

The First Amendment in the Colonial press

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“Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter.”

— Thomas Jefferson, letter to Col. Edward Carrington, Jan. 16, 1787

Introduction

From the time America’s first newspaper, *Publick Occurrences*, appeared in Boston in 1690 to the ratification of the Bill of Rights in December 1791, the Colonial press occupied an important role in the formation of the republic.

In 18th-century America, the printed word was the primary means of communication across long distances. As such, newspapers were a tremendous cultural force in shaping the public’s opinions and ideas. French political observer Alexis de Tocqueville noted, “Only a newspaper can put the same thought at the same time before a thousand readers.”

Before America became a nation, newspapers were known for being careful not to offend the Colonial authorities, basically reporting the news and events in Europe and the Colonies with deference to British authority and without editorial commentary. But the Crown became too oppressive and its oppression led to revolt. Newspapers raised a rallying cry for freedom during the American Revolution. After Americans gained their independence, newspapers began reporting the activities of the new government and the men placed in charge of crafting the nation’s governing document — the Constitution.

During the debate between the Federalists and the Anti-Federalists over whether a Bill of Rights, and more specifically the First Amendment, was to become a part of the Constitution, newspapers helped to bring public awareness to the debate.

The Federalist Papers

In an effort to win over America’s new citizenry, the Federalists, led by Alexander Hamilton, published a series of articles that first appeared in the semiweekly *New York Independent Journal* from October 1787 to April 1788. These 85 articles, known collectively as *The Federalist Papers*, were later reprinted and published throughout the country in pamphlet and book form. Because the Federalists enjoyed strong support from newspapers in Boston, New York and Philadelphia, their effort to ratify the Constitution became extremely popular. The *Gazette of the United States*, in particular, was influential. Sponsored and supported by Hamilton, the *Gazette* was edited by John Fenno, a former schoolteacher who unlike most of his colleagues had established his reputation as a journalist without the benefit of an apprenticeship through a print shop. Fenno issued the first edition of the *Gazette* in New York on April 15, 1789.

Although most Federalist policies had popular support, the Anti-Federalists, led by Thomas Jefferson, believed that the federal government under the proposed Constitution would wield too much power over the public. The Anti-Federalists argued for an inclusion of a Bill of Rights, guaranteeing certain freedoms not expressly stated in the Constitution. This idea appealed to

many people and though Federalists initially opposed it, the public supported the Anti-Federalist position on the Bill of Rights.

One newspaper that carried the Anti-Federalist message to the public was Benjamin Franklin Bache's *Philadelphia General Advertiser*, better known as the *Aurora*. Bache was the grandson of Benjamin Franklin and, following in the footsteps of his grandfather, became a printer who founded the *Aurora* in 1790 at age 21. The *Aurora* often sided with the Anti-Federalists and Bache was unapologetic in his viewpoints. In fact, the paper became a reflection of Bache's impetuous and intemperate nature, publishing scurrilous attacks against President George Washington, Alexander Hamilton and others. Washington once commented, "If you read the *Aurora* . . . you cannot but have perceived with what malignant industry and persevering falsehoods I am assailed in order to weaken, if not destroy, the confidence of the Public."

The American press at that time was partisan and vicious and not above launching personal attacks against those who opposed newspapers' editorial opinions. Historians have called this period the "dark ages of journalism." In the time leading up to the ratification of the Bill of Rights, there was certainly no shortage of opinion from the press for and against the Bill of Rights and the First Amendment.

