

Charter of Delaware – 1701

Historical Background of Document:

The soil of the little state of Delaware had more claimants than that of any other of the thirteen original colonies. It was first claimed by the Dutch by right of the discovery of Hudson, next by the Swedes, who made the first permanent settlement, and finally it came into the possession of the English. Among the English, Delaware was claimed by Lord Baltimore as part of Maryland; it next became the property of the Duke of York, was sold by him to William Penn, and only after the Revolution did the inhabitants of Delaware become the owners. Of the original thirteen states Delaware was the only one except New York that was founded by another than the English race.

The first settlement in the territory that afterward became Delaware was made by the Dutch in 1631, who were sent by De Vries, a noted Dutch colonizer. Between thirty and forty colonists settled on the Delaware Bay near the site of Lewes; but they were led into a foolish quarrel with the Indians and were massacred to the last man. The quarrel began from a most trivial cause. The Dutch had set up a tin plate bearing the arms of Holland. An Indian, without knowing its meaning, thoughtlessly destroyed it. The Dutch considered this an insult to their nation and demanded that the offender be given up. Thus began the trouble which resulted in the destruction of the whole colony. When De Vries came the following year to visit his colony, he found nothing but heaps of ashes and charred bones.

Even before this unfortunate occurrence the Swedes, under the guidance of the greatest of Sweden's kings, Gustavus Adolphus, were planning to colonize the western bank of the Delaware. It was resolved to "invite colonists from all the other nations of Europe," to exclude slavery, and to make the colony a home for the oppressed of all Christendom. The Swedish king incorporated a company in 1627, took a deep interest in the project, and pronounced it "the jewel of his kingdom."

In two vessels the colonists sailed, and they reached New Sweden, as they called the new land, early in the year 1638. They built a fort on the site of Wilmington and named it Christina after the child queen of their native land. They purchased lands of the Indians on the western side of the Delaware as far up as a point opposite Trenton, founded a town on the site of Philadelphia, built churches here and there, and soon presented the appearance of a happy and prosperous community. But trouble soon came. The Dutch claimed the entire Delaware Valley as part of New Netherland and Governor Kieft protested vigorously at the time the Swedes made their settlement; but Sweden was too powerful a nation at that time to be defied, and the colony was left for the time unmolested.

New Sweden grew by immigration and spread over the surrounding country. John Printz, one of the early governors, made his headquarters on the island of Tinicum, twelve miles below Philadelphia, drove from the Delaware Bay a band of would-be settlers from New England, and displayed an aggressive spirit in general. It seemed for a time that the whole

Delaware Valley would be settled and held by the Scandinavians. But the Dutch were jealous; they came and built Fort Casimir where New Castle now stands, and thus got control of the bay. Soon, however, a Swedish war vessel entered the bay and put an end to the Dutch fort.. The blustering Stuyvesant was now governor of New Amsterdam, and he determined to avenge the insult and put an end to New Sweden. He entered the bay with a fleet bearing over six hundred men. The Swedes, who numbered but seven hundred in all, were overawed, and New Sweden, which had existed seventeen years, ceased to exist as a separate colony. The people, however, were permitted to retain possession of their farms, and the community continued to prosper under its new government. The Swedes eventually scattered to various parts and lost their identity and their language; but, like the Huguenots and the Salzburger, they infused an element of strength into the veins of the future American.

The conquest of New Amsterdam by the English, in 1664, included Delaware, which now became the property of the Duke of York. The Duke's Laws, framed by Nicolls for New York, were at length extended to Delaware, and the people were granted some measure of self-government. In 1682, however, the year of the founding of Pennsylvania, the duke sold Delaware to William Penn, and the colony, which came to be called the "Three Lower Counties," or the "Territories," was the same year annexed to Pennsylvania. From this time it was in possession of the Penns and had no separate governor. Though the colony secured a separate legislature in 1702, under a charter of privileges granted by Penn, its history to the time of the Revolution was identified with that of its great neighbor to the North.

