

**Law Enforcer or Law Breaker?
Governor Holden & the Kirk-Holden War**

Overview

North Carolina Governor William Holden: was he a leader or a tyrant? In this lesson, students will learn about William Holden, the first US governor to be impeached and removed from office. Reviewing primary source documents regarding Holden's actions throughout the 1860s & 70s, students will work with partners in an inquiry activity to learn about the events that led to Holden's impeachment. As a culminating activity, students will participate in a mock impeachment trial to determine Holden's fate.

Grade

10 - 12

Essential Standards for American History I

- **AH1.H1.4:** Use Historical Research to: formulate historical questions; obtain historical data from a variety of sources; support interpretations with historical evidence.
- **AH1.H.2.1:** Analyze key political, economic, and social turning points from colonization through Reconstruction in terms of causes and effects
- **AH1.H.4.1:** Analyze the political issues and conflicts that impacted the United States through Reconstruction and the compromises that resulted
- **AH1.H.4.3:** Analyze the social and religious conflicts, movements and reforms that affected the United States from colonization through Reconstruction in terms of participants, strategies, opposition, and results
- **AH1.H.7.1:** Explain the impact of wars on American politics through Reconstruction
- **AH1.H.7.3:** Explain the impact of wars on American society and culture through Reconstruction
- **AH1.H.8.2:** Explain how opportunity and mobility impacted various groups within American society through Reconstruction
- **AH1.H.8.3:** Evaluate the extent to which a variety of groups and individuals have had opportunity to attain their perception of the "American Dream" through Reconstruction

Essential Questions

- What were some problems Governor Holden faced during his governorship?
- What were the aims of the KKK and how did they seek to achieve those aims?
- Can the Kirk-Holden War be considered a war?
- Did Governor William Holden violate the law when he organized a militia to combat Klan violence in Caswell & Alamance Counties?
- Was Governor Holden's impeachment and removal from office justified?

Materials

- “Law Enforcer or Law Breaker? Governor Holden & the Kirk-Holden War” PPT, available in the Database of K-12 Resources (in PDF format):
 - http://civics.sites.unc.edu/files/2014/06/KirkHoldenW-ar_PPT.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 cnorris@unc.edu
- “Law Enforcer or Law Breaker? Who was Governor Holden?” notes handout, attached (p. 9-10)
- The following pieces of “evidence” will be provided to students for examination throughout the lesson (some pieces of “evidence” are attached and will be provided in worksheet form; others are available in the PPT and will only need to be projected):
 - Worth’s Letter to Holden, attached (p. 11)
 - “The Union as it Was” political cartoon, PPT Slide 8 & attached (p. 12)
 - “NOTICE! A Meeting of the citizens of..” handbill, PPT Slide 9
 - “Holden’s Letter to the General Assembly of North Carolina”, PPT Slide 11
- Trial of William Holden Role Playing handouts, attached
 - Chief Justice Richmond M. Pearson, attached (p. 13-14)
 - Defense Attorneys – William N.H. Smith & Nathaniel Boyden (p. 15)
 - Prosecuting Attorneys – Thomas Bragg & William A. Graham (p. 16)
 - Witnesses for the Prosecution – Josiah Turner (p. 17)
 - Witnesses for the Prosecution – John Kerr (p. 18)
 - Witnesses for the Defense – Albion Tourgée (p. 19)
 - Witnesses for the Defense – Governor William Holden (p. 20)
 - Defense Team (p. 21)
 - Prosecution Team (p. 22)
- Pardon of Governor Holden Senate Bill, attached (p. 23)
- Computers, laptops, tablets, or smartphones with internet access
- Books about Reconstruction in North Carolina (optional)

Duration

- 1 ½ block periods
- The length of the lesson will vary depending on the amount of discussion time provided to students during each step and the amount of time devoted to the impeachment trial.

Teacher Preparation

This lesson involves guiding students (in partners) to examine various pieces of “evidence” regarding Governor William Holden and his actions before and during the Kirk-Holden War. Teachers should use their discretion regarding how much time to provide partners to examine each piece of evidence; anywhere from 4-10 minutes may be appropriate depending on how detailed the source is and how many questions are provided for students to answer. The time required for this lesson will thus vary based on the amount of time teachers deem appropriate for each step.

