

New York City
Group

FEHA.020
CRBIB# 401242
377/130944

The Story of JOHN PETER ZENGER
Defender of Freedom of the Press
Zenger Memorial, New York, 1956

The story of

John
Peter
Zenger

Defender of Freedom of the Press

THE
New - York Weekly JOURNAL.

Containing the freshest Advices, Foreign, and Domestick.

MUNDAY November 12, 1733.

Mr. Zenger.

Incert the following in your next,
and you'll oblige your Friend,

CATO.

*Mira temporum felicitas ubi sentiri quæ
velis, & quæ sentias dicere licet.*

TACIT.

THE Liberty of the Press is a Subject of the greatest Importance, and in which every Individual is as much concern'd as he is in any other Part of Liberty: Therefore it will not be improper to communicate to the Publick the Sentiments of a late excellent Writer upon this Point. such is the Elegance and Perspicuity of his Writings, such the inimitable Force of his Reasoning, that it will be difficult to say any Thing new that he has not said, or not to say that much worse which he has said.

There are two Sorts of Monarchies, an absolute and a limited one. In the first, the Liberty of the Press can never be maintained, it is inconsistent with it; for what absolute Monarch would suffer any Subject to animadvert on his Actions, when it is in his Power to declare the Crime, and to nominate the Punishment? This would make it very dangerous to exercise such a Liberty. Besides the Object against which those Pens must be directed, is

their Sovereign, the sole supream Magistrate; for there being no Law in those Monarchies, but the Will of the Prince, it makes it necessary for his Ministers to consult his Pleasure, before any Thing can be undertaken: He is therefore properly chargeable with the Grievances of his Subjects, and what the Minister there acts being in Obedience to the Prince, he ought not to incur the Hatred of the People; for it would be hard to impute that to him for a Crime, which is the Fruit of his Allegiance, and for refusing which he might incur the Penalties of Treason. Besides, in an absolute Monarchy, the Will of the Prince being the Law, a Liberty of the Press to complain of Grievances would be complaining against the Law, and the Constitution, to which they have submitted, or have been obliged to submit; and therefore, in one Sense, may be said to deserve Punishment. So that under an absolute Monarchy, I say, such a Liberty is inconsistent with the Constitution, having no proper Subject in Politics, on which it might be exercis'd, and if exercis'd would incur a certain Penalty.

But in a limited Monarchy, as *England* is, our Laws are known, fixed, and established. They are the streight Rule and sure Guide to direct the King, the Ministers, and other his Subjects: And therefore an Offence against the Laws is such an Offence against the Constitution as ought to receive a proper adequate Punishment; the severa-
Constil.

John Peter Zenger

THE ROOTS of America's cherished freedoms lie deep in her historic past. Free speech, self-government, independent religious choice, freedom of the press—these are realities today only because they were the dreams of yesterday, ideals for which many generations of Americans fought and suffered. This memorial pays homage to John Peter Zenger, a pioneer newspaper editor who fought for a free press even before the United States of America had won its independence.

Indeed, the principles expressed in the Declaration of Independence and the Constitution were the result of more than a century of colonial development. The final victory won on the battlefields of the American Revolution could not have been achieved had not men like Zenger prepared the way for it. By challenging the might of a tyrannical British governor in 1735, he offered an example of courage which was not to be forgotten. Even more, he became the symbol of the hopes of the vast majority of the colonists, who shared his belief in individual freedom.

From the day in 1607 when a handful of settlers landed on the Virginia coast, America had offered a refuge to the oppressed people of the Old World. In the wake of these first pioneers came thousands more, as various as the countries they had once called home, but sharing the trust that in the New World they would find a more abundant life.

John Peter Zenger was one of these immigrants. He came from that part of Germany called the Upper Palatinate, a province close to the borders of France through which hungry armies had marched for centuries. From the time he was four until he arrived in America at thirteen, war in Europe was continuous. The men in his region were seized for military service, the crops were destroyed, and whole villages were left to slow starvation. In comparison, the uncertain perils of the North American wilderness seemed only mildly threatening to the countless thousands who flooded European ports in a desperate search for passage across the Atlantic. In America, there was not only the hope of survival, but of human dignity.

