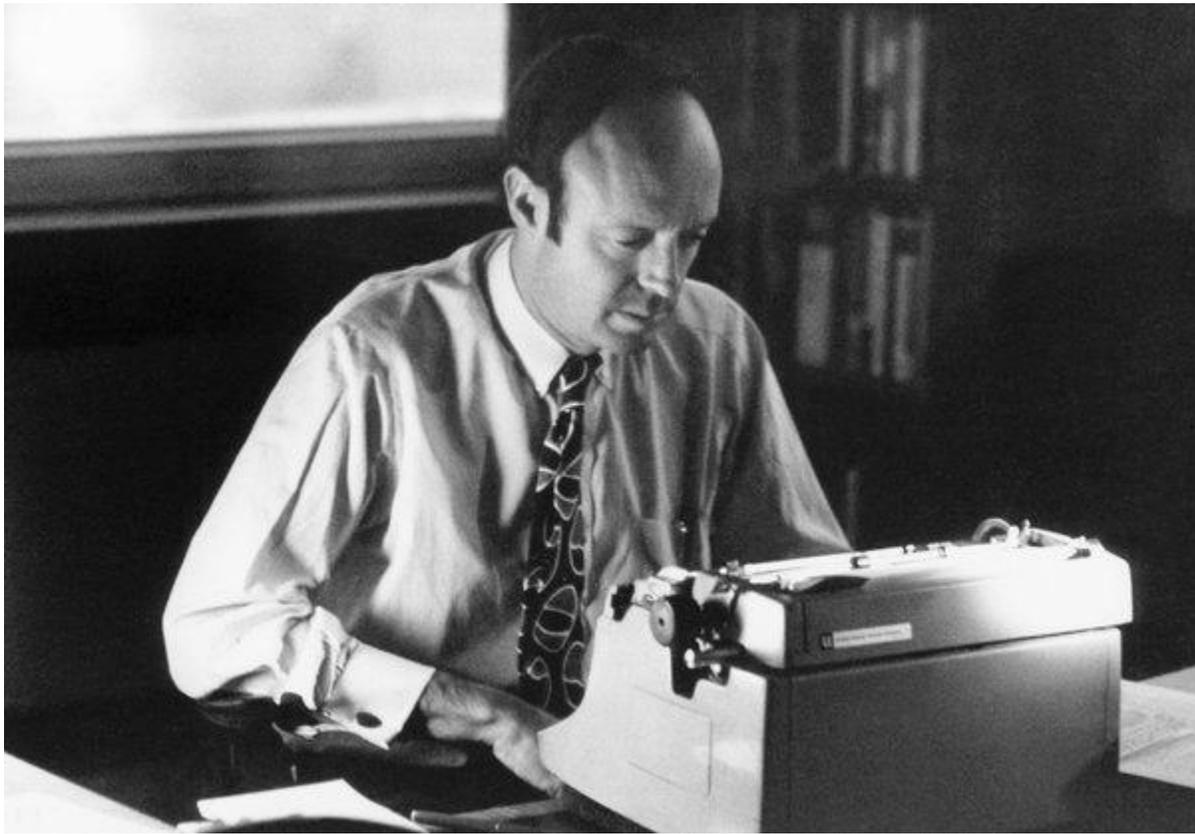


Anthony Lewis, Supreme Court Reporter Who Brought Law to Life, Dies at 85



The New York Times

Anthony Lewis in 1970.

By [ADAM LIPTAK](#)

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Anthony Lewis, a former New York Times reporter and columnist whose work won two Pulitzer Prizes and transformed American legal journalism, died on Monday at his home in Cambridge, Mass. He was 85.



George Tames/The New York Times

Mr. Lewis at the Supreme Court in 1963, the year he won a Pulitzer Prize for court coverage.

The cause was complications of renal and heart failure, said his wife, Margaret H. Marshall, a retired chief justice of the Massachusetts Supreme Judicial Court.

