

## New Jersey and the Federal Convention, 1787



*Scene at the Signing of the Constitution of the United States*  
by Howard Chandler Christy (1940), in the U.S. Capitol

**Grade Level: 6-8**

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**Objectives:**

Students will be able to

- Explain the background of the delegates from New Jersey to the Federal Convention in 1787
- Demonstrate the impact of the New Jersey and Virginia Plans at the Federal Convention
- Conduct a simulated Federal Convention
- Explain the value of compromise.

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

- 6.1.8.CivicsPI.3.d: Use data and other evidence to determine the extent to which demographics influenced the debate on representation in Congress and federalism by examining the New Jersey and Virginia plans
- 6.1.8.CivicsPD.3.a: Cite evidence to determine the role that compromise played in the creation and adoption of the Constitution and Bill of Rights.
- 6.1.8.HistoryCC.3.d: Compare and contrast the Articles of Confederation and the United States Constitution in terms of the decision-making powers of national government.
- 6.3.8.CivicsPR.5: Engage in simulated democratic processes (e.g., legislative hearings, judicial proceedings, elections) to understand how conflicting points of view are addressed in a democratic society.

## **Background:**

The Articles of Confederation had created a relatively weak and decentralized government, without a single executive or a judiciary. All national power rested with the Congress, which consisted of a single house. Each state could send three to five delegates to the Congress, but no matter how many delegates the state had, each state had only one vote in Congress. This meant that tiny Rhode Island had as much political power as mammoth Virginia. Congress had no power to collect taxes. During the war the national government teetered on the verge of bankruptcy and the army often went unpaid. After the Revolution, Congress was unable to pay off its bonds while the states ignored the agreements that Congress had made with foreign nations, including key provisions of the peace treaty with England. There was no national currency and trade and tariff policies were basically in the hands of the states.

After a series of failed attempts to amend the Articles of Confederation, including the Annapolis Convention, the Congress authorized the states to send delegates to meet in Philadelphia in May, 1787. Eventually a total of 55 delegates from 12 states came to the Convention, but no more than eleven delegations were present at any one time: New Hampshire did not arrive until mid-July, and New York left in early July. Rhode Island never sent a delegation. Most delegates were politically experienced, and many were wealthy. More than half had legal training. At least 26 delegates owned slaves. In order for a delegation to vote, it had to have at least two members on the floor. To avoid public speculation and lobbying, the delegates met in secret and were sworn to secrecy. The convention chose George Washington as its president.

### **Activity 1: New Jersey's delegates to the Federal Convention**

New Jersey sent four delegates to the Convention:

- William Paterson
- William Livingston
- David Brearley
- Jonathan Dayton

Research the background of other New Jersey delegates to the Federal Convention. The background to all of the delegates to the Federal Convention can be found at <https://www.archives.gov/founding-docs/founding-fathers>.

**William Paterson** was born in Ireland in 1745 and moved to America as a toddler where his family settled in Princeton and his father was a successful merchant. Growing up in an affluent family, Paterson was educated in private schools. He earned a bachelor's and master's degree from the College of New Jersey (now Princeton University) and studied law with Richard Stockton. During the American Revolutionary War, Paterson was one of New Jersey's leading patriots. He was a member of the provincial congress from 1775 to 1776, and was part of the New Jersey Constitutional Convention of 1776. From 1776 to 1783, he served as New Jersey's attorney general. Paterson became one New Jersey's first senators. In 1790, he became the state's governor—a post that he would hold until he was appointed to the U.S. Supreme Court in 1793. During his time with the court, he oversaw the trials of those involved in the Whiskey Rebellion of 1794. He remained on the U.S. Supreme Court until his death in 1806.

**William Livingston** was born in 1723 at Albany, New York. He attended Yale and graduated in 1741 and pursued a career in law in New York City, marrying the daughter of a well-to-do New Jersey landowner. He quickly gained a reputation as the supporter of popular causes against the more conservative factions in the city. Associated with the Calvinists in religion, he opposed the dominant Anglican leaders in the colony. Livingston was a member of the state assembly 1759-61 but moved to Elizabethtown in 1769 when his supporters split on the growing debate as to how to respond to British taxation of the colonies. There he built Liberty Hall and planned to live be gentleman farmer. The Revolutionary upsurge, however, brought Livingston out of retirement and he became a member of the Essex County, NJ, committee of correspondence; in 1774 a representative in the First Continental Congress; and in 1775-76 a delegate to the Second Continental Congress. In June 1776 he left Congress to command the New Jersey militia as a brigadier general and held this post until he was elected later in the year as the first governor of the state, a position he held for 14 years until his death in 1790.

