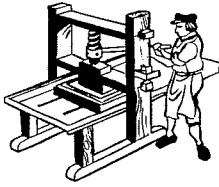


2nd Place Award



Thomas Jefferson: Public Advocate and Private Prosecutor Of the Freedom of the Press

By Jessica Catherine Keough

In 1802 the third President of the United States, Republican Thomas Jefferson, was under attack. The siege came not from a foreign enemy, but from within: the domestic press. Long thought of as its ally, Jefferson championed freedom of the press since the beginning of his political career. However, he soon experienced its invasion into his personal life, creating scandal.¹ Thomas Jefferson's primary opponent was James Callender, an aggressive reporter for the Richmond *Recorder*, whose writings were often fictitious in origin. The accusations placed upon Jefferson, a well-known Anti-Federalist, would forever change his opinions towards press liberty. Callender's numerous exposés caused one of the most avid supporters of the First Amendment to secretly metamorphose into a prosecutor of the freedom of the press.² Jefferson, the foremost advocate of man's right to freedom of speech and press, gradually transformed into its private enemy, urging state officials to accuse members of the press of sedition by the end of his second term.³

Thomas Jefferson's political career began in the late 1770s as a "silent member of Congress" assisting in the conception of the Declaration of Independence.⁴ Although only a "silent member" of Congress at that time, Jefferson voiced his opinions on the rights of men openly and frequently. From the onset of his political career, he was adamant about creating a document that would make it unconstitutional to infringe upon all of man's inalienable rights.⁵ Freedom of speech and of the press were two of Jefferson's main vindicated principles: "Thomas Jefferson, both an advocate of the Constitution and a critic of its lack of bill of rights, wrote to James Madison championing amendments that would secure, among other things, freedom of the press."⁶ Jefferson's ideological commitment towards these rights remained evident as he progressed up the political ladder.

During the middle of the 1780s, Jefferson began to solidify his opinions on the freedom of the press, while also ameliorating in his political status. By 1786 he had written and championed the bill establishing religious freedom.⁷ In a similar vein, his commitment to freedom of the press was apparent in his writings. In a letter to Dr. James Currie, January, 28,

¹ Darren Staloff, *Thomas Jefferson: American Visionary* [videocassette] (The Great Courses on Tape Series, 1999), Tape 3, Lecture 9.

² Joseph Ellis, *Thomas Jefferson: Genius of Liberty* (New York: Viking Studio, 2000), 99-100.

³ Darren Staloff, *Thomas Jefferson: American Visionary*

⁴ Frank Freidel and Hugh Sidey, *Biography of Thomas Jefferson at the White House* (<http://www.whitehouse.gov/history/presidents/tj3.html>)

⁵ J.W. Cooke, "Jefferson on Liberty," *Journal of the History of Ideas*, 34(4) (Oct.-Dec., 1973), 563-576.

⁶ Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800* (New York: New York University Press, 2001), 117.

⁷ Frank Freidel and Hugh Sidey, *Biography of Thomas Jefferson at the White House*

1786, Jefferson's powerful beliefs are evident: "Our liberty depends on the freedom of the press, and that cannot be limited without being lost."⁸ Jefferson's conviction that the entire independence of the country lie in the press, and its freedom, is demonstrated in his many letters written prior to 1802. However, Jefferson's enthusiasm for such full-ranging press freedom began to erode as he experienced its harsh edge aimed at his own purported activities.

Jefferson provided further evidence of his dedication to the idea of press liberty in another personal letter, striking in its content. This correspondence to Edward Carrington, on January 16, 1787, confirms a Jeffersonian belief that: "The basis of our governments being the opinion of the people, the very first object should be to keep that right. [W]ere it left to me to decide whether we have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter."⁹ Jefferson's ferventness and relentless efforts towards creating freedom of the press benefited his cause when the Bill of Rights was drafted and the First Amendment's freedom of speech and press were ratified in 1791.¹⁰ With these two documents, Jefferson had finally reached his goal of unrestrained freedom of the press. It was not until 1798 and the origination of the Sedition Act that his objective, the First Amendment, was placed in jeopardy.¹¹

