
The Revised Constitution of North Carolina

Revision Authorized by General Assembly of 1931;
Amended and Submitted to People by
General Assembly of 1933

- (1) Just What It Includes;
- (2) Just What Changes from the Present
Constitution Are Involved.

2220

An Analysis Issued by
**COMMITTEE FOR REVISED
CONSTITUTION**

Sir Walter Hotel, Raleigh

J. C. B. EHRLINGHAUS, *Honorary President*

C. CLIFFORD FRAZIER, *Honorary Vice-President*

KEMP D. BATTLE, *General Chairman*

J. Y. JOYNER, J. J. BRITT, *Vice-Chairmen*

MISS HARRIETT W. ELLIOTT, *Chm. Woman's Division*

MRS. JOHNSON J. HAYES, *Vice-Chm. Woman's Division*

FRANK PAGE, *Treasurer*

FRANK P. GRAHAM, *Chm. Organization Committee*

FOREWORD

To the Voters of North Carolina, Men and Women:

In the coming weeks, an effort will be made to acquaint the public with the important features of the Revised Constitution which will be voted on in November.

We shall appeal only to the judgment and patriotism of the voters and will not deal in personalities and prejudices. We trust that our people will bring to the study of this very important question an earnest desire to do what is best for the whole state and that they will not be swayed by arguments addressed to selfishness, fear, or prejudice.

At the outset of the campaign, the first desire of every voter should be to find out what the Revised Constitution really is. But the entire document necessarily is too long for easy reading. Hence this analysis has been prepared. The object has been to condense into a sentence or two:

(1) The meaning of each paragraph of the Revised Constitution, taking it section by section from beginning to end, and then—

(2) To point out with equal brevity in what respects each section of the Revised Constitution differs from the present Constitution.

Additional copies will be gladly sent any voter upon request.

KEMP D. BATTLE,

General Chairman, Committee for Revised
Constitution, Raleigh.

BILL OF GENERAL RIGHTS

ARTICLE I.

- SEC. 1. All men created equal with equal rights.
No change from present constitution.
- SEC. 2. Rights of government belong to the people.
No change.
- SEC. 3. Paramount allegiance to United States.
No change.
- SEC. 4. No special privileges.
No change.
- SEC. 5. Legislative, executive, and judicial powers to be kept separate.
No change.
- SEC. 6. No rights to suspend laws.
No change.
- SEC. 7. All elections to be free.
No change.
- SEC. 8. Fair trial provided for accused persons.
No change.
- SEC. 9. Felony charges to be instituted by indictment.
Beginning of prosecution by presentment has been little used and is eliminated.
- SEC. 10. Trial by jury provided.
No change.
- SEC. 11. Excessive bail or punishment prohibited.
No change.
- SEC. 12. General search warrants forbidden.
No change.
- SEC. 13. No imprisonment for debt, except in cases of fraud.
No change.
- SEC. 14. Every person guaranteed equal protection and due process of law. Private property not to be taken without compensation.
No change.
- SEC. 15. Persons under restraint entitled to habeas corpus.
No change.
- SEC. 16. Jury trial provided for controversies respecting property.
No change.
- SEC. 17. General provisions as to forms of civil actions.
No change.
- SEC. 18. Freedom of press to be preserved.
No change.
- SEC. 19. Right to vote or hold office not dependent on property.
No change.
- SEC. 20. No taxation without representation.
No change.
- SEC. 21. Military subject to civil power. Right to bear arms, except concealed weapons, provided for.
No change.
- SEC. 22. People have right to assemble and petition, but secret political societies forbidden.
No change.
- SEC. 23. Religious liberty guaranteed.
No change.

SEC. 24. Duty of State to provide privilege of education.

No change.

SEC. 25. Elections should be frequent.

No change.

SEC. 26. Recurrence to fundamental principles necessary.

No change.

SEC. 27. No hereditary privileges.

No change.

SEC. 28. Monopolies should not be allowed.

No change.

SEC. 29. No ex post facto laws.

No change.

SEC. 30. Slavery forbidden.

No change.

SEC. 31. Courts open to all persons.

No change.

SEC. 32. No soldiers to be quartered in time of peace.

No change.

SEC. 33. Treason defined and two witnesses required.

No change.

SEC. 34. Other rights reserved to people.

Slight change in language, in accord with present Supreme Court interpretations.

LEGISLATIVE DEPARTMENT

ARTICLE II.

SEC. 1. Two branches of Legislature established.

No change.

