

Constitution of North Carolina

December 18, 1776

A DECLARATION OF RIGHTS

A Declaration of Rights, made by the Representatives of the Freeman of the State of North Carolina.

1. That all political power is vested, in and derived from, the people only.
2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.
3. That no men, or set of men, are entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services.
4. That the legislative, executive and supreme judicial powers of government, ought to be forever separate and distinct from each other.
5. That all powers of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.
6. That elections of members to serve as representatives in general assembly ought to be free.
7. That in all criminal prosecutions, every man has a right to be informed of the accusation against him, and to confront the accusers and witnesses with other testimony, and shall not be compelled to give evidence against himself.
8. That no freeman shall be put to answer any criminal charge, but by indictment, presentment, or impeachment.
9. That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men, in open court, as heretofore used.
10. That excessive bail should not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted.
11. That general warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any

person or persons not named, whose offenses are not particularly described, and supported by evidence, are dangerous to liberty, and ought not to be granted.

12. That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the law of the land.

13. That every freeman restrained of his liberty is entitled to a remedy, to inquire in to the lawfulness thereof, and to remove the same, if unlawful; and that such remedy ought not to be denied or delayed.

14. That in all controversies at law, respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

15. That the freedom of the press is one of the great bulwarks of liberty; and therefore ought never to be restrained.

16. That the people of this State ought not to be taxed, or made subject to the payment of any impost, or duty, without the consent of themselves, or their representatives in the general assembly freely given.

17. That the people have a right to bear arms, for the defense of the State; and as standing armies, in time of peace, are dangerous to liberty, they ought not to be kept up; and that the military should be kept under strict subordination to, and governed by, the civil power.

18. That the people have a right to assemble together, to consult for the common good, to instruct their representatives, and to apply to the legislature for redress of grievances.

19. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own conscience.

20. That, for redress of grievances, and for amending and strengthening the laws, elections ought to be often held.

21. That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

22. That no hereditary emoluments, privileges, or honors ought to be granted or conferred in this State.

23. That perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

24. That retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no ex post facto law ought to be made.

25. The property of the soil, in a free government, being one of the essential rights of the collective body of the people, it is necessary, in order to avoid future disputes, that the limits of the State should be ascertained with precision: and as the former temporary line between North and South Carolina was confirmed, and extended by commissioners, appointed by the legislatures of the two States, agreeable to the order of the late King George II in council, that line, and that only, should be esteemed the southern boundary of this State; that is to say, beginning on the seaside at a cedar stake at or near the mouth of Little River, (being the southern extremity of Brunswick County), and running from thence a northwest course, through the boundary-house, which stands in thirty-three degrees fifty-six minutes, to a thirty-five degrees north latitude; and from thence a west course, so far as is mentioned in the charter of King Charles II to the late proprietors of Carolina. Therefore, all the territory, seas, waters, and harbors, with their appurtenances, lying between the line above described, and the southern line of the State of Virginia, which begins on the seashore, in thirty-six degrees thirty minutes north latitude, and from thence runs west, agreeable to the said charter of King Charles, are the right and property of the people of this State, to be held by them in sovereignty: any partial line, without the consent of the legislature of this State, at any time thereafter directed or laid out, in any wise notwithstanding: provided always, that this declaration of right shall not prejudice any nation or nations of Indians, from enjoying such hunting grounds as may have been, or hereafter shall be secured to them, by any former or future legislature of this State: And provided also, that it shall not be construed so as to prevent the establishment of one or more governments westward of this State, by consent of the legislature: And provided further, that nothing herein contained shall affect the titles or possessions of individuals holding or claiming under the laws heretofore in force, or grants heretofore made by the late King George II, or his predecessors, or the late lords proprietors, or any of them.

THE CONSTITUTION

The Constitution, or form of Government, agreed to and Resolved upon, by the Representatives of the freemen of the State of North Carolina, elected and chosen for that particular purpose, in Congress assembled, at Halifax, the eighteenth day of December, in the year of our Lord one thousand seven hundred and seventy-six.

Whereas, allegiance and protection are in their nature reciprocal, and the one should of right be refused when the other is withdrawn;

And whereas, George the Third, king of Great Britain, and late sovereign of the British American colonies, hath not only withdrawn from them his protection, but, by an act of the British legislature, declared the inhabitants of these States out of the protection of the British crown, and all their property found upon the high-seas liable to be seized and confiscated to the uses mentioned in the said act; and the said George the Third has also sent fleets and armies to prosecute a cruel war against them, for the purpose of reducing the inhabitants of the said colonies to a state of object slavery; in consequence whereof, all government, under the said king, within the said colonies, hath ceased, and a total dissolution of government, in many of them, hath taken place:

And whereas, the continental congress, having considered the premises, and other previous violations of the rights of the good people of America, have therefore declared that the thirteen united colonies are, of right, wholly absolved from all allegiance to the British crown, or any other foreign jurisdiction whatsoever; and that the said colonies now are, and forever shall be, free and independent states. Wherefore, in our present State, in order to prevent anarchy and confusion, it becomes necessary that government should be established in this State; therefore, we the representatives of the freemen of North Carolina, chosen and assembled in congress for the express purpose of framing a constitution, under the authority of the people, most conducive to their happiness and prosperity, do declare, that a government for this State shall be established, in manner and form following, to wit:

