John Wilkes and the Constitutional Right to a Free Press in the United States

John Wilkes was a radical British politician who was extremely popular with many American revolutionaries and provided an powerful example of why liberty of the press was so critical. Wilkes was arrested, thrown out of Parliament, put into prison, and accused of treason and seditious libel. His legal travails, his publications, and his every movement were covered with great interest by the colonial newspapers. While a blasphemous and pornographic publication eventually tarnished his reputation, he was nonetheless an important force behind many American constitutional protections. This article explores a connection not previously developed—how John Wilkes was a key inspiration for the first-ever constitutional protection for a free press. The conclusion here is that Wilkes should be remembered for his crucial influence upon the American ideal of press freedom; his battle against seditious libel charges was a notable precedent for attitudes against control of the media on this side of the Atlantic.

Englishman John Wilkes was widely admired in the American colonies as a political journalist, a radical politician, and a fighter for liberty. He greatly influenced the revolutionaries who fought for American independence, but modern historians of America have by and large ignored the essential role that Wilkes played in establishing the right to freedom of the press. Wilkes published stinging criticism of the British ministry in the infamous issue no. 45 of his newspaper, The North Briton, and was accused of seditious libel, thrown out of Parliament, and made an exile from his homeland. His battles with an oppressive government received constant attention in the colonial American newspapers. His arrest was noted critically in many papers, including this one in the Boston Post-Boy of June 1763: "The Hand of Authority being lifted up in order to fall heavily on such Political Writers as may displease." While he was the political darling of the London radical lower classes and the colonial press paid him lavish attention, his constant indebtedness, his licentiousness, and his eventual rejection by his radical followers has left his image badly tarnished and his contributions largely ignored. Despite his downfall, Wilkes was critically important to the development of freedom of the press as a constitutional right in the United States. Our enjoyment of this essential freedom owes much to this nearly forgotten radical British politician.

John Wilkes and his disputes with the British authorities over press freedom had a greater influence on the American First Amendment than has been previously acknowledged. There are many theories about the origins of this important constitutional protection: Leonard Levy’s premise was that American press freedoms emerged directly from the British legal tradition and did not include freedom from seditious libel prosecution. Other theorists argued that colonial legal developments (especially the celebrated John Peter Zenger case) were the impetus for a more extensive liberty of the press. Still other historians explored how Enlightenment philosophy directly influenced American ideas, leading to a more liberal concept of this freedom. Several historians have recognized Wilkes’s importance to the development of colonial concepts of liberty in general. Wilkes has even been referred to as the “father of civil liberty,” but the direct connection between Wilkes and the U.S. constitutional right to a free press has been underdeveloped. This research builds upon all of those theories of press freedom and Wilkes’s influence on American rights by exploring more deeply his role in the development of

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the ideal of liberty of the press. Close examination of colonial newspaper reports on Wilkes's struggles for liberty—specifically press freedom—placed side-by-side with the historical origins of liberty of the press in the colonies add to our understanding of its genesis by demonstrating a straightforward, positive, and critical influence by Wilkes upon those who enacted the first constitutional protection for the freedom of the press.

Most theories of the origins of the constitutional right to a free press largely ignore Wilkes's contributions. Leading theorist Leonard Levy briefly noted Wilkes's battles with British authorities, even reporting that he had an “inflated reputation among the colonists,” and that they associated Wilkes with freedom of the press. Levy, however, does not recognize any connection between Wilkes and the development of the American constitutional right, directly stating that Wilkes “did nothing whatever to advance freedom of the press,” since he never actually repudiated the legality of prosecution for seditious libel and did not write any detailed theory of what liberty of the press actually meant. Rather than focus on Wilkes or the contemporary British political struggles, Levy's premise was that American press freedoms emerged directly from British legal tradition, especially the influential Sir William Blackstone, and while it precluded the need for a license prior to publication, it did not include freedom from seditious libel prosecution. The liberty of the press, as Blackstone restated the common law current in the 1760s, “is indeed essential to the nature of the free state; but it consists in laying no previous restraints upon publications, and not in freedom from censure for criminal matter when published.” But that common-law practice was being superseded by the actions of juries on both sides of the Atlantic, including the jury that refused to convict Wilkes of seditious libel.

