

**Liberty of the Press:  
The Emergence of the Constitutional Doctrine in Colonial Virginia**

Original research paper submitted to The Law and Policy Division of the Association for  
Education in Journalism and Mass Communication, 2007 AEJMC Convention

Roger P. Mellen  
George Mason University  
June 2007

## **Liberty of the Press: The Emergence of the Constitutional Doctrine in Colonial Virginia**

### Introduction

The liberty of the press in Virginia evolved in just a few decades from an extremely limited concept to a broader right that was highly valued. This transition is visible on the pages of the eighteenth-century *Virginia Gazettes* and the nearby *Maryland Gazettes*.<sup>1</sup> The early expressions of this freedom were so limited that they did not include the right to question political authority. Over the next thirty years, as political deference declined and civic discourse broadened, a revolutionary concept of press freedom developed and various writers in the public prints championed the cause. It was on the pages of the newspapers and the political pamphlets where civic discourse began, and the ability of citizens to freely publish such thoughts had become highly valued.

When the framers of the Virginia Declaration of Rights sat down in 1776, it was the local public prints—far more than the political philosophers or the British legal precedents—that influenced their thinking. The author of this first-ever clause ensuring constitutional protection for freedom of the press is actually not known, despite the fact that most historians assume that George Mason wrote it. More important than *who* wrote the clause is *why* it was written—why it was considered so important. This paper focuses on why freedom of the press was considered so

---

<sup>1</sup> The intertwined societies of the entire Chesapeake region require inclusion of the Maryland press in this study. It was closely related to the Virginia press in the eighteenth century, and Virginia dissidents often turned to the printer in Annapolis when letters or pamphlets could not be published in Williamsburg. The *Maryland Gazette* had a substantial readership in Northern Virginia, which was closer by water to Annapolis than to Williamsburg. See Edith Moore Sprouse, *Along the Potomac River: Extracts from the Maryland Gazette, 1728-1799* (Westminster, MD: Willow Bend Books, 2001).

valuable that it had to be protected as an essential liberty, and what exactly colonial Virginians intended when they wrote and supported that clause.

This study examines the popular prints of Virginia, compares them to those of a neighboring colony, and places ideas from them within the larger context of transatlantic thought. The legal record regarding seditious libel within the colony reveals a great deal, and in the end, this research uncovers much broader origins of press freedom than previously recognized. The Virginia Declaration of Rights was an important precedent for other states' protection of rights. These were, in turn, influential on the writing of the United States' Bill of Rights, including the First Amendment. The fact that this important amendment includes not only protection for free speech and press, but also includes protection for religion, the right to assemble, and the right to petition the government is no historical accident. In colonial Virginia, these ideas were closely intertwined. This research concludes that it was the more practical experiences of the local Virginia printers and the value placed on the civic discourse generated by their prints that were the primary influence on the emergence of press liberty; more than British political philosophy, censorship practices, or the evolving legal precedents. The "liberty of the press," as it was often termed, was intended to encourage civic discourse, including criticism of the government. This concept virtually rejects the acceptance of seditious libel prosecution and can be seen, developing over time, within the local public prints.

### Historiography

The free press clause of the First Amendment is traditionally analyzed by the courts, historians of the law, and other scholars from the perspective of the law and its philosophical roots. As judges look for the meaning of free press to apply to individual court cases, its origins are sought to help to determine the intent of its creators. Author James Madison and his

collaborators left us little evidence of precisely what they intended, so precedents in English law, British philosophical writings, and early American court practices are considered. In contemporary legal usage, free speech means free communication, including that of the press,<sup>2</sup> and even in the eighteenth century, writers would often use “speech” or “press” interchangeably when discussing these important rights. While the focus here is on the press, the origins of free press are closely intertwined with those of free speech. Viewpoints regarding the meaning of the free press and speech clauses may be divided into two extremes: the first is a broad and sweeping libertarian right that would absolutely disallow any government intrusion, and the second is a more restrictive right that considers that the First Amendment only forbids the government from most instances of prior restraint. (Prior restraint is prohibition imposed before printing, only rarely against speaking, in contrast to action taken after publication.) There are also multiple interpretations that fall somewhere in between these two extreme positions.

Former Supreme Court Justice Hugo Black is the best-known First Amendment “absolutist.” He believed that the wording “no law” meant literally that, and that what was intended by the press and speech clauses was an absolute barrier to prevent the government from telling its citizens what to believe, talk about, or print.<sup>3</sup> Black did not believe in balancing this right against any others, rather that free expression should always prevail. He did draw a distinction between speech and action, providing an escape clause for such an absolute view.<sup>4</sup>

---

<sup>2</sup> Douglas Fraleigh and Joseph Tuman, *Freedom of Speech in the Marketplace of Ideas* (Boston: Bedford/St. Martin's, 1997), 3.

<sup>3</sup> Paul Siegel, *Communication Law in America* (Boston: Allyn & Bacon, 2002), 52.

<sup>4</sup> T. Barton Carter, Marc A. Franklin, and Jay B. Wright. *The First Amendment and the Fourth Estate: The Law of Mass Media*, 8<sup>th</sup> ed. (New York: Foundation Press, 2001), 76-77.

The more generally accepted libertarian concept is that the First Amendment, while not absolute, does prevent most governmental interference, and does forbid prior restraint in all but the most extreme clashes with other important rights. Legal theorist Zechariah Chafee wrote in 1941 that the First Amendment goes much further than simply forbidding prior restraint and includes prohibition of seditious libel laws and prosecution.<sup>5</sup> He suggested that Madison the author, the Congress that passed it, and the states that approved it, intended to “wipe out the common law of sedition, and make further prosecutions for criticism of government, without any incitement to law-breaking, forever impossible in the United States of America.” Chafee understood that free press must be balanced against other rights, and that this freedom was not absolute, but he did hold that free speech and press “ought to weight very heavily on the scale” when balancing liberty against license, even in the case of protecting a government during war. He considered the First Amendment as national policy in favor of unlimited public discussion of public questions. Chafee rejected the concept of limiting free press to include only allowing no prior restraint by the government. As he saw it, the boundary to free press rights is where it gives rise to unlawful acts, a difficult line to draw clearly, but one that precludes prior restraint. Chafee did not construe the clause in absolute terms, understanding that it must grow and change with the times. This was the prevalent view until the 1960s when serious doubts about this view were raised and a much more restrictive view gained widespread support.<sup>6</sup>

---

<sup>5</sup> Seditious libel was—and still is—a criminal offense under British common law. Sedition is speaking of something that brings the King, the government, or any member of the government into hatred or contempt. A seditious statement in writing or print is seditious libel. Blasphemy was once included within sedition. Truth was not a legitimate defense under British common law. See Thomas L. Tedford, and Dale A. Herbeck, *Freedom of Speech in the United States*, 4<sup>th</sup> ed. (State College, PA: Strata Publishing, Inc., 2001), 7-9.

<sup>6</sup> Zachariah Chafee, Jr., *Freedom of Speech* (New York: Harcourt, Brace and Howe, 1920), 23-35. Chafee, *Free Speech in the United States* (Harvard University Press, 1941), 21-31. Chafee built upon the ideas of Justice Oliver Wendell Holmes, who in *Abrams v. United States* in 1919 utilized the powerful metaphor of “the marketplace of ideas.” See David Anderson, “The Origins of the Free Press Clause,” *UCLA Law Review*, Los Angeles. 30, no. 3, (Feb., 1983), section IV, and Siegel, *Communication Law*, 41-42. 48-49. The Sedition Act of 1798 expired without a

Leonard Levy turned the history of the First Amendment on its head with his 1960 book, *Legacy of Suppression: Freedom of Speech and Press in Early American History*. Even his critics suggest this is now the most influential scholarly investigation of press freedom and original intent. Levy theorized that British jurist Sir William Blackstone was extremely influential on the Americans as they began to write their own laws. In his *Commentaries on the Laws of England*, Blackstone recognized that “The liberty of the press is indeed essential to the nature of a free state: but this consists in laying no *previous* restraints on publications, and not in freedom from censure for criminal matter when published.”<sup>7</sup> Blackstone’s view of press freedom was extremely narrow, therefore, with the idea of freedom of the press limited to meaning a lack of prior restraints on publication. This limited view of press freedom, prevalent in England during the 1760s and 1770s, suggested that prosecution for seditious libel, criminal libel, and government taxation of the press were all constitutional under common law. This position drew a vague line between liberty and licentiousness. The press should be free, but libel was not allowed, especially against the government. While forbidding direct prior restraint, except for taxation, it did allow for punishment after the fact. Even when Levy redrew his position some years later, he still claimed that this Blackstonian concept was *the only* restraint intended in the free press clause of the Bill of Rights, “the First Amendment was not intended to supersede the common law of seditious libel.”<sup>8</sup> Levy’s analysis suggested that the prevailing opinions of the

---

test of its constitutionality, but in the 1964 case, *New York Times v. Sullivan*, the Supreme Court in essence ruled seditious libel unconstitutional. Siegel, *Communication Law*, 118.

<sup>7</sup> William Blackstone, *Commentaries on the Laws of England* (London: 1765-1769; facsimile reprint, Chicago: University of Chicago Press, 1979) 4:151.

<sup>8</sup> Leonard Levy, *Freedom of Speech and Press In Early American History: Legacy Of Suppression* (New York: Harper & Row, 1963), ix. This 1963 edition of his 1960 original work, *Legacy Of Suppression: Freedom Of Speech and Press In Early American History* (Cambridge, Mass., Belknap Press of Harvard University Press, 1960), included some expansion, corrections, and may indeed mark the shifting of the author’s own opinion with the change in title. Suppression now comes second and freedom first.

courts had been too liberal. He claimed such freedom was not a civil or natural right at all but rather simply a restriction on the government. His narrow interpretation, that the amendment regarding freedom of the press was only a restriction against governmental restraints in advance of publication, dominated the field of First Amendment history for at least twenty-years and is still extremely influential today. However, Levy's work did not radically alter court opinions.<sup>9</sup>

Although influential, Levy's research did contain some omissions that help to reveal a more complete picture. In later writing, Levy himself noted that even conservative judges had not used his theory to restrict free press, although several Supreme Court opinions had cited his work. The power of precedent is such that courts rarely overrule landmark cases abruptly, but rather chip slowly away at them.<sup>10</sup> Both the courts and some scholars rejected Levy's views. Law professor David Anderson criticized Levy's interpretation as being too narrow. He suggested that Levy ignored the legislative history of the press clause, since it was inconsistent with his conclusion.<sup>11</sup> Levy replied that; "No demand at all existed for the legal protection of the press, and Anderson cites none." Levy noted that the Virginia Declaration of Rights was the first free press clause and that it was written by George Mason, composing alone, confronted by no pressure for press freedom.<sup>12</sup> This paper advances these ideas by considering aspects Levy did not include. Closer examination raises doubts about Mason's authorship of the free press clause. More important than pinpointing the author, this research examines *why* it was written. A civic discourse based in and generated by the public prints had broadened to include a large part of the

---

<sup>9</sup> Stephen A. Smith, "The Origins of the Free Speech Clause," *Free Speech Yearbook* 29, no. 48 (1991): 48. See also Anderson, "Origins of Free Press," section IV.

<sup>10</sup> Leonard Levy, *Emergence of a Free Press* (New York: Oxford University Press, 1985), xviii. On precedents, see Siegel, *Communication Law*, 14-16.

<sup>11</sup> Anderson, "Origins of Free Press." See also Smith, "The Origins of the Free Speech Clause,"

<sup>12</sup> Leonard Levy, "On the Origins of the Free Press Clause," *UCLA Law Review* 32, (Feb. 1984): 177-218.

population, and the role of a critical press was recognized as crucial. A free press was viewed as a crucial balance against potentially corrupt governments. This paper reveals that in Virginia there was indeed a great deal of pressure for “liberty of the press.”

### Early Limits to Press Liberty

When the royal governor first denied the right to print to Virginians in 1682, it should not be considered a refutation of press liberty, because a free press did not yet exist in Great Britain.<sup>13</sup> The English Bill of Rights granted free speech only to members of Parliament.<sup>14</sup> Printing in England was restricted to only those with a license until Parliament allowed the Licensing Act to expire in 1695. Poet John Milton had argued against licensing in a “Areopagitica: A Speech for the Liberty of Unlicensed Printing” to Parliament in 1644. He suggested that such prior restraint by the government did not work and that it weakened character by preventing the study of opposing viewpoints.<sup>15</sup> For 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.”<sup>16</sup> At the beginning of the eighteenth century, after the licensing of the press had expired, the government severely prosecuted seditious libel in England. The ministry influenced newspapers and bribed journalists,

---

<sup>13</sup> In 1682, printer William Nuthead and a press came to Jamestown. The governor and council ordered such unlicensed printing cease until the King’s wishes were known. Orders to not allow printing arrived the next year, and thus printing in Virginia did not take hold until the 1730s. William Hening, *The Statutes At Large; Being A Collection Of All The Laws Of Virginia, From The First Session Of The Legislature In The Year 1619* (New York: Printed for the editor, 1819-23. Facsimile reprint, Charlottesville: Published for the Jamestown Foundation of the Commonwealth of Virginia by the University Press of Virginia, 1969), 2:511-517. Douglas McMurtrie, *The Beginnings of Printing in Virginia* (Lexington, Va. [Printed in the Journalism Laboratory of Washington and Lee University], 1935), 6-7.

