

# IT HAPPENED HERE **NEW JERSEY**



Courtesy of New Jersey State Archives; Department of State

## **The West Jersey Concessions: A Model for the Bill of Rights**

Target Age: Elementary School (grades 3-5)  
Time Period: 18<sup>th</sup> Century  
Featured County: All  
NJ 350<sup>th</sup> Theme: Liberty

### Common Core State Standards for English Language Arts:

R.CCR.1: Read closely to determine what a text says explicitly and to make logical inferences from it; cite specific textual evidence when writing or speaking to support conclusions drawn from the text.

SL.CCR. 5: Make strategic use of digital media and visual displays of data to express information and enhance understanding of presentations.

W.CCR.4: Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose and audience.

NJ Common Core Standards:

Social Studies: 6.1.12.A.1.a, 6.2.12.A.3.a and 6.3.12.C.1

**FOCUS QUESTION:** How did the West Jersey Concessions of 1677 serve as a model for the U.S. Bill of Rights passed over a century later in 1789?

**BACKGROUND:**

In the beginning, New Jersey was not one colony but two. It was divided into East and West Jersey, a division which roughly corresponds to our modern distinction of North Jersey and South Jersey. West Jersey had a strong Quaker influence which can be seen in the group of laws the new colony adopted in 1677 known as the West Jersey Concessions.

These laws embodied Quaker ideals and radical social and political doctrines. West Jersey would be governed by a strong Assembly, which was elected annually through a secret ballot. More important, the West Jersey Concessions provided for a much greater protection of Civil Liberties than in East Jersey or anywhere else in America. Religious Freedom, the right to trial by jury, the absence of debtors prisons, the lack of mandatory death sentences even in capital cases, and security from arbitrary arrest were all enshrined in the Concessions. Even Native Americans were to be treated equally. Juries on cases involving Indians were to be comprised of 6 settlers and 6 Native Persons.

The result was the most liberal and comprehensive set of individual liberties in the Americas. And, of course, many of these provisions would be included in the American Bill of Rights adopted a century later. New Jersey became the first state to ratify the Bill of Rights on November 20, 1789. Its impact on those crucial laws, however, goes much deeper.

**ACTIVITY:**

The 1677 West Jersey Concessions includes 44 “chapters” or sections, most of which are a paragraph long. The first eight chapters are the longest, and focus on the legal establishment of the colony, the means of surveying and dividing land, the creation of highways and roads, and—in chapter 8—a prohibition on free-ranging cattle. Chapters 9 through 15 outline the systems of fair taxation, as well as the creation of a local governing Assembly charged with ensuring the rights of West Jersey residents.

For the purposes of this exercise, the most important chapters are 16 (XVI) through 24 (XXIV). These cover some of the same the issues that would ultimately be included in the U.S. Constitution as part of the Bill of Rights:

Chapter XVI: Freedom of Religion

Chapter XVII: Trial by Jury

Chapter XVIII: Right of Due Process during Arrest

Chapter XIX: Description of the Court System

Chapter XX-Chapter XXIV: Right to a Fair and Open (or Public) Trial

Enlarge and print out chapters XVI through XXIV of the 1677 West Jersey Concessions, and do the same for the articles of the U.S. Bill of Rights. The West Jersey Concessions appear at the end of this lesson,

while the Bill of Rights are included at the back of many textbooks, but can also be found online at the National Archives here: [http://www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html)).

Use tape to attach these to the wall or blackboard board and ask students to “go fish” and find the match between the two documents.

Note that more than one West Jersey Concession chapter—particularly those related to trials—may relate to the same article in the Bill of Rights.

Once this game is complete, ask students to discuss where there was clear overlap, and where West Jersey went further. What do they think about the range of rights West Jersey guaranteed? How “forward thinking” was New Jersey to develop such rules and regulations over a century before the U.S. Bill and Rights and Constitution? And are these still important rights today?

### **FOLLOW-UP:**

Begin a class discussion in which students consider two aspects of rights: freedom to do things and freedom from other things.

