

Women's Rights and the North Carolina Constitution

Overview

Students will learn about the history of women's rights in North Carolina and the role of the North Carolina Constitution in both restricting and expanding those rights throughout time. Students will explore two North Carolina Supreme Court cases - *In Re Application of Holton* and *Kirkpatrick v. Crutchfield* - that grappled with the legal rights of women.

Grades

8-11

Essential Questions

- What are the major tenets of the North Carolina Supreme Court case, *In Re Application of Holton*?
- What are the major tenets of the North Carolina Supreme Court case, *Kirkpatrick v. Crutchfield*?
- How did these cases affect the rights of women in North Carolina?
- What are other constitutional issues that arose in North Carolina related to women's rights?
- How have the rights of women evolved over time in North Carolina?
- How did national events impact the attitudes and actions towards women's rights here in North Carolina?

Materials

- Women's Rights and the North Carolina Constitution Guided Notes, attached
- "Women's Rights and the North Carolina Constitution PowerPoint," available in Carolina K-12's Database of K-12 Resources (in PDF format), available here:
<https://k12database.unc.edu/files/2012/05/WomenandtheNorth-CarolinaConstitutionPPT-1.pdf>
 - To view this PDF as a projectable presentation, save the file, click "View" in the top menu bar of the file, and select "Full Screen Mode"
 - To request an editable PPT version of this presentation, send a request to CarolinaK12@unc.edu
- *In Re Application of Holton* - Case Summary Sheet , attached
- *Kirkpatrick v. Crutchfield* - Case Summary Sheet, attached
 - Teachers are advised to copy these two summaries on different colors of paper, making the transition into groups when reviewing the cases easier (see #4 under "Procedure.")
- Ten Reasons Sentence Strips
- Sample test questions and key, attached (optional)

Duration

60-90 minutes

Procedure

Women and the North Carolina Constitution

1. As a warm up, provide the attached image titled "Twelve Reasons Why Women Should Vote." Either individually in writing, in partners, or as a class discussion, have students consider:
 - What do you see here?
 - For what purpose do you think this document was created?
 - When might it have been created? What evidence makes you think this?
 - Evaluate the effectiveness of the reasons provided. Are they convincing? Why are why not?
 - In your opinion, which is the most compelling reason noted that women should vote?

- What reasons would you add to this list?
2. Tell students you will come back to this pamphlet and its origin later in the lesson, but first you are going to share some background information on women’s rights throughout the history of the NC Constitution. Give students the attached notes handouts to fill in. The PowerPoint ([slides 2-10](#)) and notes, which describe the 14th and 19th amendments to the US Constitution, relevant sections in the North Carolina Constitution regarding the rights of women, and important moments in women’s history, will take approximately 20 minutes. (Teachers are encouraged to use the PPT as a point of discussion rather than lecture; time will vary based on how much discussion teachers facilitate throughout the PPT.)

Group Activity: NC Case Studies

3. Upon completing the notes, tell students that they will be exploring two cases from our state in which women’s rights were debated. Break students into pairs and give each pair either the Holton case or the Kirkpatrick case. (Try to ensure an equal number of pairs deal with each case.) Tell students to take a few moments to read through the case summarize individually. After an initial read, students should take 10-15 to discuss the case with their partner, reviewing the facts of the case and clarifying any questions either of them had. After their discussion, students should together answer the questions regarding the case provided on their handout.
4. Next, combine each pair of students who worked on the Kirkpatrick case with a pair of students who worked on the Holton case, creating new groups of 4. Each pair should take 5 minutes to teach the other pair in their group about their case, and vice versa.
5. Once groups have finished sharing, bring students back together and ask for two student volunteers to summarize each case. Clarify any misunderstandings and further discuss:
 - What were the major points in the Holton Case? How were female rights different in 1878 than today?
 - What were the major points of the Kirkpatrick Case? How do you think the environment was different for females in 1919 than it is today?
 - What constitutional principles protect the rights of women in North Carolina? In America?
 - Do you feel there are areas of present society where women still receive different treatment? Explain.
 - If yes, are the inequities you’ve identified a result of formal laws or societal behavior/expectations? Explain.