<sup>14</sup> Fraleigh and Tuman, *Freedom of Speech*, 48.

<sup>15</sup> John Milton, *Areopagitica and Of Education*, ed. George H. Sabine (New York: Appelton-Century-Crofts, 1951), (published without a license), quoted in Tedford, *Freedom of Speech*, 14.

<sup>16</sup> Milton, *Areopagitica*, 49.



and Parliament did not freely allow public reporting of their debates. Milton even suggested executing those who published anonymously, and he supported strong punishment for those who libeled church or state.<sup>17</sup> John Locke, the champion of classical liberal theory, is today considered a supporter of free press, but what Locke proposed was simply an end to licensing. He saw the tremendous business advantages that the free press in Holland had over the Stationers' Company monopoly in England, and pushed for greater business opportunities without the cumbersome licensing.<sup>18</sup> It was Locke's hatred of book sellers and printers, that appeared to have driven his philosophy on this: "This profound suspicion of book tradesmen, rather than any argued belief in liberty of expression, made John Locke the champion of the freedom of the press."<sup>19</sup> His concept of "natural law" has been applied to free speech, yet applying it to a free press is more problematic, as the technology of the press did not exist prior to governments.<sup>20</sup> As Locke considered property rights as a basic element of natural law, and he defined property rights broadly, the right of printing can be considered to have as much to do with the property rights of printers as it does a right of free expression.<sup>21</sup> In fact, Locke's argument has been analyzed more as practical than philosophical. While much admired by the American revolutionaries, neither Locke nor his confederate Algernon Sydney did much to

---

<sup>17</sup> Tedford, *Freedom of Speech*, 13-17.

<sup>18</sup> Harold Innis, *Empire and Communications* (Toronto: University of Toronto Press, 1972), 153.

<sup>19</sup> Peter Laslett, ed., in John Locke, *Two Treatises of Government* (Cambridge: University Press, 1960), 7.

<sup>20</sup> At least one eighteenth-century writer did consider press an extension of the natural law right of freedom of speech. Pamphleteer, bookseller, and newspaper publisher John Almon in, *Memoirs of a late eminent Bookseller* (London: 1790), 148 ff, from Eckhart Hellmuth, " 'The palladium of all other English liberties: ' Reflections on the Liberty of the Press in England during the 1760s and 1770s," in Hellmuth, ed. *The Transformation of Political Culture: England and Germany in the Late Eighteenth Century* (Oxford: Oxford University Press, 1990), 488.

<sup>21</sup> Kent R. Middleton, "Commercial Speech in the Eighteenth Century," in Donovan Bond, and W. Reynolds McLeod, ed., *Newsletters to Newspapers: Eighteenth-Century Journalism, Papers Presented at A Bicentennial Symposium at West Virginia University, Morgantown, West Virginia March 31-April 2, 1976* (Morgantown, WV: School of Journalism, 1977), 278-280.

develop the philosophy of freedom of the press. Locke 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 wrote licensing of the press into the law as a function of the “councillor’s court.”<sup>22</sup>

Governmental licensing of the press lingered in the colonies long after the English authorities let that lapse in 1695. With no printing press allowed, there was no press freedom in Virginia at the beginning of the eighteenth century.

The struggle for freedom of the press began very slowly as the colonial governments of the Chesapeake region kept a firm control. The first Maryland printer ran into legal problems after the political situation there changed. When Virginia had denied him a license for his press, printer William Nuthead left for the relative freedom of the colony to the north. In 1693, he printed some blank warrants issued in the former Proprietor Lord Baltimore’s name. That was something the new royal government (which had replaced the proprietary government) did not allow. The printer sent an apologetic deposition to the Royal Governor’s Council, disclaiming his personal ownership of the press and type, implying it was in reality only a tool of the government. He promised to no longer print anything without governmental orders. This claim was extremely telling, regarding the ownership and control of the press, especially as the physical property was apparently Nuthead’s and his family inherited it at his death.<sup>23</sup> No matter who actually owned the press and type, the government controlled the output, even after

---

<sup>22</sup> John Locke [and Lord Ashbury, the Third Earl of Shaftesbury], *The Fundamental Constitutions of Carolina* (March 1, 1669), article 35. Online at the Avalon Project at Yale Law School at <http://www.yale.edu/lawweb/avalon/states/nc05.htm>. Experts suggest this Restoration constitution was co-authored by Locke’s mentor, Lord Ashbury. See Laslett, in Locke, *Two Treatises of Government*, 24-33.

<sup>23</sup> Lawrence Wroth, *A History of Printing in Colonial Maryland, 1686-1766* (Baltimore: Typothetae of Baltimore, 1922), 8-9. This was one of several periods when the Calvert family’s Proprietary Colony of Maryland was taken from them, and it was briefly a royal colony.

licensing had lapsed in England. In terms of content, the press was very much controlled, and even “owned” by the government.

Eventually, the government welcomed the printing press to Virginia, and a limited concept of press freedom developed.<sup>24</sup> In 1730, the Virginia House of Burgesses invited William Parks to bring a printing press to Williamsburg. They paid him a government salary for the printing of official documents.<sup>25</sup> In his first newspaper published there, his “Printer’s Introduction” was more remarkable for its recognition of the limitations of press freedom than for its assertion of such a right: “By the Liberty of the Press, we are not to understand any licentious Freedom,” Parks wrote, and he recognized the need for deference to laws, religion, political leaders, and private reputations.<sup>26</sup> The idea of a press here is consistent with the standard ideology of that time in England, including Blackstone’s observation that press liberty—albeit a very limited freedom—was essential to a free state.<sup>27</sup> This concept of liberty meant that a press was free from licensing, yet allowed what we today consider prior restraints, or interference before publishing, such as taxation on newspapers, buying off critics, plus prosecution after the fact—including punishment for seditious libel, including blasphemy.<sup>28</sup>

---

<sup>24</sup> In 1726 the colonial government in Williamsburg allegedly issued a blunt warning: “Governor Alexander Spotswood of Virginia threatened execution or loss of an arm or leg for disseminators of seditious principles or other insinuations tending to disturb the peace,” according to Louis Edward Ingelhart, *Press and Speech Freedoms in America, 1619-1995: A Chronology* (Westport, CT: Greenwood Publishing Group, 1997), 17. Research could not verify this claim. No footnote provides evidence, and Spotswood was governor only until 1722.

<sup>25</sup> Douglas C. McMurtrie, *A History of Printing in The United States; The Story of the Introduction of the Press and of Its History and Influence During the Pioneer Period In Each State of the Union* (New York: R. R. Bowker Company, 1936), 276-306. McMurtrie, *Printing in Virginia*, 15-21, Wroth, *Printing in Colonial Maryland*, 55-87. *Journals of the House of Burgesses* (June 10, 1732), 6:141-2.

<sup>26</sup> *Virginia Gazette* (Williamsburg: Parks, Aug. 6, 1736). Although this first issue is no longer extant, this was quoted in William Maxwell, ed., *The Virginia Historical Register, and Literary Companion*, 6 (1853), 21-31.

<sup>27</sup> Blackstone, *Commentaries*, 4:151, quoted in Tedford, *Freedom of Speech*, 5.

<sup>28</sup> While not often recognized in discussions of the American Stamp Act, English newspapers were taxed from 1721-1855. Hannah Barker, *Newspapers, Politics and English Society, 1695-1855* (Harlow, England: Longman, 2000), 1, 31.

Another essential difference was that the law did not recognize truth as a defense against libel; in fact, truth could exacerbate the violation.<sup>29</sup> Within that relatively conservative concept, however, free press was viewed as an important watchdog to balance against potentially corrupt governments. “The Lord Chancellor, Lord Hardwicke, for example, argued in 1739 that ‘the liberty of the press is what I think ought to be sacred to every Englishman.’”<sup>30</sup> So the Virginia printer, in his description of “liberty of the press,” described a very limited concept. It was restricted by the fact that he took a government salary, and it was restricted by the development of the idea within the British state.

The concept of liberty of the press was being debated across the entire British-Atlantic world in the eighteenth century. John Trenchard and Thomas Gordon, writing pseudonymously as Cato, claimed in 1720 that freedom of speech was essential to overall liberty. They pointed back to the example of Rome, and said that its citizens lost their freedom of speech and thus lost their liberty as well: “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.”<sup>31</sup> Just a few years later, the newspaper that first printed Cato’s claim, turned around and disagreed. The *London Journal* now claimed that, “the Liberty of the Press is not essential for a free Government,” and also pointed to Rome and to Athens to support that idea.<sup>32</sup> While once a vehicle for the radical Whig opposition, the British ministry had bought out the *Journal*, and by

---

<sup>29</sup> Carter, *First Amendment*, 28.

<sup>30</sup> Barker, *Newspapers, Politics and English Society*, 12.

<sup>31</sup> Cato [John Trenchard, and Thomas Gordon], “Of Freedom of Speech: That the same is inseparable from Publick Liberty,” (Letter no. 15), *London Journal* (Saturday, Feb. 4, 1720), from *Cato’s Letters; or Essays on Liberty, Civil and Religious, and Other Important Subjects* (London, 1755, sixth edition; reprint, New York: Da Capo Press, 1971) 1:96-102.

<sup>32</sup> *London Journal* (Oct. 5, 1728), quoted in Jeremy Black, *The English Press in the Eighteenth Century* (Philadelphia; University of Pennsylvania Press, 1987), 124.

then it was a government mouthpiece. Now that licensing had lapsed, this was a common tactic for controlling opposition press. The ministry subsidized writers and entire newspapers to support the official policies. The dissent was not silenced, however, and the *Craftsman* stepped into the fray and claimed that the liberty of the press “was one of the blessings of a free people,” and “the chief bulwark and support of Liberty in general,” and the “great bulwark of our Constitution.”<sup>33</sup> This statement, credited to Henry St. John, Viscount Bolingbroke, emphasized the concept of liberty of the press supported by those that opposed the ministry in power. In this view, press freedom was a countermeasure that swayed public opinion against the efforts of the ministerial press, or papers controlled by those in power.

In the Massachusetts colony, a young Benjamin Franklin joined in the debate. When his brother James Franklin’s newspaper, *The New England Courant*, included writings opposed to the Puritan leaders, local authorities jailed the elder Franklin. Hiding behind the pseudonym, “Silence Dogood,” young Ben fired back:

Without Freedom of Thought, there can be no such Thing as Wisdom; and no such Thing as publick Liberty, without Freedom of Speech; which is the Right of every Man ... This sacred Privilege is so essential to free Governments, that the Security of Property, and the Freedom of Speech always go together; ... Whoever would overthrow the Liberty of a Nation, must begin by subduing the Freeness of Speech;<sup>34</sup>

He used the phrase, “free speech,” when in fact he was referring to a case in print, something quite common as press was considered merely an extension of speech. Franklin here excerpted the *London Journal*, but took the idea of press liberty beyond the normal English concept, to question the idea of punishment after the fact. The Grand Jury refused to indict James Franklin in

---

<sup>33</sup> *Craftsman* (Dec. 9, 1726, June 24, 1727, Sept, 28, and Nov. 2, 1728), quoted in Black, *English Press*, 125.

<sup>34</sup> Silence Dogood [Benjamin Franklin], number 8, in *The New England Courant*, (Boston: James Franklin, July 9, 1722) volume 49: page 1.

1723, and this failed attempt to silence the opposition newspaper marked the last time that Massachusetts authorities tried to censor a newspaper by licensure.<sup>35</sup>

Radical Whig or country party British writers were influential on both the style and function of Franklin and the newspapers of the Chesapeake colonies. The essays of Joseph Addison and Richard Steele had perhaps the most direct impact on colonial print form, especially in the early decades of the eighteenth century.<sup>36</sup> Praise of Addison appeared in Virginia's earliest printed pamphlets, and a *Virginia Gazette* of 1737 lauded the pair's writing.<sup>37</sup> Both a 1752 newspaper and a 1767 almanac from Virginia contain an "Ode to Liberty," from Addison's *A Letter from Italy*. The printers of both the *Virginia Gazette* and the *Maryland Gazette* often excerpted Addison and Steele's *The Spectator* magazine in their newspapers and almanacs.<sup>38</sup> Steele's early innovations brought greater numbers of readers to the public prints, including many from farther down the social scale. He originated the concept of letters to the editor, which made newspapers more participatory than one which simply runs stories or items. The papers became a two-way medium that allowed people to contribute rather than simply read what others have said and encouraged active involvement in civic discourse. This increased citizen

---

<sup>35</sup> Sidney Kobre, *The Development of the Colonial Newspaper* (Pittsburgh: Colonial Press, 1944; reprint, Gloucester, MA: Peter Smith, 1960), 33.

<sup>36</sup> Louis T. Milic, "Tone in Steele's Tatler," in Donovan H. Bond, and W. Reynolds McLeod, eds., *Newsletters to Newspapers: Eighteenth-Century Journalism, Papers Presented at A Bicentennial Symposium at West Virginia University, Morgantown, West Virginia March 31-April 2, 1976* (Morgantown, WV: School of Journalism, 1977), 33-45.

