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# **Media, Politics, and Government**

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# Media, Politics, and Government

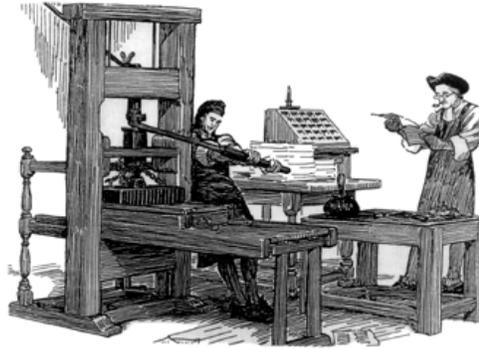


# Freedom of the Press

“Congress shall make no law...abridging the freedom...  
of the press...”

Origins of freedom of  
the press:

- Influence of the printing press
- Ideals of the Enlightenment
- Pamphlets and papers during the American Revolution



Colonial-era printing press

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With the invention of the printing press by Johannes Gutenberg in the 1440s, the publication of people’s ideas became widespread, allowing these ideas to take on a life of their own. Books, pamphlets, flyers, and many other forms of printed matter could be quickly reproduced and distributed to any audience that could read them.

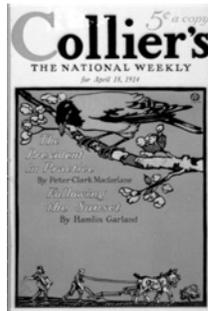
On the heels of this invention came the Enlightenment, an intellectual movement that began in the early 1600s and extended well into the 1800s. Advances in science, mathematics, and the arts that emerged during the Renaissance were documented, discussed, and expanded upon through the use of the printing press to bring this information to all of Europe and beyond. People began to think more about who they were and their place in the world. Philosophers known as “humanists” advanced many new ideas about the dignity and potential of the individual, and as a result people began to question traditional ideas of a person’s rights and the role of government.

Enlightenment ideals also influenced American colonial society and its leaders. As their relationship with the British Parliament and the king became more confrontational, some colonial leaders began to question the role of the British government and challenge its authority. The freedom to print the American colonial viewpoint on the deteriorating relationship with the British government proved indispensable to the success of the American Revolution. Pamphlets and papers were published and distributed throughout the colonies, helping educate colonists on the violations of their rights by the British and keeping them informed of events and decisions.

# What Is the Press?

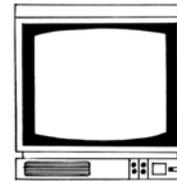
## Traditional forms:

- Newspapers
- Magazines
- Pamphlets
- Posters



## Non-traditional forms:

- Radio
- Television
- Internet



Freedom of the press includes newspapers and magazines, but also extends to books, pamphlets, posters, and essentially anything in print. In addition, the contents of printed material can be communicated through different media forms, such as radio, television, and the Internet.

Opinion pages and letters to the editor in newspapers and magazines provide public forums for the spread of ideas, as do radio and television. Advertisements can also be placed in any of these media outlets.

## Free Press: Essential to Democracy

- The media as the “fourth branch” of government
- Important benefits of a free press:
  - Open expression of ideas
  - Advances collective knowledge and understanding
  - Communication with government representatives
  - Allows for peaceful social change
  - Protects individual rights

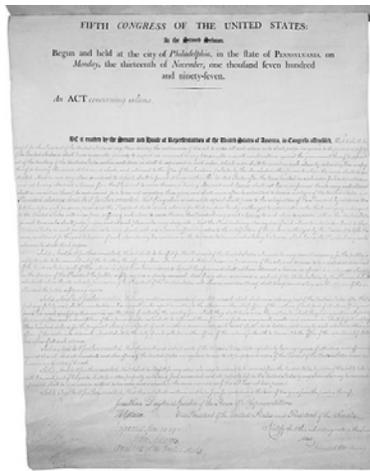


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The press has been called the “fourth branch” of government and is sometimes placed on a level akin to the three official branches of government—legislative, executive, and judicial. Though the press has no direct governing power, at times it may serve as a check on the other three branches by informing the public of the government’s actions, allowing the people to respond accordingly. Like other forms of expression, freedom of the press is essential to the advancement and operation of a democracy, providing important benefits to individuals, to society, and to the government:

- A free press allows for communication and the open expression of ideas with others. Human dignity advances when people can print their thoughts and ideas and read from others with similar or different views.
- A free press informs people of new and better ideas, which benefits a community and allows it to improve and change with the times. This contributes to intellectual growth and broader understanding.
- A free press provides a mechanism for communicating freely with local, state, and national representatives and is essential to the operation of representative government.
- A free press can help bring about peaceful social change by working as a pressure valve to release tension when people feel wronged or mistreated. It also gives the government and members of society important information on how their actions or statements have been received.
- A free press provides people with a mechanism to speak out against perceived violations of personal rights and is essential for the protection of all people’s rights.