1. That the legislative authority shall be vested in two distinct branches, both dependent on the people, to wit, a senate and house of commons.
2. That the senate shall be composed of representatives, annually chosen by ballot, one for each county in the State.
3. That the house of commons shall be composed of representatives, annually chosen by ballot, two for each county, and one for each of the towns of Edenton, New Bern, Wilmington, Salisbury, Hillsborough, and Halifax.
4. That the senate and house of commons, assembled for the purpose of legislation, shall be denominated the general assembly.
5. That each member of the senate shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for the same time shall have possessed, and continue to possess, in the county which he represents, not less than three hundred acres of land in fee.
6. That each member of the house of commons shall have usually resided in the county in which he is chosen for one year immediately preceding his election, and for six months shall have possessed, and continue to possess, in the county which he

represents , not less than one hundred acres of land in fee, or for the term of his own life.

7. That all freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and possessed of a freehold, within the same county, of fifty acres of land, for six months next before, and at the day of election, shall be entitled to vote for a member of the senate.

8. That all freemen of the age of twenty-one years, who have been inhabitants of any one county within the State twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for members of the ho use of commons, for the county in which he resides.

9. That all persons possessed of a freehold, in any town in this State, having a right of representation, and also all freemen, who have been inhabitants of any such town twelve months next before, and at the day of election, and shall have paid public taxes, shall be entitled to vote for a member to represent such town in the house of commons: provided, always, that this section shall not entitle any inhabitant of such town to vote for members of the house of commons for the county in which he may reside: nor any freeholder in such county, who resides without or beyond the limits of such town, to vote for a member of the said town.

10. That the senate and house of commons, when met, shall each have power to choose a speaker, and their other officers; be judges of the qualifications and elections of their members; sit upon their own adjournments from day to day; and prepare bills to be passed into laws. The two houses shall direct writs of election, for supplying intermediate vacancies: and shall also jointly, by ballot, adjourn themselves to any future day and place.

11. That all bills shall be read three times in each house, before they pass into laws, and be signed by the speakers of both houses.

12. That every person, who shall be chosen a member of the senate or house of commons, or appointed to any office or place of trust, before taking his seat, or entering upon the execution of his office, shall take an oath to the State: and all officers sh all take an oath of office.

13. That the general assembly shall, by joint ballot of both houses, appoint judges of the supreme courts of law and equity, judges of admiralty and attorney-general, who shall be commissioned by the governor, and hold their offices during good behavior.

14. That the senate and house of commons shall have power to appoint the generals and field officers of the militia, and all officers of the regular army of this State.

15. That the senate and house of commons, jointly, at their first meeting after each annual election, shall, by ballot, elect a governor for one year, who shall not be eligible to that office longer than three years, in six successive years; that no person under thirty years of age, and who has not been a resident in this State above five years, and having, in the State, a freehold in lands and tenements, above the value of one thousand pounds, shall be eligible as a governor.

16. That the senate and house of commons, jointly, at their first meeting, after each annual election, shall, by ballot, elect seven persons to be a council of state for one year; who shall advise the governor in the execution of his office; and that four members shall be a quorum; their advice and proceedings shall be entered in a journal, to be kept for that purpose only, and signed by the members present; to any part of which any member present may enter his dissent. And such journal shall be laid before the general assembly when called for by them.

17. That there shall be a seal of this State, which shall be kept by the governor, and used by him as occasion may require; and shall be called the great seal of the State of North Carolina, and shall be affixed to all grants and commissions.

18. The governor, for the time being, shall be captain-general and commander-in-chief of the militia; and in the recess of the general assembly, shall have power, by and with the advice of the council of state, to embody the militia for the public safety.

19. The governor, for the time being, shall have power to draw for and apply such sums of money as shall be voted by the general assembly, for the contingencies of government, and be accountable to them for the same. He also may, by and with the advice of the council of state, lay embargoes, or prohibit the exportation of any commodity, for any term not exceeding thirty days, at any one time in the recess of the general assembly; and shall have the power of granting pardons and reprieves, except where the prosecution shall be carried on by the general assembly, or the law shall otherwise direct; in which case, he may, in the recess, grant a reprieve until the next sitting of the general assembly; and he may exercise all the other executive powers of government, limited and restrained, as by this constitution is mentioned, and according to the laws of the State. And, on his death, inability, or absence from the State, the speaker of the senate, for the time being, and in case of his death, inability, or absence from the State, the speaker of the house of commons, shall exercise the powers of government, after such death, or during such absence or inability of the governor, or speaker of the senate, or until a new nomination is made by the general assembly.

20. That, in every case, where any officer, the right of whose appointment is, by this constitution, vested in the general assembly, shall, during their recess, die, or his office by other means become vacant, the governor shall have power, with the advice

of the council of State, to fill up such vacancy, by granting a temporary commission, which shall expire at the end of the next session of the general assembly.

21. That the governor, judges of the supreme court of law and equity, judges of admiralty, and attorney-general, shall have adequate salaries, during their continuance in office.

22. That the general assembly shall, by joint ballot of both houses, annually appoint a treasurer or treasurers for this State.