Procedure

Day 1

Reconstruction Review

1. Begin by providing students with an overview of Reconstruction by reviewing slides 2-5. Use the following questions to help foster a class discussion:
 - Slide 2: Presidential Reconstruction
 - Do you think Johnson was interested in reconciliation or punishment for the former Confederate states and why?
 - How do you think freedmen reacted to Johnson's plan?
 - How do you think Radical Republicans reacted to Johnson's plan?
 - Slide 3: Radical Reconstruction
 - Do you agree with the Radical Republicans that Johnson's plan was too soft? Explain.
 - Why do you think Radical Republicans wanted to disenfranchise former Confederates? How would this help Republicans gain political power throughout the South?
 - How do you think many Southerners reacted to military reconstruction?
 - Slides 4 - 5: Reconstruction in North Carolina
 - What changes do you think helped Republicans gain control of the NC General Assembly?
 - *Suffrage for freedmen, disenfranchisement of many Confederate supporters*
 - What rights does the 14th Amendment address?
 - *Provides citizenship rights for anyone born in the US and provides equal protection under the law*
 - Why do you think Worth refused to run for reelection?
2. Before moving to slide 6, explain to students that they will be examining various pieces of evidence relating to a controversial historical figure, North Carolina Governor William Holden. The evidence they examine and independent research they conduct will be used for a trial at the end of class.
3. They should begin by examining their first clue - a primary source document. Project slide 6 of the PPT, a picture of a letter from Governor Worth to Governor Holden. Partner students up, provide them with a copy of the attached "Law Enforcer or Law Breaker? Who was Governor Holden?" notes handout.
4. Tell students to work with their partner to examine and discuss the document and questions provided. After 5 minutes of working in pairs, ask students to report back regarding their thoughts and further discuss the document as a whole class. Review some of the questions from the "Law Enforcer or Law Breaker? Who was Governor Holden?" handout. Focus students on discussing what they can learn about North Carolina in the 1860s & 70s from this document and their inferences.

Holden's Challenges as Governor

5. Move to slide 7 - "Holden as Governor" - review the information and discuss the following questions:
 - How might Worth's refusal to step down make it more difficult for Holden to govern?
 - Why do you think Holden faced so many challenges in office?

- What issue do you think was the most difficult or serious challenge facing Holden? Why?
 - *Obtaining equal justice for all persons. Many North Carolinians did not view African Americans as equal and they opposed any attempts to grant them equal rights.*
 - What groups or people supported Holden? What groups or people opposed him?
6. Move to slide 8 – “The Union as It Was,” a political cartoon drawn by the famous cartoonist, Thomas Nast. Teachers can instruct students to view the projected image or they can provide pairs with a copy of the attached cartoon for closer examination. Provide students with 5 – 10 minutes to examine the projected cartoon. After the allotted time, ask students to report back regarding the cartoon and review some of the questions from the “Law Enforcer or Law Breaker? Who was Governor Holden?” handout.

7. Share the following information about the cartoon with the class:

- “After the Civil War, Reconstruction aimed to reunite the nation. However, organizations like the Ku Klux Klan and the White League resisted Reconstruction and terrorized African Americans in the South. In this editorial cartoon by Thomas Nast, a man labeled “White League” is shaking hands with Ku Klux Klan member over a shield illustrated with an African American couple with a (possibly dead) baby. In background, a man is hanging from a tree, suggesting he has been lynched. A sign labeled “School House” is surrounded by fire, and a child’s book is laying open on the ground. The Eagle above the scene reads: “The Union as It Was. This is a White Man’s Government.” The text over the handshake reads “The Lost Cause.” The skull-and-crossbones on the shield says “Worse than Slavery.”

Though institutional slavery had been dismantled, the struggles of African Americans were far from over. Discrimination, intimidation, and violence against African Americans was common in many parts of the country, especially in the South, where groups like those depicted here not only used political influence to curtail the rights of African Americans but also intimidation, arson, and lynching. Meanwhile, state and local governments made laws designed to circumvent the Thirteenth, Fourteenth, and Fifteenth Amendments to the Constitution, setting up poll taxes, literacy tests, and segregation laws. Here, Nast is making an emotionally-charged statement about the state of the nation – that the environment created by racist groups has made the African American experience during Reconstruction worse than slavery.”