Ten Reasons Why Women Should

6. Project [slide 12](#) of the PPT, the same image students examined in the warmup. Let students know that this pamphlet was produced by the Equal Suffrage Organization of North Carolina between 1915-1920. Explain to students that suffrage movement leaders often distributed pamphlets like these to build support for women’s rights.
7. To culminate the lesson, instruct students (either in pairs or individually) to complete their own list of “Ten Reasons Why Women Should...” Give each pair one of the attached “Ten Reasons Why Women Should...” assignments to base their list upon. Students can create a simple list with pencils and notebook paper, or teachers can provide markers and chart paper to encourage more artistic creativity in the lists created. Once students have completed their lists, have them post them around the room. If time permits, give students 5-10 minutes to walk around the room reading one another’s lists. Debrief by discussing:
 - What was your favorite list or reason that you viewed and why?
 - Of all these rights noted – all of which women have been deprived of at some point- which do you think is most important and why?

8. Optional Homework or Assessment: Pass out the attached sample test items for students to complete individually.

Resources

- Documenting the American South: Explore Women’s History in North Carolina (<http://docsouth.unc.edu/nc/legalstatus/menu.html>).
- Tabitha Anne Holton: First in North Carolina, First in the South. (<http://womenslegalhistory.stanford.edu/papers/HoltonT-Harris02.pdf>). [Source Link does not work]
- North Carolina Constitution: (<http://www.ncga.state.nc.us/legislation/constitution/nconstitution.html>).
- North Carolina Museum of History: Women’s History (<http://ncmuseumofhistory.org/nchh/womenshist.html>)
- <https://www.uncpress.org/book/9780807858202/north-carolina-women/> by Margaret Supplee Smith and Emily Herring Wilson (UNC Press)

Twelve Reasons Why Women Should Vote

1. BECAUSE those who obey the laws should help to choose those who make the laws.
2. BECAUSE laws affect women as much as men.
3. BECAUSE laws which affect WOMEN are now passed without consulting them.
4. BECAUSE laws affecting CHILDREN should include the woman's point of view as well as the man's.
5. BECAUSE laws affecting the HOME are voted on in every session of the Legislature.
6. BECAUSE women have experience which would be helpful to legislation.
7. BECAUSE to deprive women of the vote is to lower their position in common estimation.
8. BECAUSE having the vote would increase the sense of responsibility among women toward questions of public importance.
9. BECAUSE public spirited mothers make public spirited sons.
10. BECAUSE about 8,000,000 women in the United States are wage workers, and the conditions under which they work are controlled by law.
11. BECAUSE the objections against their having the vote are based on prejudice, not on reason.
12. BECAUSE to sum up all reasons in one—IT IS FOR THE COMMON GOOD OF ALL.

Equal Suffrage Association of North Carolina



Raleigh

Women's Rights and the North Carolina Constitution

Name:

Period:

Date:



The 14th Amendment, US Constitution

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

What does this mean? How does this Amendment specifically apply to women?

Equal Protection of the Law:

The 19th Amendment, US Constitution

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.”

What does this mean?

The North Carolina Constitution

Article I, Section 1:

Article I, Section 19:

Article I, Section 26:

Article X, Section 4:

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Areas for Consideration (Current North Carolina Constitution):

Article II, Section 6: Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Article II, Section 5: Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election

Article III, Section 2 (2): No person shall be eligible for election to the office of Governor or Lieutenant Governor, unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election.

In what way do you think this passage applies to or excludes women?

What are other famous documents that use "men," but mankind is meant instead?

Some Famous Moments in North Carolina History:

1774 –

1878 –

1919 –

1920 –

1949 –

1962 –

1974 –

2008 –

Women's Rights and the North Carolina Constitution

ANSWER KEY



The 14th Amendment

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the **equal protection** of the laws.”

What does this mean? How does this apply to women? How does this Amendment specifically apply to women?

This amendment was passed after the Civil War, and allows for due process to be served whenever someone is tried for a crime. It also means that everyone in the United States is afforded protections under the Constitution, including due process protections. The Amendment was in response to the Civil War, but eventually the suffrage movement attempted to use the amendment to develop women's suffrage. This is the first article of the amendment, and does not include any gender references (unlike later parts of the amendment). The argument was not accepted by the Supreme Court until 1971, when the Berger Court declared that the 14th does extend to women.