The conditions aboard the crowded immigrant ships were unimaginably bad. It was not unusual for one-third of the passengers to die of typhus. When Zenger arrived in America, the eldest of three children, his mother was already

a widow. The cause of his father's death is not known, but it is likely that he had died, like innumerable others, on the hazardous journey.

Landing in the British colony of New York in 1710, Zenger was immediately obliged, at the age of thirteen, to become self-supporting. Like many other boys, he was apprenticed to a master craftsman with whom he lived, receiving his board and instruction in a trade in return for his labor. Zenger had the good fortune to become the apprentice of William Bradford, the colony's only printer. Until he was twenty-one, Zenger served his master as servant and shop assistant. He was paid no wages, but in eight years he became a skilled journeyman printer and qualified to begin his own business. An apprenticeship was not the special lot of newly-arrived immigrant boys. During the same years that young Peter Zenger worked for William Bradford, young Benjamin Franklin labored in a Boston printing shop as the apprentice of his own brother, James.

New York, unlike the self-governing colonies of Connecticut and Rhode Island, was ruled directly by the British Government and presided over by governors appointed by the crown rather than elected by the local citizens. These royal officials varied greatly both in ability and honesty. But regardless of their personal characteristics, the power held by the governors made them increasingly unpopular as the American Revolution came closer.

During Zenger's career as a newspaper publisher, New York had the misfortune to be governed by one of the poorest of the king's representatives, William Cosby. Greedy and autocratic, Cosby secured his appointment through influential friends rather than because of demonstrated ability. He assumed office in 1732 with the hope of wringing from the colonists enough money to recoup the fortune he had dissipated in Europe.

His contempt for the people revealed itself immediately. It is recorded that the day after his arrival in New York, he ordered his coachman to whip a farmer who had not driven his wagon off the narrow road quickly enough for the Governor's carriage to pass without delay. He promptly bullied the New York Assembly into awarding him a gift of £1000 for his alleged efforts to defeat British legislation contrary to American interests.

He also demanded half the wages allotted for the governorship between the death of his predecessor and his own arrival in the colony. This money had already been awarded to the acting chief executive, a colonist named Rip Van Dam. When Van Dam refused to turn over the salary, Cosby tried to collect it through legal action. It was this controversy which set off the chain of events leading to Zenger's defiance of the Governor and bold defense of one of America's basic freedoms.

The people of New York, although they were colonists, thought of themselves as free Englishmen. They were determined that the royal governors should not exercise more control in America than the king held at home. One of their

resentments was the fact that the governors still claimed the privilege, abolished in Great Britain, of removing judges who did not agree with them.

Cosby's case was presented to the three judges of the New York Supreme Court. Two of them voted for the Governor. But the Chief Justice, Lewis Morris, denied Cosby's right to use the court for his suit. When the Governor demanded this ruling in writing, Morris replied by having the statement printed for general circulation. In a rage, Cosby dismissed the Chief Justice from office, replacing him with James De Lancey, a young man barely thirty whom he thought would be more pliable.

Clearly, the printer who cooperated with Morris was himself daring the Governor's revenge. John Peter Zenger was that printer. Not enough is known of Zenger's early years to explain fully his willingness to join the opposition movement. After completing his apprenticeship with Bradford, he had journeyed southward, perhaps pausing in Philadelphia. In 1720, just ten years after his arrival in America, he had become not only a free citizen, but the official printer for the entire province of Maryland. He had returned to New York a few years later where he married Anna Maulin and opened a small printing shop.

He did not become wealthy, but he was a respected member of his community and his church, in which he served as organist. His relations with his competitor and former employer, William Bradford, were cordial enough for them to form a temporary partnership. Apparently on good terms with the government, he was chosen as a tax collector in 1731. Whatever security he and his family of five boys had gradually acquired was now seriously threatened by the path of resistance he chose to follow.

Morris' ruling in the Van Dam case was only the first of a series of pamphlets exposing the Cosby administration which Zenger printed. Gradually, public opinion was aroused. An election to select the representative of Westchester County to the Provincial Assembly gave the people a chance to express their growing antagonism. One of the candidates was William Forster, who already held an office to which he had been appointed by Governor Cosby. The now ex-Chief Justice, Lewis Morris, ran against him. When the voting on the Eastchester village green was over, it was found that Morris had won by a large majority. In desperation a partisan of the Governor's demanded a re-polling. The Sheriff conducting the election, also one of Cosby's appointees, not only yielded to this request, but even denied the ballot to some of Morris' supporters in an effort to deprive him of victory.