# Freedom of the Press: History



Original text of the  
Alien and Sedition Acts (1798)

- Original intent of the First Amendment was to protect political discussion
- Limitations on freedom of the press:
  - Alien and Sedition Acts (1798)
  - Courts defined the scope of freedom of the press
    - Identifying a “clear and present danger” and clarifying libel
    - Protection against prior restraint

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As governments began to realize the press’ power to spread information to large sections of the population, officials sought protection from sedition (advocating harm to or overthrow of the government) and libel (the false publication of information with the intent to damage a person’s reputation). Such actions could disrupt the order of society, and therefore many governments exercised censorship over printed materials. Laws in England as well as in the American colonies called for licensing anyone who operated a press, and in many cases censors had to approve materials before publication.

The Framers of the Bill of Rights narrowed the protection of the press’ freedom to discuss political matters. They likely didn’t intend to protect sedition or libel. An example came in 1798 when the Federalist-run Congress passed the Alien and Sedition Acts to outlaw criticism of the government. Ironically, some of the very authors of the First Amendment supported these laws. The acts expired three years later, but not before several people were jailed or fined for violations.

The courts have upheld laws prohibiting statements that create a “clear and present danger” to persons or society. One example might be printing information that could threaten national security or the lives of military personnel. Another is libel: printing false or inaccurate information with the intention of ruining someone’s reputation or causing them harm.

A free press is grounded on the principle that the government may not censor anything before it is published, except in cases of great importance such as national security or military operations, and even this may be subject to court review. The censorship of information before publication is known as “prior restraint.”

# Confidentiality of Reporters' Sources

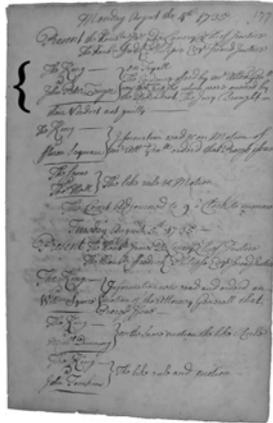
- Reporters do not have the same legal protections as doctors or lawyers when it comes to sources
- “Shield laws”
- Reporters sometimes face contempt-of-court charges if they refuse to reveal a source



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Controversy exists in the area of a reporter's right to keep sources confidential. Unlike lawyers or doctors, who are generally immune from having to reveal their clients' identities, news reporters do not usually enjoy legal protection against revealing their sources, though a few states have “shield laws” that protect journalists from revealing a source. News reporters as a profession adamantly believe that keeping a source confidential is essential to their work and to the existence of a free press. In some cases, prosecutors may involve the courts to break the reporter/source privilege and demand that a reporter identify a source. Reporters who resist face contempt-of-court charges and sometimes jail time until they reveal their source.

# Freedom of the Press: Key Court Cases



Minute sheet from the  
trial of John Peter Zenger

- John Peter Zenger (1735)
- *Near v. Minnesota* (1931)

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Before the Bill of Rights granted protections to the press (and even before the Revolutionary War), there were American legal cases involving freedom of the press. In 1735, prosecutors charged a journalist named John Peter Zenger with seditious libel when he printed a series of articles in his newspaper, the *New York Weekly Journal*. The articles were written by anonymous wealthy lawyers and criticized the royal governor, William Cosby. Though threatened with the death penalty, Zenger refused to reveal his sources' identities. His lawyer, Andrew Hamilton, argued that Zenger had not committed seditious libel because the articles he had published were based on fact. Over the objections of the judges (who had been hand-picked by the prosecutors), the jury rendered a verdict of not guilty. This case set the standard for truth to be considered as a valid defense in a seditious libel case.

In the case of *Near v. Minnesota* (1931), Jay Near was the publisher of a scandal sheet that accused local officials of having connections to organized crime. A Minnesota law provided that anyone intending to publish "malicious, scandalous, and defamatory" material could be barred from printing it. The Supreme Court found the law unconstitutional, as it constituted prior restraint on publication and therefore violated the First Amendment's freedom of the press clause.