

## Introduction to the Ratification of the Constitution in New Jersey

The Swedes and the Dutch were the first Europeans to occupy the land between the Delaware and Hudson rivers that became the state of New Jersey. In 1664 the area was seized by the English and granted by King Charles II to his brother, James, Duke of York. The Duke in turn granted the land to his friends Lord John Berkeley and Sir George Carteret, and named it New Jersey in honor of the latter's birthplace, the Isle of Jersey. By the end of the seventeenth century, after a series of further grants and sales of rights, the colony was controlled by two rival groups: the Proprietors of East Jersey and the Proprietors of West Jersey. The rivalry continued during the eighteenth century, with East Jersey dependent upon New York, and West Jersey, dominated by Quakers, upon Pennsylvania.

The impact of New Jersey's colonial past is summarized in the history of the state during the Confederation:

It should be recognized at the outset that New Jersey cannot be regarded as a "typical" state and that the unusual course which it pursued cannot readily be understood by mere reference to conventional interpretations.

A small state, situated between the principal commercial cities of the Confederation, split into two rival geographical divisions by historical, religious, economic, and cultural factors, without a frontier or a metropolis, a tidewater or a back country, New Jersey had no counterpart among the original states. The peculiar sectional cleavage between East and West Jersey, inherited from colonial times and aggravated by the war, constituted the main basis of political alignments (McCormick, viii).

New Jersey remained relatively quiet, when compared to some other colonies, during the events which led to independence. The first direct action was taken by county committees which met in the summer of 1774 to protest the act closing the Port of Boston. And when Governor Sir William Franklin refused to call a legislative session, representatives of county committees met in July and elected delegates to the First Continental Congress. Quakers in West Jersey deplored the actions of the Congress; but, when the legislature met in January 1775, East Jersey leaders persuaded it to approve the proceedings and to elect delegates to the Second Continental Congress.

New Jersey people responded to the news of Lexington and Concord by beginning to arm and drill, and in early May 1775, the New Jersey committee of correspondence called the first provincial congress. It met at Trenton in May 1775, created a militia system, and levied a tax of £10,000. In August it elected a treasurer, provided for the annual election of a provincial congress, directed voters to elect county committees of correspondence, and created a committee of safety to act when the congress was not in session. The last colonial legislature under royal government met in the fall of 1775 and, after instructing the colony's delegates in the Continental Congress to vote against independence if it were proposed, it adjourned and never met again.

Between October 1775 and March 1776, the second provincial congress issued paper money, raised troops for the Continental Army, and extended the right to vote from landowners to people worth £50 in personal property. However, the congress did not repeal the Assembly's instructions to the delegates in the Continental Congress to vote against independence. Instead, it called for the election of another provincial congress to be held on 28 May.

The third congress met on 10 June, and on the 21st it voted to create a new government. The next day, it elected five delegates to the Continental Congress and empowered them to vote for independence and to enter into a “confederacy,” but reserved to its legislature the right of “regulating the internal police” of New Jersey. On 24 June the congress appointed a ten-man committee to draft a constitution. The draft was reported two days later, and, after a short debate, the congress declared it in effect on 2 July.

The constitution (Mfm:N.J. 1) provided that the government “shall be vested in a Governor, Legislative Council, and General Assembly.” The members of the two houses were elected annually on the second Tuesday in October by the voters in the thirteen counties, with each county electing one councillor and three assemblymen. The governor was elected annually in a joint session of the two houses.

Legislators had to be residents of a county for a year before election. Councillors had to own real and personal property worth £1,000, and assemblymen had to own real and personal property worth £500 “Proclamation Money” in the counties from which they were elected. Voters had to be residents of a county for a year and have a “clear Estate” worth £50 proclamation money.

The constitution gave the legislature virtually all the powers once possessed by the royal governor and council. In addition to electing the governor by joint ballot, the legislature elected the judges of the supreme court for seven-year terms; judges of the county courts, justices of the peace, clerks of the courts, the attorney general, and the secretary for five-year terms; and the treasurer for a one-year term. The legislature also elected the field and general officers of New Jersey troops.

In addition to assemblymen and councillors, voters were given the right to elect only two other officials: sheriffs and coroners—men who, after serving three one-year terms, could not hold the offices for three years thereafter. Following the colonial practice, the legislature, in response to petitions from local freemen, specified how each county should vote. By 1787 five counties voted by secret ballot, while eight counties voted *viva voce*. Sheriffs, who conducted the elections, were permitted to keep the polls open “a reasonable Time” (which was interpreted as several days) and to move the polls from place to place as designated by law (Mfm:N.J. 2).

