



FREEDOM OF THE PRESS: THE TRIAL OF PETER ZENGER



Grade 5
United States History and Geography

I. Introduction

The trial of a German printer named John Peter Zenger in August 1735 helped establish one of our most cherished constitutional rights: freedom of the press. On August 5, 1735, twelve New York jurors acquitted Zenger of seditious libel. He had been arrested and charged with seditious libel for printing statements in the *New York Weekly Journal* that were critical of colonial Governor William Cosby's arbitrary rule. Zenger's defense lawyer argued that Zenger was not guilty of libel because the statements against Cosby were true. However, under English law, the mere fact that a printer published statements that were critical of the government constituted seditious libel, regardless of their veracity. Therefore, the trial judge, who had been hand picked by Governor Cosby in the first place, instructed the jury to return a verdict of "guilty" because Zenger had admitted to printing the statements. However, Zenger's brilliant defense lawyer, Andrew Hamilton, asked the jury to consider whether or not the statements were true before they rendered a verdict of guilty. Hamilton admitted that Zenger had published the critical statements, but he argued that as long as the statements were true, they should not be considered libelous. ("Truth should govern the whole affair of libels"). The jury unanimously ignored the judge's instructions and returned a verdict of "not guilty." This verdict established truth as a defense against libel in New York, departing from English law. The Zenger trial was not only a landmark victory for freedom of the press, but it also set a precedent for jury nullification of laws that were perceived to be unjust.

II. Objectives

- ◆ To understand how the concept of libel developed in colonial America.
- ◆ To understand how the concept of a free press developed in colonial America.
- ◆ To understand the role of the free press and daily newspapers as sources of civic information in colonial America.
- ◆ To understand the importance of literacy in a democracy.
- ◆ To understand the power of juries to shape the law.

III. History-Social Science Standards Addressed

- 5.7 Students describe the people and events associated with the development of the U.S. Constitution and analyze the Constitution's significance as the foundation of the American republic.
- (3) Understand the fundamental principles of American constitutional democracy, including how the government derives its power from the people and the primacy of individual liberty.
 - (4) Understand how the Constitution is designed to secure our liberty by both empowering and limiting the central government and compare the powers granted to citizens, Congress, the president, and the Supreme Court with those reserved to the states.
 - (5) Discuss the meaning of the American creed that calls on citizens to safeguard the liberty of individual Americans within a unified nation, to respect the rule of law, and to preserve the Constitution.

IV. Materials Needed

Class set copies of the following primary documents:

- Document A:** Order for the Public Burning of Zenger's Journals
Document B: Image of the Burning of Zenger's Journals
Document C: Bench Warrant for Arrest of John Peter Zenger
Document D: Hamilton's Summation
Document E: First Amendment

V. Lesson Activities

1. Have students read background information on the trial of John Peter Zenger.
2. Form groups of five and distribute the following primary documents:

Document A: Order for the Public Burning of Zenger's Journals

Document B: Image of the Burning of Zenger's Journals

Document C: Bench Warrant for Arrest of John Peter Zenger

Document D: Hamilton's Summation

Have students analyze the documents and discuss them in groups. Have them identify key players, the principles they stand for, and key vocabulary items. Students can finish the work as homework.

3. Hold a class discussion reviewing vocabulary, concepts, and people.
4. Count students off by fives and have each number (1, 2, 3, 4, 5) take one of the following character roles for a mock Zenger trial.
 1. Governor William Cosby
 2. Jury Foreman
 3. Andrew Hamilton
 4. Prosecution Lawyer
 5. Peter Zenger
5. Form students into role-alike groups to prepare for the mock trials. In groups students should prepare statements for the trial. (eg. Zenger group prepares a Zenger speech; Hamilton group prepares a Hamilton speech).
6. Have students reconfigure into their original heterogeneous groups and read their speeches in turn.
7. Reconvene the whole class. Distribute **Document E** (First Amendment). End lesson with a discussion of the First Amendment right of freedom of speech and press.

VI. Extension Activities

- Design comic strips depicting the Peter Zenger trial
- Research colonial printing presses and newspapers
- Create a colonial newspaper exposing other problems faced by colonists
- Create a contemporary newspaper exposing today's problems
- Discuss what kind of newspaper article might be considered libelous today
- Have students analyze how censorship would affect their lives

Vocabulary

<i>apprentice</i>	one who works in return for instruction in a trade or occupation
<i>arbitrary power</i>	power used without considering other's rights
<i>Bradford, William</i>	a Quaker printer considered one of the best in the colonies
<i>censorship</i>	forbidding publication of objectionable books, films, or other material
<i>citizen jury</i>	a body of citizens sworn to judge and give a verdict on a given matter
<i>defense lawyer</i>	the lawyer responsible for defending the accused
<i>freedom of the press</i>	freedom to publish anything that is true
<i>Hamilton, Andrew</i>	Zenger's defense attorney
<i>indentured servant</i>	a person who is legally bound to work for another for a specified amount of time
<i>journalism</i>	The collecting, writing, editing, and presentation of news or news articles
<i>libel</i>	a false publication in writing, printing, or pictures that maliciously damages a person's reputation
<i>New York Weekly Journal</i>	the newspaper founded by John Peter Zenger
<i>pillory</i>	a wooden framework on a post, with holes for the head and the hands, in which offenders were locked to be exposed to public scorn as punishment
<i>prosecution lawyer</i>	the lawyer responsible for presenting the case against an accused individual
<i>sedition libel</i>	inciting rebellion through a publication in writing, printing, or images that maliciously damages a leader's reputation
<i>Zenger, John Peter</i>	a printer apprenticed to William Bradford

Resources

Books

Hakim, Joy. *From Colonies to Country*. Oxford University Press, 2003.

