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THE MILITARY AND THE MEDIA: A PROBLEM  
OF PERCEPTION

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30 May 1974

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20. ABSTRACT (Continue on reverse side if necessary and identify by block number)  This generation of military officers displays considerable vocal hostility toward the mass communications media. This is especially unfortunate in today's situation when the military greatly needs public support in order to attain from Congress required manpower and budget authorizations and the only feasible route to public support is via mass media. Much of the problem lies in the average military officer's failure to properly perceive one of media's important roles in a democratic		

society: adversary to government. The military officer considers excessive criticism of government policy and programs to be irresponsible and blames the press for many government failures. This problem can be eliminated in large part if military officers were given more opportunity to relate to journalists through discourse and education. An awareness of American journalistic history and tradition would provide a basis for respect of press' role and ultimately lead to less hostility toward media. The preservation of American freedoms depends on free media as much as on a strong military. History shows the military and media have cooperated for the nation's good in the past. They can do so again, but first they must have mutual respect for each other. Education is the key to this condition.

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USAWC MILITARY RESEARCH PROGRAM PAPER

THE MILITARY AND THE MEDIA: A PROBLEM OF PERCEPTION

INDIVIDUAL RESEARCH REPORT

by

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Carlisle Barracks, Pennsylvania  
30 May 1974

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## CHAPTER I

### INTRODUCTION

Since the founding of the United States and its entry into the "great experiment in freedom," there has been conflict between the people's elected governors and the people's champion--the press.\* As William Rivers states in his book, The Adversaries, the theory embodied in the Bill of Rights was laudable, "the government would carry on its actions; a free and independent press would comment on and investigate these actions." He goes on to say that history reveals that the theory was not easily accomplished and, in practice, government and press have at times been "the most savage adversaries imaginable" while at other times, they have been "such sweethearts that much of the press has been incorporated into the machinery of power."<sup>1</sup>

This description of overall government/press relationships is equally applicable to the more narrow scope of military/civil press relations.

Certainly, the military would prefer a consistent sweetheart entanglement. In both peace and war the Defense Department depends on public support for manpower, money, and morale in achieving its objectives. That this support can be obtained more easily when the press is in favor of these objectives is undeniable.

Unfortunately, the press does not always support Defense programs and a conflict may result in open hostilities and the military may

\*Throughout this paper, the term "press" will be used in its broadest sense and will refer to all the active communications media.

find itself with few friends and considerable public opposition, as occurred in the late 1960s.

Although the blame for such a situation can be laid on the doorsteps of both press and the Armed Forces, the greatest immediate danger is always to the latter. It follows, therefore, that the Armed Forces should take the initiative to preclude such happenings. The military must insure that, to the maximum extent possible, the press reports Defense matters fairly and without bias or rancor. This can be accomplished only if military officers are capable of communicating with the communicators.

One of the most neglected areas in military education is the development in the professional officer of an understanding of the role of mass communications. This author's personal experience, a review of various military student monographs and studies, and interviews with fellow students at the Army War College all indicate that within the military establishment there is a tendency to misinterpret the role of media in a democratic society.

An example which discloses the nature of the problem concerns a formal presentation on the military and media which was made to the Army War College Class of 1974 by a representative of a major broadcasting network. Following the speakers prepared remarks on how media and the military related to each other in Vietnam, the period was open to questions from the floor. The speaker was immediately queried concerning the responsibility of the press to report morale boosting news favorable to government policy in order that the American public would support ongoing foreign policy efforts.



Comments from the floor clearly indicated that the students considered news media were remiss in not striving to balance comments unfavorable to government with "good news" in order to create a climate of public trust. The lecturer's response that media was not responsible to "make the system work" was clearly unsatisfactory to many in the audience as evidenced by general unrest and subsequent questions.

For several days following this presentation, there were many discussions about responsibility of media. Discussions generally critical of the press and its representatives. Discussions which indicated that many of these officers, destined for senior military positions, are either hostile to the press or unappreciative of the constitutional role of media.

In researching this problem, it was found that War College students at Newport shared this viewpoint with their Army contemporaries. The 1973 Annual Report of the Naval War College contains these comments in the Report of the President:

Students [AY 72-73] expressed a dubiety amounting almost to hostility toward the national press, and that appeared to be reciprocated when a group of reporters spent some time at the War College last year. The officers felt that the national press had presented a heavily biased picture of the war in Southeast Asia, while the press claimed the candor and professionalism of World War II days were lacking in the military officers the reporters encountered in Vietnam.<sup>2</sup>

The reasons for such attitudes are not difficult to comprehend. Military persons are imbued with a spirit of loyal support of government policy and, providing the orders are lawful, full and total

compliance with directives. To them, criticism of such policies or comments which embarrass our country, smack of disloyalty.

Too, these officers reflect the thinking of the American public at large. History is replete with examples of public action to silence free comment if it has any adverse effect on national security. A CBS poll taken in 1970 clearly indicates that Americans even now are willing to forego Constitutional guarantees of free speech if they feel threatened even slightly. This poll revealed that 75 percent of those questioned felt that extremist groups should not be allowed to organize demonstrations even if there was no danger of violence; 50 percent would not give anyone the right to criticize government if the criticism was thought to be damaging to national interest; 55 percent said media should not be permitted to report stories considered by government to be harmful to the national interest [all emphasis mine].<sup>3</sup>

Barry Zorthian, former USIA Chief in Vietnam, has indicated that such thinking is contrary to military responsibility. In an article which appeared in the Naval War College Review, he put forth the premise that the goal of a free and open society is to provide information to the public in order that the people can pass judgement on the performance of the government, and that providing such information is the responsibility of every public servant, "including the military." To accomplish this, Zorthian says that commanders must learn the art of communicating as an integral part of their command responsibility. He goes on to say:

The military must train in this area if it is to accomplish its mission in the years ahead.