The Assembly was the dominant branch of the government. It could outvote the Council in the election of officials, and the Council was forbidden to initiate or amend money bills. However, the Council, with the governor as its president, was the final court of appeals and could issue pardons.

The constitution declared that the governor “shall have the Supreme executive Power” in the state. He was president of the Council, chancellor, surrogate general, and commander in chief of all military forces. But he had little real power except to vote in Council meetings and to preside over the Council when it sat as the final court of appeals. Any power and influence a governor acquired was therefore the result of prestige and political skill. Such was the case with William Livingston who served as governor continuously from 1776 until his death in 1790.

From 1776 to 1789 the counties were the basic political units, and controversies and divisions were common within them. Towns vied with the countryside, Whigs opposed Tories, and various religious and ethnic groups battled among one another. Often an important family exerted great influence in county affairs. Victorious candidates in county elections represented the prevailing opinions of their counties in the legislature, which was often divided into two or more

factions led by prominent men such as Abraham Clark, William Livingston, and Elias Boudinot of Essex; James Schureman of Middlesex; and Benjamin Van Cleve of Hunterdon.

The major exception to the prevalence of county-based politics was the split between East and West Jersey, a split that intensified during the war. East Jersey, situated between New York City and Philadelphia, bore the brunt of the destruction inflicted by the British and American armies and Loyalist regiments, while West Jersey suffered less because of its remoteness from the scenes of battle and its influential, pacifist, Quaker population.

After the war the dispute over state paper money was the principal issue dividing the two sections. Generally, East Jersey favored a currency issue, while West Jersey opposed it. East Jersey had been inundated with state and continental certificates after 1776. By 1783 such paper had lost much of its value, although it could still be used to pay taxes. Furthermore, the specie brought in by the French and British armies soon disappeared to pay for foreign importations.

The resulting scarcity of money and the postwar depression led to the demand in East Jersey for the creation of a state loan office to issue paper money secured by mortgages on land, houses, and plate. Abraham Clark, leader of the paper money forces, and Governor William Livingston, leader of the opposition, filled newspapers with articles defending and denouncing the proposed loan office.

Paper money was the principal issue in the state elections in October 1785 which were won by the paper money forces. In May 1786 the legislature established a loan office empowered to issue £100,000. In the Assembly vote, only one delegate from East Jersey voted against, and only one delegate from West Jersey voted for, the act. The “swing” counties of Hunterdon and Sussex both voted in favor of the new currency. In the Council, the six East Jersey counties voted for paper money; the six West Jersey councillors voted against it, while the Hunterdon councillor favored the measure.

New Jersey's relations with the Congress of the United States caused little or no dissension, although Abraham Clark was one leader who opposed any interference by the central government within the state. Most Jerseymen, however, were seriously concerned about the commercial domination of their state by New York and Pennsylvania. Situated as it was, none of New Jersey's ports could compete with New York City or Philadelphia. Despite repeated attempts to establish its commercial independence, most foreign goods imported into New Jersey continued to come by way of those ports. During the Confederation years, this fact reportedly cost Jerseymen £40,000 annually in the form of import duties paid into the treasuries of their neighboring states.

Therefore, New Jersey consistently supported the regulation of trade by Congress. In the ratification of the Articles of Confederation, New Jersey was the only state to propose an amendment giving Congress that power, with the revenue derived to be spent in creating a navy and for “other publick and general Purposes.” This and other New Jersey amendments to the Articles were rejected by Congress on 25 June 1778 (CDR, 113–18). However, five months later, on 20 November, the state legislature ratified the Articles of Confederation, even though they were “unequal and disadvantageous” to New Jersey “in divers Respects.” The exigencies of war and the “general Good of the Union,” declared the legislature, forced New Jersey to capitulate on its demands for changes in the constitution (CDR, 128–29).

After the adoption of the Articles, New Jersey continued to support proposals to give more power to Congress. The legislature ratified the Impost Amendment of 1781 in June 1781, the Impost of 1783 in June 1783, and in November 1785 the congressional request of 1784 for

temporary power to regulate trade. It also adopted, in June 1783, the proposed amendment to the Articles changing the basis for sharing expenses among the states from land values to population. (For the amendments and the request for temporary power, see CDR, 140–41, 146–48, 148–50, 153–54.)