Putnam, William Lowell. *John Peter Zenger and the Fundamental Freedom*. 1997.

Web Sites

Linder, Doug, *Famous American Trials*, "John Peter Zenger Trial, 1735" (2001).
< <http://www.law.umkc.edu/faculty/projects/ftrials/zenger/zenger.html> >

Archiving Early America, *Early American Bookmarks*, "Peter Zenger and Freedom of the Press" < <http://earlyamerica.com/earlyamerica/bookmarks/zenger/index.html> >

University of Houston Law Center, *Teacher Access to Court Opinions (TACO)*, "New York v John Peter Zenger." < <http://www.law.uh/teacher/zenger> >

U.S. National Archives and Record Administration
< <http://www.archives.gov> >

Elibrary, *Encyclopedia.com*, "Zenger, John Peter," < <http://www.encyclopedia.com/html/z/zenger-j1.asp> >

Order for the Public Burning of Zenger's Journals
Order of Governor William Cosby
October 22, 1734

Whereas by an order of this Council some of John Peter Zenger's journals, entitled *The New York Weekly Journal*, Nos. 7, 47, 48, 49, were ordered to be burned by the hands of the common hangman. . . . near the pillory in this city on Wednesday the 6th between the hours of 11 and 12 in the forenoon, [morning] as containing in them many things tending to sedition . . . to bring His Majesty's government into contempt, and to disturb the peace thereof, and containing in them likewise not only reflections upon His Excellency the Governor in particular, and the legislature in general, but also upon the most considerable persons in the most distinguished stations in this Province;

It is therefore ordered that the mayor and magistrates . . . of this city do attend at the burning of the several papers or journals aforesaid, numbered as above mentioned.

Source: < <http://www.law.umkc.edu/faculty/projects/ftrials/zenger/burningorder.html> >

Image of the Burning of Zenger's Journals



Source: < <http://www.law.umkc.edu/faculty/projects/ftrials/zenger/burningorder.html> >

Bench Warrant for Arrest of John Peter Zenger
November 2, 1734

At a Council held at Fort George in New York, November 2, 1734.

Present: His Excellency William Cosby, Captain General and Governor in Chief, Mr. Clarke, Mr. Harison, Mr. Livingston, Mr. Kennedy, the Chief Justice [De Lancey], Mr. Cortland, Mr. Lane, Mr. Horsmanden.

It is ordered that the sheriff for the City of New York do forthwith take and apprehend John Peter Zenger for printing and publishing several seditious libels dispersed throughout his journals or newspapers, entitled *The New York Weekly Journal*; as having in them many things tending to raise factions and tumults among the people of his Province, inflaming their minds with contempt of His Majesty's government, and greatly disturbing the peace thereof. An upon his taking the said John Peter Zenger, to commit him to the prison or common jail of the said city and county.

Source: < <http://www.law.umkc.edu/faculty/projects/ftrials/zenger/burningorder.html> >

Hamilton's Summation

Hamilton's lengthy summation to the jury still stands as an eloquent defense of a free press.

It is natural, it is a privilege, I will go farther, it is a right, which all free men claim, that they are entitled to complain when they are hurt. They have a right publicly to remonstrate [protest] against the abuses of power in the strongest terms, to put their neighbors upon their guard against the craft or open violence of men in authority, and to assert with courage the sense they have of the blessings of liberty, the value they put upon it, and their resolution at all hazards to preserve it as one of the greatest blessings heaven can bestow. . . .

The loss of liberty, to a generous mind, is worse than death. And yet we know that there have been those in all ages who for the sake of preferment, or some imaginary honor, have freely lent a helping hand to oppress, nay to destroy, their country. . . . This is what every man who values freedom ought to consider. He should act by judgment and not by affection or self-interest; for where those prevail, no ties of either country or kindred are regarded; as upon the other hand, the man who loves his country prefers its liberty to all other considerations, well knowing that without liberty life is a misery. . . .

Power may justly be compared to a great river. While kept within its due bounds it is both beautiful and useful. But when it overflows its banks, it is then too impetuous to be stemmed; it bears down all before it, and brings destruction and desolation wherever it comes. If, then, this is the nature of power, let us at least do our duty, and like wise men who value freedom use our utmost care to support liberty, the only bulwark against lawless power, which in all ages has sacrificed to its wild lust and boundless ambition the blood of the best men that ever lived. . . .

The First Amendment

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.