SEC. 2. Time of meeting fixed.

No change.

SEC. 3. Senatorial Districts to be fixed after each census.

No change of importance, except that no county may have more than one senator.

SEC. 4. Apportionment of Representatives provided.

No change.

SEC. 5. Method of apportionment.

No change.

SEC. 6. Age and period of residence of members of General Assembly required.

No change.

SEC. 7. Each house to pass on qualifications of members.

No change.

SEC. 8. Officers named.

No change.

SEC. 9. How vacancies shall be filled.

No change.

SEC. 10. Members to take oath.

No change.

SEC. 11. Each house to keep a journal.

No change.

SEC. 12. Election of officers by viva voce vote.

No change.

SEC. 13. How acts to be styled.

No change.

SEC. 14. Terms of Senators and Representatives two years.

No change.

SEC. 15. Time of election provided for.

No change.

SEC. 16. Salary \$600. Presiding officers \$700. Special sessions, \$10 per day, for not more than twenty days.

No change.

SEC. 17. Revenue and credit bills to be passed three times.

No change.

SEC. 18. General Assembly to provide general laws for government of cities, towns, and counties, but shall not interfere by special or local laws. Optional plans of government to be submitted for choice of voters of cities, towns, and counties.

This section is in substitution of detailed provisions in Article VII of present constitution regulating county officers, township lines and powers, assessment of property, levy and collection of taxes, etc. The latter will continue in force until changed by General Assembly. Sec. 18 is designed to enable Legislature to modernize local government and make it more efficient and economical. Under it, alternative plans of local self government may be submitted to voters of cities, towns, and counties.

SEC. 19. General Assembly not to enact private or special laws.

No change.

SEC. 20. Legislative Acts to be read three times.

No change.

SEC. 21. Governor given veto power in minimum measure, since General Assembly, by majority vote of each house, can override veto. Veto power not to be exercised after adjournment of General Assembly if bill presented to him 48 hours before adjournment. Act which is to be submitted to vote of people not subject to veto.

This is a new provision. Every other state in the Union has veto power, most of them requiring more than a majority of General Assembly to defeat the veto.

SEC. 22. No member of General Assembly may be appointed to an office created during his term, or of which pay increased during his term.

This is a new provision, the wholesome purpose of which is obvious.

EXECUTIVE DEPARTMENT

ARTICLE III.

SEC. 1. Officers named and terms fixed at four years.

No change.

SEC. 2. Qualification for governor and lieutenant-governor fixed. Not to succeed themselves.

No change.

SEC. 3. Returns of elections regulated.

No change.

- SEC. 4. Oath of governor required.
No change.
- SEC. 5. Duties of governor prescribed.
No change.
- SEC. 6. Provisions as to pardons and paroles.
No change.
- SEC. 7. Governor in charge of militia.
No change.
- SEC. 8. Within first ten days of beginning of Legislature, Governor to submit an executive budget setting forth expected income and proposed expenditures of every department of the state.
This is practically a new provision and carries into the constitution the present statutory budget which has proved its worth by trial.
- SEC. 9. Governor may call special sessions.
No change.
- SEC. 10. Governor, with consent of Senate, to fill offices not otherwise provided for.
No change.
- SEC. 11. Lieutenant-Governor to preside over Senate.
No change.
- SEC. 12. Lieutenant-Governor to succeed Governor if vacancy occurs.
No change.
- SEC. 13. Duties of Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney-General to be fixed by Legislature. Governor to fill vacancies.
No change.
- SEC. 14. Executive officers to constitute Council of State.
No change.
- SEC. 15. Compensation of executive officers to be fixed by law. Pay not to be increased or diminished during term, but to be subject to general income taxes.
Under present constitution, pay of executive officers not subject to North Carolina income tax. Not subject to United States income tax under either constitution.
- SEC. 16. State seal adopted.
No change.

JUDICIAL DEPARTMENT

ARTICLE IV.

- SEC. 1. Judicial power vested in Court for Impeachments, Supreme Court, Superior Courts, and such inferior courts as General Assembly may establish.
Practically no change except all courts below Superior Court, including Justices of Peace, are subject to General Assembly.
- SEC. 2. Senate to act as court for trial of impeachments.
No change except provision that Chief Justice shall preside over trial of Lieutenant-Governor, as is now provided for trial of Governor.

SEC. 3. Supreme Court to consist of Chief Justice and four associates. General Assembly may add others when need arises. Court may sit in divisions. Every decision must have concurrence of three judges. Whole court must sit on case involving a question of constitutional law.

