

The Light at the End of The Tunnel: Quakers and the Constitution

It has been said that New Yorkers have a reputation for being grumpy because the light at the end of the tunnel is New Jersey.

Poor New Jersey: always being the brunt of jokes. But perhaps these New Yorkers should know that the “light” being referenced might also be the candle that lit the bright light of Liberal Democracy in New Jersey, America, and the world.

We all know the Founders were very smart people but no; James Madison, Benjamin Franklin and their friends didn't sit in 1776 Philadelphia and wrote our American Constitution out of whole cloth. Yes, one can wax on and on about the influence of the Greeks, the Romans and the Mayflower Compact etc. but if you want to get to the very heart of the document you must look to the Quakers in what was in 1677 known as “New” Jersey.

Allow me to elaborate. Interestingly, although the Indians had been in residence for 15,000 years when the first Swedish and Dutch settlers arrived, they brought with them gunpowder and guns. They used that technology to throw out the Indians and kill each other in battles over who controlled the land. Unfortunately, as with most wars, that blood was shed for no useful purpose. The Indians may have been run out but as the years went by the English did a much better job of recruiting settlers than the Swedes and the Dutch. They came from all over Europe as well as other American colonies in Connecticut and Long Island where they had been persecuted. Those Swedes and Dutch stood by helplessly as they watched ships carrying mostly Quaker Englishmen arrive every few days. It didn't take long before they were “out settled.” In fact, their numbers grew so large that eventually the King simply decided that the land between the Hudson and Delaware rivers, belonged to him. Unfortunately, the English Governors of New York and Delaware strongly disputed that opinion as their own Royal land speculator bosses had already claimed it to be theirs. That argument about ownership with their fellow Englishmen to the north and south would rage long enough to have the Quaker Governor of New Jersey jailed in New York... twice. In the midst of the argument, in 1664 perhaps because his power depended the pace of settlement, the Duke of York arrogantly assigned the land to two very wealthy Englishman who had really rich friends in really high places. One of those friends of the Duke was also the governor of the Island of “Jersey” hence the name. Apparently, their hopes for accelerated settlement were not realized because after thirteen years with little progress they became “bored” with their land in the New World and they sold it to two wealthy Quakers whose names were Carteret and Berkley. As it turns out the two men could agree on religious principle but not on how their purchase should be governed. Even as people of peace they argued incessantly embarrassing themselves and alarming their religious peers. Finally, they appealed to the then just twenty-two-years-old but already well-known Quaker leader, “William Penn.” to mediate

their dispute. Young William had previously written that it is the function of Government to “advance the work of the good and restrain the work of the evil.” Apparently, Carteret and Berkley thought that had a nice ring to it. To achieve this lofty goal, Penn suggested a series of, “Concessions” which as one might guess became known as the “Concessions and Agreements of Carteret and Berkley”. In reading the Concessions, especially in the Prologue, it is easy to see that Penn clearly understood the burning desire that was attracting these settlers to the new world. They had been promised freedoms and to get them they had willingly endured the pain of leaving loved ones, (probably forever,) the challenge of a difficult and dangerous journey across the ocean, and yes for most of them it was expensive. Penn delivered on those promises for the settlers and for the rest of us. By their tenacity and courage those early settlers provided the impetus for what in 1677 at its birth could have been called, “Inalienable Rights for Land Owning White People” but it was a start. That Document which due to war protest and great sacrifice continued to evolve and eventually matured into the American Bill of Rights. Those difficult beginnings gave the Colony of New Jersey the great honor of being the first to ratify those rights just about a hundred years later.

Establishing the world’s first Liberal Democracy might have begun and ended right there but these early settlers had to purchase land from large investors who wanted a return on their money. We now call them “Capitalists” and young Penn learned from the beginning a simple fact about Capitalists, if you want a free and flourishing society “It’s tough to live with them but you can’t grow without them.” His compromises or Concessions were the first attempt at blending the ideals of Liberal Democracy with the interests of investors. It would then be called a “Proprietary Government.”