23. That the governor, and other officers, offending against the State, by violating any part of this constitution, maladministration, or corruption, may be prosecuted, on the impeachment of the general assembly, or presentment of the grand jury of any court of supreme jurisdiction in this State.

24. That the general assembly shall, by joint ballot of both houses, triennially appoint a secretary for this State.

25. That no persons who heretofore have been, or hereafter may be, receivers of public moneys, shall have a seat in either house of general assembly, or be eligible to any office in this State, until such person shall have fully accounted for, and paid in to the treasury, all sums for which they may be accountable and liable.

26. That no treasurer shall have a seat, either in the senate, house of commons, or council of state, during his continuance in that office, or before he shall have finally settled his accounts with the public, for all the moneys which may be in his hands, at the expiration of his office, belonging to the State, and hath paid the same into the hands of the succeeding treasurer.

27. That no officer in the regular army or navy, in the service and pay of the United States, of this State or any other State, nor any contractor or agent for supplying such army or navy with clothing or provisions, shall have a seat either in the senate, house of commons, or council of state, or be eligible thereto; and any member of the senate, house of commons, or council of state, being appointed to, and accepting of such office, shall thereby vacate his seat.

28. That no member of the council of state shall have a seat, either in the senate or house of commons.

29. That no judge of the supreme court of law or equity, or judge of admiralty, shall have a seat in the senate, house of commons, or council of state.

30. That no secretary of this State, attorney-general, or clerk of any court of record, shall have a seat in the senate, house of commons, or council of state.

31. That no clergyman, or preacher of the gospel, of any denomination, shall be capable of being a member of either the senate, house of commons, or council of state, while he continues in the exercise of his pastoral function.

32. That no person who shall deny the being of God, or the truth of the Protestant religion, or the divine authority of either the Old or New Testaments, or who shall hold religious principles incompatible with the freedom and safety of the State, shall be capable of holding any office, or place of trust or profit, in the civil department, within this State.

33. That the justices of the peace, within their respective counties in this State, shall in future be recommended to the governor for the time being, by the representatives in general assembly; and the governor shall commission them accordingly; and the justices, when so commissioned, shall hold their offices during good behaviour, and shall not be removed from office by the general assembly, unless for misbehaviour, absence, or inability.

34. That there shall be no establishment of any one religious church or denomination in this State, in preference to any other; neither shall any person, on any pretense whatsoever be compelled to attend any place of worship contrary to his own faith or judgement, nor be obliged to pay for the purchase of any glebe, or the building of any house of worship, or for the maintenance of any minister or ministry, contrary to what he believes right, or has voluntarily and personally engaged to perform; but all persons shall be at liberty to exercise their own mode of worship: Provided, that nothing herein contained shall be construed to exempt preachers of treasonable or seditious discourses, from legal trial and punishment.

35. That no person in the State shall hold more than one lucrative office at any one time: Provided that no appointment in the militia, or the office of a justice of the peace, shall be considered as a lucrative office.

36. That all commissions and grants shall run in the name of the State of North Carolina, and bear test, and be signed by the Governor. All writs shall run in the same manner, and bear test, and be signed by the clerks of the respective courts. Indictments shall conclude, against the peace and dignity of the State.

37. That the delegates for this State to the continental congress, while necessary, shall be chosen annually by the general assembly, by ballot; but may be superseded, in the mean time, in the same manner; and no person shall be elected to serve in that capacity for more than three years successively.

38. That there shall be a sheriff, coroner, or coroners, and constables, in each county within this State.

39. That the person of a debtor, where there is not a strong presumption of fraud, shall not be continued in prison after delivering up, bona fide, all his estate, real and personal, for the use of his creditors, in such manner as shall hereafter be regulated by law. All prisoners shall beailable by sufficient sureties, unless for capital offenses, when the proof is evident, or the presumption great.

40. That every foreigner who comes to settle in this State; having first taken an oath of allegiance to the same, may purchase, or, by other just means, acquire, hold, and transfer land, or other real estate, and after one year's residence be deemed a free citizen.

41. That a school or schools shall be established by the legislature, for the convenient instruction of youth, with such salaries to the masters, paid by the public, as may enable them to instruct at low prices; and, all usefull learning shall be duly encouraged and pro moted in one or more universities.

42. That no purchase of lands shall be made of the Indian natives, but on behalf of the public, by authority of the general assembly.

43. That the future legislature of this State shall regulate entails, in such a manner as to prevent perpetuities.

44. That the declaration of rights is hereby declared to be part of the constitution of this State, and ought never to be violated on any pretence whatsoever.

45. That any member of either house of general assembly shall have liberty to dissent from and protest against any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journals.

46. That neither house of the general assembly shall proceed upon public business, unless a majority of all the members of such house are actually present; and that upon a motion made and seconded, the yeas and nays, upon any question, shall be taken and entered on the journals: and that the journals of the proceedings of both houses of the general assembly shall be printed, and made public, immediately after their adjournment.

This constitution is not intended to preclude the present congress from making a temporary provision, for the well ordering of this State, until the general assembly shall establish government agreeable to the mode herein before described.

RICHARD CASWELL, President.

December the eighteenth, one thousand seven hundred and seventy-six, read the third time, and ratified in open congress.