Power granted General Assembly to add justices and power of court to sit in divisions are new. They are intended to make court elastic for future needs when they arise without making a constitutional amendment necessary.

SEC. 4. Jurisdiction of Supreme Court defined.
No change.

SEC. 5. Jurisdiction of Superior Courts defined. One court for each county. Terms to be held at least twice a year.
No change.

SEC. 6. State to be divided into districts, and districts may be grouped into divisions. When necessary, more than one judge may be provided for a district by General Assembly, which may also authorize election or appointment of special judges. Judges to rotate in their divisions. Chief justice to assign judges when necessary.

Under the present constitution there must be as many solicitors as there are regular judges. Generally more judges are needed. New section would save expense of unnecessary solicitors. Assignment of judges transferred from governor to chief justice.

SEC. 7. Judges elected for eight years. Governor to fill vacancies except within thirty days of an election.
Practically unchanged.

SEC. 8. Judges of Supreme and Superior Courts to constitute a judicial council with power to make rules of practice.
This is a new and important provision transferring power to make court rules which are purely technical from General Assembly to the whole body of judges.

SEC. 9. General Assembly to establish a system of courts below Superior Courts, but not by special or local acts. Present system to be continued until passage of new general laws on subject.
This will in time abolish Recorders' Courts based on special charters and will permit a general system on a state-wide basis. Retention, abolition, or change of present system of Justices of Peace would be up to Legislature.

SEC. 10. Solicitors to be elected for terms of four years to prosecute criminal actions and perform other duties required of them.
Under this section, solicitor would not necessarily be limited to his own district and Legislature could impose on him additional duties.

SEC. 11. Judges may be removed by General Assembly for disability.

No change.

SEC. 12. General Assembly to fix judicial salaries, but salaries of judges of Supreme and Superior Courts shall not be diminished during their term, except by general tax levies.

Under present law judicial salaries not subject to income tax. Proposed section abolishes this exemption.

REVENUE, TAXATION, and PUBLIC DEBT.

ARTICLE V.

SEC. 1. The power of taxation shall be exercised in a just and equitable manner.

This simple declaration takes the place of detailed and complicated provisions in the present constitution. It would, among other things, permit the General Assembly to:

(a) *Levy income taxes above the present limit of 6%.*

(b) *Classify property for taxation.*

(c) *Shape taxing policy to encourage home ownership, reforestation, and conservation of natural resources. (See Art. VIII, Sec. 2, and Art. XI, Sec. 1.)*

The greater power here granted the Legislature would be subject to the veto power and restrained by the limitations on borrowing money, in the next section.

SEC. 2. General Assembly may borrow money, (a) to fund or refund a valid existing debt; (b) in anticipation of collection of taxes up to 50% thereof; (c) to supply a casual deficit; (d) to suppress insurrection or repel invasion. To contract debts for other purposes, General Assembly cannot exceed two-thirds of amount indebtedness has been reduced in preceding biennium unless approved by vote of people.

This limitation on borrowing power of Legislature is new and is designed to be not only an offset to the power of taxation in previous section but a more effective insurance against excessive tax rates than the present limitations on taxation. Where a heavy public indebtedness is incurred, taxation is necessarily heavy. This section will be a check on further bond issues, and will automatically force reduction of the present state debt.

SEC. 3. General Assembly to provide a uniform system of taxation for counties, cities and towns.

This is correlative to Art. II, Sec. 18. At present part of local taxation is on uniform, state-wide basis; other taxes are authorized under local charters with widely varying provisions, each city having its own special charter written, usually by its own attorney.

SEC. 4. General Assembly by general law to regulate financial affairs of cities, towns, and counties.

This is in substance same as present Art. VIII, Sec. 4.

SEC. 5. Local municipalities may borrow money for funding a valid existing debt or to meet appropriations in anticipation of collection of taxes. Otherwise cannot exceed one-half amount by which indebtedness reduced during the year, unless approved by vote of people.

Heretofore local municipalities could borrow without limit for "necessary expenses." Supreme Court interpreted that phrase very liberally. Excessive bond issues requiring heavy tax load on real estate largely caused the recent crisis in state finances, requiring state to take over roads and schools, and resort to Sales Tax. The limitation in this section is a companion measure to limitation on State borrowing in Sec. 2. Together they form the twin pillars of the future financial policy of the commonwealth.

SEC. 6. General Assembly may exempt property for charitable and religious purposes, etc., also \$300 of personal property.

No change.