The Sedition Act of 1798 was a piece of legislature that was created to punish anyone who chose to write "any false, scandalous and malicious writing or writings against the government of the United States...or Congress...or the President, with the intent to defame...or to bring them...into contempt of disrepute."¹² As mentioned, Jefferson was outwardly opposed to any type of censorship laws that would hinder the liberty of the press. Jefferson also believed the Sedition Act to be unconstitutional. He saw the wording of the First Amendment to be arranged in such a manner as to prevent the Federalists from impeding on such rights as freedom of speech and press.¹³ However, Jefferson did more than simply contest the Sedition Act; he created a set of laws to counteract it. Along with James Madison, Jefferson drafted the Kentucky and Virginia Resolutions, within the same year as the Sedition Act, to prevent its execution.¹⁴

The timely composition of the Kentucky and Virginia Resolutions, within the same year as the Sedition Act, demonstrated just how important freedom of the press and the First Amendment were to Thomas Jefferson.¹⁵ The Kentucky and Virginia Resolutions openly confronted the Sedition Act; discerning that freedom of speech was strictly a matter for the states and that Congress should be barred from involvement.¹⁶ Peterson accurately describes Jefferson's reasons for his abrupt disapproval of the Federalist's Sedition Act: "He [Jefferson] believed, unquestionably, that the states could regulate the licentiousness of speech and of press under statutory or common law. He was not an absolutist. But the republican experiment was

⁸ Thomas Jefferson, *Thomas Jefferson Papers*, Library of Congress (http://lcweb2.gov/ammem/collections/jefferson_papers/mtjquote.html)

⁹ Darren Staloff, *Thomas Jefferson: American Visionary*

¹⁰ Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*, 122.

¹¹ Merrill Peterson, *Thomas Jefferson and the New Nation: A Biography* (New York: Oxford University Press, 1970), 606-607.

¹² Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*, 131.

¹³ Leonard Levy, "Liberty and the First Amendment: 1790-1800," *The American Historical Review*, 68(1), 28.

¹⁴ Joseph Ellis, *American Sphinx: The character of Thomas Jefferson* (New York: Alfred A. Knopf, 1997), 179.

¹⁵ Merrill Peterson, *Thomas Jefferson and the New Nation: A Biography*, 606-607.

¹⁶ *Ibid.*, 613.

insupportable without freedom of speech and press at all levels of government..."¹⁷ Jefferson considered the Sedition Act of 1798 as an impediment on the Republican belief, the right to freedom of the press, but more importantly, an obstruction of the rights of states to ascertain the recklessness of the speech and press.

Despite setbacks, the Sedition Act for example, Thomas Jefferson did not stop his crusade for a free and unbridled press. Jefferson's election into the Presidency in 1800 only offered more options on how to proclaim the importance of press liberty. During his First Inaugural Address, he highlights that the freedom of the press and speech "were the gifts of America sages and heroes."¹⁸ However, Jefferson's continued enthusiasm for the First Amendment was swiftly ruined when the rumors and allegations against him began to appear in the newspapers. Pasley describes exactly why many men, specifically Republicans, disregarded prior beliefs they held about press liberty and took up a contradictory stance: "...serious reservations about a completely unrestrained press overtook Republican gentlemen almost as soon as they became officeholders themselves and began receiving blasts from the newly energized Federalist press."¹⁹

The scandal that most notably affected Thomas Jefferson's political and personal life was the controversy concerning a mulatto woman and a supposed affair: "One of the oldest America scandals to make the history books—and which still resurfaces in today's newspapers—is Jefferson's relationship with his slave, Sally Hemings. What made the scandal all the more intriguing was that it was first reported by James Callender, a newsman of dubious integrity, whom Jefferson had previously supported in his efforts to discredit Federalists in the Republican press."²⁰ The glaring contradiction that Jefferson was offended and outraged by Callender's slanderous statements, after Jefferson had urged and paid Callender to make false accusations about the Federalists, demonstrates just the beginning to Jefferson's dangerous road down self-deception, if not hypocrisy.