Public information has become such a vital element in national military strategy that it is important for the commander to recognize and learn the customs and habits of the press and media as a whole.<sup>4</sup>

A major factor involved in successful communication with media, says Zorthian, is respect for the role of the press:

. . . there are too many . . . who should contribute to the public's awareness but do not accept the true implication of the role and function of a free press . . . when discomfort results from critical stories in the press, the temptation is to blame the press and, where possible, control the press. A true acceptance of the role of free press is a sine qua non of effective communications.<sup>5</sup>

The foregoing comments are sustained by a recent Army War College study, Army Tasks for the Seventies. In regard to media, the study states that "[military] societal relations must be based on a solid understanding of the role of press and other media."<sup>6</sup> Colonel Donald F. Bletz, who authored this portion of the study, stated in an interview that his many discussions with senior officers of all services and with academicians in many parts of the country during compilation of data for the study convinced him that the average military officer did not understand or appreciate media and that education was needed.

The history of the press in America is one of constant trial. However, despite repeated attempts by government to control the media in various ways, the concept embodied in the First Amendment to the Constitution has prevailed.

To understand the press, one must first understand what it has undergone. Therefore, military education in mass communication must, as a minimum, include a study of the development of the American

press. This paper examines some of the more significant aspects of this development in hopes that the discussion will provide a basis for further effort and application in the military education system.

## CHAPTER I

### FOOTNOTES

1. William Rivers, The Adversaries: Politics and Press (Boston: Beacon Press, 1970), p. 9.
2. "Report of the President Annual Report 1973," Naval War College Review, September-October, 1973, p. 10.
3. Robert K. Carr and others, Essentials of American Democracy, 6th ed. (New York: Holt Rinehart and Winston, Inc., 1971), p. 378.
4. Barry Zorthian, "The Role of the Communications Media in a Democratic Society," Naval War College Review, February 1972, p. 4.
5. Ibid.
6. United States Army War College Study, Army Tasks for the Seventies, June 1972, p. 100.

## CHAPTER II

### THE FIRST AMENDMENT--ITS ORIGINS

The real character of the United States political and administrative system can be traced to the fact that it was shaped by Englishmen of the 17th Century. These men were different from both their contemporaries at home and those of other nationalities. Seventeenth Century England was a place where many people were seriously questioning long standing traditions and accepted political precepts on the common man's status in the scheme of life. It was a place where individualism and new ideas based on reason rather than faith were gradually being adopted. The founders of America comprised the dissident group of England who believed this shift toward individual freedom was occurring too slowly.

Their progeny, Hamilton, Madison, Adams, and others were convinced that a free press was essential to the furtherance of this emerging individualism. They had been academically educated in, and some even had personal experience with, the tyrannies of English monarchs. They had issued from colonel stock; colonists who had fled from Europe, often at great risk to life and fortune in order to escape the intellectually stifling atmosphere of the old world. A historian, Irving Brant, relates, "the record [of repression of freedom] was known to the men who built the government of the United States. . . . Most of it they knew by their reading of history, part of it by observation, and some by going through a revolutionary struggle. . . ."1

The origins of our present freedoms of speech and press, therefore, primarily rest in the historical experience of England.

#### PRINTING IN EARLY ENGLAND

The first official prohibitions against printing concerned religion. The Reformation had resulted in a freeing of the Bible from Latin and the translation of it to English. The Pope was particularly displeased with these translations inimicable with those of Rome and they were branded as heretical. Henry VIII, who early in his reign was dependent on support from the Roman Catholic Church, seized upon suppression of these translations as a memo of pleasing the Pope. Publication of any Bible in England was, therefore, prohibited unless it was first approved by ecclesiastical officers, Any writer or printer who violated this prohibition could be prosecuted in open court and, if found guilty, be severely punished, or even executed.<sup>2</sup>

Upon Henry's disaffection from the Roman Church, he found that these pronouncements imposing prior restraint of publication and punishment for violators could be used to advantage in quieting criticism. As a result, suppression of political dissent by the press was born. This device was used to silence all those who would "rebuke or slander the king or his supporters."<sup>3</sup>

The ascendancy of Mary to the throne after a brief reign by Edward VI brought a new form of press control. The passionately Catholic Mary and her revisionism were subject to great criticism by the Protestant press that had been encouraged by her father. Many

were punished in the extreme, but still others published. To insure a pro-Catholic press, the Stationers Company was chartered in 1557. This organization comprised of approved London printers, booksellers and publishers acted as a printing monopoly and was used as an instrument for the censorship of religious and seditious writings.

Elizabeth I put heavy emphasis on the criminality of the written word and it became high treason to consider such things as bodily harm to the Queen, or to question her motives. Expressions of opinion that she was a tyrant or a religious heretic was enough for conviction and tortuous death. Urged by her advisors, she introduced into law felony statutes directed against publishers.

Under the Star Chamber decree of 1585, the printing trade in England was confined to London, with the exception of single presses at Oxford and Cambridge. No book could be printed unless first approved by the Archbishop of Canterbury or Bishop of London. Authors who violated the decree were subject to trial in the Star Chamber, where the Queen's ministers acted as judge, jury, and prosecutors, for seditious libel or at the Kings Bench for felony or treason. Printers faced imprisonment and destruction of equipment for failure to comply with the law. Even those who merely possessed unauthorized books could be prosecuted.<sup>4</sup>

The Star Chamber continued to be the center of censorship actions against printing until it was dissolved in 1641. Under a series of highly dedicated suppressors of royal opposition, it held many trials in which authors and printers were harshly punished. These trials were later cited in such books as Emlyn's, State Trials and Rushworth's,



Historical Collections, books which were read and referred to in letters and speeches by the drafters of our Constitution.<sup>5</sup>

Among the accounts cited were examples of how the Star Chamber ruled in cases of personal opinion publicly stated when such opinion reflected unfavorably on the crown. These examples were some included in the arguments presented in favor of a Constitutional amendment guaranteeing free expression in America.

The rise of Parliament during the Civil War of the 1640s bode little progress for freedom of the press even though the Star Chamber was abolished. Parliament, like the crown, could not allow criticism of government and in 1643, a single licenser was appointed to carry on the procedures established under the Tudors. The rules on restraint continued and government approval had to be obtained for publication. Severe penalties were imposed on violators who displeased the official licenses, and, to make matters worse, the licenser himself went into the newsbook business in competition with those who required his approval.<sup>6</sup>

It was against this licensing that John Milton pleaded for freedom of printing in his speech to Parliament in 1644--the speech that was later published under the title Areopagitica--the plea that many writers claim as one of the bases for our First Amendment.<sup>7</sup>

Despite Milton's plea, licensing continued until near the end of the century and so did the persecution of those who ignored the law.

