

New Jersey's First Constitution, 1776



Grade level: 6-8

Creator: New Jersey Center for Civic Education, Rutgers University, Piscataway

Objectives:

Students will be able to explain the content and impact of the provisions of New Jersey's 1776 Constitution regarding the electorate, the branches of government, and the protection of individual rights.

New Jersey Student Learning Standards for Social Studies (2020):

6.1.8.CivicsPI.3.c: Distinguish the powers and responsibilities of citizens, political parties, interest groups, and the media in a variety of governmental and nongovernmental contexts.

6.3.8.CivicsPR.1: Analyze primary sources to explain how democratic ideas in the United States developed from the historical experiences of ancient societies, England, and the North American colonies

Common Core ELA Standards

[RI.8.1](#) Cite the textual evidence that most strongly supports an analysis of what the text says explicitly as well as inferences drawn from the text.

[RI.8.4](#) Determine the meaning of words and phrases as they are used in a text

[WHST.6-8.1](#) Write arguments focused on *discipline-specific content*.

[WHST.6-8.2](#) Write informative/explanatory texts, including the narration of historical events

Essential/Focus Questions

- When, where and how was New Jersey's first Constitution written?
- Who did the 1776 New Jersey Constitution allow to vote?
- How were the powers divided among the legislative, judicial and executive branches of states government in the 1776 New Jersey Constitution?
- What individual rights did the 1776 Constitution protect?
- What did the 1776 New Jersey Constitution say about the American Revolution?

Procedures/Activities:

1. Background:

The Continental Congress had asked the colonies to prepare constitutions. The British were at Sandy Hook. The body meeting at the State Capitol in Elizabeth was moved inland to Burlington. The Constitution was written in a matter of days. It was one of the earliest constitutions.

Why did the body meeting to write New Jersey's Constitution in 1776 move from Elizabeth to Burlington?

Why did they write the Constitution in a matter of days?

2. Review the vocabulary (Handout 1):

- Assembly
- Authority
- Chancellor
- Common Law
- Constitution
- Court of Appeals
- Electorate
- Established Church
- Inhabitants
- Inviolable
- Legislative Council
- Majority
- Pounds
- Reconciliation
- Representatives
- Vested

3. The teacher reviews the provisions of the 1776 New Jersey State Constitution (Handout 2) with the whole class or asks students to review it as a close reading assignment in small groups.

4. Activity: Students analyze the provisions of the 1776 New Jersey Constitution (Simplified version Handout 2) and complete the graphic organizer (Handout 3):

- What religious and political rights are protected?
 - Residents of New Jersey can practice any religion they choose.
 - They will not be required to pay taxes for church purposes.
 - There is no established church (whereas Britain had an established church, the Anglican Church).

- The Constitution specifically protects the civil rights of Protestants only and only Protestants may be elected to public office. The rights of Catholics and Jews (Quakers are a denomination of Protestantism) are not protected and they cannot be elected to offices.
- Who can vote?
 - “All inhabitants of this colony of full age, who are worth fifty pounds...and have resided within the country...for twelve months” may vote.
 - The other twelve states restricted voting to men. However, since married women had no property in their own names and were assumed represented by their husbands, only unmarried women and widows with 50 pounds as well as African Americans with fifty pounds could vote.
 - Those few women who were able to vote in New Jersey lost their right in 1807 by an act of the NJ Legislature.
 - Some historians argue that the inclusion of women and African Americans was an oversight because the Constitution was written so quickly. Others claim that it was an expression of the right to popular participation.
 - Some claim that the Legislature saw it’s mistake and took away the right of women and African Americans to vote, Others argue that the women and African American tended to prefer Jefferson’s Republican Party, whereas the majority party in New Jersey was the Whigs so limiting the right to vote was all about politics (Possible comparison with today’s efforts in some states to limit the electorate).
- How are the legislators elected? What are the requirements for being elected to the Council and the Assembly?
 - The Legislature consists of two houses: the upper house is the Council (today’s Senate) and the lower house in the Assembly.
 - Each year, the inhabitants of each county vote for one person to be a member of the Legislative Council and three to be members of the Assembly.
 - To be a member of the Council, a person must have lived and owned property in the county for at least one year and must be worth at least 1000 pounds.
 - To be a member of the Assembly, a person must have lived in the country at least one year and must be worth at least 500 pounds.
 - Since these were significant amounts of money in 1776, the Legislature is composed of wealthy landowners and merchants.
- How is the Governor elected? What authority does he have?
 - The Council and Assembly elect the Governor for one year.
 - The Governor serves as the president of the Council,
 - He has supreme executive power.
 - He is chancellor of the Colony and commander in chief of the militia.
 - However, he has no veto power and is totally beholden to the Legislature which elects him on an annual basis.
- How is the Court of Appeals appointed?
 - The Governor and Council form the Court of Appeals of last resort (The State Supreme Court).