As later theorists have argued, colonial legal developments—especially the John Peter Zenger case—were the impetus for a more extensive press freedom. While a jury refused to convict printer Zenger for seditious libel of the governor of New York, it provided no real legal precedent. The Zenger case—and other trials in England and the colonies, where the juries refused to convict defendants for seditious libel—did lead to greater latitude for political commentary and helped pave the way for truth as a legitimate defense.

Press historian Jeffery Smith disagrees with Levy, suggesting that a libertarian ideology did develop in the American press before passage of the Stamp Act, and it was strongly influenced by the radical whigs (an informal group also referred to by historians as the “real whig,” or opposition “country party”). The idea developed by this group was that a free and openly critical press was necessary to balance a potentially corrupt and powerful government. According to Smith, this direct connection between such republican thought and colonial journalism of the eighteenth century has been underdeveloped. Smith does recognize that Wilkes's battles with the British ministry and the constant attention given him by the American press did keep the colonial public concerned about the erosion of civil liberties, but by focusing on printer Benjamin Franklin and his philosophy of press freedom, Smith largely ignores the important role that Wilkes played in this development. Franklin's publications reflected his distaste for Wilkes, mentioning him much less often than did other colonial newspapers, and often in a negative light. In a letter to his son, Franklin wrote: “I am sorry to see in the American Papers that some People there are so indiscreet as to distinguish themselves in applauding his No. 45, which I suppose they do not know was a Paper in which their King was personally affronted, whom I am sure they love and honour.”

Franklin even instructed his partner David Hall not to reprint the infamous North Briton no. 45.

Other historians explored how Enlightenment philosophy directly influenced American ideas, leading to a more liberal concept of this freedom. Journalism historian David Copeland has looked deeply into the development of religious thought and the role of the Enlightenment in the evolution of the concept of press freedom in this period. He views the freedom to speak and write openly as a logical extension of the struggle for liberty of conscience, and points to Enlightenment thinkers (such as John Milton and John Locke) as the theoretical underpinnings of American free press theory. Copeland's work builds on that of Frederick Siebert, who suggests that “Locke would have agreed that a free and open press was the way to usurp tyranny.” What Locke actually proposed was simply an end to licensing, or prior restraint and he did very little to develop the philosophy of freedom of the press. He had an opportunity to give constitutional protection to free press and speech when he co-authored a new constitution for the colony of Carolina, but it contains no such clause. In fact, “The Fundamental Constitutions of Carolina” included licensing of the press as part of the law as a function of the “councillor's court.”

For John Milton, the freedoms of printing, speech, thought, and religion were closely tied together, “Give me the liberty to know, to utter, and to argue freely according to conscience, above all liberties.” He argued unsuccessfully against English licensing and censorship of the press in “Areopagitica: A Speech for the Liberty of Unlicensed Printing” to Parliament in 1644. However, as Copeland notes, Milton's thesis was not widely read at that time, and his argument gained little traction. Milton did not argue for complete freedom to publish anything, rather he argued against prior restraint. Far from being the champion of unrestricted press freedom as he is sometimes held up to be, Milton believed that the writer or printer's name must be published and he even suggested executing those who published anonymously. Milton supported strong punishment for those who libeled church or state.

The more serious political thinkers such as Milton, Locke, and Thomas Hobbes were rarely presented directly in the colonial press. Political journalists related to the informal radical whig party were more often quoted in colonial newspapers than were the Enlightenment philosophers, and they had much to say regarding the importance of a press free to oppose the government in power. Writing as Cato, John Trenchard and Thomas Gordon noted that: “Freedom of Speech is the great Bulwark of Liberty; they prosper and die together: And it is the Terror of Traytors and Oppressors, and a Barrier against them.” In a statement credited to Henry St. John, Viscount Bolingbroke, the Craftsman claimed that the liberty of the press “was one of the blessings of a free people,” “the chief bulwark and support of Liberty in general,” and the “great bulwark of our Constitution.” Newer historical analysis points to public discourse driven by these popular writings that had a more direct influence on freedom of the press than did court precedents.

