

Delaware's Independent Statehood and the Origins of Our General Assembly+

The history of Delaware's colonial government is extremely complicated. A very good short account of how what was once known as "the Three Lower Counties on Delaware" came to enjoy independent statehood is contained in Carol E. Hoffecker's 2004 work, *Democracy in Delaware — The Story of the First State's General Assembly*:

William Penn is the father of representative government in Delaware. In 1681 this idealistic English Quaker became proprietor of two colonies in America: Pennsylvania and the Three Lower Counties on Delaware. He tried to unite the two into one. In 1682 Penn called on the freedmen of both colonies to elect their neighbors most noted for "Sobriety, Wisdom and Integrity" to attend a joint General Assembly. That Assembly's inaugural meeting took place at Upland, now Chester, Pennsylvania, in December 1682. To Penn's intense regret, the representatives of his colonies refused to unite into one. Like a bad marriage, time only made their relationship worse.

In 1701 the proprietor reluctantly agreed to disconnect his colonies' unified assembly. The Assembly of the Lower Counties met for the first time as a separate legislative body in the town of New Castle on May 22, 1704. For the remainder of the colonial period Pennsylvania and Delaware shared a governor, but their representative assemblies met separately. It is difficult to imagine how Delaware could have emerged from the colonial period as an independent state had not that separation already taken place.

The pre-revolutionary years were the most significant period in the long history of the Delaware General Assembly. The Assembly was the fulcrum for major issues that led to the American Revolution as the assemblymen worked to redefine their colonial status, to examine the source of sovereign power, and to proclaim their understanding of liberty. In that era the Assembly was the only elected body to which Delaware's politically gifted men might aspire. In the crucial period that preceded the Revolution, the Assembly included the most stellar group of leaders ever to serve in that body. Three of the men who led the Assembly—Caesar Rodney, George Read, and Thomas McKean—were chosen by their fellow assemblymen to represent Delaware in the Continental Congress.

Delaware actually declared its independence from Great Britain several weeks before the adoption of the Declaration of Independence by the Continental Congress on July 4, 1776. In May of that year, Congress had recommended that each colony take steps to establish its own government and that it do so under the authority, not of the King of England but of its own citizens. At the urging of such patriot leaders as Thomas McKean, Caesar Rodney, and John Haslet, a Delaware militia officer who later became the first commander of the Delaware Regiment and was to die a hero's death in the Battle of Princeton, Delaware's Assembly adopted a resolution on June 15, 1776, formally declaring an end to Delaware's status as a colony of Great Britain. The resolution established the three counties as an independent state under the authority of "the Government of the Counties of New Castle, Kent and Sussex upon Delaware." It directed all officers of state government to continue in their duties in the name of the three counties until a new frame of government was drawn up.**

Dr. Hoffecker's account continues:

The Lower Counties' Assembly voted to separate from Great Britain on June 15, 1776, and in so doing renounced the proprietary rights of the Penn family over them. Less than a month later, Congress declared the independence of the American colonies and created the new nation of the United States of America. In Delaware the Assembly was now the only legitimate source of power to make laws and to bind the three counties together. In the summer of 1776 the Assembly called for a convention to draft Delaware's first constitution. The convention emphatically embraced the doctrine of legislative primacy, declaring: "The Right in the People to participate in the Legislature is the Foundation of Liberty, and of all free government." Legislative supremacy would remain the hallmark of Delaware's government for more than a century.*

After the approval of the Declaration of Independence on July 4, 1776, Caesar Rodney, Speaker of the Delaware Assembly, convened a special session at which it was determined that a special constitutional convention would be called, with 10 elected delegates from each county. After a hard-fought election was held, the convention met and approved Delaware's first constitution. It provided for a bicameral legislature and a president to be elected by the members of that

General Assembly to serve a three-year term. That constitution served the state for the first 16 years of its independent statehood before being superseded by the Delaware Constitution of 1792. Delaware's 1776 Constitution was the first in any state to be written and approved by an elected constitutional convention.**

Over the years, circumstances have arisen which convinced the General Assembly that a new state constitution needed to be drafted. Thus, in 1831 and again in 1897, state constitutional conventions approved new state constitutions. Delaware now operates under the 1897 Constitution as amended—our fourth state constitution.

Another important day in the history of Delaware statehood was December 7, 1787, when a group of elected delegates from around the state met at Dover's Golden Fleece Tavern to ratify the newly-completed U.S. Constitution, making Delaware the first state to do so and earning it the proud title by which it has been known ever since, "The First State."

+ This material is taken from *Delaware's Constitutional Heritage—The Delaware State Constitution, the U.S. Constitution & Related Historical Documents*, pp. 9-10; Dover, DE: Delaware Heritage Press, 2009. Free copies of the booklet are available by contacting the Delaware Heritage Commission at: delawareheritageoffice@state.de.us or calling: 302-744-5077.

* Quoted from pp. 1-2 of *Democracy in Delaware: the Story of the First State's General Assembly*, Carol E. Hoffecker, Wilmington, DE: Cedar Tree Books, 2004.

** This discussion is based on an account on pp. 106-107 of Vol. 1 of H. Clay Reed's *Delaware – A History of the First State*, New York, 1947: Lewis Historical Publishing Company, Inc.