Introduction to Ratification in Delaware

The first state constitution named it "The Delaware State," but before 1776 the future state was commonly known as the "three lower counties" of Pennsylvania. Swedish colonists planted the first settlements in 1638, the Dutch from New Amsterdam seized them in 1655, and after the English capture of New Amsterdam in 1664, King Charles II gave the area to his brother, James, Duke of York. In 1682 the Duke granted the land to William Penn, who united it with his proprietary province of Pennsylvania. The three counties of New Castle, Kent, and Sussex at first sent delegates to the Pennsylvania Assembly, but in 1701 Penn granted them a charter similar to the one he had granted to Pennsylvania in 1683. Thereafter, Delaware had a unicameral legislature, with the governor of Pennsylvania serving as its governor.

Until 1776, and for a time afterwards, some prominent people were, in effect, citizens of both Pennsylvania and Delaware. Thus, before 1776 John Dickinson served at one time as Speaker of the Delaware Assembly and at another as a Philadelphia representative in the Pennsylvania Assembly. He was President of Delaware in 1783, when he was elected President of Pennsylvania. From 1776 to 1783, when the Delaware legislature ended the practice, non-residents often represented the state in Congress. For instance, in 1782 three of the four men elected were residents of Pennsylvania, including a former Delawarean, Thomas McKean, who had been Chief Justice of Pennsylvania since 1777.

Delaware welcomed independence from Pennsylvania in 1776, but divided sharply on the issue of independence from Great Britain. Perhaps four-fifths of New Castle County favored independence, but half of Kent and four-fifths of Sussex were opposed to it. The vote of the Delaware delegates in Congress reflected the split in the colony and forecast future political divisions. On 1 July 1776 Thomas McKean voted for and George Read voted against independence. The tie was broken the next day with the arrival of Caesar Rodney, who voted for independence.

Delaware remained divided for years, with two factions, commonly called Whigs and Tories, fighting for control. The Whigs, sometimes called the "country," "Presbyterian," or "democratic" party, were led by Caesar Rodney until his death in 1784. The Tories, sometimes called the "court," "church," or "aristocratic" party, were led by George Read until his death in 1798.

Late in July 1776 the old colonial assembly, which had not been replaced by a revolutionary congress, called an election to choose delegates to a convention to write the state's first constitution. The Tories won an overwhelming victory, defeating such leaders for independence as Caesar Rodney. George Read was elected president of the convention. On 11 September the convention adopted a declaration of rights which guaranteed, among other things, freedom of religion, freedom of the press, trial by jury, and the right of petition. On 20 September the

convention adopted a constitution without submitting it to the voters. The constitution went into effect with the election of the first state legislature in October.

The constitution created a two-house legislature called "The General Assembly." The "Legislative Council" consisted of three delegates from each of the three counties who were elected for three-year terms. Once the new government was established, one councillor from each county was elected each year. The "House of Assembly" consisted of seven delegates elected annually from each of the three counties. The chief executive, the President, was elected for a three-year term by joint ballot of the two houses and was then ineligible for three years. He was commander in chief of the militia and had certain powers of appointment, but unlike the colonial governor, he could not veto legislation. A four-member Privy Council, two elected by each house for three-year terms and then ineligible for three years, acted as advisor to the President.

The judicial system consisted of a supreme court, a court of common pleas in each county, and justices of the peace. The three Supreme Court justices and the four justices of each county court were chosen by joint ballot of the two houses of the legislature to serve during good behavior. Twelve justices of the peace for each county were appointed for seven years by the President and Privy Council from a list of twenty-four names nominated for each county by the House of Assembly. The President and Privy Council also appointed county sheriffs and coroners for one-year terms from lists of two men for each post nominated by the freemen of each county. Sheriffs serving three years consecutively were ineligible for three years thereafter.

The annual election of representatives, of one councillor for each county, and of county coroners and sheriffs was held on 1 October, or on the day following if the 1st fell on Sunday. Annual legislative sessions began on 20 October, or on the day following if the 20th fell on Sunday. The property qualification for voting remained what it had been before 1776: the ownership of fifty acres of land, twelve acres of which were cleared, or the ownership of property worth £40.

The Tories won the first state elections in October 1776. The elections were characterized by violence, especially in Sussex County. The new legislature promptly elected John Dickinson and re-elected George Read, both opponents of independence, to Congress. Thomas McKean and Caesar Rodney, the two outstanding supporters of independence, were defeated for re-election. John McKinly, described as a "mere patch upon the back" of George Read, was elected President of the state early in 1777.