Knowing that their faith would prevent them from taking an oath, the Sheriff called upon some Quakers who supported Morris to swear they were entitled to vote. But he made no such demand of the two Quakers who supported the Governor's candidate. However, in spite of this scheming, Morris' majority was sufficient for him to win without the disputed votes. The ex-Chief Justice

then took his seat in the Assembly to lead the assault on the Governor's policies.

In order to broaden and strengthen the fight against Cosby's administration, the opposition forces needed a newspaper. The people had to know the facts before they would be willing to act. But the province's only newspaper, edited by William Bradford, had not taken a stand against the Governor. Clearly, a new crusading journal would have to be started.

Now as never before Zenger stood at the crossroads of his career. The choice was clear—either he would have to withdraw from the opposition movement or become one of its leaders. In one direction lay his safety; in the other, his principles and sense of public duty. The decision was not long delayed. On Monday, November 5th, 1733, just a week after the election at Eastchester, the *New York Weekly Journal* made its appearance on the streets of New York. Its editor and publisher was John Peter Zenger.

The first issue of the *Weekly Journal* told of the Sheriff's corruption of the ballot box at the Eastchester village green. Significantly, Bradford's *New York Gazette* made no mention of the election in any of its issues. In the months that followed it became clear that Zenger's exposure of the betrayal of justice at Eastchester was only the starting point for a general assault on arbitrary rule. Pointed references to officials who placed themselves above the law with "Schemes of General Oppression and Pillage, Schemes to Depreciate or evade the Laws, Restraints upon Liberty and Projects for Arbitrary Rule," revealed unmistakably that the target was Governor Cosby himself.

Zenger was well aware of the danger in which he placed himself by printing these slashing criticisms. As if to prepare public opinion for certain censorship, the *Weekly Journal* warned its readers that a free press was essential not only to a few editors and writers, but to every citizen. Without the freedom to criticize, it said, other civil liberties would soon wither away.

The expected counter-attack from the Governor followed shortly. However, the strength of the popular support behind the new movement made it unwise to silence the newspaper arbitrarily. Instead, Cosby brought political pressure to bear. Various government agencies—the New York Assembly and a Grand Jury—were invited to take action. When they refused, the Council, which combined the functions of a governor's cabinet and a legislative body, took the initiative and ordered four numbers of Zenger's *Weekly Journal* to be burned publicly by the common hangman.

There was nothing particularly inflammatory about these four issues. They simply repeated accusations which had appeared frequently. Aside from warnings to the people to protect themselves in their liberties, they criticized the Governor for abusing his power to dismiss the Assembly and for interfering with legislative processes by dominating the Council. The charge which had the least evidence to sustain it hinted that Cosby had plotted to reveal New

Give me. Save thus to acknowledge the
undeserv'd Favour you were pleas'd to confer on me last
Night, as yet I am in no Capacity of making any other
Returns but Thanks, accept them, not only from my
self but Family, the service it did me was great for
that compleated my Deliverance, if your more important
Affairs can admit, I shall beg leave to be admitted to
your Presence this Evening, then to assure you that
while I live none shall serve you more faithfully than
Your Honor's most obliged

and most humble servt

Jno
Peter Zenger

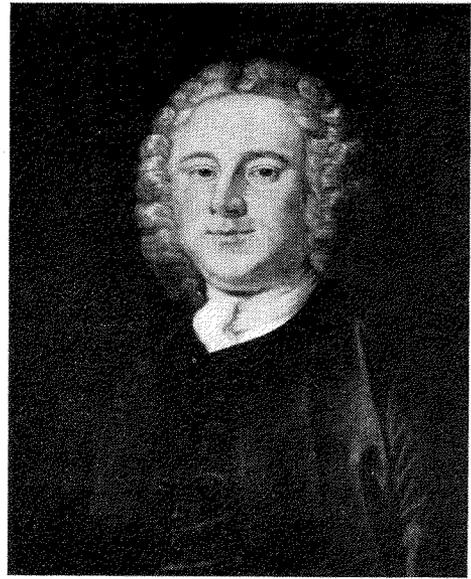
May 6, 1737

Facsimile of letter of thanks from Zenger to Andrew Hamilton

Give me save thus to acknowledge the undeserv'd Favour you were pleas'd to confer on me last Night. As yet I am in no capacity of making any other Returns but Thanks, accept them, not only from myself, but Family. The service it did me was great for that compleated my Deliverance. If your more important Affairs can admit, I shall beg leave to be admitted to your Presence this evening, Then to assure you that while I live none shall serve you more faithfully than Your Honor's most obliged and most humble servt Jno Peter Zenger. May 6, 1737.