Wilkes's recent biographer Arthur H. Cash recognized both Wilkes's importance to British press freedom and to the American Bill of Rights: “Wilkes helped to inspire a love of liberty in America, and his accomplishments for English law would have a profound influence upon the laws of America.” Cash notes Wilkes's direct influence in the U.S. Constitution and Bill of Rights regarding the lack of a property ownership qualification for voters, the restrictions placed on Congress over who could be elected, and prohibitions.
against general warrants. However, Cash never fully developed the important direct connection between Wilkes and the U.S. constitutional right to a free press.

No British politician was more popular in the American colonies from the turbulent 1760s through the Revolution than was radical John Wilkes. The colonial newspapers took note of every change of his whereabouts or his personal condition: "By a Gentleman who lately had much conversation Mr. Wilkes, we are informed that he continues in good health, and in possession of his usual vivacity." He was an idol to the American Sons of Liberty; members in Boston corresponded with Wilkes and were reported to have drunk 45 toasts, including to the king and to "Alderman Wilkes, and all the Friends of the Colonies in Great-Britain." His fight for individual freedoms in England caught the attention of colonists who were fighting for their own freedoms. Many colonial newspapers were constantly printing the smallest details of his life, his legal problems, and his battles with the British ministry.

Well-loved by the middle class in London, elected to Parliament, and editor of a popular opposition periodical, Wilkes was an excellent writer but a poor public speaker. His physical appearance was another weakness, and it has been said that even caricatures of him flattered him inadvertently as his face was so hideous.

What has damaged his reputation most over time were his "personal immoralties": profanities, licentiousness, and his constant indebtedness. Wilkes was a married man, but while he was in Paris, one colonial newspaper reported: "that an Englishman of some figure was lately obliged to make a precipitate retreat from that city, on account of some innocent familiarities which he took through the grate of a convent with a young Lady, whose brother was his intimate acquaintance." Such promiscuity was quite common for gentlemen of his era, but as both a rake and a critic of government, Wilkes went further than what was acceptable.

Wilkes’s imprisonment, expulsion from Parliament, and exile to France following charges of seditious libel began with his publication of the 45th issue of *The North Briton*. After the ascent of King George III to the throne of Great Britain, Wilkes began what became a popular radical weekly newspaper written in opposition to the government. While he claimed loyalty to the king and the monarchy, his barbs were specifically aimed at the king’s favorite; the Scottish Prime Minister of Great Britain, John Stuart, the Earl of Bute. Satire being a widely popular form of political criticism, Wilkes even named his newspaper in parody of Bute’s newspaper, *The Briton*. The very name, *The North Briton*, referred to Bute’s Scottish roots and played upon a widespread English distrust of the Scots. In this publication, Wilkes wrote that through their behavior, they “have justly rendered the very name Scot hateful to every true Englishman.”

The important battle over freedom of the press between Wilkes and the government began with a strong criticism over the king’s speech to Parliament—a daring step for the eighteenth century. By noting that the king’s speech “has always been considered…. as the Speech of the Minister,” rather than that of the king himself, Wilkes attempted to justify his attack. This fine distinction was an attempt to avoid a direct attack on the
monarch himself but rather aim his strong words at Bute. Wilkes strongly attacked the truthfulness of the speech, which largely dealt with the Peace of Paris that ended the Seven Years War (or the “French and Indian War”). While the speech stated that Britain’s ally, the king of Prussia, “approved” the “terms of accommodation,” Wilkes noted that, “The infamous fallacy of this whole sentence is apparent to all mankind: for it is known that the king of Prussia did not barely approve, but absolutely dictated, as a conqueror, every article of the terms of peace.” Wilkes went on to declare that Britain’s king “was basely deserted by the Scottish prime-minister of England.” Wilkes wrote that the peace itself was an insult to the British crown, and that “All our most valuable conquests were agreed to be restored.” Then Wilkes went very far in criticizing the king himself: “I wish as much any man in the kingdom to see the honour of the crown maintained in a manner truly becoming Royalty. I lament to see it sunk even to prostitution.”