- Draw conclusions based on the provisions in the 1776 New Jersey Constitution: Why do you think the colonists wanted a strong legislature and a weak governor?
 - The colonists were fighting a war against the British King and were concerned about the executive having too much power.

The completed graphic organizer should look like the following:

| | 1776 NJ Constitution | Explanation |
|---------------------------------------|--|---|
| Religious and political rights | <p>Art. XVIII. Inhabitants may practice whatever religion they please and no one will be compelled to attend a place of worship contrary to his beliefs or be required to pay taxes for the building or repairing of a place of workshop or for the maintenance of a religious minister.</p> <p>Art. XIX. There is no established church.</p> <p>The civil rights of Protestants are protected and Protestants may be elected to any office.</p> | <p>Residents of New Jersey can practice any religion they choose.</p> <p>They will not be required to pay taxes for church purposes.</p> <p>There is no established church (whereas Britain had an established church, the Anglican Church).</p> <p>The Constitution specifically protects the civil rights of Protestants only and only Protestants may be elected to nay office.</p> <p>The rights of Catholics and Jews (Quakers are a denomination of Protestantism) are not protected and they cannot be elected to offices.</p> |
| The Electorate | <p>Art IV. Inhabitants over 21 worth 50 pounds and reside in the county vote for one representative to the Legislative Council three representatives to the General Assembly.</p> | <p>Since the word “inhabitants” is used, women, as well as African Americans, with the required 50 pounds, are able to vote according to the 1776 Constitution.</p> <p>However, since married women had no property in their own names and were assumed represented by their husbands, only single women (with some wealth) and widows could vote.</p> |
| The Legislature | <p>Art. III Each year the counties shall each choose one person to be a member of the Legislative Council and three to be members of the Assembly. A person must have lived and owned property in the country for at least a year and be worth at least 1000 pounds to be a member of the Legislative Council. A person must have lived in the country for at least one year and be worth 500 pounds to be a member of the Assembly.</p> | <p>The members of the Legislature are chosen by the residents of each county. Since the property owning requirements are substantial, the Legislature is composed of wealthy landowners and merchants.</p> |
| The Governor | <p>Art. VII. The Council and Assembly elect the Governor for one year. The Governor is also president of the Council.</p> <p>Art. VIII. The Governor shall have supreme executive power, be</p> | <p>There is no separation of powers. The executive is selected by the Legislature. The Governor is not very strong since he is selected by the Legislature for one year.</p> |

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| | Chancellor of the Colony, and commander in chief of the militia. | |
| The Judiciary | Art. IX. The Governor and Council form the Court of Appeals of last resort. | There is no separation of powers. The executive and members of the legislature form the final Court of Appeals. |

5. Look at the final line of the 1776 New Jersey Constitution (“if a reconciliation between Great-Britain and these Colonies should take place, and the latter be taken again under the protection and government of the crown of Britain, this Charter shall be null and void-otherwise to remain firm and inviolable”). What does this language mean?
- If the American Colonists did not win the war or come to an agreement with Britain, those signing the Constitution, which includes a declaration of independence in its preamble, would be traitors. The punishment for treason in Britain at this time is hanging. So they tried to hedge their bets and suggest that the document is null and void if there is a reconciliation.
 - The language demonstrates how volatile and dangerous the situation was in 1776.
 - This provision was the most heavily debated one but it was ultimately retained.

Assessment:

Compare the 1776 New Jersey Constitution with the United States Constitution, written in 1787. What are the differences? What are the similarities? Why do you think the concept of separation of powers was so much better developed by 1787?

High scores would include the following:

- Similarities
 - Both had executive, legislative and judicial branches of government
 - Both had publicly elected legislatures
 - Both provided for freedom of religion
- Differences
 - The 1776 NJ Constitution had a very weak executive selected by the legislature whereas the U.S. Constitution had a much stronger executive elected by the public through the Electoral College
 - The 1776 NJ Constitution did not clearly have the three branches of government separated whereas the U.S. Constitution did.
 - The 1776 NJ Constitution had no Bill of Rights and only protected religious beliefs whereas the U.S. Constitution had an extensive Bill of Rights protecting speech, press, religion, assembly, right to petition, right to privacy, etc.
 - The 1776 NJ Constitution only protected the civil rights of Protestants and only allowed Protestants to hold public office whereas the U.S. Constitution protected the rights of all citizens and enabled all citizens who met the age and residency requirements to hold office.