#### THE EIGHTEENTH CENTURY ENGLISH PRESS

Although the members of the Continental Congress and the other educated colonists of America were knowledgeable about the earlier

suppressions of English opinion, the events of the 18th Century undoubtedly had greater influence. It was a time of celebrated attempts to establish freedom in both England and the colonies. Pamphlets concerning such champions of freedom of expression as Algernon Sidney, Peter Zenger, and John Wilkes were sold by the thousands in England and America.<sup>8</sup> The press in the New World too was having its problems after the first newspaper--Publick Occurrences, printed in Boston in 1690--was suspended from publishing after one edition (and all copies of that one were ordered destroyed) because it had no license. American readers could mark well the dangers in store for freedom in the new nation unless some safeguards were taken. A brief look at some of these noteworthy events might provide a clue in our search for the origins of the First Amendment.

#### Algernon Sidney

Algernon Sidney lived during the previous century and was tried and executed in 1683. However, it was during this period that he became famous through pamphlets and through the posthumous publication of a book containing his writings.

Sidney had been charged with complicity in a plot to kill King Charles II of England. There was no evidence of his guilt introduced at the trial other than an accusation made by one of the known conspirators. This was denied by Sidney who was, in turn, supported by ten witnesses. He may have won his case, except that officers of the court who searched his house found an old unpublished manuscript in which Sidney advocated the need to regulate the judiciary in a republic and stating that "majistrates could be removed by the people

if they are oppressive." Naturally, in an era when the slightest hint of seditious libel was intolerable, this kind of writing was indefensible. Sidney subsequently became a martyr of freedom.

### Peter Zenger

Peter Zenger is the first famous protagonist of free press in America. In 1735, he was brought to trial in New York on a charge of seditious libel. Zenger in his Weekly Journal had protested against the removal of New York Chief Justice Morris by the royal governor and had ridiculed several of the governor's appointees, including Morris' successor, DeLancey.

During the course of the prosecution, DeLancey informed the Grand Jury that "it was high time to put a stop to such criticism" on the basis that it had a tendency "to breed in the people a dislike of their governors and incline them to faction and sedition."<sup>9</sup> When the Grand Jury refused to indict, Zenger was brought to trial by information ex officio. DeLancey disbarred Zenger's defense attorneys for questioning his authority and Zenger was left alone to face the bar.

Then, Andrew Hamilton, a well-known colonel lawyer volunteered his services for the defense and the trial began. While admitting that Zenger had published the criticisms, Hamilton claimed they were not libelous since they were true and offered to introduce evidence to that effect. When the court refused to hear such arguments, stating that truth was no defense against libel, Hamilton appealed directly to the jurors indicating they should decide the issue based on their own knowledge. The jury acquitted Zenger.<sup>10</sup>

### John Wilkes

The third highly publicized case of colonial days involved John Wilkes, a member of Parliament who was the anonymous publisher of the North Britain newspaper. In 1793, the paper printed a criticism of a speech made by King George III. The Secretary of State ordered that the writer be found and tried. Wilkes was implicated by his printer; his house was ransacked and his papers seized.

Charged with seditious libel, Wilkes escaped to Paris before he could be brought to trial. The court continued the action, however, and, trying him in absentia, found him guilty of seditious libel and also blasphemy based on some writings found in his house.

In 1788 he returned to England after a change in government and was reelected to Parliament. He was later expelled for criticizing the throne again. This sequence was repeated several times and, altogether, Wilkes was expelled or excluded from his elected position a total of six times.

Wilkes became a hero to Britains and Americans alike and his name and symbols connected with the original case were a cause celebre in the colonies. His inadvertent fight for press freedom had great influence on American dissatisfaction with English rule.<sup>11</sup>

### Colonial Press in America

After the aborted attempt at publication made by Publick Occurrences, newspapers in the colonies took the form of sporadic newsletters until the first American newspaper of sustained publication, the Boston, Newsletter, was founded in 1704. This paper

had little originality, however, and it received little public support. The free press really began in 1721 when James Franklin published the New England Courant without a license and challenged the authority of colonial government. In less than a year, Franklin was in jail for "contempt of government" and in 1723 he was forbidden to publish any articles without prior approval.<sup>12</sup>

Other writers and publishers in 18th Century America had similar problems and, although local punishment was decidedly less harsh than in England, freedom of the press to question government was a long way from realization. The aggressive nature of the governors and local assemblies in dealing with the press, however, was contributing to the displeasure of the citizenry with English rule.

Ideas of liberty continued to come from overseas as well. A series of letters attributed to "Cato" were being quoted in the various colonies. These letters were first published in the London press in 1720. Their theme accurately expressed the growing disenchantment with royal decree and they were widely admired and acclaimed in the colonies. Ben Franklin, who took over the Courant from his brother, quoted "Cato" in one edition as follows:

. . . freedom of speech is a sacred privilege so essential to free government that the security of property and freedom of speech always go together . . . where a man cannot call his tongue his own, he can scarcely call anything else his own. . . . Without freedom of thought there can be no such thing as wisdom.<sup>13</sup>

In the Bill of Rights, the author points out that Cato's Letters were "the most popular, quotable, esteemed source of political ideas in the colonial period."<sup>14</sup>

## DRAFTING THE AMENDMENT

By the time the framers of the Constitution met to decide its coverage, the desire for freedom of the press was well established in their minds. They realized the dangers which could result if press comment concerning government corruption or ambition was controlled by the party in power. Some, however, felt that this freedom was guaranteed by the states and did not need to be reiterated in the Constitution. Others, like Alexander Hamilton, felt there was no need to specify special liberties since, as he said, "whatever fine declarations may be inserted in any Constitution respecting it [freedom of press], must together depend on public opinion . . ."15

Still others, such as Madison, considered that a declaration of rights would "impress respect for them, arouse the attention of the community, and establish public opinion." He further said it would be "one means to control the majority from those acts to which they might otherwise be inclined."16

After some considerable debate it was considered that inclusion of a declaration of rights in the Constitution was not necessary and the document was sent to the states for ratification without one. Fortunately for the future, however, several of the states refused to ratify unless amendments, including one dealing with freedom of the press, were added.