Source: <http://www.history.org/history/teaching/enewsletter/volume10/feb12/primsources.cfm>

Teacher Option: Every detective works better with a magnifying glass! Teachers may want to have a piece of large, white cardstock paper that students can take and use as a “magnifying glass” to call attention to a particular part of the painting they want to point out. By simply walking up to the projected image and holding the paper in front of the part of the projection they want to focus on, that part of the image will be magnified on the white paper being held out in front – thus calling attention to that specific part of the image for the seated students.)

7. Move to slide 9 – “NOTICE!” handbill, and instruct students to view the projected image. Provide students with 5 minutes to examine the projected image. After the allotted time, ask students to report back regarding the cartoon and review some of the questions from the “Law Enforcer or Law Breaker? Who was Governor Holden?” handout.
8. Review slide 10 – Violence in Caswell & Alamance Counties – and discuss the following questions as a class:
 - Why do you think the Klan targeted and murdered Wyatt Outlaw?
 - What does the murder of a constable and a state senator tell you about the power of the Klan at this time? What would happen if a government official was killed today?
 - If you were Governor Holden, how would you respond to Klan violence?
9. Move to slide 11 – a letter from Holden to the General Assembly. Instruct pairs to read the letter from the slide and discuss the questions. After 5 – 10 minutes, ask students to report back regarding their thoughts and further discuss the letter and review some of the questions from the “Law Enforcer or Law Breaker? Who was Governor Holden?” handout.

Kirk-Holden War

10. Review slides 12 – 17, which provide the details of the Holden’s response to KKK violence in Alamance & Caswell Counties, subsequently called the “Kirk-Holden War”. As you progress, stop to review some of the questions from the “Law Enforcer or Law Breaker? Who was Governor Holden?” handout.

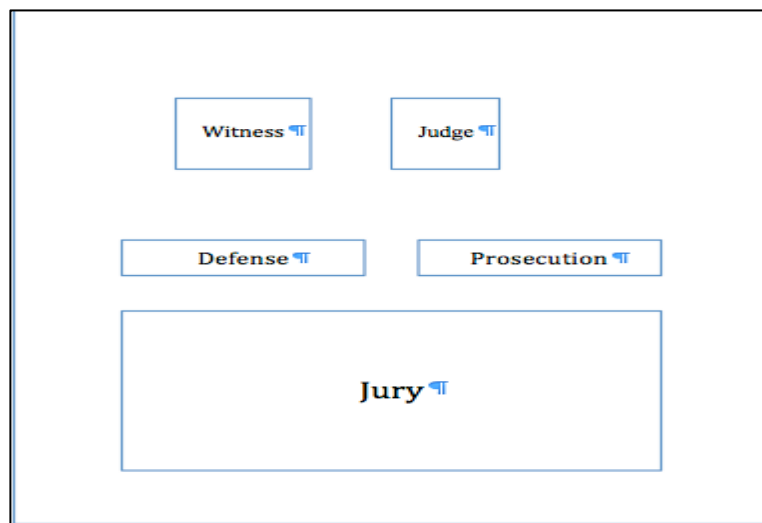
Trial of William Holden

11. Inform students that they will now assume the role of the North Carolina Senate in 1871 and conduct a mock trial to determine the fate of Governor William Holden. Share the following information as a review of the impeachment process:
 - “Impeachment is a process whereby accusations are brought against a civil official by a legislative body. Legally, the term applies only to an indictment, but in practice it often refers to the actual trial of the accused. Article IV, section 4, of the North Carolina Constitution specifies that the State House of Representatives has the power to impeach and the State Senate serves as the court for impeachment. When the governor or lieutenant governor is impeached, the chief justice of the state supreme court will preside. A two-thirds majority is required to convict.”
12. Move to slide 18 - the questions facing the court/charges against Holden. Review all three questions/charges before moving on to slide 19 and assigning the following simulation roles. Once the roles are assigned, provide students with the appropriate attached handout:
 - 1 student for Chief Justice Richmond M. Pearson
 - 2 students for Thomas Bragg & William A. Graham, the prosecuting attorneys
 - 2 students for William Smith & Nathaniel Boyden, the defense attorneys
 - Witnesses:
 - 1 student for Josiah Turner, publisher of the Raleigh Sentinel and one of those arrested (for the prosecution)
 - 1 student for Governor William Holden (for the defense)