Equal Protection of the Law: This meant that all states were required to provide equal protection to all citizens in the United States. No state could pass a law banning a right protected by the Constitution. This was fought with the Jim Crow Laws in the South and other laws designed to discriminate against citizens of the United States.

The 19th Amendment

“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex. Congress shall have power to enforce this article by appropriate legislation.”

What does this mean?

This was the fruit of the women's suffrage movement. It allowed women to vote in the United States. North Carolina did not ratify the amendment until 1971, 51 years after it was passed in 1920. The only state to wait longer to ratify the amendment was Mississippi in 1984.

The North Carolina Constitution

Article I, Section 1: All persons are created equal and endowed with “inalienable rights,” including life, liberty, and the pursuit of happiness. This reflects the Declaration of Independence.

Article I, Section 19: No **person** shall be imprisoned, or deprived of life, liberty or property. No **person** shall be denied equal protection, or discriminated against because of race, color, religion or national origin. Does the fact that person is used instead of man mean that gender is also included in due process?

Article I, Section 26: No individual will be excused from jury duty on account of sex, race, color, religion, or natural origin. This was put into the NC Constitution in 1868, far before the women's rights movement.

Article X, Section 4: Married women can own and dispose of their property, just as their husbands can. This was also put into the 1868 NC Constitution, establishing a precedent for women's rights.

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Areas for Consideration:

Article II, Section 6: Each Senator, at the time of his election, shall be not less than 25 years of age, shall be a qualified voter of the State, and shall have resided in the State as a citizen for two years and in the district for which he is chosen for one year immediately preceding his election.

Article II, Section 5: Each Representative, at the time of his election, shall be a qualified voter of the State, and shall have resided in the district for which he is chosen for one year immediately preceding his election

Article III, Section 2 (2): No person shall be eligible for election to the office of Governor or Lieutenant Governor, unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election.

In what way do you think this passage applies to or excludes women? **There is a large usage of "he" and "his," which may be exclusionary to women. On the other hand, someone could interpret "Men" to mean all of humankind.**

What are other famous documents that use "men," but mankind is meant instead? **"All men are created equal..." –Dec. of Ind.**

Some Famous Moments in North Carolina History:

1774 – **Fifty-one women gathered at the Edenton Tea Party to protest British taxation of tea and formally boycott British goods.**

1878 – **Tabitha Holton was the first woman to earn her North Carolina law license. She was also the first woman to earn her law license in the South, and one of the first in the Union.**

1919 – **The Kirkpatrick v. Crutchfield case was decided, which upheld the Martin Act of 1913. This act gave women the right to sue for damages when their right to property was violated.**

1920 – **The first woman is elected to the North Carolina House of Representatives. Lillian Exum Clement represented Buncombe County. The North Carolina League of Women Voters also encouraged women to exercise their newly acquired right to vote through the 19th amendment.**

1949 – **Governor Kerr Scott appointed Susie Sharp to become the first superior court judge in North Carolina. **Funny anecdote to share with your students:** After Sharp became a Superior Court judge, Tom Bost of the *Greensboro Daily News* questioned "what would happen if Sharp was faced with trying a case of rape? Wouldn't that be too much for a woman?" Judge Sharp wrote back that "In the first place, there could have been no rape had not a woman been present, and I consider it eminently fitting that one be in on the 'pay-off'."**

1962 – **Sharp is appointed the first female associate justice of the NC Supreme Court by Governor Terry Sanford.**

1974 – **Sharp becomes the first female Chief Justice of the North Carolina Supreme Court by election. Sharp is the first woman elected to that position in the country.**

2008 – **Governor Beverly Perdue becomes the first female Governor of North Carolina.**



CASE SUMMARY: *In Re Application of Holton (1878)*

Directions:

- Read the case summary by yourself for two to three minutes.
- With a partner, discuss the case and answer the discussion questions provided.
- With your partner, develop an explanation of the case to share with other classmates who read a different case. You will be required to share your case with the other pair, providing your answers to the discussion questions and answering any questions that the other pair has about your case. Your presentation should last three to four minutes. Your pair will present **first**.
- When you are finished presenting, you will then listen to the other pair's summary of their case, taking notes on their case. You should ask questions of the other pair about the case as well.