Unfortunately, Penn was a better religious leader than he was dealmaker and regardless of its political genius the “Concessions” did not end in a handshake (The Quakers invented the handshake) and because it didn’t succeed Penn was asked to organize a “Trust” that would sell the land. To do so the Trust divided what they thought they owned (Indians notwithstanding,) into what they called “East and West Jersey.” (There must be an explanation somewhere but over time that delineation magically transformed what is now known as known as North and South Jersey). One of them sold his eastern half to Scottish investors who developed the land populated largely by Anglicans with Quakers in the minority, while the western half continued to be settled by more and more Quakers. The failed Concessions of Carteret and Berkeley became simply the, “West Jersey Concessions.”

It should be remembered that although the land owners made some of the rules which formed the Proprietary Government until the American Declaration of Independence was written regardless of what was agreed upon by the inhabitants the “Colonists” were still under a Charter from the King. That meant if the King did not agree with any of the laws passed in his colonies that Charter could be revoked and a Royal Government could be installed. One of those Charter stipulations was that Penn was the only one authorized to pass laws. That didn’t sit well with the settlers who after suffering to get what they had didn’t care what the King said. It is also clear that Penn, always the committed Quaker,

didn't care either as he immediately moved to eliminate his authority by establishing an "Assembly" that would be elected annually by secret ballot cast by land-owning white men. If that didn't challenge the King enough, he boldly exceeded the liberties granted in the original West Jersey Concessions by adding much greater protections of Civil Liberties than he had in West New Jersey or anywhere else in the world for that matter. In addition to an elected Assembly he included Religious Freedom, the right to trial by jury, the absence of debtor's prisons, the lack of mandatory death sentences even in capital cases, and security from arbitrary arrest. These protections were all enshrined in the Concessions of West Jersey. It also should be mentioned that they didn't understand what "owning Land" could possibly mean and they didn't get a vote but even Native Americans were to be treated equally. Juries on cases involving Indians were to be comprised of 6 settlers and 6 Native Persons.

It is not known if Penn was the sole author of the Concessions but as a Trustee of the newly formed West Jersey, he certainly approved of them. Proof of that approval comes just a few years later in 1681. Always a glutton for punishment after having his proposals fail to be accepted again and again the then thirty-seven-year-old Penn decided to start his own colony across the river on the western side of the river. (By that time the river and the Indians that lived on its shores had been named after Thomas West, 3rd Baron De La Warr, an English nobleman and [Virginia's](#) first colonial governor.)

It seems that Penn's father had passed from this earth being owed what must have been a very large debt by the King himself. Penn's dad, who never approved of his son's religious travails was recognized as an Admiral by Cromwell's Parliament and a ruthless war criminal who fought and won many battles at sea for Cromwell's Parliament and at the same time managed to stay close to the Royalists, just in case, or whichever was the most lucrative at the time. Why the King granted Penn's request is a subject for speculation but let's guess and say the King was happy to rid himself of both the debt and a lot of troublesome Quakers. Also, the fact that as a boy little William sat quietly reading at a side table while his father the Admiral played chess with the King probably didn't hurt.

Penn's political philosophy was embodied in the Concessions but in his newly acquired land grant he was the sole owner and although as in West Jersey what he did had to fall within the King's Charter. For his second attempt in self-government which he called his "Holy Experiment." he incorporated all that was put forth in the Concession's and called it his, "Frame of Government," which later became known as the "Frame of 1682." (Frame, meaning concept.)

Free to shape his experiment the way he wanted but... (in government there is always a 'but') although Penn was wealthy, and an enlightened Quaker leader, he was also a land developer who needed to turn his land into money if he and his heirs were to continue his royal lifestyle. For both he and his Holy Experiment to be successful his task was to conform his liberal Laws to the needs of his customers and don't forget the King. William Markham, a trusted colonial deputy executive of Penn's for many years, commented:

"I knew very well [the Frame of Government] was forced upon him by friends who unless they received all that they demanded would not settle the country."

