Constitution, State [1]

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by John V. Orth, 2006
Additional research provided by William S. Powell [2].

See also: Black and Tan Constitution [3]; Convention of 1835 [4] (from Encyclopedia of North Carolina); 1835 Constitutional Convention [4] (from Tar Heel Junior Historian); Convention of 1868 [5]; Convention of 1875 [7]; Governor [8].

North Carolinians have lived under three state constitutions—the Constitution of 1776, which created the government for the new state and was substantially amended in 1835 [4]; the Constitution of 1868, which brought the state back into the Union after the Civil War but was later amended to discriminate against African Americans in a variety of ways; and the Constitution of 1971, which reorganized the entire state government in light of the requirements of the modern economy and society. In general, each constitution expanded the rights and privileges of the citizenry as well as sections of the government. The countless struggles, successes, and failures experienced in the years between the American colonial period and the end of the twentieth century have been reflected in the development of North Carolina's constitution. Since 1971, important amendments have included setting the voting age at 18 and allowing the governor and lieutenant governor to be elected to two consecutive terms.

The Carolina Charter and the Constitution of 1776

"Carolina Charter of 1663." North Carolina State Archives. Before North Carolina became a state, its people were subjects of the English Crown and lived in accordance with English law. The Carolina charter of 1663, [9] which many colonists referred to as their "constitution," assigned governance of the colony to the Lords Proprietors [11] and clarified the relationship between the residents and their home country. The charter guaranteed them specific liberties and protections—their "rights as Englishmen" established by the Magna Carta of 1215 [12]. When some of these guarantees were violated by conflicting instructions from London, the people protested, contributing to the growing movement for independence.

In December 1776 North Carolina's Fifth Provincial Congress [13], under the leadership of Speaker Richard Caswell [14], created a state constitution to reaffirm the rights of the people and establish a government compatible with the ongoing struggle for American independence. In drafting this document, North Carolina leaders sought advice and examples provided by John Adams [15] of Massachusetts. They also consulted the newly adopted constitutions of Virginia, Pennsylvania, Delaware, and New Jersey and received specific instructions from the North Carolina counties of Halifax [16], Mecklenburg [17], and Rowan [18]. The final version of the constitution was adopted by the legislature without further input from the people of the state.

The 1776 constitution [19] explicitly affirmed the principle of the separation of powers and identified the familiar three branches of government (executive [20], legislative [21], and judicial [22]). It gave the greatest power to the General Assembly.
The Constitution of 1971

The Constitution of 1971 [23] clarified the purpose and operations of state government. Ambiguities and sections seemingly in conflict with the U.S. Constitution were either dropped or rewritten. The document consolidated the governor's duties and powers, expanded the Council of State, and increased the office's budgetary authority. It required the General Assembly to reduce the more than 300 state administrative departments to 25 principal departments and authorized the governor to organize them subject to legislative approval. It provided that extra sessions of the legislature be convened by action of three-fifths of its members rather than by the governor alone. And it revised portions of the previous constitution dealing with state and local finance.

Other provisions permitted the levying of additional county taxes to support law enforcement, jails, elections, and other functions; enabled the General Assembly, rather than the state constitution or the courts, to decide what were necessary local services for taxing and borrowing purposes; abolished the poll tax, which for many years had not been a condition for voting; and authorized the General Assembly to permit local governments to create special taxing districts to provide more services and to fix personal exemptions for income taxes. In addition, the new constitution addressed the ongoing needs of public education, especially regarding funding, school attendance, and organization of the State Board of Education. The legislature's responsibility to support higher education, not just among the campuses of the consolidated University of North Carolina, was also affirmed.
Educator Resources:


References:


Additional resources:

North Carolina Constitutions [27]. North Carolina Legislative Library. (Includes links to previous versions of the constitution and to the amendments from 1969 to present).


North Carolina’s 1868 State Constitution [27]. North Carolina Department of the Secretary of State.

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Orth, John V. [34]
Powell, William S. [35]

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