Welcome to W&L After Class: the Lifelong Learning podcast. I'm your host, Ruth Candler. Every episode we'll have engaging conversations with W&L's expert faculty, bringing you again to the Colonnade even if you're hundreds of miles away, just like the conversations that happen every day after class here at W&L. You'll hear from your favorite faculty on fascinating topics and meet professors who can introduce you to new worlds and continue your journey of lifelong learning.

Our guest today is Brian Murchison, Charles S. Rowe Professor of Law and director of W&L's Mudd Center for Ethics. Brian joined Washington and Lee in 1982. His teaching and scholarship focus on administrative law, mass media law, jurisprudence, torts and contemporary problems in law and journalism. At the Law School, he has served as interim dean, director of the Frances Lewis Law Center and supervising attorney in the Black Lung Legal Clinic. His articles on subjects including speech and the truth-seeking value and anonymous speech on the internet have appeared in the Columbia Journal of Law and the Arts, the Harvard Civil Rights-Liberties Law Review and the North Carolina Law Review, as well as other journals. Brian, thanks so much for joining us today.

Thanks for inviting me.

I wish we could be doing this in person. But as the pandemic would have it, we are on Zoom. But it is nice to see your face regardless.

Well, it's great to see yours again.

We're talking to you in late January of 2021, at a time when the First Amendment, which guarantees the right to free speech, is very much in the news right now. And, interestingly, the Constitutional right to free speech seems to be both a strength and a threat to our democracy at the moment. So I thought I'd begin with some basic questions. How does the First Amendment define free speech? And why was this right so important to the founders of our country that it merited being the first amendment to our constitution?

Well, that's a great question, and I love talking about the First Amendment. I practiced media law when I was in private practice, and I've been lucky enough to teach the First Amendment a number of times here at Washington and Lee.

Let's go to the language right away. If you read the First Amendment, it's amazing how much gets packed into one sentence. Did you know, Ruth, that there are six rights embedded in the First Amendment? The first two have to do with religion, and the last two have to do with the citizens' right to
assemble and to petition the government. It's the middle two that deal with what we're talking about today, speech and press.

So let me just read that incredible sentence, the First Amendment. And remember, this is written in 1791. And James Madison is the principal author. So let's read what it says: it says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

Right there, Ruth, in that one sentence, we've got really the essence of American citizenship. I mean, it's the right of religious freedom, the idea of separating church and state, and the right to speak freely, to publish freely as the press and to gather in groups and to petition the government for redress of any grievances. These are our civil rights, our civil liberties, our intellectual values sort of all packed into one place.

And you asked me, well, what were the drafters, the framers, thinking about? Back in the 1920s, one of our most famous and esteemed justices, Louis Brandeis, wrote kind of an essay in one of his court decisions about who these people were that wrote that sentence and what they had in mind. Here's just a couple sentences from what Brandeis said about the First Amendment. He said, "Those who won our independence believed that the final end of the state was to make men free to develop their faculties."

So this is the idea of speech and press as, I don't know, facilitating one's humanity, facilitating one's being, facilitating one's... we call it self-realization. That's one of the main values that is associated with the First Amendment. And Brandeis went on to talk about two other values. One is the value of self-governance, that another reason we want a lot of freedom of speech and press is to facilitate our ability to govern ourselves. We are a representative democracy. And the third one he talks about is the role of speech and press in the broader search for truth, whether that's scientific truth, or political truth, or social facts. That's what speech is all about, too. Those are the three main values that we've associated with the freedom of speech and press.

Ruth Candler 06:25
I'm hoping you can help us better understand the role that the courts have in determining which speech is protected, and which speech is not. The relevant part of the First Amendment that states "Congress shall make no law abridging the freedom of speech" looks on its face to be pretty straightforward. It's really just 10 words, and yet we've been arguing about them since they were first written. Why have we needed over 200 years of court cases to clarify the First Amendment?

Brian Murchison 06:58
Well, and it's still going on. And in fact, Ruth, just yesterday, a new book came out by a noted First Amendment scholar purporting to dig yet again into the meaning of the First Amendment and what the framers were talking about when they said "the freedom of speech or of the press."