<sup>37</sup> J. Markland, *Typographia. An Ode, on Printing. Inscib'd to the Honourable William Gooch, Esq.* (Williamsburg: Parks, 1730). *Virginia Gazette* (Williamsburg: Parks, June 3, 1737), 1, where a letter signed "Andromache" suggests that the skill of an earlier contributor exceeds that of Addison and Steele, suggesting their writing was highly esteemed.

<sup>38</sup> Job Grant, *Virginia Almanack ... 1767 ...* (Williamsburg: William Rind, 1767). This verse was printed earlier in the *Virginia Gazette* (Williamsburg: Hunter, March 5, 1752), where it is credited to Joseph Addison, "[A] Letter from Italy," (1704). For example, Addison's Cato is quoted in the *Virginia Gazette* (Purdie, Jan. 8, 1767), 3. Performance of the play, *Cato: A Tragedy*, is announced in the first *Virginia Gazette* (Williamsburg: Parks, Aug. 6, 1736), quoted in *Virginia Historical Register*, 6:21-31.

contribution to newspapers and potential criticism of civic affairs was a key development in the evolution of freedom of the press. With the use of pseudonyms, even readers of a lower social position were now free to criticize the elites, eroding the traditional culture of deference.<sup>39</sup>

Addison and Steele's focus, however, was less on politics, and more on cultural customs and behavior. Franklin admitted to taking his literary style from Addison. In his efforts at self-improvement, Franklin took his motto from Addison, and the fictitious characters such as "Silence Dogood," and "Poor Richard" reflected Steele's innovations. His style, in turn, influenced many colonial writers, printers, and their newspapers.<sup>40</sup> Chesapeake printer Parks improved on the Addison style with essays by "The Plain Dealer" published in the *Maryland Gazette*, and "The Monitor" published in the *Virginia Gazette*.<sup>41</sup> Both of these regular columns monitored and commented on both society and the government.

These radical Whig writers also had a great deal of influence on the development of colonial American free press theory, especially as a counterbalance to misuse of governmental power.<sup>42</sup> While newspapers throughout colonial British America printed *Cato's Letters*, their influence was seen not only in political philosophy, but also in the writing style and content of local contributors.<sup>43</sup> Trenchard and Gordon took a more directly political approach than did

---

<sup>39</sup> Michael Warner, *The Letters of the Republic: Publication and the Public Sphere in Eighteenth-Century America* (Cambridge, Mass.: Harvard University Press, 1990), 42-48, notes that pseudonymous writing removes the character of the writer from consideration, allowing evaluation of the work based on argument, not on social position. This legitimized participation by middling classes.

<sup>40</sup> Calhoun Winton, "Richard Steele, Journalist—and Journalism," 21-29 and Milic, "Tone in Steele's Tatler," in Bond, *Newsletters to Newspapers*, 33-45. *Autobiography of Benjamin Franklin* [Originally published as *Memoires De La Vie Privee ...*] (Paris: Benjamin Franklin, 1791; reprint, Fairbanks, AK: Project Gutenberg, 1994).

<sup>41</sup> Elizabeth Christine Cook, *Literary Influences in Colonial Newspapers, 1704-1750* (New York: Columbia University Press, 1912. Reprint, Port Washington, NY: Kennikat Press, 1966), 154-159, and 179-229. *Maryland Gazette* (Annapolis: William Parks, Dec. 10, 1728), 1 and *Virginia Gazette* (Dec. 31, 1763), 1.

<sup>42</sup> Martin, *Free and Open Press*, 8-26.

Addison, and tied the right to a free press with that of speech and religion. “Cato’s” entire theory of freedom and liberty was dependent on freedom of expression, and printing was simply an extension of expression by speech. According to David Paul Nord, “Central to Cato’s philosophy was the principle that governmental authority must be limited and that it could be limited only if individuals were free to speak truth to power.” This freedom of expression was closely tied to the new religious diversity, and the importance of individual minds seeking religious truth: “The individual had the right only to serve the truth, as men were free to serve God.”<sup>44</sup> Nord agreed with Gary Nash, Rhys Isaac, and others that the Great Awakening helped to undermine the deference to authority, setting the stage for the political dissidence that in turn led to the American Revolution.<sup>45</sup> “Junius” also made that connection in writing: “Let it be impressed upon your minds, let it be instilled into your children, that the liberty of the press is the *palladium* of all the civil, political, and religious rights of an Englishman ...”<sup>46</sup> This religious freedom of thought is one of the key roots to the development of freedom of speech and print in Virginia.

While espousing liberal political ideology might be fine for anonymous writers, the printers themselves had to face the hard realities of business. When Benjamin Franklin ran his own press in Philadelphia, he found the need to apologize in advance for offending people for

---

<sup>43</sup> Cook, *Colonial Newspapers*, 81, and 150-230. Jeff Broadwater, *George Mason: Forgotten Founder* (Chapel Hill: University of North Carolina Press, 2006), 42. While the original *Cato’s Letters* would predate most Chesapeake newspapers, the pseudonym was commonly used, and collected books sold, see for example ads in *Virginia Gazette* (Purdie & Dixon, Feb. 25, 1768), 4 (P&D, Nov. 29, 1770), 2.

<sup>44</sup> Nord, *Communities of Journalism*, xxxii, 70-76.

<sup>45</sup> William G. McLoughlin, “ ‘Enthusiasm for Liberty’: The Great Awakening as the Key to the Revolution,” in *Preachers and Politicians: Two Essays on the Origins of the American Revolution*, ed. Jack P. Greene and William G. McLoughlin (Worcester, Mass.: American Antiquarian Society, 1977), and Gary Nash, *Urban Crucible, the Northern Seaports and the Origins of the American Revolution* (Cambridge: Harvard University Press, 1986). chap. 8., both quoted in Nord, *Communities of Journalism*, 73.

<sup>46</sup> “Junius’s Dedication to the English Nation,” *Virginia Gazette* (Rind, May 21, 1772), 1.



what he printed, and he espoused a somewhat less radical and much more practical ideology of press freedom than he had in his youth:

Printers are educated in the belief, that when men differ in opinion, both sides ought equally to have the advantage of being heard by the public; and that when truth and error have fair play, the former is always an overmatch for the latter. Hence they cheerfully serve all contending writers that pay them well, without regarding on which side they are of the question in dispute.<sup>47</sup>

As print historian Stephen Botein noted, the colonial printer was primarily a businessman attempting to stay solvent, and that meant trying to please all parties. Their concept of liberty of the press in the early to mid-eighteenth century was an attempt to straddle the fence. While many printers depended on government largess to stay afloat, they also could not afford to alienate those opposed to governmental policies, leading to “a certain ambiguity of purpose” displayed in Franklin’s apology. Only in the larger urban colonial cities—Boston, Philadelphia, and New York—which generated enough business to make government support not necessary, could the public prints criticize those in political office. Income from governmental sources was a key to survival in a Virginia that lacked a major city. Before 1766, the press there was more official and deferential than it was politically dissenting. Liberty of the press in the first half of the century meant political neutrality, and often equal access, but only to the extent of not giving serious offense to any party.<sup>48</sup>

---

<sup>47</sup> “An Apology for Printers,” *Pennsylvania Gazette* (Philadelphia: Benjamin Franklin, June 10, 1731, reprint, Washington: Acropolis, 1973), 5-6, also quoted in David Paul Nord, *Communities of Journalism: A History of American Newspapers and Their Readers*, (Urbana: University of Illinois Press, 2001), 7.

<sup>48</sup> Botein, Stephen. “‘Meer Mechanics’ and an Open Press: the Business and Political Strategies of Colonial American Printers,” vol. 9 of *Perspectives in American History* (Cambridge: Cambridge University Press, 1975), 127-225. See also William Hunter, *Printing Office Journal* (University of Virginia Libraries, Department of Special Collections, vol. 1, 1750-1752) and Joseph Royle, and Alexander Purdie’s *Printing Office Journal* (University of Virginia Libraries, Department of Special Collections, vol. 2, 1764-1766).

## Expanding Press Freedom

*Truth as a Libel Defense*

The legal principle of seditious libel was a serious impediment to open criticism of the government, but that concept evolved both in Virginia and the other British-American colonies in the eighteenth century. The most famous seditious libel case of this period is the 1735 New York trial of John Peter Zenger. He published a newspaper established for the specific purpose of opposing the royal governor and to no surprise was charged with seditious libel. The longstanding British common law principle, first established by the infamous Star Chamber, defined seditious material as any published work critical of the government that had a tendency to undermine the government or its officers. No specific statute existed; rather this was common law, or legal tradition. The judge, not the jury, decided whether the material in question was seditious, and the truth or falsity of the statement was not relevant. In fact, the truth of such criticism would merely exacerbate the legal travails.<sup>49</sup> Lawyer Andrew Hamilton convinced the jury that they should acquit Zenger because the printed material was true, and despite the judges instructions to the contrary, they did just that. Despite the fact that the Zenger case was not a formal legal precedent and did not firmly establish truth as a defense in colonial courts, that principle made considerable headway. It is not simply the law and the courts that control legal outcomes, but in the end, public opinion prevails.<sup>50</sup> This was an important advance of the concept of freedom of the press, as it allowed for greater criticism of the government.

---

<sup>49</sup> The English judge in the 1731 trial of Richard Francklin ruled that the truth of what he published in the *Craftsman* was not relevant to his charge of seditious libel. Levy, *Emergence of a Free Press*, 11-12. See *ibid.*, 127 for the common law rule that truth worsened the libel, as truth is more likely to provoke the libeled party to revenge, thus breaching the peace.

<sup>50</sup> Richard W. T. Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800* (Albany: New York University Press, 2001), 47-60. See, also for example, Nord, *Communities of Journalism*, 65-76, and Levy, *Emergence of a Free Press*, 6-8, 37-45, and 127-131.

Truth as a defense for seditious libel also made headway in colonial Virginia. Printer Parks was prosecuted in 1750 for publishing a libel about a member of the House of Burgesses. This newly elected representative had a criminal past that had nearly been forgotten. Someone wrote in the *Virginia Gazette* that some years earlier the man had been convicted of stealing sheep. Although the new burgess's name was not mentioned, the transgressor was clearly recognizable. The accused and the entire lower assembly were not pleased with such wanton freedom of the press, and accused Parks of seditious libel:

But Parks begged that the records of the court might be produced, which would prove the truth of the libel. This was allowed, and the records were examined, though contrary to the doctrine of some men, who would impose on the community as law, that a libel is not less a libel for being true, and that its being true is an aggravation of the offence; and, such men observe, no one must speak ill of rulers, or those who are intrusted with power or authority ...<sup>51</sup>

The record showed the newspaper story to be correct. Some years earlier in a different county, the man who accused Parks of libel had stolen sheep. The charges against the printer were dropped, and the disgraced burgess retired from public life. As Levy noted, the house accorded Parks the right to use truth as a defense, advancing the Zengerian concept in contrast to the common law principle.<sup>52</sup> This is an important step, increasing the ability of the press to criticize members of the government when truth was successfully used as protection from prosecution.

The scales of justice once again tipped in favor of press freedom, rather than seditious libel, in a 1766 Virginia court. A lawsuit charged printers William Rind, Alexander Purdie, John

---

<sup>51</sup> Isaiah Thomas, *The History of Printing in America, With a Biography of Printers* (2<sup>d</sup> ed. Albany, 1874. Reprint, edited by Marcus A. McCorison from the second edition. New York: Weathervane Books, 1970), 552-554. The exact date and the newspaper from which this is taken were not noted by Thomas, and the source is apparently not extant. See also Ingelhart, *Press and Speech Freedoms*, 22. Research in the *Journals of the House of Burgesses* could not confirm this incident.

<sup>52</sup> Levy, *Emergence of a Free Press*, 60-61.

Dixon and newspaper contributor Colonel Robert Bolling with libel.<sup>53</sup> Behind these charges were stories published in the two rival *Virginia Gazette* newspapers challenging powerful members of the government. The articles raised questions regarding actions by judges following the very public killing of Robert Routledge by Colonel John Chiswell. The killer was a well-connected member of the colony's elite. Several General Court Justices released Chiswell without bond, creating a firestorm of controversy that eventually filled the gazettes' pages. One anonymous letter notes that the original court refused to release the accused murderer on bail. It criticizes the higher court judges for releasing him despite the fact that they were out of session and did not examine any record or witness: "I ask, whether this act of the three Judges of the General Court be legal."<sup>54</sup> Another letter writer, who called himself "Dikelphilos," suggested that because of his social standing, "...the murderer was treated with indulgence and partiality inconsistent with our constitution, and destructive of our security and privileges."<sup>55</sup> These judges were also powerful members of the governor's council who were not accustomed to being publicly criticized. For William Byrd III, one of the judges in question, these accusations were too much. He brought libel charges against the printers and alleged author of one of the letters. The Grand Jury refused the indictment, for "Not a True Bill."<sup>56</sup> "Philanthropos" concluded that

---

<sup>53</sup> Purdie and Dixon were partners in publishing one *Virginia Gazette*. Rind published a newspaper with the same name. Colonel Robert Bolling was accused of being the contributor.