Discussion questions should include:

- What should students have the right to do in class?
- What specific protections should students expect to have in class?
- What “rights” are most important in order for a classroom to work well?
- Are there certain rights that students do not have (i.e. is there a school dress code, do students need to take turns or raise their hand before speaking)?

Encourage students to look at the Bill of Rights and the West Jersey Concessions for inspiration. For example, both documents thought that someone accused of a crime should have a fair and impartial trial. Does a system like that exist at your school? Both documents also thought religious freedom was important, as was freedom from discrimination. Do students think these ideas are important too?

If time permits, ask students to vote on what top 10 rights they think are important to their classroom—these can be written on the board or on a poster that the class decorates and posts on the wall. Make sure they take into account both individual rights (freedom to do certain activities) and group rights (freedom from certain things, such as discrimination, bullying, etc.).

## **1677 West Jersey Concessions—Chapters 16 (XVI) through 24 (XXIV)**

### CHAP. XVI.

That no men, nor number of men upon earth, hath power or authority to rule over men's consciences in religious matters; therefore it is consented, agreed and ordained, that no person or persons whatsoever, within the said province, at any time or times hereafter shall be any ways, upon any pretence whatsoever, called in question, or in the least punished or hurt, either in person, estate or privilege, for the sake of his opinion, judgment, faith or worship towards God, in matters of religion; but that all and every such person and persons, may from time to time, and at all times, freely and fully have and enjoy his and their judgments, and the exercise of their consciences, in matters of religious worship throughout all the said province.

### CHAP. XVII.

That no proprietor, freeholder or inhabitant of the said province of West New-Jersey, shall be deprived or condemned of life, limb, liberty, estate, property, or any ways hurt in his or their privileges, freedoms or franchises, upon any account whatsoever, without a due trial, and judgment passed by twelve good and lawful men of his neighbourhood first had; and that in all causes to be tried, and in all trials, the person or persons arraigned, may except against any of the said neighbourhood, without any reason rendered, (not exceeding thirty-five) and in case of any valid reason alledged, against every person nominated for that service

### CHAP. XVIII.

And that no proprietor, freeholder, free-denison or inhabitant in the said province, shall be attached, arrested, or imprisoned, for or by reason of any debt, duty, or other thing whatsoever, (cases felonious, criminal and treasonable, excepted) before he or she have personal summon or summons left at his or her last dwelling place, if in the said province, by some legal authorized officer, constituted and appointed for that purpose, to appear in some court of judicature for the said province, with a full and plain account of the cause or thing in demand; as also the name or names of the person or persons at whose suit, and the court where he is to appear; and that he hath at least fourteen days time to appear and answer the said suit, if he or she live or inhabit within forty miles, English, of the said court; and if at further distance, to have for every twenty miles, two days time more, for his and their appearance, and so proportionably for a larger distance of place.

That upon the recording of the summons, and non-appearance of such person and persons, a writ or attachment shall or may be issued out to arrest or attach the person or persons of such defaulters, to cause his or their appearance in such court, returnable at a day certain, to answer the penalty or penalties in such suit or suits; and if he or they shall be condemned by legal tryal and judgment, the penalty or penalties shall be paid and satisfied out of his or their real or personal estate so condemned

or cause the person or persons so condemned to lie in execution 'till satisfaction of the debt and damages be made. Provided always, if such person or persons so condemned, shall pay and deliver such estate, goods and chattels, which he or any other person hath for his or their use, and shall solemnly declare and aver, that he or they have not any further estate, goods or chattels whatsoever, to satisfy the person or persons (at whose suit he or they are condemned) their respective judgments, and shall also bring and produce three other persons as compurgators, who are well known and of honest reputation, and approved of by the commissioners of that division where they dwell or inhabit, which shall in such open court likewise solemnly declare and aver, that they believe in their consciences, such person and persons so condemned, have not wherewith further to pay the said condemnation or condemnations; he or they shall be thence forthwith discharged from their said imprisonment; any law or custom to the contrary thereof heretofore in the said province notwithstanding. And upon such summons and default of appearance recorded as aforesaid, and such person and persons not appearing within forty days after, it shall and may be lawful for such court of judicature, to proceed to trial of twelve lawful men, to judgment against such defaulters, and issue forth execution against his or their estate, real and personal, to satisfy such penalty or penalties, to such debt and damages so recorded, as far as it shall or may extend.