This harsh political attack was too much for King George III. He ordered general warrants drawn up to seize any papers or any persons involved in what the monarch and his political allies considered a seditious libel. The King’s Messengers arrested a total of forty-nine people and seized many papers both public and private. According to a letter in one colonial newspaper, Wilkes was arrested and thrown into the Tower of London after “the King’s Speech is attack’d and treated with unreserved Freedom; and the Warrant sets forth that he has endeavor’d to sow sedition, and alienate the affections of his Majesty’s Subjects.” Taking note of Wilkes’s popularity in the city of London, the writer goes on to predict, “It will make a terrible Noise, and no doubt the City will be all on Fire upon the Occasion.”

The general warrants—essentially a blank arrest and search warrant allowing the arresting agent to determine who should be arrested and what papers should be taken—were no longer considered legal for other cases, but they were still used for accusations of seditious libel. As a member of Parliament, Wilkes’s privilege was supposed to protect him from such arrest, and he was soon freed. The ministry continued its seditious libel suit against Wilkes, but the law was on his side. His enemies had to go so far as to remove him from Parliament to be able to accomplish the prosecution. The radical politician countered by suing the government for trespass and fought the legality of his arrest and of the general warrants. Wilkes became not only an example of the monarch’s prose and sexual license were no doubt inconsistent with Franklin’s ideal of virtue. While Franklin was not enamored with Wilkes, a great many colonials were. Wilkes’s struggles demonstrated just how corrupt was the British ministry and how such misuse of power was a threat to the liberty of both the English and the colonists.

The colonial press constantly reported these attacks on Wilkes, as many colonials saw an unjust ministry’s actions against Wilkes as reflective of their own woes. According to The Pennsylvania Gazette, Wilkes’s “scandalous work” was read in the House of Commons and his North Briton no. 45 was to be burned by the hangman. Benjamin Franklin was the printer of this colonial newspaper, and while most of the American colonists appeared to be enamored with Wilkes, Franklin was not. His newspaper printed fewer trivial notices about Wilkes and generally had a more negative flavor. In a letter to his own illegitimate son, William, the elder Franklin described Wilkes as “an outlaw and an exile, of bad personal character, not worth a farthing.” The popular excitement over Wilkes offended Benjamin Franklin, and he went on to describe the drunken mobs, the smashing of windows, and the waste of candles illuminating the city of London for two nights running. Wilkes’s profligate lifestyle, constant indebtedness, and sexual license were no doubt inconsistent with Franklin’s ideal of virtue.

While Franklin was not enamored with Wilkes, a great many colonials were. Wilkes’s struggles demonstrated just how corrupt was the British ministry and how such misuse of power was a threat to the liberty of both the English and the colonists. Newspapers throughout the colonies reported negatively on Wilkes’s arrest and positively on his fight for press rights. In 1766, the Maryland Gazette claimed that “he risked his Life and lost his Liberty, and as the Arbitrary and illegal Violations of the Rights of every Englishman, in his Case, had given them a Cause to stand upon.” A Virginia Gazette from 1768 printed a letter from London that included the opinion that Wilkes’s intentions were not seditious: “Though Mr. Wilkes may have been too incautious in some of his writings, I firmly believe that such incitement arose merely from zeal for the honour and service of his country, and that few, in this kingdom possess a larger share of real genuine patriotism
American patriots saw a cause similar to their own in the radical Wilkite anti-ministry forces. While living in London, Virginian Arthur Lee joined Wilkes’s “Bill of Rights Society,” a group named after the British bill of rights passed in 1689 to establish limitations on the power of the Crown. While ostensibly formed to protect individuals’ rights against a growing royal prerogative, it primarily functioned as a group to pay off Wilkes’s debts. Lee eventually became secretary of the group. Americans named their towns and children after Wilkes. Wilkes County, North Carolina and its county seat of Wilkesboro were named for the radical journalist. Wilkes-Barre, Pennsylvania was named for Wilkes and another supporter of the colonial cause in Parliament. The Pennsylvania Gazette reported that a baby was baptized with the name Wilkes and the child’s breast was festooned with ribbons done up in the number 45.