On the establishment and free exercise of religion

The first generation of American citizens had a variety of views on religion. Many people, mindful of a time when English monarchs dictated religious worship, expressed a desire to include a guarantee of religious freedom in a Bill of Rights. A Whig writing to the *Philadelphia Independent Gazetteer*, on Nov. 1, 1787, had this to say about the freedom of religion:

"The more I reflect upon the history of mankind, the more I am disposed to think that it is our duty to secure the essential rights of the people, by every precaution; for not an avenue has been left unguarded, through which oppression could possibly enter in any government; without some enemy of the public peace and happiness improving the opportunity to break in upon the liberties of the people; and none have been more frequently successful in the attempt, than those who have covered their ambitious designs under the garb of a fiery zeal for religious orthodoxy. What has happened in other countries and in other ages may very possibly happen again in our own country, and for aught we know, before the present generation quits the stage of life. We ought therefore in a bill of rights to secure, in the first place, by the most express stipulations, the sacred rights of conscience. Has this been done in the constitution, which is now proposed for the consideration of the people of the country? — Not a word on this subject has been mentioned in any part of it; but we are left in this important article, as well as many others, entirely to the mercy of our future rulers."

Still, others thought too much religious freedom would be detrimental to an orderly republic. A landholder from Connecticut expressed his concerns in a letter to the *Connecticut Courant* in 1787:

"But while I assert the right of religious liberty; I would not deny that the civil power has a right, in some cases, to interfere in matters of religion. It has a right to prohibit and

punish gross immoralities and impieties; because the open practice of these is of evil example and public detriment. For this reason, I heartily approve of our laws against drunkenness, profane swearing, blasphemy, and professed atheism.”

On freedom of the press

While precedent for the protection of a free press had long been established by British common law and adopted by individual states — by 1787, nine of the 13 states had already provided constitutional protection for the press — it was not until the Bill of Rights had been added to the Constitution that this guarantee became the law of the land. Newspaper accounts helped to frame the debate for the public over whether the press was entitled to a written guarantee of freedom. In Philadelphia, the *Freeman's Journal* published the following opinion, which left no room for compromise:

“As long as the liberty of the press continues unviolated, and the people have the right of expressing and publishing their sentiments upon every public measure, it is next to impossible to enslave a free nation. Men of an aspiring and tyrannical disposition, sensible of this truth, have ever been inimical to the press, and have considered the shackling of it, as the first step towards the accomplishment of their hateful domination, and the entire suppression of all liberty of public discussion, as necessary to its support. For even a standing army, that grand engine of oppression, if it were as numerous as the abilities of any nation could maintain, would not be equal to the purposes of despotism over an enlightened people. An abolition of that grand palladium of freedom, the liberty of the press, in the proposed plan of government, and the conduct of its authors, and patrons, is a striking exemplification of these observations. The reason assigned for the omission of a bill of rights, securing the liberty of the press, and other invaluable personal rights, is an insult on the understanding of the people.”

On freedom of assembly and petition

The last two freedoms of the First Amendment arguably have deeper historical roots than the other First Amendment freedoms. In fact, the freedom to petition the government came directly from two of history's most venerated documents — the Magna Carta and the Declaration of Independence. Other historic documents, such as the Tumultuous Petition Act of 1661, the 1689 English Bill of Rights and the 1765 Stamp Act, each referenced a right to petition and peaceably assemble. Alexis de Tocqueville once observed that the United States more than any other country cherished “the principle of association.” More recently, freedom of assembly was an essential right necessary to both the women's suffrage movement in the late 19th and early 20th centuries and the civil rights movement of the 1950s and 1960s.

The following excerpt from the *Freeman's Journal* in 1787 demonstrates how newspapers reported this desire for a written guarantee of freedom of assembly and petition in the Constitution:

“The new plan, it is true, does propose to secure the people of the benefit of personal liberty by the habeas corpus; and trial by jury for all crimes, except in case of impeachment: but there is no declaration . . . that the right of the people to assemble

peaceably for the purpose of consulting about public matters, and petitioning or remonstrating to the federal legislature ought not to be prevented.”

Conclusion

Newspapers played a vital role in the birth of the First Amendment. They chronicled and promoted the progress toward the establishment of our first freedoms. Despite their partisan nature, newspapers were generally viewed as a valuable, albeit an opinionated, source for information on the events of the day.

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