#### CHAP. XIX.

That there shall be in every court, three justices or commissioners, who shall sit with the twelve men of the neighbourhood, with them to hear all causes, and assist the said twelve men of the neighbourhood in cases of law; and that they the said justices shall pronounce such judgment as they shall receive from and be directed, by the said twelve men, in whom only the judgment resides, and not otherwise.

And in cases of their neglect and refusal, that then one of the twelve, by consent of the rest, pronounce their own judgment, as the justices should have done: And if any judgment shall be passed in any case, civil or criminal, by any other person or persons, or any other way than according to the agreement and appointment; it shall be held null and void; and such person or persons so presuming to give judgment, shall be severely fined, and upon complaint made to the general assembly, by them be declared incapable of any office or trust within this province.

#### CHAP. XX.

That in all matters and causes, civil and criminal, proof is to be made by the solemn and plain averment of at least two honest and reputable persons; and in case that any person or persons shall bear false witness, and bring in his or their evidence contrary to the truth of the matter, as shall be made plainly to appear; that then every such person or persons, shall in civil causes, suffer the penalty which would be due to the person or persons he or they bear witness against: And in case any witness or witnesses on the behalf of any person or persons indicted in a criminal cause, shall be found to have borne false witness, for fear, gain, malice, or favour, and thereby hinder the due execution of the law, and deprive the suffering person or persons of their due satisfaction; that then and in all other cases of false evidence, such person or persons shall be first severely fined; and next, that he or they shall forever be

disabled from being admitted in evidence, or into any publick office, employment or service within this province.

#### CHAP. XXI.

That all and every person and persons whatsoever, who shall prosecute or prefer any indictment or information against others, for any personal injuries or matter criminal, or shall prosecute for any other criminal cause (treason, murder and felony only excepted) shall and may be master of his own process, and have full power to forgive and remit the person or persons offending against him or herself only, as well before as after judgment and condemnation, and pardon, and remit the sentence, fine and punishment of the person or persons offending, be it personal or other whatsoever.

#### CHAP. XXII.

That the trials of all causes, civil and criminal, shall be heard and decided by the verdict or judgment of twelve honest men of the neighbourhood, only to be summoned and presented by the sheriff of that division or propriety where the fact or trespass is committed; and that no person or persons shall be compelled to fee any attorney or counsellor to plead his cause, but that all persons have free liberty to plead his own cause if he please: And that no person or persons imprisoned upon any account whatsoever, within this province, shall be obliged to pay any fees to the officer or officers of the said prison either when committed or discharged.

#### CHAP. XXIII.

That in all publick courts of justice for trial of causes, civil or criminal, any person or persons, inhabitants of the said province, may freely come into and attend the said courts, and hear and be present at all or any such trials as shall be there had or passed, that justice may not be done in a corner, nor in any covert manner; being intended and resolved by the help of the lord, and by these our concessions and fundamentals, that all and every person and persons inhabiting in the said province, shall as far as in us lies, be free from oppression and slavery.

#### CHAP. XXIV.

For the preventing of fraud, deceit, collusion in bargains, sales trade and traffick, and the usual contests, quarrels, debates and utter ruin, which have attended the people in many nations, by costly, tedious, and vexatious law suits, and for a due settlement of estates.