Remember, they were... they'd just fought a war of independence. In a sense, they were the leaders of the new republic. But they also... They didn't jettison all of their English principles, either. In fact, a lot of
people think that the First Amendment was simply a statement of English law and tradition about freedom of speech and press.

And what was that tradition? England had decided to have a licensing scheme way back when the printing press was the dangerous technology of the day. Today, it's the internet. Twenty years ago it was cable. Thirty years ago it was broadcast. Back then it was the printing press. And boy, the church and the state in England were scared to death of the printing press, that it was going to be used for seditious purposes. And so back in England, late 15th century, 16th century, there were all these prohibitions in place. And mainly there was a licensing scheme, that nobody could use a printing press to print anything without prior approval of the state.

We call this prior restraint, that in order to print something back then, you had to get the state to give you permission. Well, in the late 1600s even England saw that that was a terrible idea. And they got rid of the system of prior approval for whatever one wanted to publish. So by the time the First Amendment was written by James Madison, most of us think that one thing he was trying to say there is, "Hey, no prior restraint will be allowed. It's not allowed in England anymore, and we sure are not going to allow it to be reintroduced into the young America, so that we're not gonna have a licensing system where somebody needs prior approval to say something."

That much we know. The question is, what else did the First Amendment mean by "the freedom of speech or of the press"? Was it meant to protect people from being criminally prosecuted for what they said? Was it meant to allow, after the fact, penalty for speech? So there was a question about whether, even though we were free from prior restraint, what about subsequent punishment for what one has said? What was the First Amendment saying about that?

That's been the big fight now, for 200 years. What was meant about the law of sedition? The law of libel, the law of invasion of privacy, all these other things? Were they protected? And so we really have a couple centuries' worth of court cases about that. And you may be interested to know, when it says, "Congress shall make no law abridging the freedom of speech," that sounds pretty, like, straightforward: no law. Congress, you can't do anything in this field. But the courts have always said that even the First Amendment is not an absolute right to say whatever you want to say, at all times and places.

So the question is, "Okay, well, if this amendment is not meant to be an absolute protection, you know, what are the protections?" And that's why the values are important to know—this idea of self-realization, this idea of self-governance, this idea of truth-seeking, those are the main concerns of the First Amendment.

**Ruth Candler  11:53**
You've said that the legal frameworks established around free speech in the late 20th century, during the civil rights movement and protests over the Vietnam War, have proven surprisingly robust in the 21st century. What are those structures? And why... why are they still effective?

**Brian Murchison  12:11**
Well, the main value of the three I mentioned, the main one is the idea of self-governance. The courts have always said that the First Amendment exists to help the citizen get informed about public issues, to receive information, to argue about public issues, to do everything that we expect a citizen should do.

So in the 1960s, the civil rights movement was getting a lot of attention from the press. And, in a very famous case, a public official in the South, in Montgomery, Alabama, sued the New York Times for getting some facts wrong about that public official. And this public official was using the libel cause of action, the libel remedy that had been around for centuries, that you could sue someone for impugning your reputation. Well, this public official sued The New York Times: “You got some facts about me wrong. You said I was brutalizing the civil rights protesters. And in fact, on that particular day, I didn't brutalize them.”

And the Supreme Court said, “You know what? The New York Times got some facts wrong in this case. But the First Amendment requires that there be some breathing room to make some mistakes. Because without breathing room, without a margin of error in political speech, newspapers might shut up, citizens might clam up. If they thought that if they made any factual error, they could get sued by a public official, maybe that would cause mainstream media to be chilled, and citizens themselves not to say very much.” And the Supreme Court didn't want that chilling effect to ever happen.

And so the Supreme Court held in that case that there's a margin of error to get some facts wrong. There's a margin of error for some false speech in order to promote, in the larger sense, truthful speech. In order to get truth, you've got to allow a little bit of falsity because it’s inevitable in public debate. So what did the court say in that case? The court said that public official, before it could really sue, before it could win a suit against a newspaper or just a plain old citizen, that public official would have to show that the newspaper or the citizen knew the fact was wrong and published it anyway, or seriously doubted the truth of what it said and published anyway.

