

Constitution

The First Amendment is known in large part for the rights it grants to individuals: those of speech, religious practice, assembly and petition. But the Founding Fathers of the United States made an incredibly important addition by turning the freedom of an entire trade – the press – into law.

Freedom of the press is linked closely to free speech. Both offer protection for unpopular or controversial views. The free speech clause ensures that the media remains largely free of government censorship. By including a call for a free press in the First Amendment, the Founding Fathers essentially paved the way for journalists to act as a check on the U.S. government's three major branches, which in turn were meant to check and balance each other.

The press in the United States has great freedom as granted by the Constitution, but that freedom certainly isn't absolute. Public debate and courts deal with critical questions, such as: When must reporters reveal their sources? When should the press have access to court proceedings and certain types of private information, such as medical records? In what situations does published material threaten national security or incite violence against the government?

Members of the press can face obstacles either before or after publication. In extreme cases, the government can use forms of prior restraint to prevent the publication of information that it deems too sensitive. It can seek a court order to stop something from being printed, broadcast or electronically published. Additionally, the

Press Freedom

by Elliott Dube

Long before the Constitution was written, a court case planted a seed for a free press in this country. In the decades before the Revolutionary War, the colonists under British rule could be punished for writing and distributing seditious information critical of the lawful authorities that could incite public resistance to the government. In 1734, printer and journalist John Peter Zenger was charged with sedition and libel for publishing material that was sharply critical of then-N.Y. Gov. William Cosby. The case's surprising conclusion saw a jury acquitting Zenger because his criticism was factbased. The resolution of the Zenger trial marked a major step forward.

The men who forged the founding documents and laws realized that a free press is crucial to building and maintaining a full-fledged democracy. The greater ability the press has to gather and publish information, the greater the ability of U.S. citizens to learn about the goings-on of their government. Defenders of the press in the United States often have argued that a strong press is directly linked to a healthy "marketplace of ideas" – that is, if journalists are free to gather and report information, citizens have access to more ideas and a greater ability to find the truth.

Through the years, there have been attempts to check journalists' power, but they usually have been short-lived. For instance, the Sedition Act of 1798 made it illegal for a person to write, print or utter "false, scandalous and malicious" statements against the U.S. government; critics as prominent as Thomas Jefferson attacked the new law, and it was allowed to expire in 1801. At the same time, the power of the press has been expanded. In *Near v. Minnesota* (1931), the U.S. Supreme Court rendered unconstitutional most forms of prior restraint – in which the government prevents publication – and applied press freedom to the states by way of the Fourteenth Amendment.

use of licenses to print or broadcast has created an environment in which prior restraint is possible, because it gives the government the ability to stop a company from gaining access to the public airwaves.

The press also can face repercussions after publishing certain information, especially if that information is libelous. Libel is the publication of false, defamatory and damaging information about a clearly identified individual or small group. However, even when libel charges arise, the burden of proof falls on the plaintiffs and not reporters, and, the government as a whole has been ruled out as a libel plaintiff.

Although the press does not enjoy unlimited freedom, it does make use of a substantial amount of legal protection. This protection allows journalists to act properly as watchdogs of the government, to report the news as it happens and to further the ideal of free expression in this country.

Newspaper Activity

Identify stories that show newspapers acting as "watchdogs," speaking out in favor of or against actions taken by the government or government officials. Also, identify stories about citizens criticizing government actions.