<sup>54</sup> *Virginia Gazette* (Williamsburg: Purdie & Dixon, June 20, 1766), 2. J. A. Leo Lemay, "Robert Bolling and the Bailment of Colonel Chiswell." *Early American Literature* 6 (1971): 99-142, identifies the pseudonymous author as Robert Bolling.

<sup>55</sup> *Virginia Gazette* (Purdie & Dixon, Aug. 29, 1766), 2.

<sup>56</sup> *Maryland Gazette* (Oct. 30, 1766), 2, quoting an issue of Rind's *Virginia Gazette*, no longer extant. The issue for which Bolling was charged is also no longer extant. See also Jack Greene, " 'Virtus et Libertas': Political Culture, Social Change, and the Origins of the American Revolution in Virginia, 1762-1766," in Jeffrey J. Crow, and Larry E. Tise, ed. *The Southern Experience in the American Revolution* (Chapel Hill: The University of North Carolina Press, 1978), 98-100, and John M. Hemphill, II, "The Origin, Development, and Influence of the Virginia Gazette, 1736-1780" (Williamsburg: From the research files, Virginia Gazette folder, Rockefeller Library, Colonial Williamsburg [date unknown]), 11-13.

the press in Virginia had now become free in that it published the details of this controversy, despite the fact “... that a tyrannical arbitrary power should show itself, by traducing, and threatening with prosecution, patriot spirits” who would attempt to reveal the truth about this case.<sup>57</sup> This letter suggests that even contemporaries saw liberty of the press advancing, both with the issues presented in the public prints regarding this case, and with the jury rejecting the charges.

Truth as a defense against accusations of libel had begun to establish itself in Virginia. The Zenger case may not have been a formal legal precedent in the colonies, but it marked an important turning point. As Levy noted, it did raise a new standard that many colonial legislatures chose to follow.<sup>58</sup> In Virginia following Zenger, these examples demonstrate that seditious libel was becoming difficult to prosecute. The legislature allowed truth as a defense, and juries refused to indict on libels they considered to be true. This was an important advance for press freedom to criticize those in power and for truth as an important defense against libel. The tradition of deference to one’s betters was visibly eroding, as even those of the lower social orders openly criticized those high in government.

Perhaps of greater importance than the court rulings was the importance of liberty of the press to the public, and what contributors meant by press freedom in their letters to the newspapers. One reader commended the new printer and saw this new competition as bringing freedom from the former control: “Congratulations, on Account of the Freedom of the Press we now enjoy. ... LIBERTY can never exist, where every Thing designed for public Inspection, must (as was our unfortunate Case in Time past) receive an Imprimatur from a private

---

<sup>57</sup> “Philanthropos,” *Virginia Gazette*, Purdie and Dixon, August 22, 1766, 1.

<sup>58</sup> Levy, *Emergence of a Free Press*, 129-130.

Quarter.”<sup>59</sup> In responding to the Chiswell controversy and the attempt to sue the newspapers for libel, one issue of the *Virginia Gazette* contained three references to press freedom. “Dikelphios” noted that “The freedom of the press must be esteemed an invaluable advantage,” but suggested that it has been abused by bad writers and comments of no use. A second contributor, “A Freeman of Virginia,” noted his satisfaction in the new liberty of the press, which has existed only since Purdie and Rind “made it [the press] a free channel, whereby men may convey their sentiments ...” He applauded both the public criticism of men of high station, and the recent ruling against the libel charges filed against the printers by Byrd, “it affords ...[not readable] satisfaction to my brethren Freemen that our liberty has been lately asserted by the Grand Jury of the colony, when attacked by certain Bills, which were pointed against you Gentlemen Printers ...” Finally, “R. R.” contributed a tongue-in-cheek piece where he attacked the idea of “great men” having special protection and mocked the libel charges by suggesting that additional indictments for 37 people should be issued immediately, “so that they may suffer for their presumption.” If not, he threatened to sell his estate and move to another part of the world where his dignity might be better supported.<sup>60</sup> Several important points are apparent here. The public reading the newspapers valued press freedom, and saw the Virginia papers as being free now that there were two papers, and that these papers were free from control by the governor. Most important, such libel suits by powerful government figures such as Byrd were seen as a threat to press liberty. These developments support the notion that Virginians did have an expansive view of press freedom that goes well beyond merely a lack of prior censorship.

---

<sup>59</sup> “Algernon Sidney” [pseudo.], *Rind’s Virginia Gazette* (Rind, May 30, 1766), 2, and 3.

<sup>60</sup> *Virginia Gazette* (Purdie & Dixon, Nov. 6, 1766), 1.

### *Stamp Act & Dissent*

The domestic dissent in England against the government there became visible in the *Virginia* and *Maryland Gazettes* as the Stamp Act crisis hit colonial shores in the mid-1760s. As Bernard Bailyn, Gordon Wood, and others have written, British opposition thought—the “real Whigs,” or “country party”—influenced early American leaders, perhaps even more than John Locke or classical republican writings. This was a newer understanding of the transatlantic nature of political thinking and the media that transmit such ideas. Corrupt ministers conspired against traditional English freedoms, in this view, threatening not only the liberty of British radicals such as John Wilkes, but also the liberty of the colonists.<sup>61</sup> Some Americans saw the Stamp Act as directly threatening colonial liberty by restricting freedom of the press. Any published paper had to display the stamp and the tax had to be paid on advertisements as well. Both contemporaries and later scholars viewed this as tax as being an intentional move aimed at the press by a corrupt ministry to squelch a source of dissidence.<sup>62</sup> The two Chesapeake area newspapers ceased operation for a time rather than pay for the hated stamps. Stamps were successfully kept out of these colonies and were never used. While no issues of the *Virginia Gazette* from just prior to this crucial time are extant, the Annapolis newspaper even changed its masthead to: “The *Maryland Gazette*, Expiring, In uncertain Hopes of a Resurrection to Life

---

<sup>61</sup> Bernard Bailyn, *The Origins of American Politics* (New York: Knopf, 1968), Bailyn, *The Ideological Origins Of The American Revolution* (Cambridge, Mass.: Belknap Press of Harvard University Press, 1992), Gordon Wood, *The Creation Of The American Republic, 1776-1787* (Chapel Hill: Published for the Institute of Early American History and Culture at Williamsburg, Va., by the University of North Carolina Press, 1969), and Wood, *The Radicalism of the American Revolution* (New York: Alfred Knopf, 1991).

<sup>62</sup> John Adams, “A Dissertation on the Canon and Feudal Law,” *Boston Gazette*, Aug. 26, 1765, from *The Works of John Adams*, edited by Charles Francis Adams (Boston: Little, Brown and Company, 1851-1865) 3:464, also found in Arthur Schlesinger [sr.], *Prelude to Independence: The Newspaper War on Britain, 1764-1776* (Westport, CT: Greenwood Press, 1957), 70. Warner, *Letters of the Republic*, 69.

again,” with an image of a skull and crossbones on the bottom of page one, accompanied by the words, “The Fatal Stamp.” The weekly newspaper ceased publication three weeks later.<sup>63</sup>

As this tax controversy with British officials was heating up, some local Virginia radicals sought out a second printer to bring competition to the colony, sharply altering the meaning of freedom of the press. The Maryland press had always been a place where Virginians could publish what the Williamsburg printer would not accept.<sup>64</sup> When Patrick Henry’s fiery *Resolves of the House of Burgesses* passed in response to the Stamp Act, it did not appear in the Williamsburg newspaper. Supporters had to send it to the *Maryland Gazette* and other papers to be printed.<sup>65</sup> One letter to Royle about that omission appeared in the Annapolis paper, claiming the Williamsburg printer was a tool of the vile ministers back in England, and that “... we are in this Colony [Virginia] deprived of that great SUPPORT of FREEDOM, the liberty of the press.”<sup>66</sup> Royle died in the midst of this controversy, about the time all printing temporarily ceased due to the Stamp Act.<sup>67</sup> As Governor Francis Fauquier wrote back to his supervisors in London, Royle’s newspaper was viewed as too much under his control, so a new printer had been invited from Maryland, to bring competition to Williamsburg.<sup>68</sup> Therefore, William Rind

---

<sup>63</sup> *Maryland Gazette* (Annapolis: Jonas Green & William Rind, Oct. 10, 1765), 1. *Supplement to the Maryland Gazette* (Green, Oct. 31, 1765), 1. [Rind was no longer listed as a co-printer.]

<sup>64</sup> McMurtrie, *History of Printing in The United States*, 100.

<sup>65</sup> *Maryland Gazette* (Green and Rind, July 6, 1765), 3. Francis Walett suggests that the resolves were first printed in the Rhode Island *Newport Mercury*, printed by Samuel Hall, in June 24, 1765, from “The Impact of the Stamp Act on The Colonial Press,” in Bond, *Newsletters to Newspapers*, 157-169. Earlier, during the Parson’s Cause controversy in the 1750s, Parson John Camm turned to Maryland to publish when refused by Royle.

<sup>66</sup> *Maryland Gazette* (Oct. 15, 1765).

<sup>67</sup> See the *Maryland Gazette* (April 18, 1765), 2, “This Gazette ... must soon Droop and Expire, at least for some Time [due to] a heavy and insupportable STAMP-DUTY on all American Gazettes.” No *Virginia Gazettes* from this time are extant. Patriot crowds did not allow stamps or stamped paper to be imported, yet the printers faced serious fines if they printed without the tax stamps. Printing resumed as repeal became certain.



began a second, competitive newspaper with the same name, helping to broaden the concept of liberty of the press in Virginia.<sup>69</sup> To attract readers, both newspapers became more open to criticism of government. One letter referred to “the liberty of the press” as something now enjoyed, but it “was in a great measure shut up until you and Mr. Rind made it a free channel, whereby men can convey their sentiments for amusement, instruction, or information, of their fellow subjects.”<sup>70</sup> The newspapers had moved away from direct government influence, toward the freedom of the marketplace. Virginians now perceived the freedom of the press as closely tied to this new, competitive situation, ensuring that the government could no longer overtly control the newspaper content. Ideas of political dissent could now be seen on the pages of the public prints.

### *Wilkes and Press Freedom*

British publisher and politician John Wilkes had a great deal of influence on the development of freedom of the press in Virginia. While the American newspapers were struggling at home and against Parliament over liberty of the press, a struggle for press freedom was also going on in England. Wilkes is better known today as a radical politician with a licentious personal life, but he was also a publisher who fought for the rights of the press. The Chesapeake area prints closely followed Wilkes’s travails. The *Maryland Gazette* mentioned

---

<sup>68</sup> Francis Fauquier to the Board of Trade, Williamsburg, April 7, 1766. Handwritten transcription, Manuscript Reading Room, Library of Congress, Great Britain PRO CO 5, container v. 1331:97- 106 [137-148].

<sup>69</sup> The different and competing versions of the *Virginia Gazette* have caused great confusion for scholars. The Parks-Royal-Hunter-Dixon-Purdie version was the original. Purdie later split from his partner Dixon and formed his own paper, the third *Virginia Gazette*. Rind founded the second *Virginia Gazette* and at his death, it was taken over by his wife, Clementina Rind, and later by John Pinkney. It folded in 1776. “Gazette” was typically the name used for the official newspaper, and Rind may have used the same name simply because official business traditionally went to the *Virginia Gazette*. See Laurie E. Godfrey, “The Printers of the Williamsburg *Virginia Gazettes*, 1766-1776: Social Controls and Press Theory” (Ph.D. diss., Regent University, March 1998), 254.

<sup>70</sup> *Virginia Gazette* (Williamsburg: Purdie and Dixon, Nov. 6, 1766), 1. Shop foreman Alexander Purdie took over at the death of Joseph Royle, and John Dixon soon joined him.

Wilkes in a complimentary fashion as early as 1763, and repeatedly praised him by 1766: “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 ...”<sup>71</sup> Wilkes was hugely popular in London with the middling sorts; the tradesmen and craftsmen who also made up the bulk of the expanding audience for print in Virginia. Such residents of London elected Wilkes to Parliament, but the House of Commons expelled him and he was arrested for seditious libel in 1763. He had criticized a speech by King George III in his libertarian weekly newspaper, *The North Briton*, and he was then marked as an enemy of the British Ministry and of the king himself. Wilkes successfully fought against the use of general warrants, the ability to search virtually anyone’s home, fought against the squelching of his newspaper, and in 1771, succeeded in opening the Parliament to press coverage of their debates. He was a libertarian hero both in England and in the colonies, known for his protection of the rights of the common man.<sup>72</sup>

Many testimonials to press freedom in the Chesapeake region alluded to efforts by the English government to stifle Wilkes’s publishing. An anonymous letter-writer from London notes eight attacks on the press by the government in the past year: “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.”<sup>73</sup> At least some of these attacks on the press were undoubtedly the attacks on Wilkes’ newspaper. Royle’s *Virginia Gazette* did not have that same interest in the radical Wilkes,

---

<sup>71</sup> Wilkes is mentioned, for example in the *Maryland Gazettes* (Sept. 29, 1763, April 18, 1765, March 13, 1766, Sept. 25, 1766), quotation from *Maryland Gazette* (March 27, 1766).

