

SIX GREAT FREEDOM OF EXPRESSION BOOKS

Emerson, Thomas I., *The System of Freedom of Expression*. (New York: Random House, 1970). – A legendary Yale law professor took up the “complex mechanism” of freedom of expression in a democratic society. In this prescient book, written long before Internet was an everyday word, Emerson posed a hard questions: Can the United States system of freedom of expression survive the shift from laissez faire to the mass technological society?

Levy, Leonard W., *Emergence of a Free Press* (New York: Oxford, 1985). Professor Levy upset free press advocates in 1960 with his *Legacy of Expression*, which argued that the Framers of the First Amendment meant it to be only a restriction of pre-publication censorship, not post-publication punishment. Twenty-five years later in *Emergence*, after additional research including 18th Century newspapers, Levy concluded that press freedom was broader than he originally thought. He commented that he was amazed by the courage of editors who risked imprisonment. Levy came closer to the position that despite 18th Century laws, there was often freedom of expression in fact.

Lewis, Anthony, *Make No Law: The Sullivan Case and the First Amendment*.(New York: Random House, 1991). –A Pulitzer Prize-winning reporter provides a dramatic exposition of the landmark First Amendment decision in *New York Times v. Sullivan* (1964) After *Sullivan*, public officials must prove “actual malice” – publication with knowing falsity or with reckless disregard for truth—to collect libel damages from the news media.

Rosenberg, Norman L., *Protecting the Best Men: An Interpretive History of Libel*. (Chapel Hill: University of North Carolina Press, 1986). –This remarkable study of libel in American history went beyond labels such as “seditious libel” and “civil libel,” contending that if a legal weapon were used to punish or intimidate the press, it was a threat to freedom of expression.

Siebert, Fredrick Seaton, *Freedom of the Press in England, 1476-1776*. (Champaign, IL: University of Illinois Press, 1952). – This study is fundamental to scholarly research on freedom of expression in both England and the United States. Generalizing from ancient controls he found in England, Siebert devised his seminal “Proposition II” generalization: freedom of expression declines as stresses on government increase.

Stone, Geoffrey R., *Perilous Times: Free Speech in Wartime From the Sedition Act of 1798 to the War on Terrorism*.—Published after the terrorist attacks on the World Trade Center and the Pentagon in 2001, this important survey of free speech traces the history of efforts to curtail free speech in wartime, including both undeclared and declared wars.