SEC. 7. Public money to be expended only according to law.

No change.

SEC. 8. Sinking Fund money not to be diverted to other purposes.

Practically same as present Art. II, Sec. 30.

SUFFRAGE AND ELIGIBILITY TO OFFICE

ARTICLE VI.

SEC. 1. Adults born in United States or naturalized may vote. Absentee voting may be provided by General Assembly for (1) persons absent from county, or (2) physically disabled.

Present constitution contains no limitations on absentee voting. This section permits Legislature to provide for absentee voting to same extent as now in effect but not to go further, and directs Legislature to provide proper restrictions for absentee voting by two classes mentioned. The Revised Constitution is a limitation on absentee voting, and not an extension thereof.

SEC. 2. Residence requirements for voting. Convicted felons not eligible until restored to citizenship.

No change.

SEC. 3. Voters to be registered. Voters already registered eligible. Persons hereafter registering must be able to read and write.

Same in substance as present Art. VI, Sec. 4.

SEC. 4. Elections to be by ballot. In General Assembly, viva voce.

No change.

- SEC. 5. Every voter eligible to office. Oath prescribed.
No change.
- SEC. 6. Persons who deny being of God, or convicted of felony, not eligible for office unless restored to citizenship.
No change.

EDUCATION

ARTICLE VII.

- SEC. 1. Education to be encouraged.
No change.
- SEC. 2. General Assembly to provide for general and uniform system of free public schools for all children of state.
No change except provision that all children shall receive equal opportunities as far as practicable.
- SEC. 3. Six months school term by state support mandatory. General Assembly may provide a longer term.
Maintenance for six months term is put on State with permission to Legislature to increase term.
- SEC. 4. Certain property devoted to educational purposes.
Substantially unchanged.
- SEC. 5. Board of Education to consist of seven members, including Superintendent of Public Instruction as chairman and chief executive officer; other six appointed by Governor, subject to confirmation by General Assembly.
Present Board of Education consists of Governor, as president; Superintendent of Public Instruction, as secretary; Lieutenant-Governor, Secretary of State, Auditor, and Attorney-General. Those officials, except Superintendent of Public Instruction, are elected for other than educational purposes and serve in an ex officio capacity. The State administration of public school education in recent years has been divided between the present constitutional Board of Education, the State School Commission, State Textbook Commission, State Board of Equalization, State Board for Vocational Education, etc. The present State School Commission is composed of fifteen members of whom four serve ex officio, and eleven are appointed by the Governor without confirmation by the Legislature. The School Commission has largely superseded the Board of Education, but the double control and administration are confusing and cumbersome. Under proposed Section 5, there will be one body composed of Superintendent of Public Instruction as chairman, and six members named by Governor specifically for educational duties, every appointment subject to confirmation by the Legislature.
- SEC. 6. Powers of Board of Education defined.
These powers are largely those of present school commission.

SEC. 7. General Assembly may enact laws regulating school attendance. White and colored shall be taught in separate schools but with equal opportunities.

Old Act IX, Sec. 15, prescribed a minimum compulsory attendance period of sixteen months. Proposed section leaves details to Legislature.

SEC. 8. General Assembly to provide for University and such other institutions of higher learning as it deems wise.

Old section mentioned University only. New expressly contemplates, but does not require, other institutions.

SEC. 9. Higher education as far as practicable to be free. University to receive escheated property.

Practically same as old.

HOMESTEADS AND EXEMPTIONS

ARTICLE VIII.

SEC. 1. \$500 of personal property exempt from execution.

No change.

SEC. 2. Real estate homestead up to \$1,000 exempt from execution except for purchase price and may be exempted from taxation by General Assembly.

No change except power given Legislature to exempt \$1,000 value on homestead from taxation. This is a new and potentially very important provision intended to stimulate and protect home ownership as directed by other sections of the Revised Constitution. It will probably not be utilized until the debt load of counties and towns has been reduced. It may be realized by stages, exempting first, say \$250, then \$500, then \$1,000.

SEC. 3. Exemption of homestead from debt continues during minority of children of owner.

No change.

SEC. 4. Homestead exemption not superior to laborer's lien.

No change.

SEC. 5. Owner's homestead continues during wife's widowhood.

No change.

SEC. 6. Homestead cannot be conveyed except with wife's consent and private examination.

No change.

SEC. 7. Insurance payable to wife and children, exempt from claims of creditors.

Substantially no change.

SEC. 8. Property of married woman shall remain her separate estate, not liable for debts of husband.