That would be really hard to show. False statements that were made negligently would be protected by the First Amendment, but no protection in the First Amendment for calculated lies, or for reckless untruth. You see, the justices in 1964 were trying to balance these interests between getting things right and occasionally getting things wrong. And so the justices, in a case called New York Times Company versus Sullivan, the justices said a public official has got to show that it was a calculated lie, or a reckless lie. The rest would be protected. A negligently done mistake would be protected by the First Amendment.

Wow, Ruth, this case was gigantic. This case basically said to the mainstream press, "Go out there and cover public issues. Don't lie about the facts, and don't be reckless. But if you get something wrong, you're not going to be exposed to gigantic damages under the libel tort.” And so this enabled the mainstream press to have a little bit of a sense of protection, when they went out to cover the leading issues of the day.

That case reflects the court thinking about the self-governance value, that the citizen needs that margin of error in order to robustly participate in our democracy. Very major case, and that case was written by one of the liberal lions of the court, Justice Brennan. But it was reaffirmed in later years by the more
conservative justices, notably William Rehnquist, who very much said, that's part of our constitutional framework, the Sullivan case isn't going away, we're not going to get rid of it down the road. But now we've got the internet, where everybody is... not everybody, but a lot of people are being very loose about the facts that they state on the internet. And the question is, is that Sullivan case still gonna be good in an era of the internet?

**Ruth Candler 18:06**
Yeah, that's a great lead-in into my next question. So it seems like every new tool of mass communications in the United States, broadsheets and pamphlets or newspapers or radio, television and the internet, seems to have brought new challenges to interpreting and adhering to the language of the First Amendment, which is what you were just saying. Social media certainly... it has expanded the range of free speech, given rise to some new questions on the limits of free speech, and especially when that free speech is exercised by foreign adversaries trying to influence American elections. I am curious, I mean, I know you were going there, but I'd like for you to expand on your thoughts in this area.

**Brian Murchison 18:46**
You know, the internet is really the marketplace of ideas, times a hundred. Because the internet allows people to create their own websites. Most of the time, people want to post their views on existing websites. And that's where we've had a lot of litigation, where somebody will post something on a website that will prompt a lawsuit. And the question is, does the Sullivan case and all the cases that followed it, do those still apply?

**Ruth Candler 19:26**
There seems to be a great deal of concern right now about the power of social media companies to censor speech. What legal definition of censorship would apply here? And does it apply reliably to banning someone from Twitter? Or would you help us understand some of the nuances of that decision?

**Brian Murchison 19:46**
There's this thing called Section 230 of the Communications Decency Act of 1996. It's a statutory provision. And, you know, Ruth, this provision offers more protection than even the First Amendment. To whom? To websites.

To foster the growth and development of the internet as a bona-fide marketplace of ideas, Congress in 1996 enacted Section 230, which basically had two parts to it. One part of it gave legal immunity, full protection, to a website for whatever some other person happened to post on that website, that the platform, the website itself, would not be subject to liability for what a third party posted. This gave websites, this gave all kinds of internet companies, a green light to set up business and to participate in the marketplace of ideas, because the website would be free from liability. And if some false stuff were said on that website, the angry party, the person defamed, couldn't sue the website, but would have to figure out who the poster was of that language.
So Section 230 gave websites immunity, and probably in common law under the First Amendment, they wouldn't have had that. This is extra immunity. Now, then-Vice President Biden, during the campaign, said that's just too much immunity for these websites. He said they're not cleaning up these websites as much as they should. They've got this immunity, and they're just letting speech of all kinds be entered onto these websites. So maybe, argued then-Vice President Biden, maybe we should ask Congress to look at Section 230 and impose some responsibilities on those websites, that when they get notice of something really scurrilous that's been posted by someone else, that the website might have some responsibility to either take it down or to look into it, or to respond in a reasonable way.

Now, there's another part of Section 230. That's the part of 230 that then-President Trump was angry about. There's another section... a different section of 230 that immunizes a website for voluntarily restricting speech that gets on the platforms, including something like Twitter. This part of 230 basically says that there's immunity for the website, or the internet company, if it wants to restrict access to or restrict availability of stuff that's been posted there. Anything that the internet website considers obscene or lewd or lascivious or violent, or harassing or otherwise objectionable, whether or not constitutionally protected.