It is agreed, concluded and ordained, that there be kept a register at London, within the nation of England; and also another register within the province of New West-Jersey; and that all deeds, evidences, and conveyances of land, in the said province of New-West-Jersey, that shall be executed in England, may also be there registered; and once every year, the register of the said deeds and conveyances, so registered, shall be duly transmitted under the hands of the register, and three

proprietors, unto the commissioners in New West-Jersey, to be enrolled in the publick register of the said province: As also that the chief register, which the said proprietors have deputed or chosen, or shall depute or choose, failing, that the commissioners shall depute or choose, or which the general assembly of the said province, hereafter mentioned, shall depute or choose, shall keep exact entries and registers, in fair books, or roll for that purpose to be provided, of all publick affairs; and therein shall record and enter all grants of land, from the proprietors to the planters; and all conveyances of land, house or houses, from man to man; as also all assignments, mortgages, bonds, and specialties whatsoever; and all leases for land, house or houses, made or to be made, from landlord to tenant, and from person to person; which conveyances, leases, assignments, mortgages, bonds and specialties, which shall be executed in West New- Jersey, shall be first acknowledged by the grantor, assignor and obligor, before the said commissioners, or two of them at least, or some two of their lawful deputies, for the time being; who shall under their hands, upon the back side of the said deed, lease, assignment, mortgage or specialty, attest the acknowledgment thereof as aforesaid; which shall be a warrant for the register to record the same; and such conveyance or specialty, if sealed, executed, acknowledged before three proprietors, in the nation of England or Ireland, and recorded or registered there, within three months after the date thereof; or if sealed, executed and acknowledged in the said province, or elsewhere out of England, and recorded or registered within six months after the date thereof; shall be good an effectual in law; and for passing or transferring of estates in lands, tenements, or hereditaments, shall be as effectual as if delivery and siezen were executed of the same: And all other conveyances, deeds, leases or specialties, not recorded as aforesaid, shall be of no force or effect. And the said register shall do all other thing or things the said proprietors by their instructions shall direct, or the commissioners or assembly shall ordain, or the good and welfare of the said province.

## WANT TO LEARN MORE?

### Places to Visit

New Jersey State Archives: <http://www.nj.gov/state/archives/>

### More Classroom Activities

“Lesson Plans: Congress and the Creation of the Bills of Rights,” National Archives (designed primarily for Grades 7-12, these lessons explore a range of issues about how the Bill of Rights was debated and why it was ultimately ratified): <http://www.archives.gov/legislative/resources/education/bill-of-rights/>

“Bill of Rights,” National Constitution Center (includes resources for both Grades 3-5 and 6-8; other lesson plans on this website explore the Articles of Confederation, Declaration of Independence, and Constitution): <http://constitutioncenter.org/learn/educational-resources/lesson-plans/bill-of-rights>. See also the National Constitution Center’s “We the Civics” Kids Lesson 3, The Bill of Rights: <http://constitutioncenter.org/learn/educational-resources/lesson-plans/we-the-civics-kids-lesson-3-the-bill-of-rights>

“Debate the Amendments,” Library of Congress (included for middle and high school students and involves examining a copy of twelve possible amendments to the United States Constitution as originally sent to the states for their ratification in September of 1789. Students then debate and vote on which of these amendments they would ratify and compare their results to the final “Bill of Rights”): <http://www.loc.gov/teachers/classroommaterials/lessons/bill-of-rights/>

### For More Information

Joseph Klett, *Using the Documents of the East and West Jersey Proprietors* (Trenton: New Jersey State Archives, 2014; available online in PDF form at: <http://www.nj.gov/state/archives/pdf/proprietors.pdf>).

Maxine M. Lurie, “Colonial Period: The Complex and Contradictory Beginnings of a Mid-Atlantic Province,” in Maxine M. Lurie and Richard Veit (eds.), *New Jersey: A History of the Garden State* (New Brunswick: Rutgers University, 2012), pp. 33-63.

*The West Jersey Concessions and Agreements of 1676/77: A Roundtable of Historians* (Occasional Papers—New Jersey Historical Commission, no. 1, 1979).

“Proprietors and Adventurers—Document Images,” New Jersey State Archives: <http://www.nj.gov/state/archives/eventadventurersdocs.html> .

### CREDIT INFORMATION:

p. 1: John Sellar, A Mapp of New Jersey, circa 1677, Courtesy of New Jersey State Archives; Department of State.

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