Case Summary

In 1878, Tabitha Holton became the first woman to earn her law license in North Carolina, but she did not do so easily. At the time, North Carolina refused to grant women admission to the bar based on their gender.

Tabitha, who grew up in a family in which education was very important, developed a strong interest in the law and held ambitions of being admitted to the North Carolina bar. In 1878, after years of hard work and study, 25-year-old Tabitha accompanied her 22-year-old younger brother, Samuel, to Raleigh, where both planned to take the bar exam. However, since no woman had ever taken the exam nor been admitted to the bar in North Carolina, the State refused to give Tabitha the exam arguing that women were not eligible.

Tabitha enlisted the help of one of North Carolina's prime civil rights advocates, Albion Tourgee, in order to challenge the State. A special hearing of the North Carolina Supreme Court was called to decide Tabitha's future and Tourgee soundly argued her case. At the time, the North Carolina law regarding attorney practice used the language: "all persons who may apply for admission to practice..." The State argued that women were not included in the term "persons" when the governing statute was originally framed and thus they should not be admitted to the bar.

Tourgee on the other hand argued that the term 'persons' could be construed to include women. While the legislature had not considered women practicing law when they drafted it, they also had not specifically excluded women, he maintained. He referenced a recent case in the North Carolina Supreme Court where 'persons' was found to include black males, which the legislature had also not considered at the time of enacting that law. Tourgee contested that the same citizenship rights extended to former slaves ought to extend to women as well.

Tourgee further made Tabitha's case by pointing out that five other states had statutes allowing women to become attorneys. He also highlighted an 1868 law that allowed anyone admitted to practice in any state to practice anywhere in the Union. This would mean that a woman admitted to practice in another state would thus be allowed to practice in North Carolina should they move here. Thus, he argued that a woman born and raised in North Carolina should not be excluded from the North Carolina bar.

He also addressed a law in the North Carolina Constitution which said that women could not be elected to office. He pointed out that lawyers were officers of the court, not the state, so this law was inapplicable to female attorneys and could not be used as a reason to not admit Tabitha. In addition, Tourgee pointed out that while it had taken a revolution (the Civil War) to change the role of black men in the South, the Court should be enlightened enough in mind to change the role of women. Young, single woman should be allowed to enter into an honest profession and support themselves, he argued. He concluded his case with the statement, "She asks no favors, but a fair chance if the court can grant it to her."

he Court deliberated briefly and decided to allow her to take the bTar examination. After answering the questions posed accurately and with knowledge of the law, she was granted admittance to the bar and Tabitha's law license was issued on January 9, 1878. With this, North Carolina became the first Southern state, and only the sixth state in the Union, to admit women to the bar.

Discussion Questions

1. What is the major issue in the case?
2. What was the final opinion of the Court?
3. Why was the outcome important to women in North Carolina?
4. How does the North Carolina Constitution relate to this case?
5. Why would the case be controversial at the time it was heard?



CASE SUMMARY: *Kirkpatrick v. Crutchfield* (1919)

Directions:

- Read the case summary by yourself for two to three minutes.
- With a partner, discuss the case and answer the discussion questions provided. You should discuss for approximately five minutes.
- With your partner, develop an explanation of the case to share with other classmates who read a different case. You will be required to share your case with the other pair, providing your answers to the discussion questions and answering any questions that the other pair has about your case. Your presentation should last three to four minutes. Your pair will present **second**.
- You will listen to the other pair's summary of their case first, taking notes on their case. You should ask questions of the other pair about the case as well. You will then present your case and take any questions they have.

Case Summary

Mr. Crutchfield and another man, William Boswell, were renting land in Alamance County, North Carolina. Boswell gave permission to Mrs. Eulalia Kirkpatrick to tie her cows on a spot on the land that Crutchfield and Boswell were renting. Mrs. Kirkpatrick proceeded to tie her cows there.

Mr. Crutchfield saw Mrs. Kirkpatrick with the cows and became angry. He stated Boswell had no authority to give permission to Mrs. Kirkpatrick to tie her cows there. Mr. Crutchfield, enraged, untied the cows. While Mrs. Kirkpatrick clung to one end of the cow chain, Mr. Crutchfield dragged the chain through barbed-wire fence, through a public roadway, for over 75 feet. Mrs. Kirkpatrick was bloodied and wounded to the point that she had a miscarriage. She was permanently injured and was a nervous wreck for life.