AMENDMENTS

AMENDMENT OF 1789

AN ORDINANCE TO ENABLE THE FREEMAN OF THE TOWN OF FAYETTEVILLE TO ELECT A MEMBER TO REPRESENT SAID TOWN ON THE SAME TERMS WITH THE OTHER TOWNS IN THE STATE.

AMENDMENTS OF 1835

Article I.

Section 1.

1. The senate of this State shall consist of fifty representatives, biennially chosen by ballot, and to be elected by districts; which districts shall be laid off by the general assembly, at its first session after the year one thousand eight hundred and forty-one; and afterwards, at its first session after the year one thousand eight hundred and fifty-one; and then every twenty years thereafter, in proportion to the public taxes paid into the treasury of the State, by the citizens thereof; and the average of the public taxes paid by each county into the treasury of the State, for the five years preceding the laying off of the districts, shall be considered as its proportion of the public taxes, and constitute the basis of apportionment: Provided that no county shall be divided in the formation of a senatorial district. And when there are one or more counties having an excess of taxation above the ratio to form a senatorial district, adjoining a county or counties deficient in such ratio, the excess or excesses aforesaid shall be added to the taxation of the county or counties deficient; and if, with such addition, the county or counties receiving it shall have the requisite ratio, such county and counties each shall constitute a senatorial district.

2. The house of commons shall be composed of one hundred and twenty representatives, biennially chosen by ballot, to be elected by counties according to their federal population, that is, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons; and each county shall have at least one member in the house of commons, although it may not contain the requisite ratio of population.

3. This apportionment shall be made by the general assembly, at the respective times and periods when the districts for the senate are hereinbefore directed to be laid off; and the said apportionment shall be made according to an enumeration to

be ordered by the general assembly, or according to the census which may be taken by order of congress, next preceding the making such apportionment.

4. In making the apportionment in the house of commons, the ratio of representation shall be ascertained by dividing the amount of federal population in the State, after deducting that comprehended within those counties which do not severally contain the one hundred and twentieth part of the entire federal population aforesaid, by the number of representatives less than the number assigned to the said counties. To each county containing the said ratio, and not twice the said ratio, there shall be assigned one representative; to each county containing twice, but not three times the said ratio, there shall be assigned two representatives, and so on progressively; and then the remaining representatives shall be assigned severally to the counties having the largest fractions.

Section 2.

1. Until the first session of the general assembly, which shall be had after the year eighteen hundred and forty-one, the senate shall be composed of members to be elected from the several districts hereinafter named, that is to say, the first district shall consist of the counties of Perquimans and Pasquotank; the 2nd district of Camden and Currituck; the 3rd district, Gates and Chowan; the 4th district, Washington and Tyrrell; the 5th district, Northampton; the 6th district, Hertford; the 7th district, Bertie; the 8th district, Martin; the 9th district, Halifax; the 10th district, Nash; the 11th district, Wake; the 12th district, Franklin; the 13th district, Johnston; the 14th district, Warren; the 15th district, Edgecombe; the 16th district, Wayne; the 17th district, Greene and Lenoir; the 18th district, Pitt; the 19th district, Beaufort and Hyde; the 20th district, Carteret and Jones; the 21st district, Craven; the 22d district, Chatham; the 23d district, Granville; the 24th district, Person; the 25th district, Cumberland; the 26th district, Sampson; the 27th district, New Hanover; the 28th district, Duplin; the 29th district, Onslow; the 30th district, Brunswick, Bladen, and Columbus; the 31st district, Robeson and Richmond; the 32d district, Anson; the 33d district, Cabarrus; the 34th district, Moore and Montgomery; the 35th district, Caswell; the 36th district, Rockingham; the 37th district, Orange; the 38th district, Randolph; the 39th district, Guilford; the 40th district, Stokes; the 41st district, Rowan; the 42d district, Davidson; the 43d district, Surry; the 44th district, Wilkes and Ashe; the 45th district, Burke and Yancey; the 46th district, Lincoln; the 47th district, Iredell; the 48th district, Rutherford; the 49th district, Buncombe, Haywood and Macon; the 50th district, Mecklenburg;-each district to be entitled to one senator.

2. Until the first session of the general assembly after the year eighteen hundred and forty-one, the house of commons shall be composed of members elected from the counties in the following manner, viz.: The counties of Lincoln and Orange shall elect four members each. The counties of Burke, Chatham, Granville, Guilford, Halifax, Iredell, Mecklenburg, Rowan, Rutherford, Surry, Stokes, and Wake shall

elect three members each. The counties of Anson, Beaufort, Bertie, Buncombe, Cumberland, Craven, Caswell, Davidson, Duplin, Edgecombe, Franklin, Johnston, Montgomery, New Hanover, Northampton, Person, Pitt, Randolph, Robeson, Richmond, Rockingham, Sampson Warren, Wayne, and Wilkes shall elect two members each. The counties of Ashe, Bladen, Brunswick, Camden, Columbus, Chowan, Currituck, Carteret, Cabarrus, Gates, Greene, Haywood, Hertford, Hyde, Jones, Lenoir, Macon, Moore, Martin, Nash, Onslow, Pasquotank, Perquimans, Tyrrell, Washington, and Yancey shall elect one member each.