Callender's "series of exposés about Jefferson's long history of inappropriate behavior" may just have been the act of a vengeful man, but it would forever question Thomas Jefferson's personal life and his relationship with Sally Hemings.²¹ Callender, who was imprisoned for sedition against the Federalists, was furious towards Jefferson upon his release. He had received neither a much-desired position as Richmond's Postmaster General nor any offer (from Jefferson) of compensation.²² Callender, it would seem, had reasons for revenge and the means to accomplish them when he was hired for the Federalist newspaper, the *Richmond Recorder*.²³ The publicized calumny that followed (which the Jeffersonian Republicans tried to control) would forever change Thomas Jefferson's opinion of the freedom of the press, as seen in his letter to Marc Pictet on February 5, 1803: "Our newspapers, for the most part, present only the caricatures of disaffected minds..."²⁴ The press scandal of 1802 marked the end of

¹⁷ *Ibid.*, 616.

¹⁸ *Ibid.*, 655.

¹⁹ Jeffrey Pasley, *The Tyranny of Printers: Newspaper Politics in the Early American Republic* (Charlottesville: University Press of Virginia, 2001), 264-265.

²⁰ Joseph Ellis, *Thomas Jefferson: Genius of Liberty*, 99.

²¹ *Ibid.*, 99.

²² *Ibid.*, 99.

²³ Joseph Ellis, *Thomas Jefferson: Genius of Liberty*, 99.

²⁴ *Ibid.*, 100.

Jefferson's advocacy of the First Amendment, and signified the beginning of his private disdain and secret dissent of the freedom of the press.

Thomas Jefferson was incontestably affected both emotionally and politically by Callender's attacks and the entire Sally Hemings' scandal: "The Callender libels, especially, jarred his faith in the experiment; a press that was capable of inhaling these noxious vapors could not be considered either innocent or useful.²⁵ It seemed, however, that Jefferson's political stance on the First Amendment would not be as greatly affected as a result. During his Second Inaugural Address in 1804, he appeared to hint that state officials could take action against seditionists, but Jefferson did not force this point and he merely encouraged "...that state officials who can afford the time might well use the 'salutary coercions of the law' to correct the falsehood and defamation of the press."²⁶

The freedom of the press, the Sally Hemings' scandal and states rights were not the foremost topics during his Inaugural speech. In fact, Jefferson made very little mention of these matters, so it would appear that he still supported freedom of the press as wholeheartedly as he did before the attacks. However, documents have shown that Thomas Jefferson's Inaugural Address initial draft was much more "direct, pungent and personal" on the subject of the First Amendment and sedition than the revised speech Jefferson actually delivered.²⁷ Jefferson's altered speech is just one example that reveals his effort to hide the passionate and contradictory feelings he now had for the freedom of the press.

Beginning in 1803, letters and other documents begin to surface that exhibit Jefferson's new convictions towards the freedom of the press and sedition. Prior to the attacks, Jefferson had been an open supporter of the First Amendment, and after the Callender libels Jefferson secretly worked against the people's right to the freedom of press and speech: "The most notorious example of Republicans not adhering to the nascent modern conception of press liberty is undoubtedly Thomas Jefferson..."²⁸

His public Inauguration Address suggested state officials to take action, if they had the time, but months earlier, on February 19th, 1803, in a letter to Governor Thomas McKean of Pennsylvania, Jefferson expressed much more forceful sentiments: "This is a dangerous state of things and the press out to be restored to its credibility in possible. The restraints provided by the laws of the states are sufficient for this if applied. And I have therefore long thought that a few prosecutions of the most prominent offenders would have a wholesome effect in restoring the integrity of the presses. Not a general prosecution, for that would look like persecution, but a selected one..."²⁹ This letter, which Jefferson wished to remain "entirely confidential", exemplifies Jefferson's hidden agenda to attack those who were simply exercising their right to the freedom of the press.³⁰ This very personal scandal had certainly affected Jefferson, the man

²⁵ Merrill Peterson, *Thomas Jefferson and the New Nation: A Biography*, 714.

²⁶ Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*, 159-60.

²⁷ Merrill Peterson, *Thomas Jefferson and the New Nation: A Biography*, 803.

²⁸ Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*, 159-60.

