

Handout A: New State Constitutions

Directions:

Read the essay and respond to the Review Questions at the end.

New State Constitutions Essay

Well before the Continental Congress approved the Declaration of Independence in 1776, the North American British colonies were making decisions to guide their future self-government. The colonial assemblies began drafting their new constitutions to protect the rights of Englishmen that the British king and parliament had failed to honor. In each state, the new constitution reflected the colonial experience of self-government, included a declaration of rights, and built on principles such as natural rights, popular sovereignty, republicanism, separation of powers, and legislative supremacy. The new constitutions also had the benefit of distinguished leaders and political thinkers such as George Mason, James Madison, Thomas Jefferson, Benjamin Franklin, and John Adams. This lesson will examine the Revolutionary War Era constitutions of Virginia, Pennsylvania, and Massachusetts.

Virginia's 1776 constitution came first and served as a model for the other states to craft their own constitutions, tailored as desired in each state. The strongest resemblance to the Virginia document is in the other states' declarations of rights. These declarations all reflect the ancient rights of Englishmen in language much like that of Virginia's Bill of Rights, which was drafted by George Mason. Mason, James Madison, Patrick Henry, Thomas Jefferson, and Edmund Randolph were among the leading political thinkers on the committee that wrote the Virginia Constitution. The legislature, or General Assembly, would consist of two houses, and the governor, who was elected to a one-year term by the General Assembly, had little executive power. The right to vote was limited to those who owned a specified amount of property, but property qualifications were relatively easy for free white men to meet.

Pennsylvania politics in the early 1770s was characterized by a power struggle between the conservatives, who advocated patience and conciliation with Britain, and the radicals, who rushed toward independence and democracy. By the summer of 1776, the radicals had won popular support and began to write Pennsylvania's new constitution, an effort in which Benjamin Franklin was instrumental. Their declaration of rights, approved in August, was largely modeled after Virginia's, but the rest of the constitution, or Frame of Government, was the result of further debate and reflected the democratic impulse of the time. Among the innovations in Pennsylvania's constitution were a unicameral legislature and the elimination of all property qualifications for voting. Furthermore, Pennsylvania eliminated the office of governor altogether and placed executive power in a twelve-man council headed by a president. The 1776 Pennsylvania Frame of Government was an expression of a fervent spirit of democracy, but it drew intense criticism. There was no structural check in a unicameral legislature, and the weak plural executive offered an ineffective boundary on legislative supremacy. In addition, it required an oath of loyalty. Quakers are forbidden to take oaths, so the Frame of Government actually disenfranchised them. In 1790, a new convention wrote a constitution more in line with the characteristics of the other state constitutions: bicameral legislature and executive authority given to a governor.

Between 1776 and 1777, each of the former British colonies took steps toward organizing a new state government, with most ratifying new constitutions by 1777. However, in Massachusetts, the process took a different direction. Members of the former colonial legislature, or General Court, formed themselves into a provincial congress, wrote a constitution, and in 1778, proposed it for popular ratification. However, the document lacked a bill of rights and many people objected that the legislature had no legitimate authority to write a constitution. Popular defeat of this proposed constitution resulted in a call for election of a special convention for the sole purpose of writing a constitution. When the convention assembled, members named a committee of 30 to prepare a draft. The committee then delegated the writing of the first draft to one of the foremost political scientists in the country, John Adams.

In the decade before the Declaration of independence, abuses perpetrated by the king and royal governors led to extreme suspicion of the executive power, with a corresponding increase of power residing in the legislature. However, Adams knew that legislative supremacy also could result in violation of natural rights. A strong executive was a necessary component of a robust system that allowed for separation of powers and checks and balances. Therefore, the constitution Adams drafted provided for a strong executive who was elected by the people and empowered to veto laws, though the legislature could override the veto by a two-thirds vote. This constitution was referred to the people and they ratified it in 1780. The Massachusetts Constitution also set property qualifications for the right to vote.

The other state constitutions were variations on the theme that the people could best protect their rights by placing most of the governing power in a legislature that is under the control of majority rule. However, the Massachusetts constitution reflected more skepticism regarding human nature, supposing that it is unwise to place unchecked power in any person or group. Therefore, the Massachusetts Constitution uses a system of separation of powers along with checks and balances as a safer way to protect the people's rights. The Massachusetts Constitution is also the one most similar to the U.S. Constitution of 1787.

On each of the following handouts, read the excerpts provided for the constitutions of Virginia, Pennsylvania, and Massachusetts, and answer the questions that follow each excerpt. Last, you will fill in **Handout E: State Constitution Comparison** to compare and contrast these documents.

Review Questions:

1. How did the new constitutions reflect both the common heritage of the British colonial system and experimentation to meet the requirements of the individual state populations?
2. Of the three state constitutions described here, which one:
 - a. Had the greatest influence on other states? Explain.

b. Provided the least power to the executive branch? Explain.

c. Is the best example of the principle of checks and balances? Explain.

d. Is the best example of the principle of legislative supremacy? Explain.