The very number 45, the number of the issue of the North Briton for which Wilkes was arrested, became a symbol for freedom and liberty both in the colonies and in England and was seen often in the newspapers as conflict with Britain approached. Many American newspapers reported that Sons of Liberty throughout the colonies celebrated Wilkes and toasted to him 45 times. According the South Carolina Gazette, mechanics in Charleston met under a Liberty Tree that was festooned with 45 lights and then marched to a local tavern where they had 45 bowls of punch and 45 bottles of wine. Another issue reported that 45 Sons of Liberty supped on 45 different dishes. The Virginia newspapers noted a report “that forty-five Gentlemen of Virginia, have sent Mr. Wilkes forty five hogsheads of tobacco: I wish it may be true, as it would manifest the generous spirit they are animated with in the cause of liberty.” The number 45 had become not only a symbol of John Wilkes and liberty, but also a symbol of the colonists’ freedom and their battle against the British ministry.

In Virginia, “Wilkes was discussed and quoted in the Virginia Gazette more than was any other single man.” According to the Virginia Gazette Index, 1736-1780, John Wilkes was mentioned hundreds of times between 1766 and 1777, covering more than three pages in the index, compared to less than two pages of entries for King George III and two pages for future President George Washington. Even the smallest of Wilkes’s movements or legal travails deserved a mention. On just one page of a Virginia Gazette of 1767, Wilkes was mentioned six times, despite other news on the Stamp Act, the tea incident in Boston, and a dispute between well-known evangelical ministers George Whitefield and John Wesley. It was reported that Wilkes had returned from exile in France. It was also misreported that there would be a pardon for Wilkes. The speculation that some sort of agreement had been reached was stated as a fact, not just rumor, multiple times—despite the reality that such a deal never did materialize. One erroneous report stated that he would be given a post in Ireland by the government, and another speculated that he would be appointed Royal Governor to an American colony. Another story that turned out to be untrue suggested that he had reached an accommodation allowing his return, but that he would no longer write and publish on politics.

Wilkes and the ministry never did reach such an amicable settlement, but his popularity with the masses and with the Americans continued to grow. During the dispute over the release of his scandalous poem, Wilkes fought a duel, was seriously injured and fled to France. After years of exile and exclusion from the legislature, he finally was able to return to England, to politics, and to Parliament. Wilkes eventually won his legal battle for his seat in the House of Commons and succeeded in overturning the use of general warrants for seditious libel arrests. After his return, Wilkes eventually won a vote to remove his incapacitation from the lower house, arguing that Parliament derived its authority from the electorate, not the other way around. He maneuvered this legal action that not only put him back in the legislature but also protected the rights of citizens to elect their representatives, no longer allowing either house to expel any member they chose. If the ruling party could decide who might sit in the house and who might not, the lower house would be self-creating and self-existing. This was an extremely important precedent to the U.S. Constitution. Wilkes was also an early supporter of universal suffrage, or at least he supported allowing all men to vote, not just property owners. That endorsement for broadening the electorate, his political journalism that generated wider interest in civic affairs, and his extraordinary popularity with the middling and lower classes made Wilkes an early populist. In a tactical coup, Wilkes also succeeded in obtaining the right of newspapers to print the proceedings of the legislature, something they had not been allowed to do. Because of his continued support of the American cause—even after the Declaration of Independence—and his own fight for freedoms, “Wilkes and Liberty” became a battle cry in America.

While Wilkes and other popular “radical whig” political writers were influential in the development of the idea of liberty of the press as expressed in the newspapers, typically historians, legal scholars, and modern court justices see the origins of the free press clause in British and colonial legal developments, and their philosophic roots. Judges sometimes reach out for the “original intent” of its creators to help apply the First Amendment to individual court cases. As several critics have noted, such legal experts and politicians claim to know such intent without any historical context or any understanding of what was
actually said several hundred years ago. The author of the First Amendment, future President James Madison, and his collaborators left us little direct evidence of precisely what they intended, so instead, precedents in British law, Enlightenment philosophical writings, and early American court practices are generally accepted as the origins of this important concept guaranteeing press freedom. The reality, however, is that there is precious little in any of these sources regarding real freedom of the press.

Press freedom in the colonies developed a bit more slowly than in the motherland, especially in Virginia where the lack of a large city led to less competition among printers, and the one newspaper was said to be controlled by the Royal Governor. While the first newspaper there expressed a very restricted view of press freedom, recognizing that, “By the Liberty of the Press, we are not to understand any licentious Freedom, to revile our Governors and Magistrates,” by the 1760s, having a press free to criticize government had become important to the colonists and to John Wilkes.