**David Brearley** was born in 1745 near Trenton, NJ. He attended but did not graduate from the nearby College of New Jersey (Princeton). He became a lawyer, practicing in Allentown, NJ. Brearley avidly backed the Revolutionary cause and was arrested by the British for high treason, but was freed by a group of patriots. In 1776 he took part in the convention that drew up the state constitution. During the War for Independence, he rose from a captain to a colonel in the militia. At the federal convention, Brearley opposed proportional representation of the states and favored one vote for each of them in Congress. He was chairman of the Committee on Unresolved Disputes at the end of the Convention. In 1779, Brearley was elected as chief justice of the New Jersey Supreme Court, a position he held until 1789. President Washington appointed him as a federal district judge in 1789, but he only served one year until his death at age 45 in 1790.

**Jonathan Dayton** was born in Elizabethtown in 1760. His father was a storekeeper who was active in local and state politics. Dayton graduated from the College of New Jersey (Princeton) in 1776. He entered the Continental Army and achieved the rank of captain by the age of 19. Serving under his father, Gen. Elias Dayton, and the Marquis de Lafayette, he was a prisoner of the British for a time and participated in the Battle of Yorktown, VA. Dayton studied law and established a practice. He sat in the state assembly in 1786-8, served as a member of the New Jersey council and speaker of the state assembly. He was a member of the U.S. House of Representatives, 1791-99, serving as Speaker in the Fourth and Fifth Congresses. He backed Hamilton's fiscal program, suppression of the Whisky Rebellion, Jay's Treaty, and a host of other Federalist measures. Dayton purchased Boxwood Hall in 1795 as his home in Elizabethtown and resided there until his death. He served in the U.S. Senate, 1799-1805. In 1824, the 63-year-old Dayton played host to Lafayette during his triumphal tour of the United States.

### **What did the New Jersey delegates share in common? How were they different?**

Jonathan Dayton, David Brearley, William Livingston and William Paterson were all practicing lawyers who had been active patriots in the American Revolution. They all grew up in comfortable circumstances and were well-educated. Dayton, Brearley and Paterson had all attended the College of New Jersey (now Princeton University). They differed by age: Jonathan Dayton at age 26 was the youngest delegate

at the Federal Convention. William Livingston at age 64 was one of the oldest (Benjamin Franklin at age 81 was the oldest delegate). David Brearley and William Paterson were both 42 years old in 1787.

### **The debate over representation in Congress**

Nationalists, such as George Washington, James Madison, Alexander Hamilton, and John Jay, wanted a stronger government empowered to regulate commerce, enforce treaty obligations, collect taxes and maintain a strong defense. Four days after the opening of the Convention, Edmund Randolph, Governor of Virginia, presented the “Virginia Plan” (drafted by James Madison) for creating a new government with three branches (executive, legislative and judicial) and representation in the two houses of the legislative branch based on the population of each state. The Virginia Plan proposed a federated system with individual state governments and a strong national government with the power to make and enforce its own laws, including the power to collect its own taxes.

On June 15th, William Paterson, head of the New Jersey delegation to the Convention, laid out the “New Jersey” Plan before the Convention, which sought to balance power between the larger and smaller states. The New Jersey Plan proposed revisions to the Articles of Confederation, but not a completely new government. The plan made no change to the one-state, one-vote system and unicameral (one-house) legislature. The limited powers of the Congress, which would include the ability to raise revenue via taxes and to regulate trade with foreign nations, were listed. One resolution, that drew criticism, was that the Congress would have the power to choose the Executive. The plan still called for a three-branch government, with the Federal Judiciary “appointed by the Executive, for terms of good behavior.” Paterson called for supremacy of federal acts and treaties over state laws, but left the states with a high degree of sovereignty in most matters.