So when Twitter, for example, put a fact-check insignia on some of President Trump's tweets, President Trump got extremely annoyed and said, "You are... you're highlighting my messages in a way that I don't like." And then when he got banned from Twitter, he particularly said, "You can't do that. That's censorship."

Well, what about that? Twitter is a private company. The First Amendment says Congress shall make no law. The feds shall make no restrictions on speech. It doesn't really cover private companies. Private companies have their own First Amendment rights to decide what material to put on the... to put out there on the internet.

So we had Vice President Biden saying one part of 230 should be fixed, and you had President Trump saying another part of 230 should be fixed. And I think what's going on now in Congress is they're looking at Section 230 in the entirety of it and trying to decide what to do with it.

**Ruth Candler 24:41**
I'm going to shift gears a little bit here, and I'd like to discuss your teaching and your time at W&L. You have spent your entire career at Washington and Lee, and I'm sure we are better because of it. No doubt you've had a number of other opportunities over the years. Why did you make W&L your one and only home?

**Brian Murchison 25:06**
Well, you know, I originally practiced law in D.C. But you're right, my whole teaching career has been at W&L. I've had sabbaticals that have taken me other places, but I've basically spent my career at one institution. And why is that? Well, it turned out that the values of this institution were values that I kind of fell in love with. The whole notion of the Honor System, the smallness of class size, the collegiality of the faculty, and particularly the dedication of the students and the chance to have, you know, good
relationships with the students, all these were factors that kept me here. I don't think there's a better law school or a better liberal arts university than Washington and Lee.

So I've been very proud to be on this faculty and very kind of grateful. I still expect them to be sending me a note so they say, "Oh, we made a mistake. We really wanted someone else." But before they do that, I am the first to say that this institution gets so many things right that I wanted to stay and be part of it and to help build it.

Ruth Candler 26:38
I don't think you'll be getting that letter anytime soon. Our listeners may have encountered you in the classroom, or through your work in our lifelong learning programs, or with W&L's Roger Mudd Center for Ethics. But no matter where they encountered you, you were almost certainly working as a teacher. And if I remember correctly, you got your start teaching in the Peace Corps in Africa. How would you say that that experience shaped you as an educator?

Brian Murchison 27:10
Wow. Well, I went in the Peace Corps a month after I graduated from college. So I was young and innocent, relatively so. And I think that the Peace Corps takes young people to countries all over the world and, you know, Ruth, when you're in a new culture, or in a new country, nobody cares where you went to college. Nobody cares how many A's you got in your major. No one cares about, you know, who your parents are, or who your friends are. When you're in the Peace Corps, the people in those countries just look at you and they want to know who you are at that moment, in that context, in that situation.

And that was the hardest part for me. I couldn't fall back on my past. Young as I was, I did have a past. It wasn't there to fall back on. I just had to figure out who I was in the essentials. And I think I was shaped by being unshaped, I was shaped by this shapeless... this experience of shapelessness and having to figure out who I really was, what I stood for, what I thought was important. And that made it a really challenging two years of my life, but I think I... I think it made me grow up. And it made me see...
The importance of reaching across cultural divides and seeing the common humanity, the humanity that we all share, became very, very evident to me.

Peace Corps says "The toughest job you'll ever love." Can I tell you? That's true. Every day was a challenge. And it was always about how are you treating people? How are you being treated? And how can you make friends with someone from an entirely different culture and tradition? I was determined to do that. And I did have some success with that. I was in a wonderful country and the people were constantly giving me the benefit of the doubt.

Ruth Candler 29:35
That speaks to a wonderful human nature, doesn't it?

Brian Murchison 29:39
Yeah, it does.
Ruth Candler  29:40
What a great experience. Thank you for sharing that with us. As W&L's commencement speaker in 2015, you spoke about the Black Lung Clinic at the Law School, which you said demonstrated "how study can open the mind, how vocation can arise from that opening, how collaboration can enrich service and what these things say about liberal arts at W&L." This was such a powerful statement. Would you elaborate on that for us and tell us where that came from?