- 1 student for Albion Tourgée (for the defense)
- 1 student for John Kerr, ex-Congressman and one of those arrested (for the prosecution)
- Defense Team/Prosecution Team/Jury:
 - Divide the rest of the class into two research groups: one for the prosecution and one for the defense. These students will also serve as the jury at the trial.
- **Teacher Note:** For larger classes, two trials can be run simultaneously.

13. After assigning roles, provide students with a few minutes to quietly read the instructions for their assigned role. Answer any student questions before allowing students to work on their assigned role for the remainder of class.

- **Teacher Note:** If possible, the room should be setup like a courtroom before the students enter. Use the diagram below as a guide:



14. The day of the trial, provide students with a few minutes to meet to finish any last minute trial prep. After the allotted time, project the trial schedule on [slide 20](#). Review the schedule and expected behavior for the simulation, noting expectations such as:
- Remain respectful at all times and encourage one another.
 - Try your best and take the simulation seriously.
 - Listen when others are speaking. Do not discuss your presentation while other groups are presenting.
 - Maintain order and professionalism throughout the hearing, whether you agree with what is being said or not.
 - No name-calling, eye rolling, smacking teeth, disruptive comments, etc.
 - Have fun!
15. Once the expectations are clearly defined, ask the Chief Justice to call the trial to order and conduct the simulation. This simulation is designed to be entirely student lead, with the student playing the Chief Justice leading the simulation. During the simulation, assist this student in

moving things along when needed, but try to allow the students to have control of the simulation as much as possible.

16. At the conclusion of the trial and vote, select a few students who voted in favor of Holden's removal and a few students who voted against Holden's removal and ask them to explain their reasoning. Debrief by discussing the following questions with the class:
 - What were the arguments in favor of Holden's removal?
 - What were the arguments against Holden's removal?
 - Which side presented the more compelling argument?
 - Could Governor Holden have dealt with KKK violence without suspending habeas corpus?
 - Did the Shoffner Act provide Holden with the authority to declare counties in a state of rebellion? How did it conflict the NC State Constitution?
 - Do you think we still face these same dilemmas: protecting individual rights vs. public safety? protecting the rights of an individual over the rights of a group?
 - What do you think actually happened to Governor Holden?

17. Inform students that some historical liberties were taken with the simulation: Albion Tourgée was not a witness for either side; and a total of 8 charges were leveled against the governor. Share the following information with students about the fate of Governor Holden:
 - Governor William Holden's impeachment marked the second time that an impeachment of a governor occurred in United States history. His conviction and removal from office marked the first time in the nation's history.

Holden's political enemies brought forth eight charges. Two charges were that Holden acted illegally by sending troops into Alamance and Caldwell counties when each county's government remained in control. Accusers also charged Holden with two counts of illegally arresting two men (Josiah Turner and John Kerr). According to the prosecution, Holden also twice suspended the writ of habeas corpus when arresting the men. Two other charges were that Holden refused to follow state laws when raising troops and acted illegally when paying troops. In essence, according to historian William S. Powell, Conservatives, under the leadership of Frederick N. Strudwick, charged Holden with "declaring martial law; unlawfully raising troops; illegally declaring counties to be in a state of insurrection; illegally arresting . . . citizens; . . . seizing, detaining, imprisoning, and depriving those citizens of their liberty and privileges as freemen; and . . . refusing to obey a writ of habeas corpus."

The impeachment trial lasted for seven weeks and the prosecution and defense put forth arguments and together cross-examined 170 witnesses. Holden was convicted of the last six offenses. (Each charge received a separate vote.) Shortly afterward, by a 36 to 13 vote, the Senate removed Holden as governor and barred him from holding future public offices at the state level. Lieutenant Governor Tod R. Caldwell succeeded Holden.

