

William Penn and Nullification

William Penn was born on October 14, 1644 in London to wealthy parents. His father was a dedicated naval officer who spent a great deal of time at sea. At a young age, Penn caught smallpox, which caused the family to move to a country estate in Essex. Growing up in this agricultural environment had a lasting effect on his life. William was raised a Puritan, while being privately tutored, until he later attended the Anglican affiliated Christ Church College in Oxford, England. A rebellious William Penn later studied law, among other subjects, in Paris. He became a Quaker in 1666. Penn increased his studies and activism as a Quaker in Great Britain.

In 1670, William Penn was arrested, along with William Mead, for preaching a Quaker sermon in Gracechurch Street, London. By so doing, Penn had broken the 1664 “Conventicle Act”, an elaborated English “law” that in essence made the Church of England the only legal church. The penalty for violating this “law”, if convicted, was death.

The authorities started the Penn and Mead trial on September 1, 1670. The “Hat Trial”, as it became known, derived its name from a provoking incident at the very start of the proceedings. Penn, anticipating harassment, removed his hat on entering the court, but the judge ordered a bailiff, an officer of the court, to replace it back on Penn's head. The bench then badgered him for having his hat on and found him in contempt. The episode set the tone for the trial and gained Penn sympathy from the spectators in the courtroom. Penn effectively conducted his own defense. The jurors in his trial, led by Edward Bushel, refused to convict him, despite being repeatedly returned by the judge to reconsider their verdict.

Ultimately, only Edward Bushel and three other jurors refused to change their “not guilty” verdict even after being detained for nine weeks in prison, often without food, water, tobacco or toilet facilities. Instead, they held fast to their convictions that Penn and Mead were "not guilty" of the charges. In response to the judge’s angry demands, Edward Bushel said, "My liberty is not for sale", though he had great wealth and commanded an international shipping enterprise.

William Penn, however, was again found in contempt by the judge and placed back in the Tower of London. After being released, William Penn worked to have the four imprisoned jurors released by filing a successful “Petition for a Writ of Habeas Corpus”.

When the court eventually ordered the release of the four jurors, England’s highest court acknowledged and established that trial jurors could not be punished for their verdicts. Our freedoms of religion, peaceable assembly and speech thus all trace back to our right to a trial by jury of our peers, a jury that cannot lawfully be intimidated by government. A jury that cannot be intimidated or punished even when it decides not to follow the direction of the judge and finds the person on trial is “not guilty” when that defendant has violated the “law” because the “law” is immoral and/or unconstitutional according to the conscience of only one juror.

In 1682, William Penn sailed to America to establish the province of Pennsylvania on the land given to Penn, Jr., by King Charles II to settle a debt owed to Penn’s late father, Admiral William Penn (April 23, 1621 – September 16, 1670). *Pennsylvania*, which means “*Penn’s Woods*”, was intended to be a new world colony where Quakers and other faiths could have religious freedom. This “Holy Experiment” was a “proprietary colony” that became the “Keystone State” in 1776.

Obviously, had Edward Bushel and his three colleagues yielded to the “guilty” verdict sought by the judge and prosecutor, William Penn most likely would have been executed, as he clearly broke the law, and thus there would not be a Pennsylvania today. Courage and convictions are important!

The 1682 FRAME OF GOVERNMENT OF PENNSYLVANIA - "Law Agreed Upon in England &c", clearly states William Penn's position concerning "Trial by Jury" in Article VIII by stating:

“That all trials shall be by twelve men, and as near as may be, peers or equals, and of the neighborhood, and men without just exception; in cases of life, there shall be first twenty-four returned by the sheriffs, for a grand inquest, of whom twelve, at least, shall find the complaint to be true; and then the twelve men, or peers, to be likewise returned by the sheriff, shall have the final judgment. But reasonable challenges shall be always admitted against the said twelve men, or any of them.”

Patrick Henry said the following concerning a “trial of one’s peers:

“By the bill of rights of England, a subject has the right to a trial by his peers. What is meant by his peers? Those who reside near him, his neighbors, and are well acquainted with his character and situation in life.”

Articles V, VI and VII, of these "Laws Agreed Upon in England &c", respectively state:

“V. That all courts shall be open, and justice shall neither be sold, denied nor delayed.”

“VI. That, in all courts all persons of all persuasions may freely appear in their own way, and according to their own manners and there personally plead their own cause themselves; or, if unable, by their friends: and the first process shall be the exhibition of the complaint in court, fourteen days before the trial; and that the party, complained against, may be fitted for the same, he or she shall be summoned, no less than ten days before, and a copy of the complaint delivered him or her, at his or her dwelling house. But before the complaint of any person be received, he shall solemnly declare in court, that he believes, in his conscience, his cause is just.”

“VII. That all pleadings, processes and records in courts, shall be short, and in English, and in an ordinary and plain character, that they may be understood, and justice speedily administered.”

“Jury Nullification” clearly has a long and well-established historical basis in Pennsylvania law.

Edward Bushel and his fellow courageous jurors said “NO” to an immoral and unjust “law” in 1670, thus saving the life of William Penn, making Pennsylvania possible and confirming several of our God-given rights. These facts are part of our true, very deep Pennsylvania heritage.

Nullification by a jury, as in all other situations, does not repeal an alleged law, regulation, rule, code, court decision, etc., but rather it simply declares that the “law”, etc., shall not be enforced and the Citizens shall not comply with the government’s immoral and/or unconstitutional demand(s).

“The Constitution strikes with nullity that which does violence to its provisions.”

The alleged law, regulation, rule, code, court decision, executive order, etc., may be unconstitutional or its application to humans may be unconstitutional. In either case, nullification by an individual; a jury, the Sheriff or others at the County level; or the General Assembly, the Governor or others at the State level, is, as Thomas Jefferson said in his 1798 Kentucky Resolution, the “Rightful Remedy” for usurpations of power and authority by those in Washington D.C. (and in Harrisburg, your County or your Township). Every violation of the Holy Bible and the Constitutions can lawfully be nullified!

"Those people who are not governed by GOD will be ruled by tyrants."

William Penn