The drafters agreed and after further debate on wording, the first ten amendments were submitted to the states for approval on September 25, 1789. Two years later ratification was completed. The

freedom of press to criticize and comment on government was guaranteed by law for the first time in history.

In reality, it didn't turn out that way. As subsequent discussion will show, the arguments for limiting press freedoms began almost immediately and continue to the present.

## CHAPTER II

### FOOTNOTES

1. Irving Brant, The Bill of Rights: Its Origin and Meaning (Indianapolis: Bobbs-Merrill Co., Inc., 1965), p. 28.
2. Richard McKeon, Robert Merton, Walter Gelhorn, The Freedom to Read, Perspective and Program (New York: R. R. Bowker Co., 1957), pp. 26-27.
3. John Hohenberg, Free Press, Free People, The Best Cause (New York: Columbia Press, 1971), p. 19.
4. Brant, op. cit., pp. 99-106.
5. Ibid., p. 35.
6. Hohenberg, op. cit., p. 23.
7. Ibid., p. 22.
8. Brant, op. cit., p. 35.
9. Ibid., pp. 33-36.
10. Arthur M. Schlesinger, Prelude to Independence: The Newspaper War on Britain 1764-1776 (New York: Alfred A. Knopf, 1958), pp. 64-65.
11. Ibid., pp. 35-37.
12. Hohenberg, op. cit., p. 26.
13. Brant, op. cit., p. 183.
14. Ibid., p. 204.
15. Hohenberg, op. cit., p. 54-62.
16. Brant, op. cit., p. 51.



## CHAPTER III

### THE FIRST CENTURY AFTER RATIFICATION

Ratification of the first ten amendments had hardly been completed before their full force and meaning was questioned by those elected to power in the new nation. The 44 words of the First Amendment have been particularly vulnerable to attack throughout the history of the United States. An excellent summary of the problem American government has had with the press was provided by John Adams in 1815:

If there is ever to be an amelioration of the condition of mankind, philosophers, theologians, legislators, politicians, and moralists will find that the regulation of press is the most difficult, dangerous and important problem they have to resolve. Mankind cannot now be governed without it, nor at present with it.<sup>1</sup>

During the first century and a decade following adoption of freedom of the press as a national precept, the press often used its license to criticize government and governors as well as other public figures without reservation. Those criticized severely normally responded in kind, and it is fortunate for the press today that the founding fathers of the nation included the Declaration of Rights in the Constitution and established a judicial branch with the power to enforce it.

Although the judiciary has not always accepted a literal interpretation of the First Amendment wording, they have in the main supported the Madisonian concepts of press liberty. Some exceptions

have occurred such as when an antilibertarian court sits simultaneously with a like-minded Congress, however, and the press has sometimes found itself in trouble.

The period covered by this chapter had both conservative and liberal executives, congresses, and courts and consequently, the press had several ups and downs in its overall battle against government control. Some of the more significant follow.

### THE ALIEN AND SEDITION ACT

The first decades of American independence saw an active political press. Many newspapers were in business for the sole purpose of advancing one political party or candidate. Propaganda journalism was rampant and the press, reveling in its newly authorized free reign, vilified former heroes of the Revolution, including even George Washington, in the name of liberty.

By the late 1790s, the radical press had made many enemies among the legislators and when danger of war with France became a reality, the Federalist dominated Congress decided to suppress Republican newspapers and political opposition on the grounds that the country's security was threatened. To accomplish this, the Congress, supported by President Adams, passed the Alien and Sedition Act of 1798. As in later years, the perceived threat of crisis provided foes of an unrestrained press with an opportunity to obtain public support by appealing to patriotism.

Less than twenty years after Constitutional "guarantees" were provided, the press was again subject to prosecution for seditious

libel. Among the offenses punishable by prison and fine were such things as criticism of a federal officer and printing or publishing "false, scandalous, and malicious statements against the government of the United States or the Congress."<sup>2</sup>

During the two years the Act was in force, there were some twenty-five arrests and fifteen indictments.

The excesses of the Federalists took their toll, however, and the Democrats unseated them in the election of 1800. Jefferson was elected president and the Alien and Sedition Act, which had been passed with a built-in expiration date, was allowed to lapse. All those still serving sentences under the Act were released from jail by Presidential order.<sup>3</sup>

#### FROM 1800 TO 1860

The period between the election of Jefferson and 1850 was essentially a quiet one for the press. There were some zealous critics of government who raised Presidential ire and caused antipress feelings in parts of the country, but there were also some notable gains for the press.

President Jefferson was not spared the gibe of aggressive Federalist editors, and at one time he became so discouraged that he wrote, "nothing can now be believed which is seen in the newspapers."<sup>4</sup> Although a small number of these editors were brought to trial in state and federal courts for libel, in all cases the defendants were acquitted or charges dismissed. Jefferson's successor, James Madison fared little better; during the War of 1812 he was severely attacked.

However, he refused to impose censorship or other regulatory controls even though the country was at war.

In the years that followed, and again until the country again faced a crisis, this time the Civil War, the press was generally free of attempts by the federal government to directly intervene in matters of the press.

There were some attempts to manage news notably during the Andrew Jackson administration when journalists were carried on federal payrolls and government printing contracts were let on the basis of pro-government editing.<sup>5</sup> But press had little problems with government as a whole.

Prior to the Civil War, press found its greatest enemy to be the public at large. The years between 1830 and 1860 saw the rise of the abolitionist press in the north under the direction of such editors as William Garrison, John Greenleaf Whittier, and Elijah Lovejoy. Their militant stand against slavery evoked passionate response from the many who disagreed with them and their presses became popular objects of mob attack. Lovejoy even forfeited his life in one such foray.<sup>6</sup>

#### FROM 1860-1900

Certainly the dominant factor in nineteenth century American history was the Civil War. This applied to the press as well.

The problems of the abolitionist press initially concerned private citizen reaction to editorial comment and did not involve government action. As the war grew closer, however, these anti-

slavery publishers came under fire from various official sources as well.

First, as could be expected, Southern states enacted laws to prosecute such statements. Later, the border states did the same in order to preclude violence. Soon only the North had abolitionist publications and, as sentiment against the South rose, they found more support and were able to operate unmolested.

