

# ALLIED DAILY NEWSPAPERS OF WASHINGTON

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Memorandum:

To : Publishers and Editors

Re : Bar Ass'n Freedom of Press Project

The Washington Bar Association is developing a brochure for use in public schools to further student understanding of the Constitutional guarantees of a free press. The project is being carried forward by the Bar Association's "Living Constitution Committee", working with the State Department of Education.

Media representatives, including Allied, have been invited to participate in the development and evaluation of this brochure. The chairman of the bar committee addressed publishers on this point at the May meeting in Seattle. Preliminary outlines of the brochure content were forwarded by the executive office to all Allied editors on two occasions with a request for comment. Not a single reply was received.

The project is now nearing final form. It must be ready for distribution to the schools by late August. A near-final outline of content is being sent to you with this memorandum. Comment of publishers and editors are again being invited by the project sponsors.

This is a matter in which every newspaper should have a vital interest. If you believe there should be either additions or deletions, please send your suggestions to this office. If you like the outline as it stands, please say so. The committee has asked this office twice to forward a report on all responses received to date to reveal the extent of membership interest in the program. We hope we can give a better account for Allied next time. Replies should be on file by the end of the first week in August.

Lew Selvidge

LS:cw



Tentative the Press

For review purposes only

LIVING CONSTITUTION PROJECT

1956 Theme: Freedom of the Press

Objectives

The general objectives of the project are directed at an understanding of the United States Constitution and the constitutional form of government. Related to this is an understanding of the American legal system and the contribution of the legal profession in maintaining and developing constitutional forms and rights. The theme selected by the Bar Association Committee for 1956-57 is Freedom of the Press. Accordingly, another general objective this year is an understanding of the press\* and its contributions to political democracy.

Specific objectives follow:

1. To understand the need for a free press in a democratic republic
2. To learn that the Constitution guarantees freedom of expression and communication
3. To acquire skill in reading, listening to, viewing, and evaluating informational services in the mass media
4. To understand that every right carries with it certain responsibilities--that freedom of expression requires responsibility in expression
5. To understand how the legal system operates to maintain freedom of expression and to enforce responsibility in expression

\* The term "press" is used throughout in this bulletin to signify mass communication media concerned with reporting and interpreting the news: newspapers, news magazines, radio, television, and motion picture news reels and "documentaries."

2. Editorial Policy

3. Effect of editorial policy on reporting of news



## Freedom of the Press

The following outline contains suggestions to teachers who wish to develop a unit on Freedom of the Press in social studies or language arts classes. This material may be used as a complete unit or sections may be employed where applicable to other units being studied. The purpose of the unit is to develop understanding of constitutional guarantees and of the mass media that operate under these guarantees. Liberal use should be made of experiences that give some first-hand contact with news gathering and distributing agencies.

### I. Need in a democracy for an informed public

#### A. Dependence of electorate upon accurate information.

"A popular Government, without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or, perhaps, both."--James Madison, 1822.

#### B. Sources of information

1. Mass media: Newspapers, magazines, radio, television, motion pictures
2. First-hand experience
3. Speakers, discussions, etc.

#### C. Increased dependence upon mass media because of:

1. Geographical growth of country
2. Urbanization of America
3. Concentration of population, industry, and government
4. Greater access to mass media because of improvements in technology, new inventions, and higher literacy standards

### II. How newspapers operate

#### A. Make-up of the newspaper

1. News--local, national, international
2. Editorial Policy
3. Effect of editorial policy on reporting of news



4. Features--sports, comics, syndicated columns, homemaking, recreation, hobbies

5. Advertising

6. Circulation

B. World-wide news-gathering agencies

C. Newspaper chains

D. Different roles of local daily, local weekly and metropolitan daily papers

E. Weekly and monthly news magazines and journals

### III. Other mass media

A. Radio and television newscasts and commentary

1. On-the-scene reporting

2. Documentaries

3. Political campaigning

4. Reports to the people by governmental leaders

B. Motion picture newsreels

### IV. Necessity of a free press in a democracy

A. Why a "free" press

B. History of development of freedom of press

1. Milton's Areopagitica 1644

And though all the windes of doctrin were let loose to play upon the earth, so Truth be in the field, we do injuriously by licencing and prohibiting to misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the wars in a free and open encounter.

