

“Congress shall make no law . . . abridging the freedom of speech, or of the press.”

These words are contained in the First Amendment to the United States Constitution, part of a citizens’ “Bill of Rights” enacted in 1791. These words guarantee to all Americans the right to speak freely, even if the sentiments expressed are not favorable to the current government. And these words specifically guarantee Americans’ right not only to express their thoughts to each other in small groups, but also to publish their thoughts and disseminate them widely to others, whether through print media like newspapers or magazines, or through electronic media on the Internet. This year, as we celebrate Law Day, I invite you to consider why these principles remain at least as important in today’s society as they were in 1791.

Thomas Jefferson, the author of our Declaration of Independence and the third President of the United States, is reputed to have said that only where, “the people are well informed can they be trusted with their own government.” In order to function properly, our constitutional republic depends upon the voters—who are entrusted with electing their leaders—having an understanding of the relevant political and policy issues of the day. And this understanding is best (and most often) developed by engaging with other citizens in the, “marketplace of ideas,” and by listening to and evaluating various opinions and points of view regarding important issues.

A free press is perhaps the most important piece of any well-functioning, “marketplace of ideas.” Our founding fathers understood this principle well. John Adams once said that, “the liberty of the press is essential to the security of freedom in a state,” and his colleague and successor Jefferson noted that the, “most effectual” avenue to expose, “reason and truth” to citizens is, “the freedom of the press.” It is through the media, in all of its various forms, that American voters obtain most of the information essential to their electoral choices.

Free speech and a free press are not only a vital way to inform voters in casting their ballots, but they are also an essential tool for keeping an eye on our leaders once they are in office. The investigative reporting of Bob Woodward and Carl Bernstein brought the facts of the Watergate scandal to light in the 1970s and, closer to home, it was enterprising local reporters in the 1990s who unearthed the facts related to the 2002 Olympic bribery scandal. And there are countless other less-prominent examples of situations in which citizens have learned important facts about their government only through the efforts of members of the media.

Of course, in today’s world there is more information readily available at our fingertips than at any point in human history. Most of us carry around in our pocket or purse a computer—our smartphone—that is more powerful than the largest supercomputers of yesteryear. With just a few clicks, we can find websites purporting to inform us about virtually any subject on earth. To be sure, not all of the information that is out there is accurate, and we as citizens and consumers of information must learn to be discerning and to distinguish accurate information from misinformation.

But the Constitution instructs us that the solution to the problem of misinformation is not to restrict any individual’s right to express themselves. Rather, the cure for inaccurate speech is more speech and better speech, as well as an informed and engaged citizenry capable of evaluating

information, so that the best ideas can prevail in the, “marketplace.” Our Constitution, and our very system of government, depend on it.

As we celebrate this year’s Law Day, it is my hope that we can all reflect on the importance of free speech and a free press in our society, and think about how we can all more positively engage with our fellow citizens in the, “marketplace of ideas” that powers our democracy.

Judge Ryan M. Harris
Utah Court of Appeals