²⁹ Darren Staloff, *Thomas Jefferson: American Visionary*

³⁰ *Ibid.*

who once claimed the advantage of a free press over a regulated one; despite the missteps taken by such publications.³¹

The hypocrisy and self-denial in Jefferson's beliefs remained present throughout the rest of his political career and his entire life. The switch from advocate to prosecutor of the First Amendment occurred in the same instant that press liberty allowed a scandal to invade his own personal life. Jefferson would never fully acknowledge his change publicly, but private documents exude the transformation in his beliefs: "As Jefferson saw it, he was not violating a principle so much as rescuing it from its own abusive and self-destructive tendencies. But it was clearly at least a half step backward from his earlier incantations to unbridled freedom of speech."³² Republican forefather of this country, Thomas Jefferson, assisted in the role of democracy by advocating the freedom of speech and press early in his political career. Through scandal and slander, Jefferson's political stance on the Amendment he worked diligently to create shifted tremendously and the prosecutions he sought to end were of his own doing by the end of his second term as United States President.

³¹ Robert Martin, *The Free and Open Press: The Founding of American Democratic Press Liberty, 1640-1800*, 117.

³² Joseph Ellis, *American Sphinx: The character of Thomas Jefferson*, 220.

Annotated Bibliography

Cooke, J.W. (1973). Jefferson on Liberty. *Journal of the History of Ideas*, 34(4), 563-576.

This article, from the *Journal of the History of Ideas*, discusses Jefferson's beliefs on the principles of freedom and liberty. It presents Jefferson as an advocate for not just freedom of the press, but of all the inalienable rights of man. Cooke provided interesting insight into Jefferson's beliefs on the freedom of the press by also incorporating exactly why he held those beliefs.

Ellis, J. (1997). *American Sphinx: The Character of Thomas Jefferson*. New York: Alfred A. Knopf.

Ellis provides a detailed analysis and description of Thomas Jefferson's life. Ellis separates the events in Jefferson's life by the location in which they took place. Many aspects of Jefferson's life are investigated in this book, especially his political beliefs. Ellis discusses in detail Jefferson's views on freedom of the press, the Sedition Act, and Jefferson's contradictory point of views after the Sally Hemings' scandal.

Ellis, J. (2000). *Thomas Jefferson: Genius of Liberty*. New York: Viking Studio.

Many aspects of Jefferson's life are investigated and presented in this book through a compilation of essays. Various contributing writers highlight the significant happenings involving and surrounding Jefferson's life. This book aided in the understanding of the Sally Hemings' scandal and also of James Callender, the initial reporter of the controversial story.

Freidel, F., & Sidey, H.S. Biography of Thomas Jefferson at the White House. Retrieved March 31, 2005, from <http://www.whitehouse.gov/history/presidents/tj3.html>

The White House's Website contains short, yet informational, biographies of every president, including Thomas Jefferson. The biographies incorporate personal elements like birthplace into the more important presidential information like political party and stances on particular politically-charged issues. Freidel and Sidey describe Jefferson's achievements and failures in his political and personal life, which provide useful background knowledge of Jefferson's life and career.

Jefferson, T. (1786). Letter to Dr. James Currie. In *Thomas Jefferson Papers* at Library of Congress. Retrieved March 28, 2005, from http://lcweb2.loc.gov/ammem/collections/jefferson_papers/mtjquote.html

The *Thomas Jefferson Papers* are letters and other documents written by Thomas Jefferson that contain primary source information on Jefferson's ideals and beliefs. The Library of Congress takes highlights from these documents and presents quotations that demonstrate his principles regarding many different topics. One quotation provided by this website, taken from Thomas Jefferson's letter to Dr. James Currie, displays his supportive attitude toward the freedom of the press.

Jefferson, T. (1807). Letter to John Norvell. In *Thomas Jefferson Papers* at Library of Congress. Retrieved March 28, 2005, from http://lcweb2.loc.gov/ammem/collections/jefferson_papers/mtjquote.html

The *Thomas Jefferson Papers* are letters and other documents written by Thomas Jefferson that contain primary source information on Jefferson's ideals and beliefs. The Library of Congress takes highlights from these documents and presents quotations that demonstrate his principles regarding many different topics. The Library of Congress selected a quotation from Jefferson's letter to John Norvell, which helped to demonstrate his change in opinion toward the freedom of the press by 1807.