The very first issue of his The North Briton defended freedom of the press: “The liberty of the press is the birth-right of a Briton, and is justly esteemed the firmest bulwark of the liberties of this country. It has been the terror of all bad ministers.” His fight against general warrants in cases of seditious libel, his move to open Parliament to reporting, and his continued critical political journalism made him a living icon of liberty of the press.

By the time of Wilkes’s travails in the 1760s, freedom of the press in all of Great Britain was developing beyond the Blackstonian concept of simply freedom from licensing and prior restraint. As Siebert noted, in both the colonies and England, juries were refusing to convict printers and writers of seditious libel. The Zenger case in New York was not alone in standing in the way of governments stifling dissent. In London, it was a rare jury after 1735 that would follow the legal instructions and actually find a defendant guilty of seditious libel. While the ministry did eventually succeed in convicting John Wilkes of seditious libel, that debacle convinced the British government that enforcing criminal libel laws was too difficult. Political journalism and public opinion became more critical in England during this time, and civic discourse broadened to include the common people, partly due to Wilkes’s popularity and his efforts. Press freedom developed beyond the earlier, more limited, concepts. Wilkes’s battles over press freedom supplied an important example for the American colonists, and especially Virginians. Just after Wilkes’s conviction in Parliament, the Maryland Gazette (widely read in Virginia) ran a long letter disparaging the ministry’s attack on press freedom:

There is no Liberty in this Country which is held more dear than that of the PRESS, nor indeed with so much Reason; for if that is destroyed, what we have else to boast of, is gone in an Instant. Arbitrary Ministers (and none but such) are Enemies to this Liberty, because it ever has been a Check upon their Tyranny. But, if ever that Time should come when the Press may be punished without a JURY (that great and solemn Privilege of Englishmen delivered down to us by our virtuous and spirited
Ancestors) may we not fear the Liberties of this Country, and all the Blessings of this Country, and all the Blessings which it boasts above other Nations, will be departed forever.270

Just as the colonies were actively protesting the Stamp Act, the first issue of a new Virginia newspaper ran an article taken from Wilkes’s North Briton. It strongly opposed the Stamp Act, passed without colonial assent, and even predicted the Revolutionary War if such laws were enforced: “the consequences must be dreadful to the Interest of England.—In Support of a Law passed by an injudicious Minister, a Civil War will not only be carried out between the Mother Country and her Colonies, but the Trade of the Plantations will be irrecoverably lost.”271 A 1771 issue of the Virginia Gazette took note of “the present Dispute about Liberty of the Press” and Wilkes’s role in fighting the “illegal Attempts.”272 Just a few weeks later, that newspaper again reported on Wilkes and his support of press freedom, and in a separate letter, applauded another member of Parliament for his support of Wilkes’s case, “in Defense of the almost only remaining Bulwark of our expiring Freedom, the Liberty of the Press.”273 A humorous but satiric reference to Wilkes in a 1775 newspaper referred to him as “our patriot,” and expressed the wish that a sculptor could create for the king and members of Parliament better heads, “in exchange for those which are the wrong heads of these wrong times.”274

It is noteworthy that such a champion of press freedom was so often written about and read about in Virginia—the very colony where press freedom first flowered in constitutional form. This first codification of the right to a free press happened not long after the British Ministry was battling Wilkes over his “seditious libels” in the North Briton no. 45 and very shortly after Wilkes first achieved the right of the press to report on debates in Parliament. Much more than a simple coincidence, this gives credence to the theory that the original intent of the freedom of the press clause in the Virginia Declaration of Rights and in the subsequent First Amendment was indeed intended to prevent such prosecutions for seditious libel. Wilkes’s battle with the British ministry over the right to criticize the government was an important warning to those who crafted the clause on liberty of the press. They saw the need for protection of political commentary; and Wilkes’s eventual success over the charge of seditious libel makes it clear that the colonists did want to protect exactly this type of press liberty.