Mr. Lewis brought passionate engagement to his two great themes: justice and the role of the press in a democracy. His column, called “At Home Abroad” or “Abroad at Home” depending on where he was writing from, appeared on the Op-Ed page of The Times for more than 30 years, until 2001. His voice was liberal, learned, conversational and direct.

As a reporter, Mr. Lewis brought an entirely new approach to coverage of the Supreme Court, for which he won his second Pulitzer, in 1963.

“He brought context to the law,” said Ronald K. L. Collins, a scholar at the University of Washington who compiled a bibliography of Mr. Lewis’s work. “He had an incredible talent in making the law not only intelligible but also in making it compelling.”

Before Mr. Lewis started covering the Supreme Court, press reports on its decisions were apt to be pedestrian recitations by journalists without legal training, rarely examining the court’s reasoning or grappling with the context and consequences of particular rulings. Mr. Lewis’s thorough knowledge of the court’s work changed that. His articles were virtual tutorials about currents in legal thinking, written with ease and sweep and an ability to render complex matters accessible.

“There’s a kind of lucidity and directness to his prose,” said Joseph Lelyveld, a former executive editor of *The Times*. “You learned an awful lot of law just from reading Tony Lewis’s accounts of opinions.”

Mr. Lewis wrote several books, two of them classic accounts of landmark decisions of the Warren court, which he revered. Chief Justice Earl Warren led the Supreme Court from 1953 to 1969, corresponding almost precisely with Mr. Lewis’s years in Washington.

One of those books, “Gideon’s Trumpet,” concerned *Gideon v. Wainwright*, the 1963 decision that guaranteed lawyers to poor defendants charged with serious crimes. It has never been out of print since it was published in 1964.

“There must have been tens of thousands of college students who got it as a graduation gift before going off to law school,” said Yale Kamisar, an authority on criminal procedure who has taught at the University of Michigan and the University of San Diego.

In 1991, Mr. Lewis published “Make No Law,” an account of *New York Times v. Sullivan*, the 1964 Supreme Court decision that revolutionized American libel law. The Sullivan case, applying First Amendment principles to state libel law for the first time, ruled that public officials suing critics of their official conduct had to prove that the contested statements were made with “actual malice,” meaning with knowledge of their falsity or with serious subjective doubts about their truth.

Robert D. Sack, now a federal appeals court judge, said in a *Times* review that the book offered “a tour de force primer on the history of the First Amendment.”

Yet for all Mr. Lewis’s engagement with that Constitutional pillar, he parted company with many journalists on how far it should be used to protect them. He did not believe, for instance, that the First Amendment allows journalists to resist subpoenas for their confidential sources. Nor did he think that the amendment’s free-press clause entitles the institutional press to a special legal status.

Mr. Lewis’s coverage of the Warren court helped expand as well as explain its impact, Mr. Collins said.

“You cannot talk about the legacy of the Warren court and not talk about Tony Lewis,” he said. “He was just part and parcel of it. He was part of ushering in that constitutional revolution in civil rights and civil liberties from *Brown v. Board of Education* to *Miranda v. Arizona*.”

A New York Native

Joseph Anthony Lewis was born in Manhattan on March 27, 1927. He attended the Horace Mann School in the Bronx and graduated from Harvard College in 1948. He joined The Times as an editor in what was then the paper's Sunday department, but he left after four years to work on Adlai Stevenson's 1952 presidential campaign. After that he was hired by The Washington Daily News, a lively afternoon tabloid, and won his first Pulitzer there, in 1955, when he was 28.

The prize was for a series of articles on Abraham Chasanow, a Navy employee unjustly accused of being a security risk. The Navy eventually cleared and reinstated Mr. Chasanow, who credited Mr. Lewis's work for his vindication.

Mr. Lewis returned to The Times that year, hired by James B. Reston, the Washington bureau chief, to cover the Justice Department and the Supreme Court. Mr. Reston soon sent him off to Harvard Law School on a Nieman Fellowship in 1956 and 1957 to study law "with special reference to the Supreme Court," The Times reported.