Text of Document:

WILLIAM PENN, Proprietary and Governor of the Province of Pennsylvania and Territories thereunto belonging, To all to whom these Presents shall come, sendeth Greeting.

WHEREAS King CHARLES the Second, by his Letter Patents, under the Great Seal of England, bearing Date the Fourth Day of March, in the Year One Thousand Six Hundred and Eighty, was graciously pleased to give and grant unto me, and my Heirs and Assigns for ever, this Province of Pennsylvania, with divers great Powers and Jurisdictions for the well Government thereof.

AND WHEREAS the King's dearest Brother, JAMES Duke of YORKE and ALBANY, &c. by his Deeds of Feoffment, under his Hand and Seal duly perfected, bearing Date the Twenty-Forth Day of Angst, One Thousand Six Hunndred Eighty and Two, did grant unto me, my Heirs and Assigns, all that Tract of Land, now called the

Territories of Pennsylvania, together with Powers and Jurisdictions for the good Government thereof.

AND WHEREAS, for the Encouragement of all the Freemen and Planters, that might be concerned in the said Province and Territories, and for the good Government thereof, I the said WILLIAM PENN, in the Year One Thousand Bid Hundred Eighty and Three, for me, my Heirs and Assigns, did grant and confirm unto all the Freemen, Planters and Adventurers therein, divers Liberties, Franchises and Properties, as by the said Grant, entituled, The FRAME of the Government the Province of Pennsylvania, and Territories thereunto belonging, in America, may appear; which Charter or Frame being found, in some Parts of it, not so suitable to the present Circumstances of the Inhabitants, was in the 'Third Month, in the Year One Thousand Seven Kindred, delivered up to me, by Six Parts of Seven of the Freemen of this Province and Territories, in General Assembly met, Provision being made in the said Charter, for that End and Purpose.

AND W HEREAS I was then pleased to promise, That I would restore the said Charter to them again, with necessary Alterations, or in lieu thereof, give them another, better adapted to answer the present Circumstances and Conditions of the said Inhabitants; which they have now, by their Representatives in General Assembly met at Philadelphia, requested me to grant.

KNOW YE THEREFORE, That for the further Well-being and good Government of the said Province, and Territories; and in Pursuance of the Rights and Powers before-mentioned, I the said William Penn do declare, grant and confirm, unto all the Freemen, Planters and Adventurers, and other Inhabitants in this Province and Territories, these following Liberties, Franchises and Privileges, so far as in me lieth, to be held, enjoyed and kept, by the Freemen, Planters and Adventurers, and other Inhabitants of and in the said Province and Territories "hereunto annexed, for ever.

FIRST

BECAUSE no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship: And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare, That no Person or Persons, inhabiting In this Province or Territories, who shall confess and acknowledge One almighty God, the Creator, Upholder and Ruler of the World; and professes him or themselves obliged to live quietly under the Civil Government, shall be in any Case

molested or prejudiced, in his or their Person or Estate, because of his or their conscientious Persuasion or Practice, nor be compelled to frequent or maintain any religious Worship, Place or Ministry, contrary to his or their Mind, or to do or suffer any other Act or Thing, contrary to their religious Persuasion.

AND that all Persons who also profess to believe in Jesus Christ, the Saviour of the World, shall be capable (notwithstanding their other Persuasions and Practices in Point of Conscience and Religion) to serve this Government in any Capacity, both legislatively and executively, he or they solemnly promising, when lawfully required, Allegiance to the King as Sovereign, and Fidelity to the Proprietary and Governpr, and taking the Attests as now established by the Law made at Newcastle, in the Year One Thousand and Seven Hundred, entitled, An Act directing the Attests of several Officers and Ministers, as now amended and confirmed this present Assembly.

II.