Section 3

1. Each member of the senate shall have usually resided in the district for which he is chosen for one year immediately preceding his election, and for the same time shall have possessed and continued to possess in the district which he represents, not less than three hundred acres of land in fee.

2. All free men of the age of twenty-one years (except as is hereinafter declared), who have been inhabitants of any one district within the State twelve months immediately preceding the day of any election, and possessed of a freehold within the same district of fifty acres of land, for six months next before and at the day of election, shall be entitled to vote for a member of the senate.

3. No free Negro, free mulatto, or free person of mixed blood, descended from Negro ancestors to the fourth generation inclusive (though one ancestor of each generation may have been a white person) shall vote for members of the senate or house of commons.

Section 4.

1. In the election of all officers, whose appointment is conferred on the general assembly by the constitution, the vote shall be viva voce.

2. The general assembly shall have power to pass laws regulating the mode of appointing and removing militia officers.

3. The general assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

4. The general assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any persons not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime; but shall have power to pass general laws regulating the same.

5 The general assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such law shall have been given, under such directions and in such manner as shall be provided by law.

6. If vacancies shall occur by death, resignation or otherwise, before the \meeting of the general assembly, writs may be issued by the governor, under such regulations as may be prescribed by law.

7. The general assembly shall meet biennially, and at each biennial session shall elect, by joint vote of the two houses, a secretary of state, treasurer and council of state, who shall continue in office for the term of two years.

Article II.

1. The governor shall be chosen by the qualified voters for the members of the house of commons, at such time and places as members of the general assembly are elected.

2. He shall hold his office for the term of two years from the time of his installation, and until another shall be elected and qualified; but he shall not be eligible more than four years in any term of six years.

3. The returns of every election for governor shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate, who shall open and publish them in the presence of a majority of the members of both houses of the general assembly. The person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint vote of both houses of the general assembly.

4. Contested elections for governor shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

5. The governor-elect shall enter on the duties of the office on the first day of January next after his election, having previously taken the oaths of office in the presence of the members of both branches of the general assembly, or before the chief justice of the supreme court, who, in case the governor-elect should be prevented from attendance before the general assembly, by sickness or other unavoidable cause, is authorized to administer the same.

Article III.

Section 1.

1. The governor, judges of the supreme court, and judges of the superior courts, and all other officers of this State (except justices of the peace and militia officers), may be impeached for wilfully violating any article of the constitution, maladministration, or corruption.

2. Judgment, in cases of impeachment, shall not extend further than to remove from office and disqualification to hold and enjoy any office of honor, trust, or profit under this State; but the party convicted may nevertheless be liable to indictment, trial, judgment, and punishment, according to law.

3. The house of commons shall have the sole power of impeachment. The senate shall have the sole power to try all impeachments. No person shall be convicted upon any impeachment, unless two-thirds of the senators present shall concur in such conviction; and before the trial of any impeachment, the members of the senate shall take an oath or affirmation truly and impartially to try and determine the charge in question, according to evidence.

Section 2.

1. Any judge of the supreme court, or of the superior courts, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both branches of the general assembly. The judge, against whom the legislature may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either branch of the general assembly shall act thereon.

The salaries of the judges of the supreme court, or of the superior courts, shall not be diminished during their continuance in office.

Section 3.

Upon the conviction of any justice of the peace of any infamous crime, or of corruption or malpractice in office, the commission of such justice shall be thereby vacated, and he shall be forever disqualified from holding such appointment.

Section 4.

The general assembly at its first session after the year one thousand eight hundred and thirty-nine, and from time to time thereafter, shall appoint an attorney-general, who shall be commissioned by the governor, and shall hold his office for the term of four years; but if the general assembly should hereafter extend the term during which solicitors of the State shall hold their offices, then they shall have power to extend the term of office of the attorney-general to the same period.

Article IV

Section 1.

1. No convention of the people shall be called by the general assembly, unless by the concurrence of two-thirds of all the members of each house of the general assembly.
2. No part of the constitution of this State shall be altered, unless a bill to alter the same shall have been read three times in each house of the general assembly, and agreed to by three-fifths of the whole number of members of each house respectively; nor shall any alteration take place until the bill so agreed to shall have been published six months previous to a new election of members to the general assembly. If, after such publication, the alteration proposed by the preceding general assembly shall be agreed to in the first session thereafter, by two-thirds of the whole representation in each house of the general assembly, after the same shall have been read three times on three several days, in each house, then the said general assembly shall pre scribe a mode by which the amendment or amendments may be submitted to the qualified voters of the house of commons throughout the State; and if, upon comparing the votes given in the whole State, it shall appear that a majority of the voters have approve d thereof, then, and not otherwise, the same bill become a part of the constitution.

Section 2.

The thirty-second section of the constitution shall be amended to read as follows: No person who shall deny the being of God, or the truth of the Christian religion, or the divine authority of the Old or New Testament, or who shall hold religious principles incompatible with the freedom or safety of the State, shall be capable of holding any office or place of trust or profit in the civil department within this State.

Section 3.