Mr. Lewis's coverage of the court impressed Justice Felix Frankfurter, who called Mr. Reston. "I can't believe what this young man achieved," Justice Frankfurter said, as Mr. Reston recalled in his memoir, "Deadline." "There are not two justices of this court who have such a grasp of these cases."

The 1963 Pulitzer citation singled out Mr. Lewis's coverage of *Baker v. Carr*, in which the Supreme Court opened legislative districting to oversight by the federal courts. Mr. Lewis did more than cover the decision; an article on legislative apportionment that he had written for The Harvard Law Review was cited in the decision at Footnote 27.

Bringing independent intellectual scrutiny to news coverage was an innovation often associated with Mr. Reston, who was known as Scotty. And Mr. Reston was protective of his protégés.

"Scotty ran interference" for Mr. Lewis's "analytical reporting, moving away from sterile news agency 'objectivity,'" said Max Frankel, a former executive editor of The Times.

Mr. Lewis cut a striking figure in Washington. He was "cool, lean, well-scrubbed looking, intense and brilliant," Gay Talese wrote in "The Kingdom and the Power," his 1969 history of The Times. "Lewis seemed tightly contained at all times, incredibly controlled, his orderly mind concentrating on only those things that were relevant now, at this second."

“Only those who knew him well,” Mr. Talese added, “or with whom he was sufficiently impressed and thus responsive, sensed the interesting man beneath — the connoisseur of opera, the serious man married to a tall, blithe student of modern dance, the superb mimic of W. C. Fields, the charming dinner guest.”

Mr. Lewis moved easily among the powerful. “Tony Lewis, besides brilliantly covering the Supreme Court, became too conspicuously a member of Robert Kennedy’s social circle,” Mr. Frankel wrote in his memoir, “The Times of My Life and My Life With The Times.” “It was tough to keep your balance when you were expected simultaneously to get the inside scoop and to remain a disinterested witness of events.”

Mr. Lewis wrote “Gideon’s Trumpet” in large part during a four-month newspaper strike. The book told the story of Clarence Earl Gideon, a Florida drifter accused of breaking into a poolroom who was tried and convicted without a lawyer, and it sought to place the decision his case gave rise to in a larger context.

Mr. Lewis wrote: “Just as the Gideon case was part of the movement of the law on the right to counsel, and that in turn was but one aspect of the fundamental change taking place in the constitutional doctrine of fair criminal procedure, so the criminal law trend was part of a larger picture. In many other areas the Supreme Court in the last generation has enlarged the dimensions of individual liberty.”

Paul Freund, a law professor at Harvard, reviewed the book for The Times. “The surpassing merit of Anthony Lewis’s book, sensitive but unsentimental, scholarly but not pedantic, is that we are made to see the general in the particular, to feel that, in the redemption of a forlorn outcast, the legal process is redeeming itself,” Professor Freund wrote.

Chief Justice Warren loomed large in Mr. Lewis’s thinking. In a 1967 review of two biographies of the chief justice, Mr. Lewis praised him for using “his power in behalf of life’s outcasts — the Communist, the suspected criminal, the Negro.”

Mr. Lewis published a second book in 1964, “Portrait of a Decade: The Second American Revolution,” about the civil rights movement.

Off to London

That year, he moved to London as the paper’s bureau chief.

“He had a real love affair with London, and he had quite a life there,” Mr. Lelyveld said. “He really cut a figure. He’s not a fancy dresser in the Savile Row sense, but he wore Liberty ties and a flower in his lapel.”

Mr. Lewis was at ease in areas far removed from politics and the law, and his work abroad was “a glittering and protean success,” recalled Allan M. Siegal, a former Times senior editor. Mr. Lewis reported on “ballet, music, Glyndebourne la-di-da London society, diplomacy, the British character, you name it,” Mr. Siegal said.

In 1969, Mr. Reston, after a brief stint as The Times’s executive editor, called Mr. Lewis in London to offer him the No. 2 spot at the paper under Mr. Reston’s eventual successor, A. M. Rosenthal. But the job was not Mr. Reston’s to offer, as Mr. Lewis learned when he arrived soon after in New York.