The Civil War itself ushered in a period of intense regulation and harrassment of the press. At first the government tolerated criticism of its policies, but as the prosecution of the war became more difficult, President Lincoln reluctantly ordered anti-Union (or, as they were known, Copperhead) newspapers closed and their editors jailed. It was common practice to order suspension of publication when a newspaper criticized government actions.

The Civil War resulted in some of the greatest excesses against the press that had ever occurred in America before or after. Government seized control of all telegraph wires and censored news dispatches at will. Reporters were arrested by union military officers, thrown into jail and, in one case, even sentenced to death. (The victim was saved at the last minute by a countermanding order from higher headquarters). Mobs of soldiers destroyed Copperhead presses as their officers looked the other way. Military commanders forbade the distribution of unsympathetic newspapers in their military districts.<sup>7</sup>

It was during the Civil War that the press and the military first became avowed enemies. Commanders on both sides complained that the press was reporting too much military information and senior officers

became extremely bitter toward reporters. General Halleck expelled all correspondents from his area of operations; General Sherman when informed that three correspondents were killed in an action said, "Good: Now we shall have news of hell . . .";<sup>8</sup> and General Butler at one point said, "The government would not accomplish much until it hanged half a dozen spies and at least one reporter."<sup>9</sup>

Strangely, the excesses of the War had little lasting effect on press operations in the post-war years. Perhaps the great tragedy experienced by the entire country made all forms of liberty more valuable than ever. At any rate, a more sober press and a tolerant public provided for a period of healthy unmoletted growth for the press during the last third of the century.

### CHAPTER III

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## CHAPTER IV

### MILESTONES OF THE TWENTIETH CENTURY

The present century has been a period of significant activity surrounding freedom of the press. The development of new methods of communication--films, radio, and television--has given rise to entirely new questions concerning the meaning of the First Amendment and has greatly complicated press-government relationships.

The great increase in literacy among the American population, the invention of improved printing methods allowing for faster and more comprehensive coverage of daily events, the rise of wireservices and their rapid dissemination of information, and the evolution of electronic media are all factors which contribute to the vast power of the press as an influential opinion maker. This increased power has concerned many average citizens as well as those elected to power and has spawned an unprecedented number of challenges to the concept of unrestricted public expression.

This chapter will discuss a few of the more important happenings which affected media since 1900. Data will be primarily devoted to government actions to directly regulate speech and press. Indirect methods of control will be the subject of the next chapter.

#### SEDITION AND ANARCHY

The most dangerous aspects of the period affecting freedom of expression stemmed from repeatedly perceived threats to national security.



The assassination of President McKinley raised real fears of anarchy in parts of the country and several states passed laws to restrict speech against the government. In an allied move, Congress in 1903 passed an Act which provided for the deportation of any immigrant who advocated the overthrow of the government by force. World War I and threats from Europe provided additional motivation to stifle free expression and a series of federal and state sedition laws were passed in 1917. In 1940 the Alien Registration (or Smith) Act marked the passage of the first peacetime sedition law since 1798. The rise of the Cold War gave us the McCarran Act of 1950 and Senator McCarthy.

#### World War I Acts

Altogether, some 2000 persons were prosecuted under the anti-sedition statutes of World War I; 900 were convicted.<sup>1</sup>

The most far reaching of these statutes was the federal Espionage Act of 1917 which made it a crime to interfere with the draft or obstruct recruiting. To discourage disloyalty during wartime, the Act provided for the punishment of anyone who would "willfully utter, print, write, or publish any disloyal, profane . . . or abusive language about the form of government of the United States or its Constitution."<sup>2</sup> This Act caused considerable confusion in the courts.

The most famous ruling to come out of the trials held under the Act was that enunciated by Justice Oliver Wendel Holmes in a Supreme Court decision upholding the conviction of Charles Shenk. Shenk had been charged in New York with printing circulars urging opposition to the World War I draft. The Supreme Court was unanimous in denying

his appeal from conviction and based their decision on the fact that the circumstances involved were such as to create "a clear and present danger" to the United States and that his actions would "bring about the substantive evils that Congress has a right to prevent."<sup>3</sup>

This decision provided a test for determining the criminality of expression that was to be used until 1951 and, according to constitutional scholar Zachariah Chaffee, served to "stave off many prosecutions [of media] which would otherwise have been pressed."

#### The Smith and McCarran Acts

The next sedition action of importance occurred in 1940 when Congress passed the Smith Act. This law made it illegal for anyone to "knowingly or willingly advocate . . . the overthrow of the United States or state governments by force." It also made the publishing or circulation of printed matter which advised such action a crime. This legislation along with the McCarran Act of 1950 which required registration of Communists clearly violated the spirit of the First Amendment and allowed for not only direct court prosecution of violators, but provided as well for Congressional investigations which effectively persecuted many individuals and even brought the United States Army into contest with Senator McCarthy.

The Supreme Court later ruled against the constitutionality of these Acts, but before then significant damage was done to the cause of free expression.<sup>4</sup>

## WARTIME REPORTING

The press has reported on four major conflicts involving United States military forces during this century. During each, they have been criticized by the military as reporting too much and, on occasion, of biased reporting. Nevertheless, the press has enjoyed considerable freedom in gathering and reporting news and nothing like the censorship excesses of the Civil War have even been approached. This particular area of interest could be the sole subject of a thesis and should certainly constitute a significant phase of the officer's education in military-media relations. For our purposes we will look only at some broad highlights.

World War I saw the first officially organized government attempt to use media for public relations. When President Wilson created the Committee for Public Information under George Creel, the government recognized the value of media to advance the Administration's policies and unite the public behind the war. Creel was also given authority to establish press controls in regard to war news. Creel advanced the concept of voluntary censorship and stated that "except for ship sailings, troop movements, and similar events of a basically military nature," the press could report freely.<sup>5</sup>

Colonel Gillick points out in his study of government restraint of press that although "voluntary" censorship was the official program, it was fully backed by the Espionage Act of 1917 previously discussed in this paper.<sup>6</sup> In effect the anti-sedition acts of the times insured that reporters volunteered.