Armed Tories had driven Whigs from the polls in 1776, but the next year the Whigs retaliated in kind and won control of the Assembly. In 1778 the legislature elected Caesar Rodney President in place of McKinly, who had been captured by the British. In May and June 1778 the Whig-controlled legislature adopted an act denying political rights to those who refused to take oaths of allegiance to the state, and an act confiscating Tory property. The state also suppressed Loyalist rebellions in 1778 and 1780. Despite such measures, the Tories gained strength, especially in Sussex County, which was a refuge for Loyalists from other states, and whose inhabitants were allied with dissident elements in the neighboring counties on the Eastern Shore of Maryland.

The Whigs maintained control of the Assembly until 1786, but during most of these years the Tories controlled the Council. In 1786 the Tories got control of both houses and retained control for several years thereafter.

The animosity among political leaders and the violence on election days were probably unmatched in any other state, but at the same time Delawareans seemed remarkably united in their attitude toward other states and the government of the United States. From the beginning, Delaware insisted on an equal vote with other states in Congress. In addition, during the writing of the Articles of Confederation, Delaware opposed interference by the central government in the internal affairs of the states. However, there was one important exception: Delaware joined with the other four "landless" states in demanding that Congress have the power to limit the boundaries of states claiming land west of the Appalachians, and in demanding an equal share in those lands. Delaware refused to ratify the Articles of Confederation until February 1779 because the Articles did not give Congress that power. But Delaware did not give up its demands. George Read declared in the Constitutional Convention in 1787 that the "unjust appropriation of the public lands" was a "great evil." He also opposed guaranteeing the territorial integrity of the states because it would "confirm the assumed rights of several states to lands which do belong to the Confederation."

After 1781, Delaware consistently supported attempts to increase the powers of Congress. The legislature ratified the Impost Amendment of 1781 in November 1781, the Impost of 1783 in June 1783, and the congressional request of 1784 for temporary power to regulate trade in February 1786. It also adopted, in June 1783, the amendment to the Articles of Confederation which proposed to change the basis for sharing expenses among the states from land values to population.

During 1786, Delaware tried to improve its economic position in various ways. The legislature established New Castle and Wilmington as free ports for twenty-five years in an effort to end the state's economic dependence on Philadelphia. The legislature also elected delegates to a convention (which never met) of Maryland, Pennsylvania, and Delaware to consider improving the navigation of the Susquehanna River and opening a waterway between Chesapeake and Delaware bays. As in other states, there was a popular demand for paper money. The House responded by passing two paper money bills, but the Tory-controlled Council rejected both.

In June 1786 the legislature answered Virginia's call for a commercial convention at Annapolis by electing five important leaders as delegates: Richard Bassett, Gunning Bedford, Jr., Jacob Broom, John Dickinson, and George Read. Bassett, Dickinson, and Read attended the Annapolis Convention. Dickinson served as its chairman and signed the report sent to Congress and the states. The report recommended that a convention meet in Philadelphia in May 1787 to devise measures "to render the constitution of the Foederal Government adequate to the exigencies of the Union. . . ."

The report was laid before the House of Assembly on 25 October 1786, and on 3 February 1787 the legislature elected the same delegates to the Philadelphia convention that it had sent to the Annapolis Convention. The delegates were empowered to join in proposing alterations "to render the Foederal Constitution adequate to the Exigencies of the Union," but they were forbidden to agree to any alteration in Article V of the Articles of Confederation which gave each state one vote in Congress.

All five Delaware delegates attended the Constitutional Convention and, up to a point, they followed their instructions concerning the equality of states. On the second day of the debate on the Virginia Resolutions, George Read threatened that Delaware would leave the Convention if

it adopted representation by population in both houses of the "National Legislature." However, John Dickinson first proposed the solution eventually adopted: equality of the states in the Senate and election of Senators by the state legislatures.

Thereafter, the Delaware delegates divided on the extent of the power of the central government. George Read supported the extreme nationalists, who wanted a powerful executive chosen for life and a senate whose members would serve long or even life terms. And despite his defense of equality of the states in Congress, he finally joined those who wanted to abolish the states, at one point declaring that the state governments should be annihilated. John Dickinson, who had supported a strong central government ever since he wrote the first draft of the Articles of Confederation in 1776, believed that the states must be an integral part of the political system. He therefore joined those delegates who wanted to create a "federal government" which divided sovereignty between the central government and the states, rather than a "national government" of unlimited and unchecked power over the states and their citizens.

There was no overt opposition to the Constitution in Delaware. Whigs and Tories both favored ratification, although they engaged in the usual attacks upon and threats of violence against one another during the election of Convention delegates on 26 November 1787. Delaware was the first state to ratify the Constitution, the state Convention doing so unanimously on 7 December, five days before Pennsylvania ratified.

Tories continued to dominate state politics in 1788 and elected a Tory delegation to the first Congress under the Constitution: George Read and Richard Bassett to the Senate and John Vining to the House of Representatives. During the 1790s most Tories were Federalists in national politics, while most Whigs joined the opposition as members of the emerging Democratic–Republican Party.

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