FOR the well governing of this Province and Territories, there shall be an Assembly yearly chosen, by the Freemen thereof, to consist of Four Persons out of each County, of most Note for Virtue, Wisdom and Ability, (or of a greater Number at any Time, as the Governor and Assembly shall agree) upon the First Day of October for ever; and shall sit on the Fourteenth Day of the same Month, at Philadelphia, unless the Governor and Council for the Time being; shall see Cause to appoint another Place within the said Province or Territories: Which Assembly shall have Power to chuse a Speaker and other their Officers; and shall be Judges of the Qualifications and Elections of their own Members; sit upon their own Adjournments; appoint Committees; prepare Bills in order to pass into Laws; impeach Criminals, and redress Grievances; and shall have all other Powers and Privileges of an Assembly, according to the Rights of the free-born Subjects of England, and as is usual in any of the King's Plantations in America.

AND if any County or Counties, shall refuse or neglect to chuse their respective Representatives as aforesaid, or if chosen, do not meet to serve in Assembly, those who are so chosen and met, shall have the full Power of an Assembly, in as ample Manner as if all the Representatives had been chosen and met, provided they are not less than Two Thirds of the whole Number that ought to meet.

AND that the Qualifications of Electors and Elected, and all other Matters and Things relating to elections of Representatives to serve in Assemblies, though not herein particularly expressed, shall be and remain as by a Law of this Government, made at Newcastle, in the Year One Thousand Seven Hundred, entitled, An Act to ascertain the Number of Members of Assembly, and to regulate the Elections.

III.

THAT the Freemen in each respective County, at the Time and Place of Meeting for electing their Representatives to serve in Assembly, may as often as there shall be Occasion, chuse a double Number of Persons to present to the Governor for Sheriffs and Coroners, to serve for Three Years, if so long they behave themselves well; out of which respective Elections and Presentments, the Governor shall nominate and commissionate one for each of the said Offices, the Third Day after such Presentment, or else the First named in such Presentment, for each Office as aforesaid, shall stand and serve in that Office for the Time before respectively limited; and in case of Death or Default, such Vacancies shall be supplied by the Governor, to serve to the End of the said Term.

PROVIDED ALWAYS, That if the said Freemen shall at any Time neglect or decline to chuse a Person or Persons for either or both the aforesaid suffices, then, and in such Case, the Persons that are or shall be in the Respective Offices of Sheriffs or Coroners, at the Time of Election, shall remain therein, until they shall be removed by another Election as aforesaid.

AND that the Justices of the respective Counties shall or may nominate and present to the Governor Three Persons, to serve for Clerk of the Peace for the said County, when there is a Vacancy, one of which the Governor shall commissionate within Ten Days after such Presentment, or else the First nominated shall serve in the said Office during good Behaviour.

IV.

THAT the Laws of this Government shall be in this Stile, viz. By the Governor, with the Consent and Approbation of the Freemen in General Assembly met; and shall be, alter Confirmation by the Governor, forthwith recorded in the Rolls Office, and kept at Philadelphia, unless the Governor and Assembly shall agree to appoint another Place.

V.

THAT all Criminals shall have the same Privileges of Witnesses and Council as their Prosecutors.

VI.

THAT no Person or Persons shall or may, at any Time hereafter, be obliged to answer any- Complaint, Matter or Thing whatsoever, relating to Property, before the Governor

and Council, or in any other Place, but in ordinary Course of Justice, unless Appeals "hereunto shall be hereafter by Law appointed.

VII.

THAT no Person within this Government, shall be licensed by the Governor to keep an Ordinary, Tavern, or House of publick Entertainment, but such who are first recommended to him, under the Hands of the Justices of the respective Counties, signed in open Court; which Justices are and shall be hereby impowered, to suppress and forbid any Person keeping such Pub]ick-House as aforesaid, upon their Misbehaviour, on such Penalties as the Law doth or shall direct; and to recommend others, from time to time, as they shall see Occasion.

VIII.