Brian Murchison  30:15
Yeah, I was talking about the 20th anniversary of the Black Lung Clinic. Mary Natkin, my great colleague in the Law School, and I were the co-founders of it, but we had help from all corners of this campus. This is another reason I love W&L. We had people from the biology department helping us, we had people in the English department helping us. We had... The whole staff of the Law School was helping us. We had... We were studying the sociology of black lung and the coalfields. We were studying the history of it. It was a liberal arts interdisciplinary experience to get that legal clinic up and running in the Law School.

Mary Natkin and I selected, you know, 12 students to kick it off that first year. But to get good at it, we had to know what we were talking about. We had to know the history, the sociology as I've said, and to me, it shows that the common good can be addressed if all these different modes of inquiry and these different disciplines kind of can get together and help each other figure out what the goals are and what the strategies of success should be.

So I was remembering in that speech all the people that had helped us and... ultimately, though, it boiled down to the students we have in that clinic. They were representing coal miners who had coal-dust-induced disease. That meant the students—they didn't know anything about the physiology of the lung. They didn't know anything about the coalfields. They had to immerse themselves in somebody else's problems and in somebody else's difficulties, and in a whole social milieu that they had never even heard much about.

And to me, the work of the clinic towards the educating of our students was profound. And a lot of them went out into other areas of legal practice, but they found much to relate to in different areas, because they had that background in the Black Lung Clinic. So I was talking about, you know, the genesis of the clinic and why it had survived for 20 years.

Ruth Candler  32:46
It's interesting. You can read about things like that, but experiencing it and talking with people who are living it, breathing it literally, is a whole different ball game, isn't it?

Brian Murchison  33:01
It is a whole different ball game. And you know, Ruth, you don't win every black lung case. I mean, the students had to learn that some of the cases we don't even take, because the coal miner asking for our help doesn't meet the criteria for disability benefits based on his lab work.
So the students not only had to help the coal miners who had good factual cases, but they also had to learn the art of saying no to some of the coal miners, saying, "No, we can't represent you. Because, you know, you don't meet the criteria." And that act of saying no, with compassion and kindness, but with honesty and directness, that was a talent, too, that we had to, you know, help the students develop.

Ruth Candler 33:55
Yep. And a lesson that I'm sure serves them well, in all areas of their lives.

Brian Murchison 34:01
That's right. That's right.

Ruth Candler 34:03
Going back to that commencement speech—you referenced a number of other commencement speeches, and I was struck by how those speeches span so many eras of W&L's history, with unifying themes of justice and service. Is there a place that we can find those? I just found it so inspirational, and I'd love to be able to share that with our listeners.

Brian Murchison 34:25
Well, Washington and Lee has a wonderful habit of taking a speech like that and turning it into a brochure with a lot of great graphics, and keeping copies. And so yes, Washington Hall, I think, has a nice collection of talks by people like Sidney Cowling, the eminent English professor who was here, who also did most of his career at W&L and Barry Sullivan, the dean of the Law School, who talked about the school's motto, and there's an incredible baccalaureate speech by Professor Alexandra Brown of the religion department about the values that make W&L what it is.

So, yes, these speeches can be found. It takes a little detective work, but they... it's great to hear the essence of the school repeated through different voices. Everybody has a slightly different take on what makes W&L so rich and singular as a school. So it's great to have multiple addresses like that.

Ruth Candler 35:36
I agree. I agree. We'll include those in our episode notes and save everybody the research. We'll go ahead and do that for them. You have taught in many lifelong learning programs: Alumni College, Institute for Honor, and Law and Literature where you currently serve as director. You were also the faculty host for our Panama trip in 2016. You've talked about how important these opportunities are for you as a scholar as well as a teacher. Why?

Brian Murchison 36:05
Well, if you teach in these summer programs, these enrichment programs, or if you teach in the Law and Literature program, which is one weekend a year, you get renewed by this contact, you get renewed by the presence of the alumni who come back and participate very eagerly to do so.