Another important concern of Jerseymen was the plight of the public creditors of the United States. Although only five percent of the country's population lived in the state, almost ten percent of the national debt was owned by its residents. New Jersey leaders agreed that these people should receive the interest and principal payments due them. Therefore, on 20 December 1783, after Congress had stopped interest payments on its debt, the New Jersey legislature passed an act committing the state (for twenty-five years) to pay the interest on the national debt held in New Jersey. Then, in February 1786, the Assembly resolved not to pay New Jersey's quota of the congressional requisition of 1785. The Assembly, led by Abraham Clark, maintained that New Jersey holders of national securities would be better off receiving state interest payments than by relying upon Congress to pay the interest from money secured by requisitions levied on the states.

Congress responded by sending a three-man delegation—Nathaniel Gorham, William Grayson, Charles Pinckney—to Trenton to convince the legislature of “the fatal consequences that must inevitably result to the said state, as well as to the rest of the Union, from their refusal to comply with the requisition . . .” (JCC, XXX, 97).

On 13 March 1786 the congressmen addressed the Assembly. Four days later, the Assembly rescinded its resolution, but it never attempted to collect money to meet the state's quota of the requisition. (For the Assembly proceedings and the speeches by the congressional delegation, see Mfm:N.J. 3.)

On 20 March, three days after the Assembly rescinded its anti-requisition resolution, it responded to Virginia's request for a meeting of commissioners from the states “to take into consideration the trade of the United States.” The Assembly resolved that the legislature should elect delegates to the meeting to consider the trade of the United States, and to consider how far a uniform system of commercial regulations “and other important matters may be necessary to their common interest and permanent harmony . . .” (Mfm:N.J. 4). The following day the two houses in joint session elected Abraham Clark, William Churchill Houston, and James Schureman to attend the Annapolis Convention.

The three New Jersey delegates met with delegates from four other states. The Convention decided that because of the poor representation, it was not “advisable to proceed on the business of their mission. . . .” Furthermore, the delegates reported that the New Jersey instructions to consider “*other important matters*” was “an improvement on the original plan . . .” (CDR, 181–85). Many years later, James Madison recalled that it was probably Abraham Clark who moved that the delegates at Annapolis recommend that another convention be called to meet at Philadelphia in the spring of 1787 (Madison to Noah Webster, 12 October 1804, in Webster's *A Collection of Papers on Political, Literary and Moral Subjects* [New York, 1843], 170).

New Jersey was the first state to elect delegates to the proposed convention. On 23 November 1786 the two houses elected David Brearley, William Churchill Houston, William Paterson, and John Neilson. The next day, the legislature drafted instructions and provided that at least three men had to represent the state in the convention (CDR, 195–96).

All four delegates were prominent during the Revolution. Brearley was chief justice of the state Supreme Court; Houston was the clerk of that court and had been a delegate to the

Annapolis Convention; Paterson had served as the state's wartime attorney general; and Neilson was a brigadier general in the state militia.

Several months after the election, Neilson declined to serve and Houston's health waned. Therefore, on 18 May 1787 the legislature elected Governor William Livingston and Abraham Clark. Clark, who had served alternately in Congress and in the state legislature since 1776, had been reelected to Congress in November 1786. Shortly after he was elected to the Convention, Clark resigned "very *informally*" because he believed that his appointment was incompatible with his appointment to Congress (Jonathan Dayton to David Brearley, [7] June 1787, Mfm:N.J. 5). Therefore, on 5 June Jonathan Dayton, one of Clark's lieutenants, was elected in his stead.

During the Constitutional Convention, New Jersey's delegates supported the federalist small-state position as proposed in the "New Jersey Amendments" to the Articles of Confederation (CDR, 250–53). On 16 June Charles Pinckney predicted: "Give New Jersey an equal vote and she will dismiss her scruples and concur in the national system" (Farrand, I, 255). After the Convention agreed a month later on 16 July to equal representation of the states in the Senate, the New Jersey delegates acquiesced in the writing of a new constitution to replace the Articles of Confederation.

When the Convention adjourned on 17 September 1787, New Jersey's delegates left Philadelphia knowing that the proposed Constitution embodied much of what their state had been advocating throughout the preceding decade. Few Jerseymen would openly oppose the ratification of a constitution which gave Congress the power to regulate trade, collect taxes, and pay the debts of the United States.

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