Leiser, Burton M. (1992). Thomas Jefferson. In I. McGreal (Ed.), *Great Thinkers of the Western World* (pp. 301-304). New York: HarperCollins.

This excerpt by Burton Leiser, taken from the book *Great Thinkers of the Western World*, describes all of Thomas Jefferson's notable ideas and principles during his lifetime and presidency. Leiser skims the surface of Jefferson's opinions toward religion, the press, education, land ownership and the government. Although this book does not provide in-depth information on any of those topics, including freedom of the press, the reader can use this resource to obtain a basic understanding of Jefferson's beliefs.

Levy, L.W. (1962). Liberty and the First Amendment: 1790-1800. *The American Historical Review*, 68(1), 22-37.

The extensive research and analysis of Jefferson and the First Amendment, provided in Levy's article, allows the reader to look at Jefferson's advocacy of freedom of the press with a critical eye. Levy examines numerous documents from Jefferson's time period, which aid in proving the historical reliability of this article. The detailed discussion of the Federalist party, Jefferson and his fellow Republicans and their positions on the First Amendment qualify this article as a comprehensive and helpful source of information on press liberty during the Jeffersonian era.

Levy, L.W. (1985). *Emergence of a Free Press*. Oxford: Oxford University Press.

The evolution of the principle of the freedom of the press and eventual creation of the First Amendment is the basic outline of Levy's *Emergence of a Free Press*. Levy's investigation into the development of the First Amendment covers the Sedition libels, the American Revolution, various free press theories, and finally the establishment of the First Amendment. Levy also includes a succinct depiction of Jefferson's role in the involvement of the freedom of the press and the First Amendment.

Martin, R. (2001). *The Free and Open Press: The Founding of American Democratic Press Liberty*. New York: New York University Press.

Martin's book, *The Free and Open Press*, offers an extremely comprehensive depiction of the progression towards the establishment of the freedom of the press and the First Amendment. Martin covers a large span of time with much detail towards accuracy of the information he provides to the reader. Deeply researched, Martin's book also

depicts Jefferson's initial views on the freedom of the press in the late 18th century and then his very different opinions later on at the end of the first decade of the 19th century.

Mernam, C.E. (1902). The Political Theory of Jefferson. *Political Science Quarterly*, 17(1), 24-45.

The major political theories of Jefferson's government and presidential career are the main focus of Mernam's article, found in *Political Science Quarterly*. Mernam provides a broad background of Jefferson's beliefs, which aids an uninformed reader in understanding Jefferson's position on many political issues.

Pasley, J. (2001). *The Tyranny of Printers: Newspaper Politics in the Early American Republic*. Charlottesville: University Press of Virginia.

The Tyranny of Printers discusses, in detail, exactly what the title of the book suggests. The hypocrisy and tyranny found among early Republicans when it came to the issue of newspapers and freedom of the press is Pasley's main emphasis. Pasley especially focuses on Jefferson's apparent switch from his pro-First Amendment stance at the beginning of his career to his negative opinion of the freedom of the press toward the end of his second term as President.

Peterson, M. (1970). *Thomas Jefferson and the New Nation: A Biography*. New York: Oxford University Press.

Peterson's biography on Thomas Jefferson and the formation of his Republican nation describes Jefferson's life from an analytical perspective. Jefferson's great qualities as a leader are exemplified, but Peterson also examines Jefferson's faults, especially his hypocrisy concerning the freedom of the press. This book, written as a thorough timeline, lends important insight into Jefferson's beliefs on the First Amendment and what events led him to change his opinion on press liberty.

Staloff, D. (PhD). (1999). *Thomas Jefferson: American Visionary* [videocassette 3, lecture 9].

This videocassette, from the "Great Courses on Tape Series", contained various lectures that covered every aspect of Jefferson's life. An amazingly in-depth resource which provided a wealth of information described every element of Jefferson's political career. Lecture nine in particular discussed the controversy over Jefferson's duplicity in beliefs towards the freedom of the press. Through primary source references and a close analytical comprehension, Dr. Staloff demonstrates Jefferson's shift in political principles and why that shift occurred.