<sup>72</sup> Peter D.G. Thomas, *John Wilkes; A Friend to Liberty* (Oxford: Clarendon Press, 1996), and Thomas, “John Wilkes and the Freedom of the Press (1771),” *Bulletin of the Institute of Historical Research* 33 (1960): 86-98.

<sup>73</sup> *Maryland Gazette* (July 11, 1765), 1.

however. The index of extant copies of Royle's newspaper has only one mention of Wilkes, that he traveled to France "which his enemies represented as a flight."<sup>74</sup> The very first issue of the revived *Virginia Gazette*, after the Stamp Act threat was waning, mentioned that Wilkes was expected to return to England from exile in Paris soon, and Rind's very first newspaper issue took material directly from *The North Briton*.<sup>75</sup> Wilkes also supported the American cause as the Revolution neared, and was extremely popular in the colonies, perhaps more than history remembers; "To Americans, Wilkes despite his unsavory private life was a martyr to freedom of the press and to the subject's right to resist oppression."<sup>76</sup> He was named so repeatedly that the Chesapeake newspapers appear at times to be almost obsessed with Wilkes. For example, one 1770 newspaper wrote of Wilkes four separate times on one page, including a mention about preparations for his birthday celebration. On the next page, there was a report that 45 Virginia residents sent 45 hogsheads of tobacco to support Wilkes in his financial difficulties.<sup>77</sup>

There are many examples of direct ties between Wilkes and the concept of freedom of press developing in colonial newspapers. Of special note is the stated resistance to government control, especially opposition to seditious libel prosecution, a major tactic in the ministry's efforts to stifle Wilkes. In *The North Briton*, he lauded a free press as a birthright and "the firmest bulwark of the liberties of the country," and as a way of exposing the evil designs and

---

<sup>74</sup> Lester Cappon, and Stella Duff. *Virginia Gazette Index, 1736-1780* (Williamsburg: Institute of Early American History and Culture, 1950), 2. *Virginia Gazette* (Royle, Nov. 4, 1763), 2.

<sup>75</sup> *Virginia Gazette* (Williamsburg: Alexander Purdie, March 7, 1766), 3. *Rind's Virginia Gazette* (Williamsburg: May 16, 1766), 2.

<sup>76</sup> Schlesinger, *Prelude*, 35.

<sup>77</sup> *Virginia Gazette* (Rind, Jan. 11, 1770), 1, and 2.

duplicity of corrupt ministers.<sup>78</sup> It was Wilkes's example, rather than any detailed philosophy of press freedom that inspired the Americans.<sup>79</sup> Sons of Liberty in Boston, mobilized by his efforts for English liberties, corresponded with Wilkes, and under a Liberty Tree in South Carolina, mechanics celebrated Wilkes's banned issue of *The North Briton*.<sup>80</sup> In Pennsylvania, "When the Sons of St. Patrick forgathered on March 17, 1769, they drank as a matter of course to 'Mr. Wilkes,' adding the sentiments: 'May the liberty of the Press remain free from ministerial restraint' ..."<sup>81</sup> In New York, the Sons of Liberty celebrated repeal of the Stamp Act with toasts to John Wilkes and the liberty of the press, and again later saluting, "The Printers who nobly disregarded the detestable Stamp act, preferring of the public Good to their private Interests ..."  
*The N.-Y. Gazette and Weekly Mercury* also suggested that "Speaking and writing without restraint, are the great privileges of a free people," and that "The liberty of the Press ...ought to be defended with our lives and fortunes, for neither will be worth enjoying, when freedom is destroyed by arbitrary measures."<sup>82</sup>

The colonies even had their own John Wilkes, according to historian Pauline Maier. When James McDougall wrote a pamphlet critical of the New York colonial legislature in 1770, he spent several months in jail for seditious libel, and became the local darling of American libertarians. Popular opinion tied his case to similar governmental action against Wilkes in

---

<sup>78</sup> *The North Briton* (Dublin: John Wilkes, June 5, 1762), 1:1, quoted in Levy, *Emergence*, 146.

<sup>79</sup> Levy, *Emergence*, 145-7.

<sup>80</sup> *Boston Gazette*, Nov. 7, 1768, *South Carolina Gazette*, Oct. 3, 1768, quoted in Pauline Maier, "John Wilkes and American Disillusionment with Britain." *The William and Mary Quarterly*, 3rd ser., vol. 20, no. 3. (Jul., 1963), 373-395.

<sup>81</sup> *Pennsylvania Journal* (March 23, 1769), quoted in Schlesinger, *Prelude*, 122

<sup>82</sup> *N.Y Gazette* (New York: James Parker, March 20, April 4, Nov. 2, 1769), quoted in Schlesinger, *Prelude*, 113-114.

England. He was released only when the legislative session was ended.<sup>83</sup> Wilkes's travails and fight for liberty were closely linked—in the colonists' minds—with their own struggles. They viewed the British ministry's efforts to stifle Wilkes the politician and Wilkes the publisher as an example of a corrupt ministry's threat to liberty, similar to the threats to their own liberties, including their freedom of the press. The ministry's efforts against Wilkes supplied a very pragmatic and real example of why a free press needed to be shielded from a potentially corrupt government.

The British newspapers also had some visible changes prior to the American Revolution. The political writing and the concept of freedom of the press seen on the pages underwent a transformation following King George III's ascension to the throne in 1760. As politics became more radical and reform oriented, the newspapers became more critical, and public opinion became more important. Political journalism became harsher, historian Eckhart Hellmuth noted, as writers blurred the line between the public and private spheres. Private lives of those in power were now a fair target for criticism. Social groups beyond the elites were also taking part in political discourse, and a popular political culture was forming. Hellmuth saw Wilkes and the controversies surrounding him as an essential stimulation of this popular criticism. Hellmuth tied a shifting concept of press liberty in Britain with this broadening political sphere. The concept of liberty of the press developed beyond Cato's ideal in this period. Intrinsic to this development was the evolution of the concept of the sovereignty of people, with Parliament viewed as simply their representatives. The press was seen as deriving their authority to criticize government from

---

<sup>83</sup> Maier, "John Wilkes," 385-386. See also Levy, *Emergence*, 80-82.

that sovereignty of the people. Such a medium was part of a crucial balance of power, with press serving the function of aiding the people as a counterbalance to a powerful government.<sup>84</sup>

In the wake of both the ministry's apparent efforts to control the American press through taxation, and efforts to stifle Wilkes and his newspaper, references to press freedom appeared more regularly in the Chesapeake region's prints. The new competition in Williamsburg led to both presses appearing more open to the patriot cause, leading to some lauding of a newly freed press:

It is [a] matter of rejoicing to every well-wisher to mankind that the press, one of the principal handmaids of liberty, is become a free channel of conveyance whereby men may communicate their sentiments on every subject that may contribute to the good of their country, or the information and instruction of their fellow subjects; and it is to be lamented that a tyrannical arbitrary power should show itself, by traducing, and **threatening with prosecution**, patriot spirits, who appear to glow with an honest and unaffected zeal for their country's good, and seasonably and generously lay hold on the freedom of the press whereby to exert their consummate abilities to instruct and inform mankind in things of the most interesting nature.<sup>85</sup>

This writer emphasized the importance of press liberty to prevent tyranny, and specifically mentioned prosecution after the fact (the libel charges by Byrd), rather than simply prior restraint, as a method used by arbitrary powers to subvert the press. In December 1766, Rind's newspaper ran an essay, "Of the Liberty of the Press," by the Scottish Enlightenment philosopher David Hume. He argued that such freedom of communication was essential for the British balance of mixed government:

The spirit of the people must frequently be roused in order to curb the ambition of the court; ... Nothing is so essential to this purpose as the liberty of the press ... As long, therefore, as the republican part of our government can maintain itself against the monarchical, it must be extremely jealous of the Liberty of the press, as of the utmost importance to its preservation.<sup>86</sup>

---

<sup>84</sup> Hellmuth, *Transformation of Political Culture*, 2, and 467-501.

<sup>85</sup> "Philanthropos," *Virginia Gazette* (Purdie and Dixon, Aug. 22, 1766), 1. Emphasis mine.

<sup>86</sup> *Virginia Gazette* (Rind, Dec. 25, 1766), 1. The version printed in this newspaper is somewhat different, and longer, than the version generally published in Hume's collected works, such as *Essays, Moral and Political*, vol. 1.

For Virginians who feared the power of a corrupt court, and threats on their liberty, a free press was becoming a crucial part of liberty.

### *Colonial Precursors*

Three other important precedents to the free press clause in the Virginia Declaration of Rights appeared in the decade before the American Revolution. John Adams noted in his widely circulated *Dissertation on the Canon and Feudal Law* that general knowledge among the people, even those of the lowest ranks, was essential to preserving the liberties of the colonies: “But none of the means of information are more sacred, or have been cherished with more tenderness and care by the settlers of America, than the press. ... for the jaws of power are always opened to devour, and her arm is always stretched out, if possible, to destroy the freedom of thinking, speaking, and writing.”<sup>87</sup> Also in Massachusetts, when the royal governor became furious with his treatment in the *Boston Gazette* of 1768, he requested the lower assembly take action against the seditious libel. However, radical Samuel Adams dominated the house. The charges were denied on the grounds the news items were not libelous. In defense of their actions the assembly noted, “The liberty of the press is the great bulwark of the liberty of the people.”<sup>88</sup> Another important statement for press freedom came from the Continental Congress, in an attempt to gain support from their neighbors in Quebec. This address claimed, among other things, the importance of freedom of the press, not only to counterbalance the government, but also in a

---

<sup>87</sup> *Boston Gazette* (Aug. 1765), from *Works of John Adams*, 3:457.

<sup>88</sup> “Answer of the House of Representatives” to Governor Francis Bernard, March 3, 1768, from Alden Bradford, ed., *Speeches of the Governors of Massachusetts from 1765-1775* (Boston, 1818), 119.

broader claim for social improvement.<sup>89</sup> The idea of freedom of the press was evolving and gaining support in many of the British-American colonies.

By 1776, “Civis” was writing in the *Virginia Gazette* that “Liberty of the Press is the palladium of our LIBERTIES,” and that others have written, “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.” It was only through a free press that England escaped the tyranny of Popish factions, Civis wrote, and later it was only because of the press that King George I was able to escape the Jacobite plot. Undue and excessive prosecution of the press was against the principles of the British constitution. “Blasphemy, perjury, treason, and personal slander, are the principal offences which demand restraint” by the press, Civis argued, but he 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.<sup>90</sup> This was a strong editorial lobbying for a protection of press rights in the new state constitution, as it was printed in Williamsburg just days before the Virginia Declaration of Rights was drafted.<sup>91</sup>

---

<sup>89</sup> “Address to the Inhabitants of Quebec,” 1774, in Worthington Chauncy Ford, ed., *Journals of the Continental Congress 1774-1789* (Washington, DC: 1904), 1:106-13.

<sup>90</sup> *Virginia Gazette* (John Dixon and William Hunter, May 18, 1776), 1. 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, “ ‘The palladium of all other English liberties:’ Reflections on the Liberty of the Press in England during the 1760s and 1770s,” in Hellmuth, ed. *Transformation of Political Culture*, 487.

<sup>91</sup> Helen Hill Miller, *George Mason: Gentleman Revolutionary* (Chapel Hill: The University of North Carolina Press, 1975), 148-149.



### The Virginia Declaration of Rights

It was in the context of the struggle with Parliament over rights—amidst calls in the newspaper for overall liberty, and specifically freedom of the press—that Virginia held a series of revolutionary conventions that led to a Declaration of Independence from England. On May 15, 1776, convention president Edmund Pendleton appointed a committee to form a plan of government and a Declaration of Rights. This group eventually swelled to 36 members including George Mason, Patrick Henry, James Madison, Edmund Randolph, Thomas Ludwell Lee, and committee chairman Archibald Cary. Mason grumbled that the committee was full of useless members likely to throw out a “thousand ridiculous and impractical proposals, & of Course, a Plan form’d of heterogeneous, jarring & unintelligible Ingredients.” Pendleton wrote to Jefferson, who was in Philadelphia at the Continental Congress, that Mason seemed “to have the Ascendancy in the great work” of creating the declaration and a new constitution. The statement of rights that emerged from this committee is considered a landmark: “The Virginia Declaration of Rights ... was the first time in history that freedom of conscience and of the press was guaranteed by a Constitution.”<sup>92</sup> Most important, perhaps, was the originality of the precedent which it established: “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.”<sup>93</sup> While Mason’s principal authorship of the landmark Virginia Declaration of Rights and the new state constitution was not widely recognized at the time, both Madison and Randolph later confirmed

---

<sup>92</sup> Daniel T. Shumate, *The First Amendment: The Legacy of George Mason* (Fairfax, VA: George Mason University Press, 1985), 11-12.

<sup>93</sup> Stephan A. Schwartz, “George Mason: Forgotten Founder, He Conceived the Bill of Rights,” *Smithsonian Magazine* 31, no. 2 (May 2000): 149.