- Source: <http://www.northcarolinahistory.org/encyclopedia/260/entry/>

Optional: Holden's Pardon

18. In recent years, many North Carolinians have softened their views on Holden and his actions as governor. In 2011, the NC Senate proposed and passed a bill to issue a pardon for Holden. As of 2014, the Senate's pardon bill is sitting in the NC House waiting for a vote. If the House votes in favor of the bill, the pardon will be official.

19. Provide students with a copy of the attached Senate bill and ask students to review the bill. After reviewing the bill, have students write a letter to their state representative asking them to support or oppose the bill.

Name: _____

Law Enforcer or Law Breaker: Who Was Governor Holden?

What clues can you uncover regarding the mystery of Governor William Holden? Carefully review the evidence as it is presented to you then discuss the questions provided with your partner. Summarize your answers on notebook paper.

I: Letter from Jonathan Worth to William Holden

1. How does Worth feel about surrendering the office of governor to Holden?
2. According to Worth, how did Holden become governor? Why does the way Holden became governor bother Worth?
3. Do you agree with Worth's argument? Why or why not? How is this an example of Worth's opposition to Radical Reconstruction?
4. How do you think North Carolinians viewed Governor Holden? Did they view him as a legitimate political leader? Why or why not?
5. What kind of issues do you think Governor Holden faced as governor?

II. "The Union as it Was" Thomas Nast Political Cartoon

6. What words, images, symbols, etc. jump out at you when you first look at this cartoon?
7. What message is this cartoon trying to convey? What is the cartoon's purpose? Is it pro or anti-KKK?
8. What do you know about the KKK?
9. What does this cartoon tell you about the KKK's views regarding Reconstruction?
10. Do you think the KKK supported the Governor Holden? Do you think Governor Holden supported or opposed the KKK?

III: Primary Source Document: Anti-KKK Handbill

11. What do you first notice about the document? What clues do you think are most important to further explore?
12. What is the date and location of the meeting? Can you identify any significance regarding this date or location?
13. What is the purpose of this document? What evidence makes you think this?
14. Who do you imagine would show up for this meeting and why? What danger might some people face by attending this meeting? What does this tell you about some North Carolinians?
15. What do you think "Ku-Klux Democracy" refers to?
16. Should Governor Holden respond to KKK violence? How would you respond if you were Holden?

IV. Holden's Letter to the General Assembly

17. What is the purpose of this letter? What is Holden asking the General Assembly to do?
18. What do you think are the "outrages" Holden is referring to?
19. Why is Holden asking the General Assembly for help now?

20. If you were a member of the North Carolina General Assembly, what would you do and why?

21. How do you think the General Assembly will respond to Holden’s request?

V. Kirk-Holden War

22. What power did the Shoffner Act give Governor Holden? Do you think the events in Alamance & Caswell could be called an “insurrection”? Why or why not?

23. Why do you think Governor Holden chose Kirk to lead the militia? Why didn’t he choose someone from North Carolina?

24. Do you agree with Kirk’s actions? Why or why not?

25. What is the danger of arresting people without charges? What normally prevents this from happening?

26. Do you agree with the Conservative paper’s characterization of Governor Holden? Why or why not?

27. What does Josiah Turner’s arrest tell you about the pitfalls of Holden’s plan to deal with the KKK?

28. After the results of the two court hearings, do you agree or disagree with Holden’s actions?

29. If you were Governor Holden, how would you deal with the KKK?

30. Would you keep the name “Kirk-Holden War” or would you call this series of events by a different name? What name would you use?

VI. Impeachment Trial Notes

If you’re assigned the role of a NC Senator for the impeachment trial simulation, use the chart below to take notes during the testimony of each witness.

Josiah Turner	Albion Tourgée
John Kerr	Governor William Holden

Jonathan Worth's Letter to Holden

**State of North Carolina
Executive Department
Raleigh July 1st, 1868**

Gov. W. W. Holden
Raleigh, N.C.

Sir,

Yesterday morning I was verbally notified by Chief Justice Pearson that in obedience to a telegram from Genl Canby, he would today at 10 A.M. administer to you the oaths required preliminary to your entering upon the discharge of the duties of Civil Governor of the State; and that there upon you would demand possession of my Office.

