

The 1868 constitution

BY DAVID WALBERT

In 1865, under orders from the President, North Carolina's provisional governor, William W. Holden, called a convention to write a new constitution for the state. The convention first nullified (canceled out) secession and abolished slavery — two requirements for re-entry into the Union. The constitution it produced, though, was mostly a restatement of the 1776 constitution¹ and the 1835 amendments², and it was rejected in a popular vote. Conservatives refused to concede anything to federal demands, but the proposed constitution was too conservative to satisfy liberals.

Two years later, a second convention was called, as demanded by Congress under military reconstruction. Many whites, disgusted with Reconstruction, did not bother to vote. As a result, this convention, unlike the first, was led by Republicans, who included black delegates and a few “carpetbaggers” — northerners who had moved south to help with Reconstruction. The constitution was adopted by popular vote in April 1868 by a vote of 93,086 to 74,016 even though it was strongly opposed by conservatives.

The 1868 constitution gave more power to the people and to the governor. The governor was now elected for a four-year term, rather than for two years, and his authority was increased. State and county officials were to be elected by popular vote, and all men, regardless of race or property qualifications, were eligible to vote and to hold office. Representation in the state senate would now be divided by population, not by wealth. The number of capital crimes³ was reduced to four — murder, arson, burglary, and rape. The constitution also called for free public schools for North Carolinians between the ages of six and twenty-one, as well as for state prisons and charitable institutions.

Conservatives hated the new constitution, not only because it enfranchised blacks but because it reduced the power of wealthy landowners and increased the political role of poor whites. Most blacks and poorer whites were illiterate, and conservatives protested that, as a result, their votes could be easily bought.

When Conservatives regained control of the state in the 1870s, the General Assembly called another convention. This 1875 convention passed thirty amendments that restored much of the General Assembly's former power. They also required segregation in schools and prohibited marriages between whites and blacks.

Despite these amendments, the constitution of 1868 remained the basic structure of government in North Carolina until 1971, and much of the language of that document remains in the state constitution today.

On the web

Journals of the 1868 convention

<http://docsouth.unc.edu/nc/convi868/convi868.html>

The complete journals of the 1868 constitutional convention are available from Documenting the American South.

African American Voting Rights and the North Carolina Constitution

<http://www.sog.unc.edu/programs/civiced/resources/docs/AARightsNCConstitution8.pdf>

In this lesson from the North Carolina Civic Education Consortium, students will examine changes in African American voting rights throughout North Carolina's history. This lesson begins by reviewing key vocabulary. Students then independently research the history of African American voting rights in North Carolina using a primary source web quest or jig saw activity. Additional activities include administering a sample voting literacy test and having students create historical suffrage posters.

Exploring the relevance of North Carolina's State Constitution

<http://www.sog.unc.edu/programs/civiced/resources/docs/ExploringRelevanceofNCStateConst8.pdf>

In this lesson from the North Carolina Civic Education Consortium, students will learn how the North Carolina Constitution is relevant in today's world. They will view and take guided notes from a Power Point that explains the changes made to the state Constitution since its ratification in 1776, helping students understand that the state Constitution is a "living document" and that it can be updated to reflect the times while keeping its core principals the same. Students will then complete a "Comparing Constitutions Scavenger Hunt" where they will examine the NC and US Constitutions and compare the differences and similarities.

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Notes

1. See <http://www.learnnc.org/lp/pages/4330>.
2. See <http://www.learnnc.org/lp/pages/4528>.
3. See <http://www.learnnc.org/lp/pages/4782>.

About the author

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David holds a Ph.D. in History from the University of North Carolina at Chapel Hill. He is the author of *Garden Spot: Lancaster County, the Old Order Amish, and the Selling of Rural America*, published in 2002 by Oxford University Press. With LEARN NC, he has written numerous articles for K–12 teachers on topics such as historical education, visual literacy, writing instruction, and technology integration.