Just prior to the writing of the Declaration of Rights, the Virginia Gazette ran a letter echoing the word of Wilkes, Cato, and Lord Bolingbroke. “Civis” wrote in the Virginia Gazette that “Liberty of the Press is the palladium of our LIBERTIES,” and he quoted an unidentified writer, “the liberty of the press is inviolably connected with the liberty of the subject … The use of speech is a natural right, which must have been reserved when men gave up their natural rights for the benefit of society. Printing is a more extensive and improved kind of speech.” Undue and excessive prosecution of the press was against the principles of the British constitution, he argued: “Blasphemy, perjury, treason, and personal slander, are the principal offences which demand restraint” by the press, but Civis noted that only punishment consistent with the damage would be constitutional. Most important, this letter did not include seditious libel as a punishable offense, but only personal libel.275 Heavily influenced by Wilkes and “real whig” opposition rhetoric, this was strong lobbying for a protection of press rights in the new state constitution, as this editorial was printed in Williamsburg just days before the Virginia Declaration of Rights was drafted.276

The colony of Virginia with its constitutional precedents, its political leaders, and its local fight for freedom of the press was an important influence on the free press clause in the First Amendment to the United States Constitution. In 1776, Virginia declared its independence and was the first colony to write a new constitution. Passed first, but later incorporated into the new state’s constitution, article twelve of this early bill of rights states: “The freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.”277 echoing the words that Wilkes (and others) had written, calling liberty of the press a crucial “bulwark” of all liberties.278 While this is not stated as a firm prohibition, as it was written in later state constitutions and the Bill of Rights, it was an essential first step.

The Virginia Declaration of Rights and its first-ever constitutional protection of a free press was a crucial precedent to the First Amendment of the United States and it influenced every other state constitution that followed. It also had an immense impact worldwide. Stephan A. Schwartz wrote, “Virginia’s Declaration of Rights would be an unprecedented political statement; nowhere in modern times had a government acknowledged such a concept as individual inalienable rights, let alone formalized it as a limitation on its own power.”279 Between the time of the Stamp Act crisis and the early years of the American Revolution—just at the time the Declaration of Rights was written—this British radical politician John Wilkes was the most prominent figure writing about and setting the example for a free press in Britain and in the colonies. His travails served as a stark warning of what could happen if there was no freedom of the press.

History has not remembered Wilkes kindly. The British ministry essentially won its battle against Wilkes with a successful public relations coup. While he eventually triumphed in the issue of general warrants, seditious libel, reporting on Parliament, and his expulsion from Parliament, his enemies forever tarnished his name with the conviction of blasphemy or obscene libel, despite the fact that he never intended to make Essay on Women public. Wilkes did return to the lower house to serve many years, eventually losing favor with the masses as he became less radical and less combative with the king and his ministers.

Despite his popularity with the general public, his support of the American cause, and his repeated fight for personal liberties, Wilkes himself was not a revolutionary. He was loyal to the king and the monarchy.280 Wilkes even once told King George III that he was not a “Wilkite,”281 as his radical supporters were called. His behavior was much more politically conservative in his old age, and eventually lost him the support of his more extreme followers. Today in America, Wilkes is best remembered for his battle over his rightful election to Parliament, his fight against general warrants, and his efforts to involve the middling and lower classes in the political process, all of which led to important legal protections in the new United States Constitution.282 Many historians recognize Wilkes’s importance to the development of freedoms in general and press freedom in Great Britain.283 Historian Pauline Maier did recognize the overall importance of Wilkes to the American colonies and their fight for freedom, noting that in the late 1760s and early 1770s, “no English public figure evoked more enthusiasm in America than the radical John Wilkes,” but Maier did not focus on his influence on freedom of the press.284 Cash noted how Wilkes’s battles were important prefaces to many American freedoms, and while not drawing a direct line to the First Amendment, Cash did
recognize Wilkes’s influence on British press freedom.\(^5\)

His direct influence on American freedoms and constitutional rights has largely been forgotten over time. His success in allowing press coverage of Parliamentary debates was an important precedent on both sides of the Atlantic. His battle against prosecution for seditious libel had a critical impact on Americans and their First Amendment rights. If not for Wilkes and his highly visible battles for freedom of the press, such rights might never have appeared in the Virginia Declaration of Rights—or even in the American Bill of Rights. American freedoms in general—and specifically our unique and vital freedom of the press—owe a great debt to the controversial radical British political journalist, John Wilkes.