2. English Bill of Rights, 1689

3. Peter Zenger Case, 1734

4. Colonists' Declaration of Rights and Grievances, 1765

5. Declaration of Independence, 1776

6. Bill of Rights, 1789



7. Court decisions since 1789
8. Free press and current problems
  - a. Washington public meetings law of 1953 requiring all public bodies to take official action at meetings open to the public (chapter 216, Laws of 1953).
  - b. To what extent are government agencies justified in refusing information to the press?
  - c. Under what circumstances may press, including photographers, be excluded from court proceedings?
- C. Extension of this principle to other mass media
- V. Guarantees in Federal and State Constitutions
- VI. Limits on free press to protect individuals and the public
  - A. Self-imposed restraints as part of the press's recognition of responsibility
    1. What constitutes "fair comment"?
    2. Censorship prior to publication or prosecution thereafter?
    3. Censorship through mailing privilege
  - B. Libel and slander provisions
  - C. Considerations of national security (sedition acts, "inciting to violence," provisions in Civil War, World War I and World War II)
- VII. Federal Communications Commission and its administration of regulations for radio and television
- VIII. Problems involving the mass media
  - A. Reconciling considerations of national security and freedom of the press
  - B. Concentration within the publishing field and the gradual reduction in the number of newspapers serving a given community
  - C. Problems of securing adequate local services
- IX. Projects for school classes
  - A. Unit on "How to Read a Newspaper"
    1. Keeping informed--identifying several sources of information, checking sources, recognizing own attitudes, prejudices and stereotypes



2. Major purposes of news reports, editorials, columns, background articles and cartoons; developing criteria to use in evaluating these
  3. Recognizing propaganda techniques--glittering generalities, name calling, transfer, testimonials, plain folks, bandwagon, and card stacking
- B. Visits to newspaper offices
  - C. Visits to radio and television studios to learn how newscasts and news features are organized
  - D. Comparison of newspaper and broadcast treatment of particular news items
  - E. Study of way in which a single issue, such as the 1956 election campaign, is being handled in the local newspaper; comparison of handling in several papers
  - F. Discussion with attorney of handling of libel cases involving mass media
  - G. Discussion with newspaper editor of aspects of censorship affecting current operation
  - H. Study of regulations to protect national security
  - I. Discussion with newspaper editors of topic, "What are the responsibilities of the press?"
  - J. Preparation of history of local newspaper
  - K. Drawing cartoons to illustrate news story or express opinion with regard to current problems
  - L. Survey of favorite newspaper feature or radio or television newscast
  - M. Developing community or neighborhood newspaper
  - N. Publishing a school newspaper
  - O. Survey of attitudes of people toward right of free speech
  - P. Reporting on history behind the news--as news column, radio or television feature
  - Q. Some discussion questions:
    1. Why do we consider news reporting (newspaper, radio, television newscasts) part of our lives?
    2. What are trends in news writing today? In radio and television newscasting and commentary? In on-the-scene reporting?



3. What inventions have affected production of news?
4. Where do we get news?
5. What newspaper departments contribute most to influencing public opinion? Is this influence greater or smaller than radio's and television's? How do the newer media make their greatest impact?
6. Is censorship sometimes necessary?
7. Should names of juvenile offenders be used in newspapers?
8. Should television and newspaper cameras be permitted in courts?
9. What are the limits of the press's right to "fair comment"?
10. Should the press be subject to libel suits if they report, without knowing it to be false, an untrue statement made by a witness?
11. Should the police "blotter" be regarded as public information--i.e., available for publication in the press?
12. How should radio and television time be apportioned in political campaigns?
13. How has television affected news reporting through other media?
14. What arrangements are made to prevent influence of advertisers on editorial and news policies?
15. In a community with only one newspaper, how can opposing viewpoints be expressed?