IF any Person, through Temptation or Melancholy, shall destroy himself, his Estate, real and personal, shall notwithstanding descend to his Wife and Children, or Relations, as if he had died a natural Death; and if any Person shall be destroyed or killed by Casualty or Accident, there shall be no Forfeiture to the Governor by Reason thereof.

AND no Act, Law or Ordinance whatsoever, shall at any Time hereafter be made or done, to alter, change or diminish the Form or Effect of this Charter, or of any Part or Clause therein, contrary to the true Intent and Meaning thereof, without the Consent of the Governor for the Time being, and Six Parts of Seven of the Assembly met.

BUT, because the Happiness of Mankind depends so much upon the Enjoying of Liberty of their Consciences, as aforesaid, I do hereby solemnly declare, promise and grant, for me, my Heirs and Assigns, That the First Article of this Charter relating to Liberty of Conscience, and every Part and Clause therein, according to the true Intent and Meaning thereof, shall be kept and remain, without any Alteration, inviolably for ever.

AND LASTLY, I the said William Peters, Proprietary and Governor of the Province of Pennsylvania, and Territories "hereunto belonging, for myself, my Heirs and Assigns, have solemnly declared, granted and confirmed, and do hereby solemnly declare, grant and confirm, That neither I, my Heirs or Assigns, shall procure or do any Thing or Things whereby the Liberties in this Charter contained and expressed, nor any Part thereof, shall be infringed or broken: And if any thing shall be procured or done, by any Person or Persons, contrary to these Presents, it shall be held of no Force or Effect.

Ix WITNESS whereof, I the said William Penn, at Philadelphia in Pennsylvania, have unto this present Charter of Liberties, set my Hand and broad Seal, this Twenty-Eighth Day of October, in the Year of Our Lord One Thousand Seven Hundred and One, being the Thirteenth Year of the Reign of King WILLIAM the Third, over England, Scotland, France, and Ireland, &c., and the Twenty-First Year of my Government.

AND NOTWITHSTANDING the Closure and Test of this present Charter as aforesaid, I think fit to add this following Proviso "hereunto, as Part of the same, That its to say, That notwithstanding any Clause or Clauses in the above-mentioned Charter, obliging the Province and Territories to join together in Legislation, I am content, and do hereby declare, that if the Representatives of the Province and Territories shall not hereafter agree to join together in legislation, and that the same shall be signified unto me, or my Deputy, in open Assembly, or otherwise, from under the Hands and Seals of the Representatives, for the Time being, of the Province and Territories, or the major part of either of them, at any Time within Three Years from the Date hereof, that in such Case, the Inhabitants of each of the Three Counties of this Province, shall not have less than Eight Persons to represent them in Assembly, for the Province; and the Inhabitants of the Town of Philadelphia, (when the said Town is incorporated) Two Persons to represent them in Assembly; and the Inhabitants of each County in the Territories, shall have as many Persons to represent them in a distinct Assembly for the Territories, as shall be by them requested as aforesaid.

NOTWITHSTANDING which Separation of the Province and Territories, in Respect of Legislation, I do hereby promise, grant and declare, That the Inhabitants of both Province and Territories, shall separately enjoy all other Liberties, Privileges and Benefits, granted jointly to them in this Charter, any Law, Image or Custom of this Government, heretofore made and practiced, or any Law made and passed by this General Assembly, to the Contrary hereof, notwithstanding.

WILLIAM PENN.

This Charter of Privileges being distinctly read in Assembly, and the whole and every part thereof being approved and agreed to, by us, we do thankfully receive the same from our Proprietary and Governor, at Philadelphia, this Twenty-Eighth Day of October, One Thousand Seven Hundred and One. Signed on Behalf, and by Order of the Assembly,

per .JOSEPH GROWDON, Speaker.

EDWARD SHIPPEN
GRIFFITH OWEN

PHINEAS PEMBERTON
CALEB PUSEY
SAMUEL CARPENTER
THOMAS STORY

Proprietary and Governor's Council.