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# A Pioneer of Free Speech Is Saluted

By DAVID MARGOLICK

Two hundred and fifty years ago, John Peter Zenger, an impoverished publisher of a weekly newspaper in New York, was charged with the crime of criticizing the British colonial governor, and was thrown into jail. The celebrated trial that followed, in which he was exonerated, is universally regarded as a landmark in the history of American free speech.

Yesterday, a group of the state's leading jurists, libel law authorities and politicians gathered to salute Zenger, who dared to censure Gov. William Cosby in the pages of his New-York Weekly Journal for permitting a French ship to snoop unmolested off the city's shores, and spent eight and a half months in jail for his sentiments.

A variety of speakers discussed the law of Zenger's time, which made it libelous to criticize a public official and more heinous still if that criticism happened to be true. The speakers ranged from Chief Judge Sol Wachtler of New York to Mayor Koch to Hemant Damle, the 17-year-old Stuyvesant High School senior who won a citywide essay contest on the Zenger case.

The speakers also described Zenger's vindication from charges of publishing "scandalous, virulent, false and seditious reflections" — an occasion marked at the time by a multi-gun salute in New York Harbor and remembered yesterday by the unveiling of a commemorative plaque in the rotunda of the State Supreme Court building at 60 Centre Street — only a few blocks north of the spot where Zenger was jailed.

## Role of Jurors

The ceremony did not only commemorate Zenger, a humble, uneducated printer who, in a sense, was merely caught between the hostile political forces of the day. Omitted from the plaque, but also recalled, were the 12 long-since forgotten men who, as jurors in his case, defied the law to set him free.

A roll-call of their names — Thomas Hunt, Samuel Weaver, Stanly Holmes, John Bell, Egbert van Brosum, John Goelet, Harmanus Rutgers, Benjamin Hildreth, Edward Man, Andries Marschalk, Abraham Keteltas and Hercules Wendover — was read by Mayor Koch, who last week renamed the Wall Street site of the Zenger trial "John Peter Zenger Square."

"Those 12 citizens brilliantly, in a single stroke of public duty, grasped an essential truth and had the courage to

act upon it decisively," Mr. Koch said. "Those jurors declared for our whole subsequent national history that official secrecy, concealment and suppression is utterly antithetical to the character of a free society."

The closing defense arguments at the Zenger trial were delivered by Andrew Hamilton, an 80-year-old lawyer from Philadelphia. Hamilton's oration, a blatant appeal to emotionalism rather than to the facts or to legal precedent, was recited anew by Walter Cronkite, speaking in tones that recalled innumerable newscasts and documentary episodes of the CBS News program "Twentieth Century."

"Every man who prefers freedom to a life of slavery," Mr. Cronkite read, "will bless and honor you as men who have baffled the attempt of tyranny and, by an impartial and uncorrupt verdict, have laid a noble foundation for securing to ourselves, our posterity, and our neighbors that to which nature and the laws of the country have given us a right: the liberty both of exposing and opposing arbitrary power by speaking and writing truth."

## 'Germ of American Freedom'

After only a few minutes, the jury returned its verdict: not guilty. Gouverneur Morris, an early American statesman, later called the decision "the germ of American freedom, the morn-

ing star of that liberty which subsequently revolutionized America."

The celebratory tone of the event was not without its ironies. In contrast to today's mammoth libel cases, for instance, the Zenger case took all of a day to decide, with no appeal. (Flanked by his six colleagues on the State Court of Appeals, however, Judge Wachtler assured the audience that the verdict would have been upheld). Moreover, while Zenger was cleared by a jury of his peers, contemporary juries have dealt the press a series of expensive libel losses, only to have those judgments reversed or reduced by judges.

Yesterday's ceremony was conducted by Floyd Abrams, a lawyer specializing in free speech issues who was named last May by Judge Wachtler and Chief Administrative Judge Joseph W. Bellacosa to head a 12-member Zenger commemoration committee. Mr. Abrams began the program with a tribute to Potter Stewart, who in his 23 years on the United States Supreme Court often championed the cause of free speech. The retired Justice died Saturday.

"In his quiet, unassuming and far-too-unrecognized manner," Mr. Abrams said, Justice Stewart was "was one of our nation's most eloquent articulators of the principles which the Zenger case helped to establish."