At the "front" there was some consideration given to military censorship, but attempts to regulate release broke down as forces in Europe built up. Even so, the sixty some reporters with the Expeditionary Forces performed in a responsible manner generally and only five suffered loss of accreditation.<sup>7</sup>

World War II press controls by government were extremely liberal. Shortly after Pearl Harbor, President Roosevelt established a voluntary censorship system for the war when he said that the principle governing news was only that it "must be true and must not give aid and comfort to the enemy."<sup>8</sup> He then established the Office of Censorship to oversee the enforcement of this broad policy.

The Office quickly drafted a voluntary "Code of Wartime Practices" for media to follow in which seventeen specific items of information were listed as requiring government approval prior to publication. Within these guidelines, media cooperated fully with the government and both parties agreed that they had done well.<sup>9</sup>

According to Hohenberg, World War II was the "least censored of American Wars since the Revolution and War of 1812." Altogether, some 2000 correspondents participated with troops overseas and, "despite all the concern in the highest echelons of government that a loutish and highly irresponsible press would leak secrets," there was no substantive damage done to the war effort by the press at any time.<sup>10</sup>

The Korean War has sometimes been called the "Forgotten War" because of press and public indifference to events in Asia at the time. Although there were over three hundred American and foreign

correspondents in the theater, the type of conflict involved and the general apathy of the public toward its prosecution made the war "back-page news." This was one war where there never was any serious question of press control or censorship; no one was that interested.<sup>11</sup>

The Vietnam War became a new environment for the American press. Here they were unrestricted in expressing their own judgements and they were given greater credence than ever before by the public. This was in large part due to the times. Although television had been popularized prior to Korea, it was technically incapable of covering events on the battlefield. Not so in the 1960s. Television was everywhere and its message reached a vast American audience and provided graphic details of the war to the public daily. Too, the War was unpopular at home and became a cause useful in the furtherance of other causes. Therefore, those journalists who felt that American policy in Vietnam was wrong were free to express whatever interpretation of events they chose without receiving too much public criticism.

In the beginning, a major segment of the press supported United States policies in Vietnam. A study of editorial comment on Vietnam by the New York Times and Time magazine during the period 1950-1965 clearly indicates that these two later critics of American policy were originally boosters of that policy. The study concludes that:

Both publications supported basic American policy in Vietnam from the first limited involvement until . . . 1965. The New York Times began to express some doubt . . . in 1964, but until . . . 1965 it supported the basic commitment. . . . Time supported American military intervention during the entire period and in most instances argued for more military action.<sup>12</sup>

Later, the press' attitude toward the war changed drastically and, for many correspondents, informing the American people of what, in their judgement, was a disaster became a crusade. These newsmen were accused of everything from failure to "get on the team" to outright traitorous conduct. Their pessimism and constant criticism of government and military actions has caused a great gap to form between the military officer and media representative.

Correspondent Ward Just has said that from his viewpoint, "the compulsion was to tell it like it was, even if what it was was your own country at war and the way it was, if told truthfully, was not 'helpful' to the effort."<sup>13</sup> On the other hand, a fellow Army officer I interviewed in the conduct of preparing this data said, anonymously, "Those bastards, you can't ever trust them. All they did was sit around the bars in Saigon making up stories."

We'll take another look at the gap between military and media in our concluding chapter; however, first let's examine some other recent conflicts media has had with government.

#### THE PENTAGON PAPERS

As the press became progressively unhappy with events in Vietnam, some media leaders were convinced the government was deliberately misleading the electors and they were determined to "expose the truth." When they discovered a Pentagon study concerning how and why the United States grew so deeply involved in Vietnam, they published it. The government claimed in doing so those who printed the details were guilty of aiding the enemy.

The purpose of this discussion is not to pass judgement on the appropriateness of publication, but rather to examine the matter from the press viewpoint and look at how the courts reacted so we can better understand the constitutional privilege involved.

The Pentagon Papers consisted of a study first commissioned in 1967 by Secretary of Defense Robert McNamara. The study took two years to complete and was compiled by some thirty people. One of these people was Daniel Ellsberg. Ellsberg became disillusioned with the Vietnam War and, despite the fact that the papers were classified, decided that the information the study contained should be made public. He turned over copies to the New York Times.

The Times studied the material and agreed that parts of the 7000 page study were of public interest and should be published. Consequently, they began to do so on June 13, 1971. Other newspapers also became involved, but to limit discussion we will only consider the Times controversy.

This event dismayed the Administration. According to William Small, the papers were a decided embarrassment. They indicated public statements on the war were substantially different from private estimates, that the United States had sometimes deceived Allies, and that the Administration made many unilateral decisions without consulting Congress.<sup>14</sup>

On 14 June, the Justice Department requested the Times stop printing the articles. When the newspaper refused, the government went to court to press for an injunction against continued publication.

The government charged that the Times had violated the Espionage Act of 1917 in its "unauthorized possession of documents" and that "serious injuries were being inflicted on our foreign relations to the benefit of other nations opposed to our form of government."

The Times replied that this was a "classic case of censorship in violation of the First Amendment."<sup>15</sup>

District Court Judge Gurfein issued a temporary restraining order and listened to arguments. Afterward he denied the government's request on the grounds that the Espionage Act was never intended for use against the press and that the people had a right to know. He added, "the press' job is to tell them."<sup>16</sup>

The government appealed and the case carried to the Supreme Court. On 30 June, Justice Black announced the majority decision as follows:

In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. . . . The press was protected so that it could base the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government.<sup>17</sup>

#### THE SELLING OF THE PENTAGON

Another government-press controversy concerning the Pentagon was of a different type and it did not go to court for resolution. This time the case was one of possible media deception and Congress' right to question it.



On 23 February 1971, CBS Television aired a documentary questioning the propriety of Defense Department public affairs activities. It was billed as an expose of how government used large sums of tax money to curry public support. The program used a series of film clips of public presentations made by Defense personnel and interspersed them with editorial comments. In all, it was heavily edited to convey the networks opinion.

Among those in government who took exception to the program were Representatives F. Edward Hebert and Harley Staggers. Both accused CBS of misrepresentation through unfair editing. Staggers even requested the Federal Communications Commission (FCC) take action. FCC Chairman refused to do so, however, stating it would be "inappropriate."

