

NEW YORK TIMES COMPANY v. SULLIVAN

On March 29, 1960, the *New York Times* carried a full page advertisement headlined, “Heed Their Rising Voices,” an appeal for public understanding and support of the blacks’ problems in the South. It described specific acts of discrimination and physical violence against blacks by Montgomery, Alabama, police and by other “Southern violators.” It also appealed for money to support the non-violent student movement, the struggle for the right to vote, and to help pay for the legal defense of Dr. Martin Luther King, who was facing perjury charges in Montgomery.

The opening statement was:

As the whole world knows by now, thousands of Negro students are engaged in widespread non-violent demonstrations in positive affirmation of the right to live in human dignity as guaranteed by the U.S. Constitution and the Bill of Rights.

The advertisement went on to charge that:

[I]n their efforts to uphold these guarantees, they are being met by an unprecedented wave of terror by those who would deny and negate that document which the whole world looks upon as setting the pattern for modern freedom....

The specific events described to back up these charges included:

In Montgomery, Alabama, after students sang “My Country ‘Tis of Thee” on the State Capital steps, their leaders were expelled from school, and truckloads of police armed with shotguns and tear gas ringed the Alabama State College Campus. When the entire student body protested to state authorities by refusing to re-register, their dining hall was padlocked in an attempt to starve them into submission.

Again and again the Southern violators have answered Dr. King’s peaceful protest with intimidation and violence. They have bombed his home, almost killing his wife and child. They have assaulted his person. They have arrested him seven times — for “speeding,” “loitering,” and similar “offenses.” And now they have charged him with “perjury” — a felony under which they could imprison him for ten years.

Although other charges were made and grievances aired in the advertisement, no specific names of the “Southern violators,” policeman, or other officials were given.

The cost of the advertisement was approximately \$4,800, and it was published by the *Times* under an order from a New York advertising agency acting for the signatory Committee. A letter from A. Philip Randolph, Chairman of the Committee, accompanied the copy, certifying that the persons whose names appeared in the ad had all given their permission. Mr. Randolph was known to the *Times*’ Advertising Acceptability Department as a responsible person. With

the exception of Randolph, however, none of the twenty persons whose names had appeared on the bottom of the ad had given their permission.

The *Times*' staff made no other attempt to verify the accuracy of the advertisement or the authorization for the signers' names. The ad was inaccurate in some of its charges.

- *The black students on the Alabama campus had sung the National Anthem, not "My Country 'Tis of Thee;"*
- *The campus dining hall had never been padlocked;*
- *Although police had been sent to the campus, they never had completely surrounded or "ringed" it.*

L.B. Sullivan, Commissioner of Police of Montgomery, said that the bombings of King's home had taken place before he had become Commissioner. Sullivan also said he knew of two people who associated him with the ad. One of them had told Sullivan that he "would not want to be associated with anyone who had been party to such things as stated in the ad." The other had said that "one would not re-employ Sullivan if he believed that he allowed the Police Department to do the things that the paper said."

The circulation of the *New York Times* the day the advertisement was carried was about 650,000. Of these, approximately 394 copies were circulated in Alabama and about 35 copies were distributed in Montgomery.

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COURT DECISION

Reversed.

The Court held that a public official could recover damages for a defamatory falsehood *only* if the libelous material were deliberately false — made with malice — or if the statement were made with indifference to the possibility of its falsehood. They did not feel that this was the case in the instance of *New York Times v. Sullivan*.

Furthermore, the Court emphasized the need for citizens in our society to have the privilege of criticizing the government and public officials, pointing to the “profound national commitment that debate on public issues should be uninhabited, robust and wide open, and that may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.”

The Court concluded its statement by saying:

As to the Times, we similarly conclude that the facts do not support a finding of actual malice.... We think the evidence against the Times supports at most a finding of negligence in failing to discover the misstatements, and it constitutionally insufficient to show the recklessness that is required for a finding of actual malice....

We also think the evidence was constitutionally defective in another respect: it was incapable of supporting the jury’s finding that the allegedly libelous statements were made “of and concerning” respondent. Respondent relies on the words of the advertisement and the testimony of six witnesses to establish a connection between it and himself....