1. Capitation tax shall be equal throughout the State, upon all individuals subject to the same.
2. All free males over the age of twenty-one years, and under the age of forty-five years, and all slaves over the age of twelve years, and under the age of fifty years, shall be subject to capitation tax, and no other person shall be subject to such tax: Provided, that nothing herein contained shall prevent exemptions of taxable polls, as heretofore prescribed by law, in cases of bodily infirmity.

Section 4.

No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or any other State government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either house of the general

assembly: Provided, that nothing here- in contained shall extend to officers in the militia or justices of the peace.

Ratified in convention, this eleventh day of July, in the year of our Lord one thousand eight hundred and thirty-five. NATHANIEL MACON, President.
EDMUND B. FREEMAN, Secretary.
JOSEPH D. WARD, Asst. Secty.

AMENDMENT OF 1857.

Every free white man of the age of twenty-one years, being a native or naturalized citizen of the United States and who has been an inhabitant of the State for twelve months immediately preceding the day of any election, and shall have paid public taxes, shall be entitled to vote for a member of the senate for the district in which he resides.

AMENDMENTS OF 1861-62.

I. AN ORDINANCE TO DISSOLVE THE UNION BETWEEN THE STATE OF NORTH CAROLINA AND THE OTHER STATES UNITED WITH HER UNDER THE COMPACT OF GOVERNMENT ENTITLED THE CONSTITUTION OF THE UNITED STATES.

We, the people of the State of North Carolina in Convention assembled, do declare and ordain, and it is hereby declared and ordained, that the ordinance adopted by the State of North Carolina, in the Convention of 1789, whereby the Constitution of the United States was ratified and adopted, and also, all acts and parts of acts of the General Assembly, ratifying and adopting amendments to the said Constitution, are hereby repealed, rescinded and abrogated.

We do further declare and ordain, that the Union now subsisting between the State of North Carolina and the other States, under the title of the United States of America, is hereby dissolved, and that the State of North Carolina is in the full possession of exercise of all those rights of sovereignty which belong and appertain to a free and independent State.

Passed, 20th day of May 1861.

II. AN ORDINANCE DEFINING TREASON AGAINST THE STATE.

Be it ordained by this Convention, and it is hereby ordained by the authority of the same as follows:

Treason against the State of North Carolina, shall consist only in levying War against her, or in adhering to her enemies; giving them aid and comfort. No person shall be convicted of Treason, unless on the Testimony of two witnesses to the same over act, or on confession in open Court.

Read three times and passed 18th June 1861.

III. AN ORDINANCE TO RATIFY THE CONSTITUTION OF THE PROVISIONAL GOVERNMENT OF THE CONFEDERATE STATES OF AMERICA

We the people of North Carolina, in Convention assembled, do declare and ordain, and it is hereby declared and ordained,

That the State of North Carolina does hereby assent to and ratify the Constitution for the Provisional Government of the Confederate States of America, adopted at Montgomery, in the State of Alabama, on the 8th day of February, A. D. 1861, by the Convention of Delegates from the States of South Carolina, Georgia, Florida, Alabama, Mississippi and Louisiana, and that North Carolina will enter into the Federal Association of States upon the terms therein proposed when admitted by the Congress or any Competent authority of the Confederate States.

Done at Raleigh, the twentieth day of May 1861.

IV. AN ORDINANCE TO RATIFY THE CONSTITUTION OF THE CONFEDERATE STATES OF AMERICA.

Whereas, on the eleventh day of March, A. D. 1861, at Montgomery, in the State of Alabama, a Constitution was adopted, by a Congress of delegates from the States of Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas, united under the name of the Confederate States of America, which Constitution hath been ratified by each of the said states:

Now, therefore, this convention, having seen and considered the said Constitution, doth, in behalf of the people of the State of North Carolina, adopt and ratify the said Constitution and form of Government, the tenor of which appears in a schedule hereto annexed:

Read three times and passed, 6th June 1861.

V. AN ORDINANCE TO AMEND THE 4TH SECTION OF THE 4TH ARTICLE OF THE AMENDMENTS TO THE CONSTITUTION.

Be it Ordained by this Convention of the people, and it is hereby ordained by the authority of the same, That the fourth Section of the fourth Article of the amendments to the Constitution, proposed and ratified in the year eighteen hundred and thirty-five, be amended by striking out the word "United" and inserting in lieu thereof, the word "Confederate" before the word "States".

Read three times and passed, 20th June 1861.

VI. AN ORDINANCE IN RELATION TO TAXATION.

SECTION 1. Be it ordained, That the third Section of the fourth article of the amendments of the Constitution be and the same if hereby annulled.

SEC. 2. Be it further ordained, That all free males over the age of twenty-one years and under the age of forty-five years shall be subject to a Capitation tax, not less than the tax laid on land of the value of three hundred dollars, and no other free person nor slave, shall be liable to such taxation; and also, land and slaves shall be taxed according to their value, and the tax on slaves shall be as much but not more than that on land, according to their respective values; but the tax on slaves may be laid on their general average value in the State or on their values in classes in respect to age, sex, and other distinctive properties, in the discretion of the General Assembly; and the value be assessed in such modes as may be prescribed by law: Provided, That nothing herein contained shall prevent the exemption from taxation of soldiers in the public service, or of free males or slaves in cases of bodily or mental infirmity, or of such real estate as hath hitherto been exempted by law.