The paper’s publisher, Arthur Ochs Sulzberger, apologized to Mr. Lewis and offered him a consolation prize.

“Out of the ashes of the Reston-Rosenthal wars arose a columnist who occupied a part of the Op-Ed page for more than three decades,” Mr. Reston’s biographer, John F. Stacks, wrote in 2003.

Mr. Frankel, who oversaw the editorial page from 1977 to 1986, said Mr. Lewis’s column “was particularly notable for his commentaries on legal issues, his advocacy of compromise between Israel and the [Palestinians](#) and his assaults on the apartheid regime in South Africa.”

Mr. Lewis’s first marriage, to Linda J. Rannells, ended in divorce. The couple had three children, Eliza, David and Mia, who survive him, along with seven grandchildren.

Chief Justice Marshall, whom Mr. Lewis married in 1984, wrote the Massachusetts court’s landmark decision in 2003 recognizing a right to [same-sex marriage](#). She retired in 2010 to care for her husband — “so that Tony and I may enjoy our final seasons together,” she said.

Out on His Own

Mr. Lewis often parted ways with his colleagues in the press and the lawyers who represented them in his understanding of the scope of the First Amendment.

He was skeptical, as he wrote in *The Hofstra Law Review* in 1979, that the First Amendment's press clause ("Congress shall make no law ... abridging the freedom of speech, or of the press") gave the institutional press special protection, as Justice Potter Stewart had contended in an influential speech at Yale Law School in 1974.

Rather, Mr. Lewis said in a public interview at Harvard in 2006, the amendment's reference to "the press" was merely to the products of printing presses — printed words as opposed to spoken ones.

"It's a great mistake for the press to give itself a preferred position," he said.

It followed, Mr. Lewis said, that reporters do not have an absolute First Amendment right to protect their sources. Reporters should keep their promises, but as a matter of honor, he said, and not because they are exempt from ordinary legal requirements.

As Mr. Lewis wrote in *The New York Review of Books* in 2005, the First Amendment is fundamentally a prohibition on government censorship. Asking more of it, he wrote, "does not fit easily within the main use of the amendment."

Mr. Lewis said judges were in a better position to balance the interests involved, and he spoke approvingly of a concurring opinion by Judge David S. Tatel of the United States Court of Appeals for the District of Columbia Circuit in the decision that sent a *Times* reporter, Judith Miller, to jail for 85 days in 2005. Judge Tatel said a special prosecutor's need for information outweighed the public interest in allowing Ms. Miller to protect her source.

Mr. Lewis was similarly skeptical about what he considered unwarranted press intrusions into privacy. In a 2002 article in *The Nova Law Review*, Mr. Lewis criticized *The Times* and other news organizations for filing briefs supporting reporting that he considered tawdry.

In his final book, "Freedom for the Thought That We Hate: A Biography of the First Amendment," published in 2008, Mr. Lewis wrote that he was inclined to relax some of the most stringent First Amendment protections "in an age when words have inspired acts of mass murder and terrorism." In particular, he said he might reconsider the conventional view that there was only one justification for making incitement a crime: the likelihood of imminent violence.

Mr. Lewis wrote that there was "genuinely dangerous" speech that did not meet the imminence requirement. "I think we should be able to punish speech that urges terrorist

violence to an audience, some of whose members are ready to act on the urging,” Mr. Lewis wrote. “That is imminence enough.”

Much as he loved and admired the press, Mr. Lewis considered the courts to be the bedrock institution of American freedom.

“His lifelong faith in judges dominates his legal thinking,” Mr. Frankel said. “No matter how mistaken or craven” a court might be, he added, Mr. Lewis saw the judiciary “as the ultimate safeguard of our democracy.”



Mr. Lewis in 2001

This article has been revised to reflect the following correction:

Correction: March 25, 2013

An earlier version of this obituary misstated the year that Anthony Lewis’s column first appeared on the Op-Ed page of The New York Times. It was 1970, not 1969.