Mason's primary role in creating what is now known as one of the most important documents ever written in support of human rights.<sup>94</sup>

### ***George Mason and Rights Declared***

George Mason is a lesser-known but important Virginia patriot leader who has generally been credited with composing the entire Virginia Declaration of Rights. While his contributions were a key to the very concept of a bill of rights, there are serious questions about the claim that Mason wrote the clause on free press. He was an intellectual leader of the Revolution and an important statesman. He played a crucial role in the creation of the United States Constitution, yet he refused to sign it or support it. Early in the dispute with Britain, George Washington and other Virginia leaders turned to Mason's mind and his pen for "The Fairfax Resolves" and other agreements to boycott trade with England. When the Continental Congress called on the colonies to create new constitutions, Virginia turned to Mason. Although he was not a lawyer and was primarily self-educated, Mason had studied the British constitution, English and colonial laws, and the prevalent legal theories of the day.<sup>95</sup> It is likely that Mason and other committee members read both Richard Henry Lee's and John Adams's ideas for a new government before either the rights declaration or the new constitution were drafted. While both these other works envision a balance of power between governmental branches, neither envisioned a free press as a

---

<sup>94</sup> George Mason to Richard Henry Lee, Williamsburg, May 18, 1776, from Kate Mason Rowland, *The Life of George Mason, 1725-1792: Including His Speeches, Public Papers, and Correspondence; With An Introduction by General Fitzhugh Lee* (New York: G.P. Putnam's Sons, 1892; reprint, New York: Russell & Russell, 1964), 1:129-130, and from Robert A. Rutland, *The Papers of George Mason: 1725-1792* (Chapel Hill, NC: The University of North Carolina Press, 1970), 1:271. Background from Rutland, editorial notes 1-274-276, and Brent Tarter, ed., *Revolutionary Virginia; The Road to Independence* (Charlottesville: University Press of Virginia, 1983), vol. 7, part 1: 1-101 142-280, Pendleton quotation Tarter, 7:1:186.

<sup>95</sup> See, for example, Schwartz, "George Mason: Forgotten Founder," 154, Shumate, *The Legacy of George Mason*, and Brent Tarter, "George Mason and the Conservation of Liberty," *The Virginia Magazine of History and Biography*. 99, no. 3 (July, 1991): 279-291. No actual inventory of George Mason's bookshelf remains. However, Bennie Brown, the former librarian at Mason's home, Gunston Hall Plantation, suggested what books might be likely to have been on Mason's bookshelf in an unpublished list in 2000.

part of that balance. Neither included any sort of bill of rights.<sup>96</sup> Thomas Jefferson did include protection of rights in his draft constitution, writing that, “Printing presses shall be free, except so far as by commission of private injury cause may be given of private action.”<sup>97</sup> However, there is no evidence that Mason or any other committee member was able to read Jefferson’s ideas until after the Declaration of Rights had been presented to the entire convention. Mason completed the first draft of the Virginia Declaration of Rights sometime before May 27.<sup>98</sup>

While the committee—and later the full convention—modified it, this important document remained primarily Mason’s creation. Even the biographer of James Madison, the author of the Bill of Rights, acknowledges Mason’s accomplishment: “There is nothing more remarkable in the political annals of America than this paper. It has stood the rude test of every vicissitude.”<sup>99</sup> It was a watershed point in government, where the rights of individuals were seen as the source of governmental power, and as such, were protected from abuse by the government. While many of the rights show the influence of Locke, Mason made actual law out of abstract ideas. His insight was that a republic must begin with a written and binding commitment to an

---

<sup>96</sup> Richard Henry Lee, *Government Scheme* (Philadelphia: ?, [April 10,] 1776), reprinted in *Virginia Gazette* (Purdie, May 10, 1776), 4. John Adams, *Thoughts on Government: Applicable to the Present State of the American Colonies. In a Letter from a Gentleman to his Friend*. (Philadelphia: John Dunlap, [circa April 10], 1776), Accessed online via Readex: Early American Imprints, Series I: Evans, 6/5/2006 at [http://mutex.gmu.edu:2468/iw-search/we/Evans?p\\_action=doc&p\\_queryname=2&p\\_docid=0F30162242680EF0&p\\_docnum=3&p\\_nbid=S54Q52FMMTE3ODU1OTI0NC41NTg4NjE6MT0xND0xMjkuMTc0LjU1LjI0NQ&s\\_lastqueryname=](http://mutex.gmu.edu:2468/iw-search/we/Evans?p_action=doc&p_queryname=2&p_docid=0F30162242680EF0&p_docnum=3&p_nbid=S54Q52FMMTE3ODU1OTI0NC41NTg4NjE6MT0xND0xMjkuMTc0LjU1LjI0NQ&s_lastqueryname=)

<sup>97</sup> Jefferson, “Fundamental Constitutions of Virginia,” third draft, [before June 13, 1776], from *The Papers of Thomas Jefferson, 1760-1776*, edited by Julian Boyd (Princeton; Princeton University Press, 1950), 1: 356-364.

<sup>98</sup> Thomas Jefferson’s draft constitution was not seen by the committee until after the *Declaration of Rights* had been written, and the constitution drafted. Some of his ideas were added to the constitution. See Tarter, *Revolutionary Virginia*, 7:1:9-13, and Boyd, *Papers of Thomas Jefferson*, 1:364-365.1

<sup>99</sup> William C. Rives, *History of the Life and Times of James Madison*, reprint (Freeport, NY: Books for Libraries Press, 1970), 1:137.

individual's "inalienable rights—rights that came from the Creator and were superior to any government."<sup>100</sup>

The Virginia Declaration of Rights had a tremendous influence on other states, other nations, and other key American documents. Robert Rutland, the Mason biographer who also assembled the definitive set of Mason papers, focused on the thoughts behind Mason's words:

George Mason was a producer of ideas who flourished at the time when leaders of the struggling former colonies were eager to experiment and to expand. Mason's ideas, placed on paper, drew the whole of the Revolution into focus. Soon they were read in Europe and drew the admiration of the men destined to guide France.<sup>101</sup>

This was not simply an intellectual influence, as his very words became the basis of many other bills of rights and constitutions. Benjamin Franklin and John Adams paid Mason the ultimate compliment by using his ideas. They copied Mason's words from the Virginia Declaration of Rights almost verbatim into the Pennsylvania and the Massachusetts constitutions. Nine new state constitutions show influence from Mason's list of rights.<sup>102</sup> Less recognized is that fact that his writing heavily influenced the American Declaration of Independence. Thomas Jefferson wrote his famous declaration just days after reading Mason's draft of the Virginia declaration. Jefferson's preamble only varied slightly from the first three paragraphs of Mason's Declaration of Rights. Several historians have noted the similarity in the wording of one of the most recognizable phrases of the Declaration of Independence to Mason's words.<sup>103</sup>

---

<sup>100</sup> Schwartz, "George Mason: Forgotten Founder," 148.

<sup>101</sup> Robert A. Rutland, *George Mason: Reluctant Statesman* (Baton Rouge: Louisiana State University Press, 1961), xiv.

<sup>102</sup> Shumate, *Legacy of George Mason*, 9-15. Anderson, "Origins of Free Press," 464. Levy, *Emergence*, 183-192. Connecticut and Rhode Island did not write new constitutions but rather kept their colonial charters. New York and New Jersey did not include bills of rights.

<sup>103</sup> Mason wrote, "That all men are by nature equally free and independent and have certain inherent rights . . . namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety." Jefferson wrote just a short time later, "We hold these truths to be self evident: that

While George Mason has been widely credited as the author the free press clause in the Virginia Declaration of Rights, there is now evidence undermining his claim that he did write that article. Unfortunately, there is little documentation to point to a specific author. Mason did not carefully collect notes and papers, as did many of his contemporaries. A fire later destroyed some of what he did save.<sup>104</sup> No minutes or notes from the Virginia committee charged with writing the declaration and constitution are extant. Early biographers claim that Mason wrote all the relevant articles, with some editing by other committee members, including Madison's substantial rewrite of the clause on religious freedom. Mason sent a letter to his cousin with what he claimed was a copy of his first draft of the Declaration of Rights.<sup>105</sup> This authorship of the press clause has been left in question by more recent findings. Historian Irving Brant determined that another "first draft," found in the Mason papers, was the actual original. This version has twelve paragraphs in George Mason's handwriting and additions in the handwriting of Thomas Ludwell Lee. The phrase, "That the freedom of the press, being the great bulwark of Liberty, can never be restrained but in a despotick government," was in Lee's hand. This indicates that this article, and some others, were added in committee and could have been written by Lee, Patrick Henry, any other member of the committee, a correspondent to the committee, or by Mason himself. Although he did later claim authorship of the press clause, as it was part of what he

---

all men are created equal; that they are endowed by their creator with [certain] inherent and inalienable rights; that among these are life, liberty and the pursuit of happiness." For the first draft of the *VA Declaration*, see Rutland, *Papers*, 1-276-278. For Jefferson's first draft, see his "Later Reflections on the Declaration of Independence" in Gordon Lloyd and Margie Lloyd, eds., *The Essential Bill of Rights: Original Arguments and Fundamental Documents* (Lanham, MD: University Press of America, 1998), 175-180. The Continental Congress added the word certain and edited out the word inherent, but the similarity is unmistakable.

<sup>104</sup> Rowland, *Life of George Mason*, 1: preface to 53.

<sup>105</sup> Rowland, *Life of George Mason*, 1:237-241, assumed Mason's claim to be accurate.

claimed as his original draft, the actual first version of this article is not in his own handwriting. There are only speculative theories on who may have written that original phrase.<sup>106</sup>

Prior to the writing of the declaration in 1776, Mason's interest in press freedom was limited and his commitment to the principle ambiguous. There is no conclusive documentation as to what books he had read or kept in his study, as no inventory remains. It appears that he did have Blackstone's *Commentaries*, which treated freedom of press as merely preventing prior restraint by the government. There is also some speculation that Mason had an edition of Trenchard and Gordon's collected *Cato's Letters*. These articles contained many references to freedom of thought, speech, and press. At least one letter included the phrase, "bulwark of liberty," that ended up in the press clause. The phrasing of this free press clause shows more similarity to Cato, Bolingbroke, or Samuel Adams than it does to legal precedents or Locke or Milton. The political philosophers may have directly influenced the Virginia elites, but their ideas were filtered through the radical Whigs and the popular prints before they reached most people. Trenchard and Gordon's works "were found more frequently on southern bookshelves than was Locke on government ..."<sup>107</sup> In *Cato*, however, the "bulwark" was specifically referring to freedom of speech. Bolingbroke used the word "bulwark" in conjunction with a free press, and Adams and his fellow Massachusetts delegates used a similar phrase.<sup>108</sup> Mason had

---

<sup>106</sup> Irving Brant, *James Madison*, (Indianapolis: Bobbs-Merrill, 1941-1961), 1:239, in researching the papers of James Madison, discovered yet another copy with Madison's note that it was the first draft. In comparing versions, including the Mason-Ludwell draft in the Mason papers, he determined Madison erred in his old age and that Mason's claim was also inaccurate, and that the version partly in Thomas Ludwell Lee's handwriting is indeed the original. Most scholars who have studied it concur. Rutland, *Papers*, 1:274-291, confirms Brant's analysis.

<sup>107</sup> Brown, in his list of possible books on Mason's shelf, notes that a rare copy of Blackstone had Mason's signature on the title page. Shumate, 26, 31, and 51. On popularity of Trenchard and Gordon, see also Richard Beal Davis, *A Colonial Southern Bookshelf* (Athens: University of Georgia Press, 1979), 55-56, Bailyn, *Origins*, 40, and Smith, "Origins of Free Speech," fn 111.

<sup>108</sup> [John Trenchard, and Thomas Gordon], "Of Freedom of Speech: That the same is inseparable from Publick Liberty," (Letter no. 15), *London Journal* (Saturday, Feb. 4, 1720), from *Cato's Letters*, 1:96-102. *Craftsman* (Dec.

apparently also read the “Letters of Junius” by an English author who also emphasized the importance of the liberty of the press.<sup>109</sup> Junius was highly critical of Blackstone’s claims on seditious libel.<sup>110</sup>

As far as researchers of his papers can determine, Mason did not exercise his own freedom of the press by contributing to newspapers as often as did many of his contemporaries. He did write a letter to a London newspaper in 1766, responding to correspondence from London merchants published in the *Virginia Gazette*. Mason complained that the colonists were being treated as children, and noted inequities in new trade laws and the erosion of colonists’ right to trial by a local jury.<sup>111</sup> Apparently, Mason read the *Virginia Gazette*, as this letter was in response to something printed there. It is also likely that he read the *Maryland Gazette*, as he had many ties to the colony just across the Potomac River, and many of his neighbors obviously read the newspaper printed in Annapolis.<sup>112</sup> While Mason later supported press freedom among other civil rights, his remaining papers show no evidence that he was concerned with this prior to 1776, or that this was one of his consistent priorities.

---

9, 1726, June 24, 1727, Sept, 28, and Nov. 2, 1728), quoted in Black, *English Press*, 125, referred to liberty of the press as the chief bulwark of liberty and the constitution. In 1768, the Massachusetts House, dominated by Adams, declared, “The liberty of the press is the great bulwark of the liberty of the people.” From Bradford, *Speeches*, 119.