NOTES

1 Pauline Maier, "John Wilkes and American Disillusionment with Britain," The William and Mary Quarterly 20, no. 3 (July 1963): 373-95.
2 Boston Post-Boy and Advertiser (Boston: Green & Russell, June 20, 1763), 4. Many colonial newspapers are available through America's Historical Newspapers, online at http://infoweb.newsbank.com.
5 Levy, Emergence of a Free Press, 141-47.
6 Ibid., xviii.
14 Ibid., quoting Siebert and Locke at 92; and Siebert, Freedom of the Press in England, 261.
16 John Locke [and Lord Ashbury, the Third Earl of Shaftesbury], The Fundamental Constitutions of Carolina (March 1, 1699), article 35. Experts suggest this Restoration constitution was coauthored by Locke's mentor, Lord Ashbury. See Laslett, in Locke, Two Treatises of Government, 24-33.
Oct. 30, 1766), 2. John Wilkes Booth was also named after John Wilkes, who was a collateral ancestor, according to Cash, John Wilkes: Scandalous Father, 356.

54 South-Carolina Gazette (Charlestown: Peter Timothy October 3, 1768), quoted in Maier, From Resistance to Revolution, 70.

55 South-Carolina Gazette (Charlestown: Peter Timothy, Sept. 13, 1768), 2.

56 Virginia Gazette (Williamsburg: Purdie and Dixon, June 18, 1767), 1.


58 This index is not complete, as many issues of the Virginia Gazettes have been discovered since their indexing here, but gives us an excellent sense of appearances in print. Very few issues of this newspaper from 1763-1764 are extant. See Lester J. Cappon and Stella F. Duff, Virginia Gazette Index, 1736-1780 vol. 1-2 (Williamsburg: The Institute of Early American History and Culture, 1950.)


60 Cash, John Wilkes: Scandalous Father, 316-18.


65 Virginia Gazette (Williamsburg: William Parks, Aug. 6, 1736), 1. Although this first issue is no longer extant, this “Printer’s Introduction” was quoted in William Maxwell, ed., The Virginia Historical Register, and Literary Companion, 6 (1853): 21-31.

66 The North Briton, 1 (London: John Wilkes, June 5, 1762.) Italics in original.


68 Ibid., 380-384.


70 Maryland Gazette (Annapolis: Jonas Green and William Rind, July 11, 1765), 1.


72 Virginia Gazette (Williamsburg: Purdie and Dixon, June 13, 1771), 2.

73 Virginia Gazette (Williamsburg: Purdie and Dixon, June 27, 1771), 2.

74 Virginia Gazette (Williamsburg: Purdie, May 26, 1775), 3.

75 Virginia Gazette (Williamsburg: John Dixon and William Hunter, May 18, 1776), 1. Italics in original. The word “palladium” had been used earlier in the Virginia Gazette (Rind, May 21, 1772) by “Junius,” and use of the term in an anonymous English pamphlet in 1770 is noted by Hellmuth, Transformation of Political Culture, 487.

76 Helen Hill Miller, George Mason: Gentleman Revolutionary (Chapel Hill: The University of North Carolina Press, 1975), 148-49.

77 Authorship of this press clause is not clear. While most historians attribute the writing of this to George Mason, who wrote the bulk of the Virginia Declaration of Rights, Irving Brant in James Madison, (Indianapolis: Bobbs-Merrill, 1941-1961), 1:239, discovered a first draft that included the press clause not in Mason’s handwriting, but rather written by the committee secretary, Thomas Ludwell Lee. For analysis of possible authorship, see Mellen, The Origins of a Free Press, 258-63.

78 The North Briton, 1 (London: John Wilkes, June 5, 1762.)


80 Johnson, Life of London, 169.

81 Thomas, John Wilkes; a Friend to Liberty, 219.


83 See for example Thomas, John Wilkes; a Friend to Liberty, 215-20.

84 Maier, “Wilkes and American Disillusionment,” 373-95, and Maier, From Resistance to Revolution.

85 Cash, John Wilkes: Scandalous Father, 3.