**Suspicion of Arbitrary Power**
*Digital History ID 92*

Author:   John P. Zenger
Date:1733

**Annotation:** A pivotal jury decision in New York in 1735 helped establish the principle of freedom of the press. Opponents of New York's royal governor William Cosby had set up John Peter Zenger (1697-1746), a German immigrant, as publisher of the New York Weekly Journal in 1733. The next year, after New York's governor dismissed one of his leading opponents, Chief Justice Lewis Morris, from office, the Weekly Journal severely criticized Cosby. Because the articles attacking Cosby were published anonymously, the governor had Zenger indicted and tried for seditious libel. English law defined any criticism of a public official--true or false--as libel. But Zenger's attorney, Andrew Hamilton (1676-1741) of Philadelphia, persuaded the jury that Zenger had printed the truth and that the truth is not libelous.

An excerpt from Zenger's Weekly Journal gives vivid expression to the popular suspicion of arbitrary power.

**Document:**

…Considering what sort of a Creature Man is, it is scarce possible to put him under too many restraints, when he is possessed of great Power: He may possibly use it well; but they act most prudently, who supposing that he would use it ill enclose him within certain Bounds and make it terrible to him to exceed them.

It is nothing strange, that Men, who think themselves unaccountable, should act unaccountably, and that all Men would be unaccountable if they could...; and no Man cares to be at the entire Mercy of another. Hence it is that if every Man had his Will, all Men would exercise Dominion, and no Man would suffer it. It is therefore owning more to the Necessities of Men, than to their Inclinations, that they have put themselves under the Restraint of Laws, and appointed certain persons, called Magistrates, to execute them; otherwise they would never be executed, scarce any Man having such a Degree of Virtue as unwillingly to execute the Laws upon himself....

The common People generally think that great Men have great Minds, and scorn base Actions; which Judgment is so false, that the basest and worst of all Actions have been done by great Men; perhaps they have not picked private Pockets, but they have done worse, they have often disturbed, deceived and pillaged the World: And he who is capable of the highest Mischiefs, is capable of the Meanest…

Political Jealousy, therefore, in the people is a necessary and laudable Passion. But in a Chief Magistrate, a Jealousy of his People is not so justifiable, their Ambition being only to preserve themselves; whereas it is natural for Power to be striving to enlarge itself, and to be encroaching upon those that have none....

Now because Liberty chastises and shortens Power, therefore Power would extinguish Liberty; and consequently Liberty has too much cause to be exceeding jealous and always upon her Defence…

To Conclude: Power without Control appertains to God alone; and no Man ought to be trusted with what no Man is equal to. In Truth, there are so many passions and Inconsistencies, and so much Selfishness, belonging to humane Nature, that we can scarce be too much upon our Guard against each other. The only Security we have that men will be Honest, is to make it their Interest to be Honest; and the best Defence we can have against their being Knaves, is to make it terrible to them to be Knaves. As there are many Men, wicked in some Stations, who would be innocent in others; the best way is to make Wickedness unsafe in any Station.

Source: Gilder Lehrman Institute

Additional information: New York Weekly Journal, March 11, 1733

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