Read three times and passed 25th June 1861.

VII. AN ORDINANCE TO SECURE TO CERTAIN OFFICERS AND SOLDIERS THE RIGHT TO VOTE.

SECTION 1. Be it ordained by this convention and it is hereby ordained by authority of the same, That all officers and soldiers in the service of the State or of the Confederate States, who are of the age of twenty-one years and who are citizens of this State, or who, if within the State, shall be absent from their respective counties, at elections hereafter to be held, if the exigencies of the times shall permit, shall be entitled to vote for Sheriffs, Clerks of the County and Superior Courts, our members of the General Assembly for their respective; and shall, also, be entitled to vote for Governor, Electors for President and Vice President of the Confederate States, and for members of the Confederate Congress for their respective districts.

SEC. 2. Be it further ordained, That three freeholders of the respective Companies, under the direction of the Commanding Officers of the regiments, to which they belong, shall open polls on Thursday before the day appointed for holding elections in this State, and said elections shall be conducted in all respects according to the laws of this State. The three freeholders aforesaid, shall prepare a fair copy of the votes polled, and shall transmit the same with the list of voters to the Sheriffs of their respective counties; and where Officers and Soldiers in the same Companies, shall vote in different Counties or different Congressional districts the said freeholders shall specify accordingly, and make returns to the Sheriffs of the different Counties above referred to.

SEC. 3. Be it further ordained, That the Sheriffs of the respective Counties of this State shall count the votes of the said officers and soldiers, if received within seven days after the elections; and they shall not declare the result of the said elections until the seven days above mentioned, shall have expired.

SEC. 4. Be it further ordained that this ordinance shall be in force from and after the day of its ratification; provided this ordinance shall be in force during the existence of the present war with the United States, and no longer.

Read three times and passed, June 15th 1861.

AN ORDINANCE TO AMEND AN ORDINANCE ENTITLED "AN ORDINANCE TO SECURE TO CERTAIN OFFICERS AND SOLDIERS THE RIGHT TO VOTE.

SECTION 1. Be it ordained by the Delegates of the people of North Carolina in Convention assembled, and it is hereby ordained by the authority of the same, That the proper returning officers of every County in this State shall include in their returns the votes of officers and soldiers given in any election in which they may be entitled to vote by Law, if received within twenty days after they are cast, and the said returning officers shall not make up their returns and declare the result of said elections until the expiration of twenty days as aforesaid.

SEC. 2. Be it further ordained, That the proper returning officer of every County shall, within eight days after the period fixed for comparing the returns, transmit to the seat of government and deliver to the proper officer a statement of votes given in his county for Governor, which statement shall be made in the manner and form now required by law.

SEC. 3. Be it further ordained, That the Governor be directed to make known by proclamation the provisions of the ordinance securing to officers and soldiers the right to vote. Passed and ratified in open Convention the 8 day of May A. D. 1862.

VIII. AN ORDINANCE TO PROVIDE FOR AMENDING THE FORTY-SIXTH SECTION OF THE CONSTITUTION OF THIS STATE, IN REGARD TO TAKING THE YEAS AND NAYS IN EITHER HOUSE OF THE GENERAL ASSEMBLY.

Be it ordained by the Delegates of the people of North Carolina in Convention assembled and it is hereby ordained by the authority of the same; That the forty-sixth section of the Constitution of this State be so amended as to insert, after the word "seconded" in the fourth line of said section, the words "by one-fifth of the members present."

Read three times and ratified in open Convention, the sixth day of December A. D. 1861.

IX. AN ORDINANCE TO AMEND THE SECOND SECTION OF THE FOURTH ARTICLE OF THE AMENDMENTS TO THE CONSTITUTION.

Be it ordained by the Delegates of the people of North Carolina in Convention assembled, and it is hereby ordained by the authority of the same, That the second section of the fourth article of the amendments to the Constitution shall be amended to read as follows:

"No person who shall deny the being of God, or the divine authority of both the Old and New Testaments, or who shall hold religious opinions incompatible with the freedom or safety of the State, shall be capable of holding any office or place of trust or profit in the civil department of this State."

Read three times and ratified in open Convention, the sixth day of December A. D. 1861.

X. AN ORDINANCE IN RELATION TO ELECTORS OF THE SENATE.

Be it ordained by the Delegates of the people of North Carolina in Convention assembled and it is hereby ordained by the authority of the same, That every free white man, of the age of twenty one years, being a native or naturalized citizen of the Confederate States, who has been an inhabitant of the state for twelve months, and of the district in which he proposes to vote six months next before the day of any election, and shall have paid public taxes, shall be entitled to vote for a member of the Senate for the district in which he resides.

Passed and ratified in open Convention on the 10th day of May A. D. 1862.

XI. AN ORDINANCE CONCERNING THE ELECTION OF GOVERNOR.

Whereas, By the construction which, in practice, has been given to the constitution . of the State, the Speaker of the Senate, in case of a vacancy in the office of the Governor, shall exercise the powers of Governor by virtue of his office as Speaker, and without vacating the same, which said office of Speaker must cease and determine with that of the incumbent as a Senator, upon the election of his successor in the next election, a vacancy will take place in the office of Governor from and after the day of the next election on the first Thursday in August next until the first day of January, A. D. 1863, against which it is the duty of this Convention to provide, Therefore,

SECTION 1. Be it ordained by the Delegates of the people of North Carolina in Convention assembled, and it is hereby ordained by the authority of the same; That the person who shall be elected Governor of this State at the next regular election on the first Thursday in August next, as now provided for by Law, shall also fill the office and discharge the duties of Governor of this State from the second Monday of September until his successor shall be qualified.