By mid-June, the Convention was in its third full week of proceedings, and it was becoming increasingly clear that the dispute over representation in the legislature was going to be difficult to solve. The New Jersey Plan was subject to the scrutiny of the delegates. James Wilson stressed the importance of seizing this favorable moment and creating a new government, and dismissed the idea that the delegates could only revise the Articles of Confederation because the “salvation of the Republic was at stake, it would be treason to our trust, not to propose what we found necessary.” James Madison gave a long speech outlining eight criticisms of the New Jersey Plan. Madison argued that the New Jersey Plan would leave the national government far too weak and unable to assert control over the states or protect the states from foreign intrusion.

The issue of representation in Congress was strongly debated at the Federal Convention in 1787. Although the official Records of the Constitutional Convention do not include documents listing the population figures that were used, the delegates did have estimates of state populations. See Handout 1: William Paterson’s notes for speech of June 9th at the Federal Convention of 1787. This document, a handwritten list of names of each of the states, their supposed population and a column entitled “Delegates,” was dated Sept. 27, 1785 and possessed by David Brearley (See NCSS, “Population Estimates used by Congress during the Constitutional Convention” *Social Education*, 2006 pp. 270-272 at [https://www.socialstudies.org/system/files/publications/articles/se\\_700506270.pdf](https://www.socialstudies.org/system/files/publications/articles/se_700506270.pdf))

**Activity 2 : Representation in Congress**

Conduct a mock Federal Convention, assigning each student a role as a delegate for one of the 13 states. Have students debate and determine how many representatives each state should have, using the estimated population of the 13 states in 1787 (the 1790 census).

- Review Handout 2: State by state populations from 1790 census (<https://www.infoplease.com/us/population/us-population-state-1790-2015>)
- Students complete the graphic organizer (Handout 2) to determine how many representatives in Congress each state would have based on its population and if each state had two representatives, each with one vote:

State	Population	Number of representatives based on population (one per 30,000 people)	Number of representatives if each state had two
Connecticut	237,655	7	2
Delaware	59,096	1	2
Georgia	82,548	2	2
Maryland	319,728	10	2
Massachusetts	378,556	12	2
New Hampshire	141,899	4	2
New Jersey	184,139	6	2
New York	340,241	11	2
North Carolina	395,005	13	2
Pennsylvania	433,611	14	2
Rhode Island	69,112	2	2
South Carolina	249,073	8	2
Virginia	747,550	24	2
Totals		114	26

- How many small states (those with less than 250,000 people) are there? Seven: Connecticut, Delaware, Georgia, New Hampshire, New Jersey, Rhode Island and South Carolina.
- How many votes would the small states have if each state had an equal vote? 14 out of 26
- How many total votes would the small states have based on the 1790 census population? 30 out of 114

- Why would the small states favor two representatives for each state? Then they would have a majority of votes.

### Activity 3: Simulated Federal Convention

- Assign students as delegates from Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts and New Hampshire to the Federal Convention (one from each state)
- Have the students work in groups as the delegates from their respective states and determine how many representatives each state would have according to the Virginia Plan. Compare that number with how many representatives each state would have according to the New Jersey Plan (one per state).
- Have the student groups decide which plan would be more beneficial for their state.
- Hold a mock Federal Convention with the teacher as George Washington, the president (and moderator) of the Convention.
- Once the mock Convention has concluded, debrief what happened.

### Activity 4: Consider what really happened and why

Although the New Jersey Plan was ultimately unsuccessful in convincing a majority of the state delegations, it set the stage for future negotiation, and helped lead to the Connecticut, or “Great Compromise” that granted equal representation in the Senate and representation proportional to population in the House of Representatives. Finally, on July 16, the delegates adopted a group of resolutions that became known as the Great Compromise. This became Article 1, Section 2, of the Constitution:

“The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse [sic] three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.”

The compromise meant that there would be an upper house in which the states would be equally represented and a lower house with representation based upon population as enumerated in a decennial census. The initial House of Representatives included 65 members. The Great Compromise passed by one vote.

Watch the 90 second video about the New Jersey Plan and the Federal Convention at [http://www.youtube.com/watch?feature=player\\_embedded&v=n7h5tOqzoyl](http://www.youtube.com/watch?feature=player_embedded&v=n7h5tOqzoyl)

- Compare the proportional representation outlined in Art. I, Sec. 2 of the Constitution with your completed proportional representation chart using the populations from the 1790 census. Are most states under or over represented? Most are underrepresented. Why do you think this is the case? (The population of the United States was growing rapidly and 1790 was the first time that a consistent census was taken).
- Discuss what a “compromise” is –*those with differing views agree to a solution where each side gives up something to solve the problem.*
- Discuss how the Connecticut Plan or “Great Compromise” solved the issue of representation in Congress.