## APPENDIX

### Freedom of Speech, Press and Religion\*

The Bill of Rights is the collective name given to the first ten amendments of the Constitution and the insistence that they be adopted was a sort of guarantee that no excesses of power would be assumed by the new national government. The colonists, you will remember, had just wrested the right of self government from England. And these ten amendments were a sort of insurance against the creation of a frankenstein monster. The creators of the government (the people) were making certain that the government served its purpose--and did not devour its creators.

These ten amendments guarantee many things in detail. Many rights of the individual--in his relation to the government and his fellow citizens--are listed and reserved.

\* \* \*

Three freedoms have been selected: freedom of speech, freedom of press and freedom of worship; because they possess some similarities in the way they reach into our lives, because they are so fundamental, because they group themselves into intellectual freedom, these three will be a workable group and a small enough group to enable us to understand our liberties.

Here are the statements of these guarantees. In the United States Constitution, Amendment #1, the first of the "Bill of Rights":

"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...."

\* \* \*

These are "intellectual" freedoms. Speech is but the mirror of thought and there can be no freedom of thought if its products (speech) is fettered. The freedom of the press is a derivative of this; it is the guarantee that the product of thought may be distributed by pamphlet, circular, handbill, newspaper. Worship is the bending of one's knee to Him to whom one offers spiritual homage; allegiance to God is a form of thought, and the right to worship--or not to worship, as the individual desires--is guaranteed inviolate. You cannot chain thought but the ambitious dictator recognizes that you can chain speech, the press or religious observance. To be free, really free, a man must be free to think. In America, he is guaranteed the freedom of thought and the freedom of thought's products.

\*Excerpt from statement of Ohio State Bar Association, American Citizenship Committee, Sidney G. Kusworm, Chairman. Adopted by and distributed to the Bar Associations in the United States through the Standing Committee on American Citizenship of the American Bar Association, Hon. Walter M. Bastian, Chairman.



These aren't empty things--they are living, real, tangible. Your freedom of speech guarantees the right to complain against abuses, injustice. The press is free to multiply those complaints, to give widespread distribution to them. The freedom of worship guarantees that you will be equal before courts, in the voting booth--without regard to your religious affiliations. Neither do you have to be a member of any certain union or manufacturer's association to call into play the tremendous machinery of the judicial system. Indeed, the big, basic decisions of the highest courts frequently involve little people of no resources and, often, the monetary amount involved in the given case is paltry. The decisions loom large, however, because the application of them may involve tens of thousands of other people or millions of dollars of property. Let's look at a few of these situations to see what was involved, who was involved and the court action taken.

About ten years ago, the city of Griffin, Georgia--whose only claim to fame, dubious fame, is that it became involved in a prominent lawsuit--undertook to put a ban on distribution of handbills, circulars, pamphlets, except by those who were licensed to do so by the City. When the city fathers undertook to do this job, they went at it in a thorough manner; they didn't forbid it during certain hours or at certain places; they didn't limit it to obscene or salacious material. All distribution without permit was forbidden.

Whether this ordinance was passed just to discourage Jehovah Witnesses is not chronicled, but one of these people, deliberately violated it and invited prosecution. Lovell, for that was the Witness' name, refused even to apply for the license and thus began the long route of a case through courts of the state of Georgia and, finally, up to the United States Supreme Court, (1) because of a fundamental right guaranteed by the Constitution of the United States was claimed to have been violated.

Where did the Supreme Court go to determine whether one of the little towns of Georgia could do this to an insignificant individual? First, to the Bill of Rights, where it invited attention to the guaranteed freedom of the press. Then it called attention to one John Milton, more often met with by you people in your literature classes, and a little less known as a voice crying, in the wilderness of three centuries ago, for freedom of speech and the spread of that speech through the printing press. You see, the liberty of the press became, initially, the right to publish, without a license, what formerly could be published only with a license. This Georgia ordinance, the Court stated, "...strikes at the very foundation of the freedom of the press by subjecting it to license and censorship."

If the City of Griffin, Georgia, could require a license, they could charge for the license, deny it or grant it on conditional terms satisfactory to those then and there in power. And those people could use the licensing power to exclude those who didn't agree with them.