I get inspired by them. I love the conversations with them. It's an opportunity to sort of reset some of my ideas. It's an opportunity to be renewed in the educational process, to hear what people are working on
in their professional lives and to try to incorporate that into what we're talking about on that weekend. I've worked with you in the Law and Literature program where we pick one work of art and spend 24 solid hours, five lectures on the same book, and letting the alums interact with the professors. There's nothing better than that. When you can take a timeless work of art and dissect it afresh, anew with the W&L family, what could be better than that? And I've always been inspired by that, and I've tested some of my ideas out on those folks and that's helped me in my own writings and in my own classroom with my law students. So I would recommend that to any young faculty member. Get involved in some of those programs. You will not regret it.

Ruth Candler 37:43
As the director of the Mudd Center for Ethics, a program funded by a generous grant from the television journalist and author Roger Mudd, you serve the center's mission to promote a better understanding of public and professional ethics. Ideally, this better understanding leads to improved dialogue, teaching and research about ethical issues among students and scholars within all three of the university schools: the College, the Williams School and the Law School. Over the years, you've brought in speakers on global ethics, ethics and technology, ethics and identity and more. Can you give us an example of how the Mudd Center has embodied Roger Mudd's vision?

Brian Murchison 38:24
Well, I think Roger Mudd wanted a place on campus where students from all disciplines could gather and look at some issues of the day from an ethical perspective. Remember, he was coming from Washington. He was coming from the political wars that he covered in Washington. And I think he felt that what was absent a lot of the times was sort of taking a deep breath and looking at an issue from an ethical perspective.

That's what we've tried to do here. We've tried to identify current issues that have ethical dimensions, and we've tried to bring in speakers to provoke discussions about what those dimensions should look like. So for example, just last week, we did a great program on COVID-19 and the ethics of public health. We brought in a physician from the Centers for Disease Control and Prevention in Atlanta, who happens to be an alum of Washington and Lee, specializing in infectious diseases. And we asked him to talk about what the ethical considerations are in respect of the vaccine. And he detailed what the public health code of ethics really is and how it supplements the ethical relationship between a physician and an ordinary patient, and he talked about today's challenges of prioritizing the distribution of the vaccine and other issues that have come up.

Tonight, we're having part two of that conversation. We're bringing in another physician from Lexington, and we're bringing in Professor Aaron Taylor from the philosophy department to talk about additional ethical issues in the context of COVID-19.

I think this is what the Mudd Center should be doing. It should be... It's at the crossroad of the campus. It's right at the corner of Washington Street and Lee Avenue. It's where all the disciplines can find a way to engrossing and compelling conversation. And I think, ultimately, what Roger Mudd wanted was some venturing of solutions to problems, or better directives for how problems should be handled. So an example is this idea of looking at medical ethics in a time of pandemic, and trying to understand all
the competing issues and values involved, to carve out a road towards an ethical way of, here, handling the disease and seeking the cure.

Ruth Candler 41:19
And all of those talks are archived and linked on the Mudd Center’s website, so we’ll include those in our episode notes as well. And it’ll be wonderful to share with everyone.

Brian Murchison 41:30
You’d be surprised... We’ve livestreamed every talk this year. All of the talks have had to be online, virtual. And we were sorry about that. But it turns out, there were some benefits to be derived. We had a... we cast a wider net, using the livestream and webinar technologies. And we’ve been able to kind of get more members of the W&L family in on these presentations. So...

Ruth Candler 41:57
Yeah, that's a silver lining, isn't it?

Brian Murchison 41:58
It's a silver lining. And we still need to find ways to include more people in the conversation.

Ruth Candler 42:06
Well, having them archived and easily accessible at people’s own time definitely works. So we're gonna shift gears, and as we go into the end of our podcast, we're just going to ask you some quick questions that we call our lightning round. And it's fun. So rumor has it that you hold the current title for the full-time professor who has been at W&L the longest. With this honor also comes wisdom. What advice would you give to faculty who are just beginning their careers at W&L?

Brian Murchison 42:40
Two things. I would encourage them to see the classroom as a sacred space. That classroom is the heart and soul of the university. To think of the classroom as such, and to make every effort to bring in every student—from the back row, from the second to the last row—bring them all into the conversation and carry on the tradition of the classroom. It's the most important site on the campus.