- Congress would have two houses: the Senate and the House of Representatives
- Each state would have an equal number of representatives (two) in the Senate.
- The number of representatives each state would have in the House of Representatives would be based on the number of people in that state.
- What are the advantages of dividing Congress into two houses, one with representation in accordance with the population of each state and one with an equal number of representatives for each state?
  - States would have equal power in the Senate.
  - Since laws could not be passed unless a majority in both houses agreed, large and small states could check each other's power.
  - The Great Compromise protected the interests of both large and small states.
- Which system of representation—by population or two per state—is most beneficial to New Jersey? Explain why.

### Activity 5: The House of Representatives Today

Since it was clear that the country was growing and the number of representatives would be increasing, at some point a representative per 30,000 residents would be too large. Efforts were early to change the total number of representatives in the House of Representatives in the first Congress. The number of Representatives has been capped at 435 since the Apportionment Act of 1911. As a result, over the last century, congressional districts have more than tripled in size—from an average of roughly 212,000 inhabitants after the 1910 Census to about 710,000 inhabitants following the 2010 Census. The 2020 census showed a total national population of 331,449,281, a growth of more than 22 million, from 308,745,538 in 2010.

- Review the data from the 2020 census state by state at <https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>
- Identify which states gain or lose representatives
- Consider if representation based on population is fair

### Assessment

Students write a short essay explaining what might have happened:

- if the delegates at the 1787 federal Convention had agreed on a one-house Congress with an equal number of representatives from each state
- if the delegates had been unable to come to an agreement and why it is sometimes necessary to make compromises.

### Resources

<https://www.archives.gov/founding-docs/founding-fathers>

[https://www.socialstudies.org/system/files/publications/articles/se\\_700506270.pdf](https://www.socialstudies.org/system/files/publications/articles/se_700506270.pdf)

[https://www.americanbar.org/groups/public\\_education/publications/insights-on-law-and-society/volume-20/issue-2/an-enumeration-of-the-population--a-history-of-the-census/](https://www.americanbar.org/groups/public_education/publications/insights-on-law-and-society/volume-20/issue-2/an-enumeration-of-the-population--a-history-of-the-census/)

<https://history.house.gov/Institution/Origins-Development/Proportional-Representation/>

[http://www.youtube.com/watch?feature=player\\_embedded&v=n7h5tOqzoyI](http://www.youtube.com/watch?feature=player_embedded&v=n7h5tOqzoyI)

<https://www.infoplease.com/us/population/us-population-state-1790-2015>

<https://www.census.gov/data/tables/2020/dec/2020-apportionment-data.html>



Handout 1

States.	Quota of Tax.	Delegates.
Virginia .....	512,974 .....	16.
Massachusetts .....	448,854 .....	14.
Pennsylvania .....	410,378 .....	12. 3/4
Maryland .....	283,034 .....	8. 3/4.
Connecticut .....	264,182 .....	8.
New York .....	256,486 .....	8.
North Carolina .....	218,012 .....	6. 3/4.
South Carolina .....	192,366 .....	6.
New Jersey .....	166,716 .....	5.
New Hampshire .....	105,416 .....	3. 1/4.
Rhode Island .....	64,636 .....	2.
Delaware .....	44,886 .....	1. 1/4.
Georgia .....	32,060.....	1.
<b>Total.....</b>	<b>3,000,000.....</b>	<b>90.</b>

William Paterson's notes for speech of June 9<sup>th</sup> at the Federal Convention of 1787, at [https://avalon.law.yale.edu/18th\\_century/patterson.asp](https://avalon.law.yale.edu/18th_century/patterson.asp). This document, a handwritten list of names of each of the states, their supposed population and a column entitled "Delegates" was dated Sept. 27, 1785 and possessed by David Brearley.

Handout 3

State	Population	Number of representatives based on population (one per 30,000 people)	Number of representatives if each state had two
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Maryland	319,728		
Massachusetts	378,556		
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New York	340,241		
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Rhode Island	69,112		
South Carolina	249,073		
Virginia	747,550		
Totals			

From: <https://www.infoplease.com/us/population/us-population-state-1790-2015>