Andrew Hamilton



Courtesy Frick Art Reference Library
Owned by General John Ross Delafield

Judge William Smith

York's harbor defenses to the French.

The public burning of the newspapers got little support. The city magistrates and the mayor refused to attend as they had been ordered, and even forbade the hangman to perform the task. Instead of being witnessed by humiliated officials and a chastened citizenry, the burning was done by the Sheriff's Negro slave with only the town recorder and a few army officers standing by on the steps of the City Hall at the corner of Wall and Broad Streets.

A few days later, Zenger was arrested on order of the Council and confined on the third floor of the City Hall, which served as a common jail. Now the true measure of Zenger's courage became apparent. No one else was arrested. By printing the offensive articles anonymously, he had protected their authors, and in this crisis he refused to shield himself by revealing their names. Consequently it was solely against Zenger, as editor and publisher of the *Weekly Journal*, that the Governor's wrath was directed and the colony's legal machinery moved.

Two noted lawyers, James Alexander and William Smith, who had been associated with the opposition movement and probably written many of the articles for which Zenger was arrested, stepped forward to defend the imprisoned editor. Demand was made for his release under a writ of *habeas corpus*. When this failed, Alexander asked that Zenger be released on bail. The judge to whom these applications were made was none other than James De Lancey, appointed by Cosby to replace the recalcitrant Lewis Morris. When Zenger estimated his wealth at £40, De Lancey fixed the bail at £800, excessive not only in terms of the prisoner's resources but also legally unjustified by the circumstances.



Painting by S. L. Waldo, courtesy Frick Art Ref. Library
Owned by R. Stuyvesant Pierrepont

James Alexander



Painting by John Watson, courtesy Brooklyn Museum

Governor Lewis Morris

During the next nine months while Zenger languished in jail, the *Weekly Journal* missed only one issue. What is even more remarkable is that the editorial policy of the paper remained unchanged. Cosby continued to be denounced. Precisely who edited the paper during this time is not known. Zenger had an assistant and two sons who could help with the mechanical details. His wife, Anna, visited him regularly in jail, bringing food and comfort and perhaps returning to the shop with articles prepared by Zenger. Probably the main contributors were Lewis Morris, James Alexander, and William Smith, who had backed the paper from the beginning.

Meantime, although a grand jury had refused to indict Zenger, the Attorney General charged him with printing false and seditious writing. He was brought to trial on August 4th, 1735, in the courtroom on the second floor of the City Hall.

As the court convened, Zenger could well have feared for the outcome. On the bench sat one of Cosby's chief lieutenants, the same James De Lancey, who had already shown his antagonism by setting an unjust bail. Neither Alexander nor Smith, who had previously provided him with legal advice, were present to defend him. Both had been disbarred by De Lancey for questioning his authority to act as judge. Even more importantly, Zenger seemed to be in an impossible legal position. British common law and previous court decisions in similar cases stood ready to convict him.

Then suddenly, the whole atmosphere of the trial, so ominous to Zenger, was transformed. An elderly figure arose and in a slow and dignified manner

walked forward to the judge's bench to inform the court that he wished to act for the accused editor. The man was Andrew Hamilton, one of the most distinguished lawyers from the neighboring colony of Pennsylvania. As an associate of Alexander and Smith, he had answered their summons to appear in a case whose importance went beyond any mere geographical boundaries.