- Separation of Powers
 - The NJ Constitution was written in 1776 whereas the U.S. Constitution was written eleven years later in 1787 and had the benefit of the experiments with Constitution writing conducted by the states over that time period.
 - The NJ Constitution was written quickly during the American Revolution whereas the U.S. Constitution was debated over a period of several months during a time of peace.
 - The NJ Constitution was written by a small group of individuals from one state whereas the U.S. Constitution had the benefit of statesmen from the whole country.
 - The NJ Constitution was merely printed and published and did not go through a ratification process whereas the U.S. Constitution benefitted from the debate between Federalists and Anti-Federalists, which led to the inclusion of a Bill of Rights, prior to its ratification by the states.

Handout 1

Vocabulary

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| Assembly: | Lower Legislative Chamber, usually with less authority than the upper legislative Assembly (the Legislative Council) modeled after the British House of Lords and House of Commons |
| Authority: | The right to exercise power to enforce rules or give orders |
| Chancellor: | This term is used to designate the head of a Parliamentary government. It is also used for the presiding judge as well as the head of a university or university system. In the 1776 it is referring to The Governor as the judge to determine certain types of cases. |
| Common Law: | The body of law developed as result of custom and judicial decisions that forms the basis of laws followed in Britain and followed by most of the British colonies. |
| Constitution: | Foundational document setting forth the establishing the overarching structure, purpose and limitations of the government |
| Court of Appeals: | The court that reviews lower court opinions for errors. In the 1776 New Jersey Constitution the Court of Appeals is the court of last resort or “Supreme” Court, with the ability to make the final determination |
| Electorate: | All the people entitled to vote |
| Established Church: | A church recognized as the official church of a state or nation supported by the government |
| Inhabitants: | Residents, those living in a particular place (state, city, town) |
| Inviolable: | Firm, unbreakable, sacred |
| Legislative Council: | The upper legislative chamber with greater decision-making authority. |
| Majority: | More than half |
| Pounds: | The currency in use in Great Britain and the British colonies. |
| Reconciliation: | Resolution, settlement, compromise, ceasefire, agreement, reunion |
| Representatives: | Delegates, deputies |
| Vested: | Assigned, entrusted, conferred |

Handout 2
New Jersey Constitution (simplified)
July 2, 1776
Burlington, NJ

Since the authority that the kings of Great Britain had over the colonies came from the people and King George III has not protected the colonies, his authority is ended.

However, since some form of government is necessary to unite people and preserve order, the Continental Congress has advised the colonies to adopt a constitution for their government.

We, the representatives of the colony of New Jersey have been elected by the counties, assembled and agreed upon the following Constitution:

- I. The government shall be vested in a Governor, Legislative Council and General Assembly.
- III. Each year the counties shall each choose one person to be a member of the Legislative Council and three to be members of the Assembly. To be a member of the Legislative Council, a person must have lived and owned property in the county for at least one year and must be worth at least 1000 pounds. To be a member of the Assembly, a person must have lived in the country at least one year and must be worth at least 500 pounds.
- IV. Inhabitants of this Colony, age 21 or more, who are worth 50 pounds and have resided in the county in which they want to vote for one year, may vote for representatives to the Council and Assembly and for all other public officers.
- VII. The Council and Assembly by majority vote elect a person to be Governor for one year, who shall also be President of the Council and cast a vote in the Council.
- VIII. The Governor shall have supreme executive power, be Chancellor of the Colony, and commander in chief of the militia.
- IX. The Governor and Council shall form the Court of Appeals of last resort.
- XVIII. Inhabitants may practice whatever religion they please and no one will be compelled to attend a place of worship contrary to his beliefs or be required to pay taxes for the building or repairing of a place of worship or for the maintenance of a religious minister.
- XIX. There is no established church; the civil rights of Protestants are protected and Protestants may be elected to any office.
- XXII. The common law of England shall remain in force until altered by a future law of the Legislature.

If a reconciliation between Great-Britain and these Colonies should take place, and the latter be taken again under the protection and government of the crown of Britain, this Charter shall be null and void- otherwise to remain firm and inviolable.

New Jersey's 1776 Constitution

| | 1776 NJ Constitution | Explanation |
|---------------------------------------|-----------------------------|--------------------|
| Religious and political rights | | |
| The Electorate | | |
| The Legislature | | |
| The Governor | | |
| The Judiciary | | |