Representative Staggers then decided to question CBS' editing by conducting an investigation through his House Interstate and Foreign Commerce Committee of which he was chairman.<sup>18</sup>

A subpoena was issued for CBS to produce all televised and untelevised material concerning the program to Stagger's committee. CBS refused to do so stating that "the action appeared designed to make the news judgement of CBS subject to legislative surveillance. CBS President Stanton claimed the subpoena raised "an unprecedented issue in the history of government-press relations."<sup>19</sup>

A series of Committee actions resulted in a contempt citation of CBS being voted by the House Commerce Committee. The entire House was then asked to press the contempt citation so the Justice Department would be authorized to initiate criminal prosecution against CBS.

Of interest was Stagger's comment during the hearing that "broadcasters are not entitled to newspaper freedom from regulation."<sup>20</sup>

The House refused to consider the matter and returned the citation to Committee. This, in effect, ended the matter as far as Congress was concerned.

It should be noted that CBS had in fact taken very free editing license in preparing the program. While they may have made their point, they were the recipient of much public displeasure and even some fellow members of the media family challenged their honesty.<sup>21</sup>

There are many more noteworthy examples of press operations during this century; however, space limitations do not permit further examination of the period. Next we will look at some of government's attempts, some successful--some not, to control press by indirect methods.

## CHAPTER IV

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## CHAPTER V

### INDIRECT INFLUENCE--A MORE SUBTLE APPROACH

. . . the Administration had perfected a formula for government propaganda. . . . The capstone was set in place by the President himself. . . . It is composed of technical denials of substantially true news stories and steady implications that the press is unreliable and often venal.

Arthur Krock<sup>1</sup>

The above is from a speech delivered to the New York State Society of Newspaper Editors. The date? October 8, 1940. The President referred to is Franklin D. Roosevelt. It's a statement which could appear as current in any one of hundreds of books or other publications critical of government today. It illustrates the continuing conflict between press and government using the more subtle weapons of control.

Zachariah Chaffee states that government acts in regard to communications in three ways: (1) Use of power to limit or suppress discussion through prosecution for civil or seditious libel and through postal and customs controls, (2) encouraging through affirmative action better and more extensive communication, (3) participating in communication through the outward flow of news.<sup>2</sup> To this can be added a fourth way, the denial of news to the public through secrecy and reluctance to expose information to open view.

This chapter will discuss the third and fourth ways government influences information and cite how the flow of ideas is regulated without resorting to the courts or legislation.

## SECRECY

Secrecy in the United States government began as that government was being formed. The Constitutional Convention of 1787 was held in secret. At one point, Washington, the President of the Convention, found a carelessly mislaid copy of proceedings. His reaction set the stage for future administrations when he chastised the group by saying, "I must entreat you gentlemen to be more careful lest our transactions get into the newspapers and disturb the public response by premature speculation."<sup>3</sup>

All administrations have attempted to control the disclosure of information about official and unofficial activities. They have taken action against reporters who have proven embarrassing. They have withheld information from some reporters and granted exclusive interviews to others. They have sought to deny information to the public by requiring that members of the Administration obtain prior permission before speaking with newsmen. They have developed a highly complex classification system to help prevent "leaks" to the press. They have employed "executive privilege" to exempt certain areas from public inquiry.

Executive privilege was first employed in 1792. Congress had requested information from the President concerning a military expedition against the Indians which had resulted in a disastrous defeat for the United States. Washington refused to provide the data, replying instead that, ". . . the Executive ought to communicate such papers as the public good will permit, and ought to refuse those the disclosure of which would injure the public."<sup>4</sup>

Many years later the same reasoning was employed by President Eisenhower who directed his Secretary of Defense not to give certain information when testifying before the McCarthy Committee. Eisenhower wrote, ". . . because it is not in the public interest . . . you will instruct employees of your department that . . . they are not to testify to such conversations or communications."<sup>5</sup> He said, in effect, this was a privilege of the Executive.

A more formal way of withholding information is by using a classification system. No one will argue that government should not protect certain information which would aid an enemy of the United States. On the other hand, as the Pentagon Papers revealed, there is a tendency to abuse the system in order to hide embarrassing information or to control information for political or personal ends.

Presidents often make use of secret decisions by revealing them for specific purposes such as intimidating an adversary, obtaining public approbation, or protecting their reputation. The military has been known to release previously classified information to influence budget decisions of Congress. Other government agencies frequently are found to use the classification system to hide mistakes of judgement or cover up the waste of taxpayer funds.<sup>6</sup>

This use of classification to deny access to information has been widely assailed by newsmen. As a result, Congress in 1967 passed the Freedom of Information Act which is designed to give the public access to government data. Although media has complained about the complicated procedures involved, the Act does benefit dedicated newsmen. In an interview with an official in the Department of Army, I was told that

the Chief of Information spends considerable time in responding to requests for data which are made in accordance with this Act.

#### NEWS MANAGEMENT

Executive news management is highly subtle. It can take several forms. In addition to withholding information as discussed above, the news value of the Executive is such that a President can often achieve his goal by designed release of information. This was summed up by Walter Lippman in 1915 when he commented on President Wilson:

His decision as to what shall be published and what concealed is one of the supreme attributes of his office. He has no legal power of censoring news. But often he alone knows what the news is and he can publish when and how it seems best to him.<sup>8</sup>

This was echoed by Hohenberg in his comment that President Roosevelt "owned the front pages and headlines," and "could go on the radio whenever he desired with a full-dress speech or a fireside chat to carry his programs directly to the people."<sup>9</sup>

#### CONGRESSIONAL HEARINGS

The "Red Scare" of the 1950s left a great many scars on the history of democratic government-press relations. Free speech was suppressed without regard to civil rights or laws. Citizens from all professions, including military and media, were subjected to controls. Educators were required to execute loyalty oaths and petty officials were encouraged to suppress expression by removing books from libraries and schools.<sup>10</sup>



The McCarthy hearings in the Senate and similar hearings in the House impacted on public access to information. The intimidations experienced by members of all media forms resulted in an unequalled control of thought and clearly shows the dangers possible in allowing fear to dominate discussion.

Fortunately for the United States the danger passed successfully in a relatively short time. This was one time when the military and media were allied against a common enemy at home.