The city fathers of Griffin insisted that there would not be denied any freedom of the press--that all that was denied was the distribution of material. Not so, said the Supreme Court. "Liberty of circulation is as essential to that freedom as liberty of publishing; indeed, without the circulation, the publication would be of little value."



How empty, indeed would be the freedom of speech if it were to be guaranteed only in a vacuum or in the middle of the desert? How stupid to guarantee the freedom of the press but to forbid the distribution of the printed material?

That takes us back to the "intellectual" freedom. In this country, you can not fetter thought by chaining its product. So was the city of Griffin, Georgia, told. And so may Potosi, Missouri, or Ypsilanti, Michigan, profit by its example. A person named Lovell, by appealing to the Courts, has written the lesson.

Struthers, Ohio, tried this in a different way. (2) There, the city fathers prohibited door knocking or bell ringing or any form of summoning persons to the door of the house. Martin was fined \$10.00 for violating this rule and the Supreme Court of the United States sent the same message back to Struthers that it had sent, five years earlier, to Griffin, Georgia. Struthers was told that the distribution of information (and Struthers is not to determine what is useful, good or worthwhile) is so clearly vital to the preservation of a free society that it must be fully preserved. This ordinance--and the Court so branded it--is a naked restriction of the dissemination of idea.

Here is a good place to pause, to consider another side of this matter. There is no right but that a duty exists with it. Absolute freedom would not be freedom--it would be anarchy. You can not be "free" in the largest possible extension or meaning of that term. For, if you are absolutely "free," your neighbor enjoys no freedom. And if he is absolutely "free," you enjoy none.

As one of the greatest minds of the Country, Mr. Justice Holmes put it in an interesting way: "'Freedom of speech' would not protect a man in falsely shouting 'fire' in a theater and causing a panic." Neither does freedom of the press protect the distributor of obscene literature, the circular distributor who litters street corners, the fraudulent charity solicitor, the doorbell pusher who uses his occupation as a blind for the more lucrative occupation of burglarizing houses where the occupant is found to be away. Here, you see where some problems occur in seeking a compromise between the guaranteeing of these individual liberties and the greater good of society as a whole when it is confronted with a police or health problem.

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Have you noted how each of the parties in these cases, people who appealed from the denial of the right of speech, press or worship, was one of the "little people"? They were. They belonged to no large pressure organization--the CIO, the NAM, the farmer's Grange or a corporation with a far-flung industrial empire. They were among the every day, ordinary people who have no special resources, no friends in high places--the people who make up the bulk of the 140,000,000 in our country. Yet, despite this and, even, despite the fact that the only physical thing involved in one case was a \$10.00 fine, the ponderous bulk of the judicial machinery of the nation swung into action. The printing of the final decision in the official reports of cases probably cost more than the monetary amount involved in the case.

And that is just exactly as it should be. You can not compromise a basic right merely because, in the instance, a small thing is involved. It is in small things,



in the erosion of habitual ignoring of small things, that the gradual deterioration of important things occurs. Your freedom, your liberty, is more a mass of small things than a few important ones. It is, indeed, more important that the publisher of a small pamphlet be secure in his freedom than the publisher of the New York Times or the Saturday Evening Post. With money and the influence of its reading subscribers, large newspapers or magazines can carry on a fight with less sacrifice than the small individual must face. So it is heartening to realize that our courts are just as open to and just as careful in the preservation of the rights of the small person as they are in the case of institutions or individuals which can afford the trouble and expense of long court quarrels.

Some of the world's greatest progress has come from the free and untrammelled discussion of new ideas. Progress is not encouraged by stifling the expression of new and novel ideas. If the idea is right and is good, silencing it is a robbery; if the idea is bad and harmful, society is equally robbed in that we are deprived of the beneficial experience of having the error collide with the truth. Let's put it another way, as John Stuart Mill did:

"If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind."

There is no such infallibility in worldly affairs as will justify the stifling of speech or press or religion just because the idea or thought is new or runs counterwise to what are, today, accepted forms of good conduct, good government. If the new is in error, let it have widespread circulation; but see that the truth is just as widespread and you need not fear the harm of the untruth.