No change, except that under new section Legislature could dispense with requirement of husband's written consent to her conveyance of her property as required by present constitution.

PUBLIC WELFARE, INSTITUTIONS, ETC.

ARTICLE IX.

- SEC. 1. State Board of Public Welfare directed to study welfare of children, unemployment, poverty, housing, marriage and divorce, and other named related subjects.

This takes place of old section establishing Board of Public Charities but the provisions of new section are broader and conceive of social welfare on a constructive and preventive basis instead of on one merely of charity and punishment for crime. The present provision for supervision of humane institutions which in practice has not been vitally exercised is to be made subject to legislative action.

- SEC. 2. General Assembly to provide public, charitable, reformatory, and penal institutions as the public good may require.

This is a similar but more comprehensive substitute for the orphan homes, homes for blind and insane, and penitentiary, provided for by present constitution.

- SEC. 3. General Assembly can impose capital punishment only for murder, arson, burglary, and rape.

No change.

- SEC. 4. Charitable and penal institutions to be self-supporting as far as practicable and consistent with their purposes.

No change.

MILITIA

ARTICLE X.

- SEC. 1. Able-bodied males, 21 to 40 years of age, subject to duty in militia.

No change.

- SEC. 2. General Assembly to provide for militia.

No change.

- SEC. 3. General Assembly may grant exemptions.

No change.

AGRICULTURE, INDUSTRY, AND MISCELLANEOUS

ARTICLE XI.

- SEC. 1. Makes it the duty of the State government (1) to provide proper agencies for promoting the agricultural and industrial development of the State, and (2) to promote all the following objects:

(a) The conservation of our natural resources, including soil-fertility, forests, minerals, waterpower, fisheries, scenic beauty, etc.

(b) The promotion of thrift and home-ownership.

- (c) To serve the interests of both employers and employees by encouraging the peaceful adjustment of industrial disputes.
- (d) To provide proper regulation for the protection of industrial workers, especially women and children.
- (e) To safeguard the earnings of citizens by adequate protective legislation and supervision of banks, financial institutions, investment agencies.

This is practically a new section, the corresponding old section providing only for Department of Agriculture and Immigration and directing laws for encouragement of sheep husbandry. It puts social welfare on a broader base and a higher plane, and makes it a mandatory objective of State policy.

SEC. 2. General Assembly to provide lien for mechanics.

No change.

SEC. 3. Fixes boundaries and capital of State.

No change.

SEC. 4. No person to hold two offices.

Unlike present section, notaries public, school committeemen, and trustees of public institutions excepted.

SEC. 5. Whites not to intermarry with negroes.

No change.

SEC. 6. Corporations to be organized only under general laws, except public corporations under patronage of the State.

No change.

AMENDMENTS, EXISTING LAWS AND OFFICES

ARTICLE XII.

SEC. 1. Convention to be called by two-thirds General Assembly and approved by people.

No change except membership of convention limited to 120.

SEC. 2. Amendments submitted to people upon vote of three-fifths of General Assembly.

No change.

SEC. 3. Present laws to remain in force and provisions of present constitution have force of statutory law until changed by General Assembly.

No corresponding section in new constitution.

SEC. 4. Present offices not to be vacated by adoption of Revised Constitution.

No corresponding section. This and previous section will prevent any gap or dislocation in government if Revised Constitution is adopted.

A SUGGESTION

If you find this Analysis of the Revised Constitution informing or useful, may we not suggest this—

(1) That you pass it on to your wife or husband or other voters in your family;

(2) That you send a card or letter to the undersigned address for any additional copies (they will be gladly furnished free of charge) that you may wish to furnish other voters.

Address: Committee for Revised Constitution, Sir Walter Hotel, Raleigh.

THE CONSTITUTIONAL COMMISSION

Named by Authority of the General Assembly
of 1931; Report Submitted to General
Assembly of 1933



W. P. STACY, *Chairman*,
Chief Justice North Carolina Supreme
Court

JOHN J. PARKER
Senior Justice, Fourth District U. S.
Circuit Court

MICHAEL SCHENCK
Associate Justice North Carolina Su-
preme Court

MAJ. GEORGE E. BUTLER
Clinton

LINDSAY C. WARREN
Representative in Congress

A. J. MAXWELL
State Commissioner of Revenue

J. O. CARR
United States District Attorney

BURTON CRAIGE
Winston-Salem

CLARENCE POE
Editor *The Progressive Farmer*

Secretary, CHARLES B. AYCOCK