## CHAPTER V

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## CHAPTER VI

### REQUIREMENTS FOR THE FUTURE

This paper has dealt primarily with the press and its problems from a historical point of view. Perhaps it appears as if it were designed purely as a defense for the press. This was not the purpose, however. The consideration involved in developing the overall discussion is to provide a brief look at the development of press-government relations in order that the reader can better appreciate press' role in society and its struggles to exercise that role.

#### THE PRESENT ATTITUDE OF THE MILITARY

As was indicated previously, the press has sunk to a new low in the view of many military officers. Even experienced sophisticated soldier-statesmen such as General Maxwell Taylor have accused the press of biased reporting which is somehow subversive. In Swords and Plowshares, Taylor says:

The forces of division [in America] have received powerful support from the publicity provided by the information media. It is the support of media which has made possible the campaign of defamation which is now directed at virtually every institution of government and society . . . The Armed Forces . . . have been depicted as brutal, venal, and oppressive. Such propaganda . . . has created an atmosphere of suspicion and cynicism destructive to national unity and morale.<sup>1</sup>

While there may be some justification for such an attitude born out of frustration and irresponsible conduct on the part of a few correspondents, it does a disservice to the military overall.

Alienation from the press will be self-defeating in the end since it will tend to antagonize the press corps and imbue it with an unconscious antimilitary frame of mind.

Ralph Blanchard, a military writer, points out an article on newsmen in Vietnam that much of the criticism leveled against correspondents is without basis. He agrees that there are examples of biased reporting, or, as he calls it, position reporting. He also cites the emphasis some correspondents placed on sensationalism as an example of poor reporting. However, he concludes from his study of critical news reports prior to 1968 that "the news coverage from South Vietnam . . . has been far more responsible than most observers have been willing to believe."<sup>2</sup>

Blanchard also says that while censorship of newsreleases has been advocated by some, it is neither necessary nor justified. Pointing out that censorship is only justified to preserve the security of militarily damaging information, Blanchard states, "In discussions with many officials who have been directly involved, one comes to the conclusion that newsmen have been exceedingly careful not to divulge information which could be of assistance to the enemy."<sup>3</sup>

The above is supported by a study made at the Army War College in 1969 by a Marine student, Charles Cooper. The Cooper study included a survey of some 217 military officers in the ranks of Captain through Lieutenant General. These officers, who had all served in Vietnam, were queried on their relationships with the press. Until the survey was completed, Cooper had been convinced that the majority of military officers were antipress based on their everyday comments. The results

of his survey were, according to Cooper, "surprising." The majority of those responding indicated they felt "the bulk of the press was both dedicated and objective," and that, "comments praiseworthy of newsmen overall exceeded those which were critical."<sup>4</sup>

My own limited oral survey reached the same end. On first query almost all officers indicated an animosity toward the press. Upon deeper questioning, however, few could substantiate their opinion with factual accounts and some grudgingly admitted that the press had "done pretty well in reporting the war news."

These comments are good signs. It appears that denigration of the press is more a popular sport than a deeply held conviction. This is good because it's something that can be changed easily.

#### THE NEED FOR COOPERATION

Future commanders and senior staff advisors must have a respect for the press and must learn to cooperate with it. The voluntary army and the mobility and insatiability of the press and American people for news demand favorable military-press relations.

Currently the Army has over six hundred people employed full time in public affairs activities; there are many more who spend part of their time with public affairs. The FY 75 appropriation for Army public affairs, not counting military personnel costs, is nearly five million dollars.<sup>5</sup> These personal and financial efforts are directed primarily to insuring an Army image conducive to public support, support leading to high enlistment rates and adequate budgets. Poor press relations will negate these efforts.

Additionally, Cooper points out, "a battlefield commander is no longer answerable only to his senior. In times of greatest threat there will probably be a news representative with each heavily engaged unit, rendering judgement and commentary."<sup>6</sup> Like it or not the traditions of our country and its press, and the appetite of "John Q. Public" for news, makes this situation inevitable. The officer who understands the press can best communicate with it. The better he can communicate, the more accurate will be the judgement and comment.

A student at the Army War College in 1970 wrote an excellent study in which he compared various news reports to determine the objectivity of content. Among his conclusions were these comments pertinent to this thesis:

(1) The accuracy and completeness of reporting on military matters are a function of the reporters energy and trustworthiness, news deadlines, and the accessibility of the source. If the commander and his staff representatives are uncommunicative, the reporter relies on lesser sources . . . As a function of command it is a commander's responsibility to ascertain that the press has complete and reliable information to portray the story to the public.<sup>7</sup>

(2) . . . reporters accept and cooperate with members of the defense establishment that provide information but are very critical of those that fail to . . .<sup>8</sup>

#### WHERE DO WE GO FROM HERE

Press is convinced it performs a vital function in American life. And it does. It is not always correct in all its parts and sometimes it is not always as thorough as it should be. Press itself is aware of these shortcomings. As William Rivers states, "mass media are

human instruments. Whatever the intention of the journalist--however strong his ethic--he is subject to human biases, prejudices, and ambitions."<sup>9</sup> To these can be added the pressures imposed by commercialism, pressures that demand a certain degree of sensationalism and the rapid filing of copy in order to remain competitive.

In the main, the vast majority of journalists are schooled in a highly ethical tradition. They desire to be as objective as possible. However, they also believe that "details and facts alone are not sufficient" and that "society demands a comprehensive and intelligent account of the day's events in a context which gives those events meaning."<sup>10</sup>

The aware military officer can assist in formulating this "comprehensive and intelligent account" by working with, not against, the press. The current generation of military officer must change his surface rejection of media and search for an acceptable meeting ground.

The next generation of officers should be trained at all levels of military education in the areas of press history, journalistic concepts and media operations so that he can effectively communicate with the press. In this way, better press-military relations will be obtained and, in turn, the public will be better informed and better served.

## CHAPTER VI

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## EPILOGUE

On 9 May 1974, the Washington Post published on page 1 the results of a public opinion poll which concerned the major public and private institutions in the United States. The sample had been asked to rate these institutions on how good a job the responder felt each institution was doing for the country.

Of the fifteen institutions listed, the military was ranked first. The news media ranked sixth.

The Washington Post head for the story was: "Military most admired US institution."

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