Hamilton rested Zenger's defense upon no legal technicalities, but upon a new philosophy of government, the same philosophy expressed so forcefully in the *Weekly Journal*. He pointed out to the jury that the issues of the trial went far beyond the guilt or innocence of John Peter Zenger. Rather, the liberty of every person in the colonies would be strengthened by his acquittal or weakened by his conviction. He pleaded:

It is not the cause of a poor printer, nor of New York alone, which you are trying. . . . It is the best cause. It is the cause of liberty; and I make no doubt but your upright conduct this day will not only entitle you to the love and esteem of your fellow citizens; but every man who prefers freedom to a life of slavery will bless and honor you as men who baffled the attempt of tyranny, and, by an impartial and uncorrupt verdict, have laid a noble foundation for security to ourselves, our posterity, and our neighbors, that to which nature and the laws of our country have given us a right—the liberty both of exposing and opposing arbitrary power (in these parts of the world, at least) by speaking and writing truth.

Turning to Zenger's defense, he found a direct application of this creed of freedom. He admitted that the offensive statements had been published by Zenger, but argued that they were true. A man could not be accused of libel, he said, for telling the truth. Zenger had done nothing more than to exercise free men's inalienable right of criticizing a wretched government.

However logical this argument may seem to today's American, it was directly contradictory to British law in Zenger's day. Triumphant, the attorney general boasted that by acknowledging the fact of publication Hamilton had fastened on Zenger an admission of guilt. Chief Justice De Lancey agreed that it made no difference whether the accusations made against Cosby were true or false. Going further, he suggested that "the greater the appearance there is of truth in any malicious invective, so much the more provoking it is."

When the jury withdrew, De Lancey instructed it to reach its verdict only on the basis of whether or not the material had been published. The law of libel, he said, was something for the judges to determine. This was the equivalent of an order to find Zenger guilty, since he obviously would not deny that he was the editor and publisher of the *Weekly Journal*.

While the impassioned debate was going on, Zenger had been silent. But clothed in Hamilton's ringing defense, he had become the symbol of the highest ideals of his countrymen. To the twelve jurymen, he represented the rights of self-government, of juries to reach independent judgments, and of the citizens

of the British colonies to be free from despotic rulers. Compared to these principles, a narrow British law and the instructions of a partisan judge meant little. In less than ten minutes, the jury filed back into the court with a verdict of "not guilty."

The cheers that rocked the courtroom reflected the importance of the decision to a liberty-loving people. Andrew Hamilton received a gun salute from ships in New York harbor when he left for Philadelphia the next day. A short time later, the Common Council of the City of New York bestowed on him the freedom of the city for his "learned and generous defense of the Rights of Mankind, and the Liberty of the Press." A gold box, inscribed with the City's coat-of-arms was presented to him by a group of prominent citizens.

And what of John Peter Zenger? He returned to his shop to resume immediately his attack on the Cosby administration. Former Chief Justice Lewis Morris sought justice for himself and his associates from Cosby's superiors in England, who were neither as vicious nor as arbitrary as Cosby's behavior indicated. Still concerned for Zenger's safety, Morris wrote from London suggesting that the printing shop should be moved beyond the jurisdiction of the New York authorities. But Zenger remained where he was, protesting until Cosby died in office in 1736.

The last years of Zenger's life were busy but quiet. A comparative calm settled on the New York political scene, now happily free from such provocative men as Governor Cosby. If revolt smouldered, Zenger had little part in it. Indeed, it appeared that his cause had triumphed. His old colleague, Lewis Morris, was named Governor of New Jersey; and Morris' son became Speaker of the New York Assembly. From both colonies, Zenger received contracts for official printing. His *Weekly Journal* could usually be found siding with the Governor rather than opposing him. He died on July 28th, 1746. For several years his wife Anna, and his son, John, by a former marriage, continued the publication of the newspaper. In 1749, John assumed the burden alone. His death in 1751 brought to a close the relatively brief but significant career of the *New York Weekly Journal*.

Zenger's trial was a great land-mark in man's ceaseless fight for freedom. The text of the courtroom debate went through a number of printings during his own lifetime, its wide circulation helping to form the philosophy of a whole generation of colonial Americans. In his defense of Zenger, Andrew Hamilton had set down in unmistakable terms the principle of a public press free to print the truth, however unpleasant that truth might be to tyrannical government. But Zenger himself had offered something more, an example of an average citizen's courage and persistence in the face of tyranny, and of a determination to defend those individual rights without which true freedom can neither be born nor flourish.