SEC. 2. Be it further ordained, That the proper returning officers of every county shall, as soon as the result of the election is known in his county, transmit to the Secretary of State a statement of the votes taken in his county for Governor, which statement shall be made up from the poll books of his county, as is now prescribed by law.

SEC. 3. Be it further ordained, That the Secretary of State, the Treasurer and Comptroller, shall, on the fourth Thursday in August next, in the presence of the Governor, proceed to examine said returns, and ascertain and declare what person shall have received the greatest number of votes, where upon the Governor shall issue his proclamation, declaring such person duly elected Governor of this State from the second Monday of September, A. D. 1862, until his successor shall be qualified.

SEC. 4. Be it further ordained, That the person so declared and proclaimed Governor, as aforesaid, shall, on the second Monday of September, A. D. 1862, appear before some Judge of the Supreme Court, or someone of the Judges of the Superior Courts of Law, and take and subscribe the oath now prescribed by law for qualification of Governor of this State, and shall immediately enter upon the discharge of the duties of his office; which oath so taken and subscribed shall be filed in the office of the Secretary of State.

SEC. 5. Be it further ordained, That His Excellency, Henry T. Clark, shall continue to hold the office and discharge the duties of Governor of this State from the first Thursday in August until the second Monday in September next or until his successor shall be qualified, as fully and to all intents and purposes as he has heretofore done, and shall receive the usual salary, in proportion to his extended term of service.

Passed and ratified in open Convention on the 2nd day of May A. D. 1862.

XII. AN ORDINANCE TO ALLOW CERTAIN PERSONS TO VOTE FOR GOVERNOR IN ANY OTHER THAN THE COIJNTIES IN WHICH THEY RESIDE.

SECTION 1. Be it ordained by the Delegates of the people of North Carolina in convention assembled, and it is hereby ordained by the authority of the same, That any citizen of this State who shall be entitled to vote for Governor in the county wherein he is domiciled, shall be entitled to vote for Governor in any county in this State.

SEC. 2. Be it further ordained, That it shall or may be lawful for the Sheriffs of the counties in this State in the possession of or under the control of the enemy to compare the poles of their respective counties for Governor and members of the Legislature, at any place in this State they may think proper.

SEC. 3. Be it further ordained, That this ordinance shall be and continue in force for and during the present war, and no longer, unless sooner repealed or modified by the General Assembly.

Passed and ratified in open Convention on the 12th day of May A. D. 1862.

AN ORDINANCE DECLARING WHAT ORDINANCES OF THIS CONVENTION SHALL HAVE PERMANENT OPERATION.

SECTION 1. Be it ordained by the Delegates of the people of North Carolina in Convention assembled, and it is hereby ordained by the authority of the same, That the following ordinances passed by this Convention shall be of permanent operation and be ir repealable by the General Assembly namely:

I. An Ordinance to dissolve the Union between the State of North Carolina and the other States united with her under the compact of government entitled "the Constitution of the United States."

II. An Ordinance defining treason against the State.

III. An Ordinance to ratify the Constitution of the Provisional Government of the Confederate States of America.

IV. An Ordinance to ratify the Constitution of the Confederate States of America.

V. An Ordinance to amend the fourth section of the fourth Article of the amendments to the Constitution.

VI. An Ordinance in relation to taxation.

VII. An Ordinance to secure to certain officers and soldiers the right to vote.

VIII. An Ordinance in relation to taking the yeas and nays in the General Assembly.

IX. An Ordinance to amend the second section of the fourth Article of the amendments to the Constitution.

X. An Ordinance in relation to elections of the Senate.

XI. An Ordinance concerning the election of Governor.

XII. An Ordinance to allow certain persons to vote for Governor in any other County than that in which they reside.

SEC. 2. Be it further ordained, That all other ordinances and resolutions passed by this convention at any of its sessions, shall have the force and effect only of acts of the ordinary Legislature, and may be repealed or modified at the pleasure of the General Assembly, in the same manner and to the same extent that public statutes are liable to repeal or modification.

Passed and ratified in open Convention on the 13th day of May A. D. 1862.

Verified from "The Proceedings and Debates of the Convention of North Carolina, called to amend the Constitution of the State, which assembled at Raleigh, June 4, 1835. To which are subjoined the Convention act and the Amendments to the Constitution together with the votes of the People. Raleigh: Printed by Joseph Gales and Son, 1836." Appendix, pp. 409 424.

This constitution was framed by a " Congress," "elected and chosen for that particular purpose," which assembled at Halifax November 12, 1776, and completed its labors December 18, 1776. It was not submitted to the people for ratification.

Source: *The Federal and State Constitutions Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America* Compiled and Edited Under the Act of Congress of June 30, 1906 by Francis Newton Thorpe Washington, DC : Government Printing Office, 1909.