Mrs. Kirkpatrick sued Mr. Crutchfield to recover damages for the assault. Mrs. Kirkpatrick's husband was not a party to the suit. The trial court ruled in favor of Mrs. Kirkpatrick. Mr. Crutchfield appealed to the North Carolina Supreme Court.

Appellee's Argument (Mrs. Kirkpatrick):

Mrs. Kirkpatrick argued that Mr. Crutchfield used excessive force against her, which caused her injuries. Therefore, she should be compensated by Mr. Crutchfield for her severe injuries.

Appellant's Argument (Mr. Crutchfield):

Mr. Crutchfield relied most strongly upon the argument that Mrs. Kirkpatrick should not have been allowed to sue him. If anyone were to bring suit against Mr. Crutchfield, it should have been Mrs. Kirkpatrick's husband.

This argument is based on law that carried over into the United States from nineteenth century England. Under nineteenth century English principals, a married man had the right to control his wife, a married woman only had limited property rights, and a married woman did not have the ability to sue. (These principals also meant that a husband was responsible for all injuries committed by his wife. If a wife hit someone, it would be the husband who would be held responsible.) The fact that women owned no personal property when they entered marriage contributed to the development of these principals. In order to provide a source for the injured party's compensation, the law had to make the husband responsible for injuries committed by the wife.

At the turn of the twentieth century, states began to enact Married Women's Property Acts which gave married women the right to own property. Often, these acts also abolished a husband's responsibility for his

wife's conduct and gave the wife the right to sue and be sued in her own name.

In North Carolina, the Constitution of 1868 and the Revised Code of 1854 secured the right of the married woman to her own property. The Martin Act in 1913 gave married women the right to sue for tort damages.

Court's Decision

The North Carolina Supreme Court ruled for Mrs. Kirkpatrick. In doing so, the court followed the legislative intent behind the Martin Act of 1913.

Discussion Questions

1. What is the major issue in the case?
2. What was the final opinion of the Court?
3. Why was the outcome important to women in North Carolina?
4. How does the North Carolina Constitution relate to this case?
5. Why would the case be controversial at the time it was heard?

Ten Reasons Women Should:

Be allowed to sue other individuals

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to own property

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to file for divorce

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to speak freely

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to hold political office

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to work in a job of their choosing

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to serve on juries

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to obtain an education

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

First brainstorm on your assigned topic; then create your poster.

Ten Reasons Women Should:

Be allowed to serve in the military

Take a trip back in time and think of ten reasons you would argue that women should have the above right. Remember, many people are going to be against this idea, so make a convincing list! You should create a poster/paper to be displayed in the classroom expressing why women should have the right or privilege listed. Once again, think of yourself as arguing this at a time when women do NOT have this right.

Name:
Period:
Date:

1. The fourteenth amendment to the United States Constitution contains which of these clauses?

- A. Commerce Clause
- B. Freedom of Speech Clause
- C. Women's Suffrage Clause
- D. Equal Protection Clause

2. The nineteenth amendment provided which of these groups with the right to vote in all American elections?

- A. African-Americans
- B. Women
- C. Individuals over 18 years old
- D. Foreign-born, naturalized citizens

3. Which of the following is guaranteed under the North Carolina Constitution?

- A. The right to an education
- B. Equal protection rights
- C. The right to serve on a jury
- D. All of the above

4. A majority opinion is

- A. An opinion held by the majority of the populace in the state.
- B. A written court opinion held by the majority of judges (justices) that is the binding legal ruling in a case.
- C. A written court opinion held by a majority of judges (justices) that expresses the court's feelings, but has no effect.
- D. A policy document issued by a court to enact law that reflects the will of a majority of the state's population

5. A justice writes a concurrent opinion when:

- A. He/she disagrees with the majority
- B. He/she agrees with the majority entirely and so he/she concurs with the opinion written by another justice
- C. He/she agrees with the majority, but arrived at the decision in a different way than the majority
- D. He/she disagrees with the court and concurs with the majority of the population

Answer Key

1. D
2. B
3. D
4. B
5. C