

My Father's House

PO Box 22, Moodus CT 06469 860/873-1581 -2357-f www.myfathershouse.com email:my-fathers-house@prodigy.net

Freedom and Responsibility According to Our Founding Fathers Fr. Bill McCarthy, MSA

Justice and Truth in America

Not only did our Founding Fathers found this great nation as a nation under God, but they believed in an "ordered liberty" – that is, a freedom ordered to the laws of nature and the laws of nature's God; and a freedom based upon the God-given inalienable dignity and right to life of every American citizen.

They all believed: "blessed only are those nations whose God is the Lord," and that God's favor could never be expected upon a nation that disregarded God's eternal rules of order so succinctly expressed in the Ten Commandments. Andrew Jackson said that a nation that cannot be ruled by the Ten Commandments shall be ruled by tyrants.

No Freedom Without Responsibility

In general they believed that you could not have freedom without responsibility -- the responsibility that made sure that your free activity was in accord with God's laws; that every elected official in the United States was meant to be a God-fearing man. Noah Webster said to young people, "When you are old enough to vote, remember: God commands you to choose for your rulers righteous people who will rule in the fear of God."

Freedom of the Press

The freedom of the press was to go hand in hand with the responsible leadership of the press. In fact, the Supreme Court of Massachusetts in *Commonwealth v. Abner Kneeland* (1838), addressed the arguments of "freedom of the press" and emphasized the responsibility which limited that freedom:

According to the argument... every act, however injurious or criminal which can be committed by the use of language, may be committed... if such language is printed. Not only therefore would the article in question become a general license for scandal, calumny [slander] and falsehood, ... all other crimes however atrocious, if conveyed in printed language, would be punishable.¹

The Founders never intended the unlimited, unrestrained, and often unconscionable "freedom of the press" practiced today. In fact, Thomas Jefferson had declared:

¹ *Commonwealth v. Abner Kneeland*, 37 Mass. (20 pick)219 (Sup. Ct. Mass. 1838).

"While we deny that [the federal] Congress have a right to control the freedom of the press, we have ever asserted the right of the States, and their exclusive right to do so."²

Censorship of the Press - Freedom and Responsibility

While many civil libertarians today cringe at the thought of "controlling" the press, the controls were actually those which common sense and reason dictated, and all were rooted within the concept of responsibility (in fact, responsibility and the duty of stewardship is intrinsic to the preservation of every liberty). Concerning the balance between the freedom of the press and the responsibility of the press, printer and publisher Benjamin Franklin explained:

"If by the liberty of the press were understood merely the liberty of discussing the propriety of public measures and political opinions, let us have as much of it as you please; but if it means the liberty of affronting, calumniating [falsely accusing], and defaming one another, I, for my part... [am] willing to part with my share of it whenever our legislators shall please so to alter the law, and shall cheerfully consent to exchange my liberty of abusing others for the privilege of not being abused myself."³

Justice James Wilson agreed that responsibility was the central issue:

"What is meant by the liberty of the press is that there should be no antecedent restraint upon it; but that every author is responsible when he attacks the security or welfare of the government, or the safety, character, and property of the individual."⁴

The exercise of any freedom without responsibility more often than not leads to licentiousness, and often to tyranny. As illustrated by the following statements, this was never intended:

"Congress shall make no law abridging the freedom of speech, or of the press." That this Amendment was intended to secure to every citizen an absolute right to speak, or write, or print, whatever he might please without any responsibility, public or private, therefore, is a supposition too wild to be indulged by any rational man. This would allow every citizen a right to destroy at his pleasure the reputation, the peace, the property, and even the personal safety of every other citizen."⁵ JOSEPH STORY, U.S. SUPREME COURT JUSTICE; A FATHER OF AMERICAN JURISPRUDENCE

If a printer offends you, attack him in your paper, because he can defend himself with the

² Thomas Jefferson, *Memoir, Correspondence, and Miscellanies*, From the Papers of Thomas Jefferson, Thomas Jefferson Randolph, editor (Boston: Gray and Bowen, 1830), Vol. IV, p.27, to Abigail Adams on September 11, 1804.

³ Benjamin Franklin, *The Works of Benjamin Franklin*, John Bigelow, editor (New York: G.P. Putnam's Sons, 1904), Vol. XII, p.131, from "An Account of the Supreme Court of Judicature in Pennsylvania, viz., The Court of the Press."

⁴ *Debates in the Several State Conventions on the Adoption of the Federal Constitution*, Jonathan Elliot, editor (Washington: Printed for the Editor, 1836), Vol. II, p.449, December 1, 1787, James Wilson.

⁵ Joseph Story, *Commentaries on the Constitution of the United States* (Boston: Hilliard, Gray, and Company, 1833), Vol. III, pp. 731-732, 1874.

same weapons with which you wound him; type against type is fair play; but to attack a man who has no types nor printing press, or who does not know anything about the manual of using them, is cowardly in the highest degree."⁶ BENJAMIN RUSH, SIGNER OF THE DECLARATION

"[E]very citizen might freely speak, write, and print, on any subject, [but is] responsible for the abuse of that liberty."... Without such a check, the press, in the hands of evil and designing men, would become a most formidable engine [instrument] as might for mischief as for good.⁷ James Kent, A Father of American Jurisprudence

While the issue of the press is really a side note to the central issue of the *Kneeland* case, it nonetheless underscores the fact that too often today the constitutional guarantees of freedom of the press and speech have been misinterpreted to protect irresponsible and even irrational exercises of personal vindictive prerogatives. Without the requirement of accountability, Justice Joseph Story warned that the press would "become the scourge of the republic, first denouncing the principles of liberty, and then, by rendering the most virtuous patriots odious through the terrors of the press, introducing despotism in its worst form."⁸

⁶ Benjamin Rush, *Letters of Benjamin Rush*, L. H. Butterfield, editor (Princeton University Press, 1951), Vol. I, p. 488, to Andrew Brown on October 1, 1788.

⁷ James Kent, *Commentaries on American Law* (New York: O. Halsted, 1827), Vol. II, pp. 17-18, Lecture XXIV, "Of the Rights of Persons," quoting Louisiana constitution, Article VI, 21.

⁸ Story, *Commentaries*, Vol. III, pp. 731-732, 1874.