<sup>109</sup> Frederick Schauer, “Free Speech and Its Philosophical Roots,” in Daniel T. Shumate, *The First Amendment: The Legacy of George Mason* (Fairfax, VA: George Mason University Press, 1985), 133-134.

<sup>110</sup> Junius, “To Sir William Blackstone, Solicitor General to her Majesty,” July 29, 1769, *The Letters of Junius* (New York: Lovell, 1880) 116-119, quoted in Smith, “Origins of Free Speech,” 48-82, fn 20.

<sup>111</sup> Mason, to the Committee of Merchants in London, Potomack, June 6, 1766, in Rutland, *Papers*, 1:65-72. There is no evidence this letter was ever published.

<sup>112</sup> Mason owned land in Maryland. His first wife was from Maryland. For example, George Washington and George William Fairfax solicited for a builder for a new church in Fairfax County’s Truro Parish by advertising in the *Maryland Gazette* (Annapolis: Jonas Green & William Rind, May 17, 1764), 3. Cato Uticensis was a statesman in the late Roman Republic, also known as Cato the Younger, known for his stubbornness and tenacity, distaste for corruption, all characteristics of Mason, who refused to support the Constitution.

On the other hand, Richard Henry Lee and his brothers made constant use of the free press with letters published in Maryland and Virginia newspapers. Arthur Lee wrote as “The Monitor” a series of letters during the Stamp Act crisis. Richard Henry had arranged with printer Rind to publish a pamphlet of brother Arthur’s anti-Stamp Act writings along with John Dickinson’s *The Farmer’s Letters*. Philip Davidson claimed, “He [R. H. Lee] knew the power of the press, bewailed the absence of any newspaper whatever in Virginia for some months in 1781, and throughout the war regretted the failure of the leaders to make use of what facilities they had for reaching the people.”<sup>113</sup> One researcher suggested that the Lee family was the key to bringing a second, competitive printer to Williamsburg to expand the practice of press freedom.<sup>114</sup> Thomas Ludwell Lee was on the committee that edited Mason’s Declaration of Rights, and the press clause first appeared in his handwriting. One recent book suggests that Lee may have written the free press provision at Mason’s suggestion.<sup>115</sup> Both Mason and Thomas Ludwell Lee actively corresponded with Richard Henry Lee, who was serving in the Continental Congress in New York. Mason respected him as he respected few others. The very day that Mason arrived at the convention, and just as the committee considered the declaration and the constitution, he wrote to Richard Henry Lee, pleading for his attendance, “I need not tell you how much you will be wanted here on this Occasion. I speak with the Sincerity of a Friend, when I assure you that, in my opinion, your absence can not, must not be dispensed with. We can not do without you ...”<sup>116</sup> This is the same letter in which other committee members were chastised for the lack of

---

<sup>113</sup> Davidson, *Propaganda and the American Revolution: 1763-1783* (Chapel Hill: University of North Carolina Press, 1941), 18-19. See also Susan Stromei Berg, compiler, *Eighteenth-Century Williamsburg Imprints* (New York: Clearwater Publishing Company, 1986), entry for 1768 for Dickinson’s letters.

<sup>114</sup> Godfrey, “Printers of the *Virginia Gazette*,” 247-256, & 385.

<sup>115</sup> Broadwater, *George Mason: Forgotten Founder*, 81-89.



usefulness. Richard Henry Lee was meeting in the Continental Congress and did not return to Virginia, and while no letter is extant, it is quite possible that he wrote to Mason or to his brother Thomas Ludwell with suggestions for the Declaration of Rights. Richard Henry Lee showed a consistent concern regarding press liberty.

Richard Henry Lee or Thomas Ludwell Lee could have been the author of the free press clause in the Declaration of Rights, but it could also have been Mason, any other committee member, or another correspondent. If Mason had composed the article, it would have likely been in his handwriting. It is far from clear, however, just who did originate the concept. Whether or not Mason wrote the free press clause is less important than the fact that Mason did originate the concept of the Declaration of Rights, that free press became part of those rights, and that the need for such a right came out of a cultural transformation within the colony. As Edmund Randolph wrote a few decades later, the Virginia Declaration of Rights is a monument deserving of admiration, and he had a useful observation upon the article in question here: “The twelfth securing the freedom of the press,” Randolph wrote, was “... the [fruit] of genuine democracy and historical experience.”<sup>117</sup> This contemporary recognized both the democratic impulses and the historical imperatives that led to this important protection.

### *Press Liberty Evolved*

The concept of freedom of the press in Virginia had evolved a great deal in half a century. It was no longer simply a right for the political elites. Citizens now could—even should—criticize their government. The first Virginia newspaper noted that liberty of the press

---

<sup>116</sup> Mason to Richard Henry Lee, Williamsburg, May 18, 1776, Rutland, *Papers*, 1: 271-272.

<sup>117</sup> Randolph, “Essay on the Revolutionary History of Virginia,” *Virginia Magazine of History and Biography*, Vol. 44, (1936), 43-47. Reportedly written between 1809-1813, from Bernard Schwartz, *The Bill of Rights*, 1:246-249. The original section included the thirteenth article, preferring militia to standing armies, as the “fruits” of experience.

did not include overt criticism of governing officials and recognized that veneration must always be maintained for authority.<sup>118</sup> In contrast, the introduction to the first competitive Virginia newspaper stated bluntly that it would support liberty and treat with contempt factious political zealots. There was no deferential attitude here. All of the Chesapeake colonies' newspapers were now full of criticism of Parliament and the British ministry, with little or no sign of political deference.<sup>119</sup> While some writers continue to refer to free press as a natural, individual right, they also recognized it as a watchdog on corrupt governments, with a very crucial role within the balance of British government.<sup>120</sup> A published letter in 1773 refers to one of the two *Gazette's* motto, "Open to all Parties, but influenced by none," as "properly descriptive of that Freedom which renders the Press beneficial to Mankind." The "Attentive Observer" goes on to criticize the printer for not running a piece submitted, and notes that it is only through the freedom of the press "by which the guilty Great can be punished."<sup>121</sup> The press is seen here as more than an individual libertarian right, but rather as one with a larger benefit to all people. Far from remaining in a role deferential to the elites, the newspapers were now seen as one of the few venues through which the elites could be brought to justice.

---

<sup>118</sup> *Virginia Gazette* (Aug. 6, 1736), no longer extant, quoted in Maxwell, *Virginia Historical Register*, 21-31.

<sup>119</sup> *Ibid.* (Rind, May 16, 1766) issue number 1, 1.

<sup>120</sup> On free press as an extension of the natural right of free speech, see for example, "Civis," *Virginia Gazette* (May 18, 1776), 1. The same letter noted how free press was crucial to removal of "popish" kings,

<sup>121</sup> *Virginia Gazette* (Purdie & Dixon, Dec. 23, 1723), 1, referring to the motto and editorial selection of their competitor, Mrs. Clementine Rind, who took over the other gazette upon her husband's death. For more on Mrs. Rind and other women printers, see Martha Joanne King, "Making an Impression: Women Printers in the Southern Colonies in the Revolutionary Era," (PhD. diss., College of William and Mary, December, 1992).

## Conclusion

Despite the evidence undermining Mason's claim of authorship of the free press clause in Declaration of Rights, many historians simply ignore the controversy and continue to credit Mason with writing it. This leads to misunderstandings about its origins, which tends towards misinterpretation. Anderson and Levy both credit Mason with writing the press article, and Levy erroneously notes; "The first free press clause, in the Virginia Declaration of Rights, was the product of George Mason, the great planter and amateur political theorist, who composed alone and without being confronted by demands."<sup>122</sup> In reality, there was indeed pressure by the public, as demonstrated in the colonial newspapers of the period, and a committee, rather than a single individual, responded to those pressures in creating the clause. In focusing on Mason, Levy assumed great influence from the English constitution and legal tradition, which Mason had studied. This research adds to that understanding by uncovering the underlying details about the authorship, the free press practices, and a citizenry that had repeatedly called for increased press freedom.

The liberty of the press in Virginia had evolved from a limited right to a more extensive principle valued and repeatedly defended on the pages of the local newspapers. Letters publicly criticized efforts to stifle the press by government influence or seditious libel actions. At least one newspaper contributor openly lobbied the committee writing the new state constitution to include protection of the press. In June 1776, the local newspaper printed a committee draft of the Declaration of Rights, and shortly thereafter a Philadelphia newspaper and others reprinted it.<sup>123</sup> By December 1776, Dixon and Hunter were running the free press article from the

---

<sup>122</sup> Anderson, "Origins of Free Press," 464. Levy, *Press Clause*, before note 217.

<sup>123</sup> *Virginia Gazette* (Dixon & Hunter, June 1, 1776), 2-3. Rutland, *Papers*, 1:276.

Declaration of Rights as the motto on the masthead of their *Virginia Gazette*: “The freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.”<sup>124</sup>

This constitutional right to a free press was part of the emergence in Virginia of a culture of political dissidence that displaced a traditional deference to the elites. Freedom of conscience, spurred in part by religious dissidence and the Great Awakening, prefaced a need for a broad-based political discourse. Local efforts to get a printer free from governmental interference led to the establishment of print competition, and consumer pressures helped to guarantee that such ideas would be printed. The press had evolved from an official government function to a private concern, where criticism of the government had become allowed and even essential.

Transatlantic and inter-colonial concepts—from the ideas of the British opposition, especially the writings of “Cato” and John Wilkes—influenced the ideas of what a free press should be. Of more importance than a libertarian concept of an individual right, the watchdog press was seen as necessary to balance governmental power. By 1776, the concept of a free press went beyond simply being a restriction on prior restraint, to include protection from seditious libel prosecution after-the-fact, truth as a defense for libel, and no taxation of the press. While often referred to as a natural right, an extension of the individual right to free speech, press freedom was also a civic responsibility, one that served the function counterbalancing a potentially corrupt government. This is a much broader interpretation of free press origins than what is currently prevalent.

During the attempt to ratify the new United States Constitution in the late 1780s, there was a widespread political outcry for protection of both individual and states’ rights as the state ratification process proceeded. James Madison, in a political turnabout, wrote the Bill of Rights,

---

<sup>124</sup> *Virginia Gazette* (Dixon & Hunter, Nov. 29, 1776), 1

using as his guidepost the Virginia Declaration of Rights, the similar bills of rights from various states (themselves mostly offshoots of the Virginia declaration), plus proposals from the various state ratifying conventions. Madison's first draft, later altered by Congress, echoed the words from Virginia, but added the idea of free speech: "The people shall not be deprived or abridged of their right to speak, to write, or to publish their sentiments; and the freedom of the press, as one of the great bulwarks of liberty, shall be inviolable."<sup>125</sup> The *First Amendment*, as it evolved, is not the loose collection of unrelated clauses commonly assumed today. The right to gather, discuss, and spread ideas by print—including both political ideas and possible heresy from the established church—is a unified idea, supported by the experience in colonial Virginia.<sup>126</sup> With the historical background of an expanding civic discourse, beginning with religious discourse, including the right to assemble and debate, and the idea of petitioning and instructing one's legislatures, it is viewed as a unified whole:

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.<sup>127</sup>

---

<sup>125</sup> For Madison's draft, see his proposed "Amendments to the Constitution," in "Remarks to Congress," June 8, 1789, in Lloyd and Lloyd, *Essential Bill of Rights*, 331-344. See also Levy, *Essays*, 258-289 and Smith, "Origins of Free Speech," 48-82. Pennsylvania was the first to add free speech to the press clause in their constitution.

<sup>126</sup> James W. Carey, "The Press, Public Opinion, and Public Discourse," in *Public Opinion and the Communication of Consent*, ed. Theodore L. Glasser, and Charles T. Salmon (New York: The Guilford Press, 1995), 373-402.

<sup>127</sup> First Amendment to the United States Constitution.

