sometimes volunteer journalists, who fill what is a tragic gap in where journalism was and where it is and, beyond that, where it's going.