Second of all, I would say get to know people and other disciplines than your own. Pick the brains of your colleagues, whether they be in the Williams School, the College or the Law School. I remember myself being a very young new faculty member working in a summer program directed by Rob Fure, working with Tom Williams from the physics department, working with Nancy Margand from psychology, working with Lou Hodges from the applied ethics program, working with Jim Warren from the English, working with Marc Conner from English. I mean, what could be a better way to be introduced into the traditions and ethos of W&L? So to the young faculty, I'd say, don't be a shrinking violet. Get out into the open and meet everybody else that is on the faculty with you.

Ruth Candler 44:14
We often hear professors talk about the incredible growth they experience during sabbaticals. If my math is right, you have probably been on sabbatical about eight times. Is there one that stands out to you as being the most transformative?

**Brian Murchison** 44:33
Well, there are two. I went to the University of Melbourne, Australia, to present a First Amendment paper and to present it to professors, practitioners, judges—I was really on the hot seat. They even got a solicitor from New Zealand to comment on my paper while I was... after I had to live with the thing.

**Ruth Candler** 44:55
High pressure.

**Brian Murchison** 44:56
So, it was... but what a sharing across cultures, and what a sharing of different approaches to free speech. I got hammered by the Australians who thought that Americans place speech too high on the list, that other values like privacy should be equally important. In fact, should be more important. So I had a great sort of interdisciplinary and international conversation about the First Amendment.

I also went to Ghana when it had just adopted a new constitution that had a sweeping press and speech clause in it. And the Ghanaians wanted to know what the American experience with free speech had been. And so I told them a couple of stories about the First Amendment. And I remember having a number of conversations with members of the Ghanaian parliament about the fights between the politicians and the newspapers, and how those fights should be adjudicated. It was great to see free speech and press being so vigorously debated in a country that was new at it, but had its own approach and its own hopes for the future.

**Ruth Candler** 46:16
You've lived in Lexington for close to 40 years. What do you recommend people do when they come to town?

**Brian Murchison** 46:23
I tell them enjoy the arts. Find a concert or a play or a performance at Lenfest, or at VMI or at SVU. I take them with me to see my own students perform on those stages. I... One of my law students once played Prince Hal in a production that included both parts of "Henry IV." It went on for hours! How he memorized the lines, I'll never know. But he was brilliant. One of my other students played Maggie the Cat in "Cat on a Hot Tin Roof," an incredible part. And she had the entire theater spellbound by her performance. So there's a lot of artistic stuff that visitors to Lexington can take advantage of.

**Ruth Candler** 47:08
Yeah, there definitely is. What do you enjoy doing when you're not on campus?

**Brian Murchison** 47:16
Well, I play and write a little bit of music. That's very therapeutic for me. I've had some experience with songwriting and getting some very forgiving folks to try singing them for me. And that's a great kind of
hobby I have and something I enjoy doing. I also wait around for the next great novel by my hero Kazuo Ishiguro to come out. I also enjoy discovering more about Australia. I've got kind of a pet project now about the mid-20th-century poets of Australia. What were they concerned about? What were they writing about? Who knows, I may try to sell myself to the English department before I totally retire, to do a course on those very interesting writers.

Ruth Candler 48:11
They would be fortunate to have you. And you're probably fortunate that I didn't know about your music capabilities, because that's how I would have ended the podcast this time. Well, Brian, thank you so much for joining us today. I really appreciate your time.

Brian Murchison 48:27
Thank you very much. It's been wonderful, and I look forward to our future collaborations, Ruth. Remember, next fall we're doing "The Sweet Hereafter" in Law and Literature, which is one of the great novels, so I will see you there.

Ruth Candler 48:44
Yes. Yes. And in person, stars aligned.

Brian Murchison 48:48
Yeah.

Ruth Candler 48:49
Thanks as always to you for listening. We hope you've discovered something new. To read more about today's podcast and check out other ways to continue your lifelong learning with W&L, you can visit our website, wlu.edu/lifelong, where you'll find our previously recorded webinar series on "Prejudice, Discrimination and Antiracism" and also information on how to join our winter series, "Truth, Opinion and the News Media." We hope you'll join us back here soon, and thanks again. Until then, let's remain together not unmindful of the future.