What emerged was a less liberal Government than he would have preferred but one that would satisfy the desires both the settlers and the Investors he needed. Unlike West Jersey his new colony would include; a Parliament consisting of two houses, the upper house he named the Council. It consisted of 72 members who were the first fifty purchasers (read: wealthy Quakers) of 5000 acres or more. To appeal to their Capitalist interests, he gave them the exclusive power to propose legislation. Somewhat strangely he also gave the Council the authority to nominate all officers in Church, (?) and State. One can only imagine the compromises the Quakers made when they were forced to agree to allow this elected body to form and supervise a standing military. In the lower house he retained the name "Assembly", which now consisted of smaller landowners that had no power to initiate legislation but could accept or reject the council's legislative proposals only. The two-house "Parliament" had the power to simply, "assist" the governor, (William Penn) with his executive functions. Just what executive functions they assisted the Governor with was not immediately clear. Originally Penn had allowed himself just only a single vote in the Council with no power to reject the legislation passed by the Assembly. However, the final version of the "Frame of 1682," granted the proprietor veto power. One wonders if that increasingly fragile Charter granting the ultimate authority to the King had anything to do with his change of heart.

In December an assembly of 42 men was convened to ratify the "Frame of 1682." Because leading Quakers secured their places in the Assembly, their proposal to establish a Proprietary Government was adamantly opposed by the non-Quakers. In particular, they rejected the monopoly of the large land-owners Council initiating legislation and held out for a more powerful Assembly.

William Penn could well be the father of Liberal Democracy but he obviously wasn't much of a negotiator. As the "Concessions" of West Jersey had done twice the Frame of 1682 was once again not supported by the investors, or the smaller landholders. Penn can be congratulated for his tenacity because he put his head down and gave it another try the following year.

In the end you have to feel sorry for poor now thirty-eight-year-old William Penn because try as he did when the Assembly met again in 1683 the verdict was the same. The non-Quakers didn't want the large land owner Quakers to be the dominant authority. For example, they didn't quite trust the Quakers policy of peace with the Indians. As anticipated when, their demands collided with the Kings demands the Charter was revoked. Penn left a few Trustees who didn't deserve his trust in charge and was on the next ship back to England to keep from losing it all.

After a great deal of legal wrangling that included imprisonment Penn and his colony got their Charter back. The catch was that the colony would return to the Frame of 1683,

which had previously been found unacceptable to the Assembly... twice. Predictably upon receiving word the lower house would adopt nothing that the King demanded. But by then they were not naïve and because they assumed that the Charter would probably be revoked again, they ingeniously defended themselves against losing control by voting to give all the power not to the Council or the Governor, (Penn) but to the elected Assembly which was largely dominated by Quakers. That maneuver allowed for the King to do what he wanted with the wealthy folks Council and at the same time defended against Royal interference with the work of the elected Assembly. Unfortunately, to secure agreement the Quakers had to once again agree to Military preparations. Although they knew they clearly didn't have the right to usurp Penn's authority, they thought they would be safe in doing so, and after 22 years of legislative rejection in Pennsylvania and in New Jersey and without Penn present they passed the Frame of 1696, or what became known as Markham's bill.

Finally, legislative success had been achieved; or so they thought. Just three years later the King once again revoked Penn's Charter and forced Penn who was now in England to speed back to the colonies to try and salvage his Charter once again, this time in the colonies. Try as he did, in 1701 as he was once again boarding a ship to return home to England hoping to secure his Charter again, he was handed a new Frame which must have taken the "wind out of his sails" so to speak as this ultimatum made the Assembly even more powerful.

Penn was approaching his golden years and feeling defeated as he boarded that ship bound for home. It can be safely assumed that he just gave up and accepted the Frame of 1701, which remained until 1776 regardless of the King and his Charter. After all he had paid a high price, he had made a small fortune out of a large one. He had also been ridiculed, cheated and imprisoned, and he had two difficult and dangerous voyages across the sea away from Friends and Family. We are left to wonder if on that long journey home, he realized that history would record his "Frame of Government," as a giant step in the development of Liberal Democracy in America and the world.

See the short video,

[America: Promised Land: Quaker Migrants Thrive in Pennsylvania](#)

---Herb Haigh