## Bibliography

### Primary Sources

- Adams, John. *The Works of John Adams*. Edited by Charles Francis Adams. Boston: Little, Brown and Company, 1851-1865.
- Bradford, Alden, ed. *Speeches of the Governors of Massachusetts from 1765-1775*. Boston, 1818.
- Dogood, Silence [Benjamin Franklin]. number 8, in *The New England Courant*. Boston: James Franklin, July 9, 1722. 49: 1.
- Fauquier, Francis. Letters to Board of Trade. Feb. 13, 1765 to Oct. 5, 1767. Handwritten transcription in Manuscript Reading Room, Library of Congress, Great Britain PRO CO 5, Container v. 1331 [Public Record Office] 97- 106[137-148].
- Franklin, Benjamin. "An Apology for Printers," *Pennsylvania Gazette*, June 10, 1731. Reprint, Washington: Acropolis, 1973.
- . *Autobiography of Benjamin Franklin*. Originally published as *Memoires De La Vie Privee ...* Paris: Benjamin Franklin, 1791. Reprint, Fairbanks, AK: Project Gutenberg, 1994.
- Grant, Job. *The Virginia Almanack for the Year of Our Lord, 1767 ...* Williamsburg: William Rind, 1767.
- Hening, William. *The Statutes At Large; Being A Collection Of All The Laws Of Virginia, From The First Session Of The Legislature In The Year 1619*. New York, Printed for the editor, 1819-23. [Facsimile reprint, Charlottesville, Published for the Jamestown Foundation of the Commonwealth of Virginia by the University Press of Virginia, 1969] 13 volumes.
- Hunter, William *Printing Office Journal* [also known as *Virginia Gazette Daybook*]. University of Virginia Libraries, Department of Special Collections. Vol. 1, 1750-1752. Photocopy in Special Collections, John D. Rockefeller, Jr. Library, Colonial Williamsburg Foundation.
- Markland, J [James]. *Typographia. An Ode, on Printing. Inscib'd to the Honourable William Gooch, Esq.* Williamsburg: Parks, 1730.
- Maryland Gazette*, Annapolis: Jonas Green and William Rind, 1764-1768. Eighteenth-Century American Newspapers collection, Newspaper & Current Periodical Reading Room, Library of Congress, V. 190, and 191.
- Rind's Virginia Gazette*, Williamsburg: William Rind, 1766-1776. Eighteenth-Century American Newspapers collection, Newspaper & Current Periodical Reading Room, Library of Congress, V. 1623, microfilm #1518, Box 31 B Folder 31.
- Royle, Joseph, and Alexander Purdie. *Printing Office Journal* [also known as *Virginia Gazette Daybook*]. University of Virginia Libraries, Department of Special Collections. Vol. 2, 1764-1766. Photocopy in Special Collections, John D. Rockefeller, Jr. Library, Colonial Williamsburg Foundation.
- Thomas, Isaiah. *The History of Printing in America, With a Biography of Printers*. 2 vols. Worcester, Isaiah Thomas, 1810.
- Virginia Gazette*, Williamsburg: William Hunter, Joseph Royle, Alexander Purdie, and John Dixon, 1751-1766. Eighteenth-Century American Newspapers collection, Newspaper & Current Periodical Reading Room, Library of Congress, V. 1605, 1606, and 1607, Box 31, Fol. 34, plus additional issues, John D. Rockefeller, Jr. Library, Colonial Williamsburg Foundation.

**Recently Published Primary Sources**

- Jensen, Merrill, ed. *The Documentary History of the Ratification of the Constitution*. Madison: State Historical Society of Wisconsin, 1976. Vols. 9-10 (VA.)
- Journals of the Continental Congress 1774-1789*. edited by Worthington Chauncy Ford. Washington: Government Printing Office, 1904. Vol. 1.
- Kennedy, John Pendleton, ed. *Journals of the House of Burgesses of Virginia*. Vol. 1-13, 1619-1776. Richmond: The Colonial Press, Ed. Waddy Co, 1905-15.
- Lee, Richard Henry. *The Letters of Richard Henry Lee*. Ed. James Curtis Ballagh. 2 vols. New York: De Capo Press, 1970.
- Locke, John. *Two Treatises of Government*. Edited by Peter Laslett. Cambridge, G.B.: Cambridge University Press, 1960.
- Mason, George. *The Papers of George Mason: 1725-1792*. Edited by Robert A. Rutland. Chapel Hill, NC: The University of North Carolina Press, 1970.
- Maxwell, William, ed. *The Virginia Historical Register, and Literary Companion*. Vol. 6. (1853).
- Milton, John. *Areopagitica and Of Education*. Edited by George H. Sabine. New York: Appelton-Century-Crofts, 1951
- Thomas, Isaiah. *The History of Printing in America, With a Biography of Printers*. 2<sup>d</sup> ed. Albany, 1874. Reprint, edited by Marcus A. McCorison from the second edition. New York: Weathervane Books, 1970.
- Trenchard, John and Thomas Gordon. *Cato's Letters; or Essays on Liberty, Civil and Religious, and Other Important Subjects*. London, 1755, sixth edition. Reprint, New York, Da Capo Press, 1971.

**Books:**

- Bailyn, Bernard and John B. Hench. ed. *The Press and the American Revolution*. Worcester: American Antiquarian Society, 1980.
- . *The Origins of American Politics*. New York: Knopf, 1968.
- . *The Ideological Origins of the American Revolution*. Cambridge, Mass.: Belknap Press of Harvard University Press, 1992.
- Barker, Hannah. *Newspapers, Politics and English Society, 1695-1855*. Harlow, England: Longman, 2000.
- Black, Jeremy Black. *The English Press in the Eighteenth Century*. Philadelphia; University of Pennsylvania Press, 1987.
- Blackstone, William. *Commentaries on the Laws of England*. London: 1765-1769. Facsimile reprint, Chicago: University of Chicago Press, 1979.
- Bond, Donovan H., and W. Reynolds McLeod, ed. *Newsletters to Newspapers: Eighteenth-Century Journalism, Papers Presented at a Bicentennial Symposium at West Virginia University, Morgantown, West Virginia March 31-April 2, 1976*. Morgantown, WV: School of Journalism, 1977.
- Brant, Irving. *James Madison*. Vol. 1. Indianapolis: Bobbs-Merrill, 1941-1961.
- Broadwater, Jeff. *George Mason: Forgotten Founder*. Chapel Hill: University of North Carolina Press, 2006.
- Carter, Barton T., Marc A. Franklin, and Jay B. Wright. *The First Amendment and the Fourth Estate: The Law of Mass Media*, 8<sup>th</sup> ed. New York: Foundation Press, 2001.

- Cappon, Lester J., and Stella F. Duff. *Virginia Gazette Index, 1736-1780*. Williamsburg: The Institute of Early American History and Culture, 1950.
- Chafee, Zachariah, Jr. *Freedom of Speech*. New York: Harcourt, Brace and Howe, 1920.
- . *Free Speech in the United States*. Harvard University Press, 1941.
- Cook, Elizabeth Christine. *Literary Influences in Colonial Newspapers, 1704-1750*. New York: Columbia University Press, 1912. Reprint, Port Washington, NY: Kennikat Press, 1966.
- Crow, Jeffrey J., and Larry E. Tise, ed. *The Southern Experience in the American Revolution*. Chapel Hill: The University of North Carolina Press, 1978.
- Davidson, Philip. *Propaganda and the American Revolution: 1763-1783*. Chapel Hill: University of North Carolina Press, 1941.
- Davis, Richard Beal. *A Colonial Southern Bookshelf: Reading in the Eighteenth Century*. Athens: University of Georgia Press, 1979.
- Fraleigh, Douglas M., and Joseph Tuman. *Freedom of Speech in the Marketplace of Ideas*. Boston: Bedford/St. Martin's, 1997.
- Ingelhart, Louis Edward. *Press and Speech Freedoms in America, 1619-1995*. Westport, CT: Greenwood Publishing Group, 1997.
- Innis, Harold. *Empire and Communications*. Toronto: University of Toronto Press, 1972.
- Kobre, Sidney. *The Development of the Colonial Newspaper*. Pittsburgh: Colonial Press, 1944. Reprint, Gloucester, MA: Peter Smith, 1960.
- Jensen, Merrill, ed. *The Documentary History of the Ratification of the Constitution*. Madison: State Historical Society of Wisconsin, 1976. Vols. 9-10
- Levy, Leonard. *Legacy Of Suppression: Freedom Of Speech in Early American History*. Cambridge, Mass., Belknap Press of Harvard University Press, 1960.
- . *Freedom of Speech and Press in Early American History: Legacy of Suppression*. New York: Harper & Row, 1963.
- . *Emergence of a Free Press*. New York: Oxford University Press, 1985.
- Lloyd, Gordon, and Margie Lloyd, ed. *The Essential Bill of Rights: Original Arguments and Fundamental Documents*. Lanham, MD: University Press of America, 1998.
- Martin, Robert W. T. *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*. Albany: New York University Press, 2001.
- McMurtrie, Douglas. *The Beginnings of Printing in Virginia*. Lexington, VA: Journalism Laboratory of Washington and Lee University, 1935.
- . *A History of Printing in The United States; The Story of the Introduction of the Press and of Its History and Influence During the Pioneer Period In Each State of the Union*. New York R. R. Bowker Company, 1936.
- Miller, Helen Hill. *George Mason: Gentleman Revolutionary*. Chapel Hill: The University of North Carolina Press, 1975.
- Nord, David Paul. *Communities of Journalism: A History of American Newspapers and their Readers*. Urbana and Chicago: University of Illinois Press. 2001.
- Rives, William C. *History of the Life and Times of James Madison*. Boston: Little, Brown and Company, 1859-1868. Vol. 1-3. Reprint, Freeport, NY: Books for Libraries Press, 1970.
- Rowland, Kate Mason. *The Life of George Mason, 1725-1792: Including His Speeches, Public Papers, and Correspondence; With An Introduction by General Fitzhugh Lee*. New York: G.P. Putnam's Sons, 1892. Reprint, Vol. 1-2, New York: Russell & Russell, 1964.



- Rutland, Robert A. *George Mason: Reluctant Statesman*. Baton Rouge: Louisiana State University Press, 1961.
- Schlesinger, Arthur. *Prelude to Independence: The Newspaper War on Britain, 1764-1776*. New York, Knopf, 1958.
- Shumate, T. Daniel. *The First Amendment: The Legacy of George Mason*. Fairfax, VA: George Mason University Press, 1985.
- Siegel, Paul. *Communication Law in America*. Boston: Allyn & Bacon, 2002.
- Sprouse, Edith Moore. *Along the Potomac River: Extracts from the Maryland Gazette, 1728-1799*. Westminster, MD: Willow Bend Books, 2001.
- Tarter, Brent, ed., with the assistance of Robert L. Scribner. *Revolutionary Virginia; The Road to Independence*. Vol. 7, Charlottesville: University Press of Virginia, 1983.
- Thomas, Peter D. G. *John Wilkes: a Friend to Liberty*. Oxford: Oxford University Press, 1996.
- Warner, Michael. *The Letters of the Republic: Publication and The Public Sphere In Eighteenth-Century America*. Cambridge, MA: Harvard University Press, 1990.
- Wood, Gordon S. *The Creation of the American Republic, 1776-1787*. Chapel Hill: Published for the Institute of Early American History and Culture at Williamsburg, Va., by the University of North Carolina Press, 1969.
- . *The Radicalism of the American Revolution*. New York: Alfred Knopf, 1991.
- Wroth, Lawrence. *A History of Printing in Colonial Maryland, 1686-1766*. Baltimore: Typothetae of Baltimore, 1922.

#### Articles:

- Anderson, David. "The Origins of the Free Press Clause," *UCLA Law Review*, Los Angeles. 30, no. 3, (Feb., 1983): 455-541.
- Botein, Stephen. "'Meer Mechanics' and an Open Press: the Business and Political Strategies of Colonial American Printers," vol. 9 of *Perspectives in American History*. Cambridge: Cambridge University Press, 1975, 127-225.
- Carey, James W. "The Press, Public Opinion, and Public Discourse." In *Public Opinion and the Communication of Consent*, ed. Theodore L. Glasser, and Charles T. Salmon, 373-402. New York: The Guilford Press, 1995.
- Hemphill, John M. II. "The Origin, Development, and Influence of the Virginia Gazette, 1736-1780." Research files, Virginia Gazette folder, Rockefeller Library, Colonial Williamsburg. [No date given.]
- Lemay, J. A. Leo. "Robert Bolling and the Bailment of Colonel Chiswell." *Early American Literature* 6 (1971) : 99-126.
- Levy, Leonard. "On The Origins Of The Free Press Clause." *UCLA Law Review*, Los Angeles. 32, (Feb., 1984): 177-218. Online via Lexis-Nexis. <<http://mutex.gmu.edu:2048/login?url=http://web.lexis-nexis.com>> (18 March 2004).
- Maier, Pauline. "John Wilkes and American Disillusionment with Britain." *The William and Mary Quarterly*, 3rd Ser., Vol. 20, No. 3. (Jul., 1963), 373-395.
- Schwartz, Stephan A. "George Mason: Forgotten Founder, He Conceived the Bill of Rights," *Smithsonian Magazine* 31, no. 2 (May 2000): 149-154.
- Smith, Stephen A. "The Origins of the Free Speech Clause," *Free Speech Yearbook* vol. 29, no. 48 (1991): 48-82. Online at <<http://www.uark.edu/depts/comminfo/cambridge/origins.html>> (29 December 2003).
- Tarter, Brent. "George Mason and the Conservation of Liberty," *The Virginia Magazine of History and Biography*. 99, no. 3 (July, 1991): 279-291

Thomas, Peter D.G. "John Wilkes and the Freedom of the Press (1771)," *Bulletin of the Institute of Historical Research* 33 (1960): 86-98.

**Unpublished:**

Brown, Bennie. "The Book World of John Mercer of Marlborough: The Library Collected by Mercer and the Records of the Book Trade Conducted by Him in Eighteenth-Century Virginia, 1720-1768." Unpublished paper in the Gunston Hall Library, 1992.

---. Speculative list of books that may have been on George Mason's shelf. Unpublished, in the Gunston Hall Library, 2000.

Godfrey, Laurie E. "The Printers of the Williamsburg *Virginia Gazettes*, 1766-1776: Social Controls and Press Theory." Ph.D. diss., Regent University, March 1998.

King, Martha Joanne. "Making an Impression: Women Printers in the Southern Colonies in the Revolutionary Era." Ph.D. diss., College of William and Mary, December, 1992.