I intimated to the Judge my opinion that such proceeding was premature even under the Reconstruction legislation of Congress and that I should probably decline to surrender the Office to you.

At sundown yesterday evening I received from Col. Williams, Commandant of this Military Post an extract from the General Orders No. 120. - of Genl Canby as follows

Head Quarters 2nd Military Dist.
Charleston, S. C. 30it 68
General Orders]
No. 120 (Extract)

To facilitate the organization of the new State Government, the following appointments are made. To be Governor of North Carolina, W. W. Holden, Governor elect, vice Jonathan Worth, removed To be Lieut Governor elect of North Carolina, Tod R. Caldwell, Lieut Governor elect to fill our original vacancy. To take effect July 1st 1868. on the meeting of the General Assembly of North Carolina.

I do not recognize the validity of the late election, under which you and those cooperating with you claim to be invested with the Civil Government of the State. You have no evidence of your election, save the certificate of a Major General of the United States Army. I regard all of you as, in effect, appointees of the Military power of the United States, and not as deriving your powers from the consent of those you claim to govern. Knowing, however, that you are backed by Military force here, which I could not resist if I would, I do not deem it necessary to offer a futile opposition but vacate the office without the ceremony of actual eviction, offering no further opposition than this, my protest. I would submit to actual expulsion in order to bring before the Supreme Court of the United States the question as to the Constitutionality of the legislation under which you claim to be the rightful Governor of the State, if the past action of that tribunal furnished any hope of a speedy trial. I surrender the office to you under what I deem Military duress, without stopping as the occasion would well justify. To comment upon the singular coincidence that the present State Government is surrendered, as without legality, to him whose own official sanction, but three years ago, declared it valid.

I am, very Respectfully,
Jonathan Worth,
Governor of N.C.

Source: http://www.ncrepublic.org/lib_surrenderletter.php

“The Union as It Was”



The Trial of William Holden - Chief Justice Richmond M. Pearson

Directions: As **Richmond M. Pearson**, chief justice of the North Carolina Supreme Court, you're constitutionally bound to preside over the impeachment trial of Governor Holden. You're responsible for maintaining control over the trial and to ensure that the trial proceeds in a timely fashion.

Background information

Richmond Mumford Pearson, was a lawyer, judge, and teacher. During the Civil War, his decisions in exemption and habeas corpus cases raised storms of protest in North Carolina and throughout the South. Time after time, he asserted the rights of the individual over military necessity, holding that the conscription laws (or drafting of soldiers) had exempted those working in certain occupations and had provided to all men the clear option of providing substitutes to serve their military service. Over and over again he issued the writ of habeas corpus when men seeking release from military service applied to him for exemption from conscription. In 1864, when the Confederacy suspended the writ of habeas corpus, Pearson refused to uphold the suspension and continued his practice of releasing many individuals who applied to him for relief.

When, after the war, all offices were vacated, Pearson was promptly reelected to his judicial post. Once more in 1868 he was reelected chief justice, having secured the nominations of both the Republican and Conservative parties for the post, despite having identified himself with the Republican party.

In 1870, during the Kirk-Holden war, Pearson issued writs of habeas corpus for some held by military authorities. Governor W. W. Holden wrote to the chief justice and, after explaining that Alamance County was in a state of insurrection, took the position that public interest required that no military prisoners be surrendered to civil authorities. Pearson ruled that the governor could not suspend the writ of habeas corpus but that Kirk had sufficient reason not to release those arrested. Pearson took the position that Kirk was acting under authority and orders of Holden, his commander in chief. He refused to take steps to assure enforcement habeas corpus, only referring the writ of habeas corpus to the marshal of the superior court for enforcement, but with instructions to exhibit it to the governor; if the governor thereafter ordered the petitioner to be delivered to the marshal, well and good; if not, Pearson explained, the power of the judiciary was "exhausted." In many quarters Pearson was now denounced for abandoning the principle that he had often propounded during the Civil War.

Edited by the NC Civic Education Consortium from the following source: <http://ncpedia.org/biography/pearson-richmond-mumford>

To prepare for the trial, you must do the following:

1. Research the three questions before the court/charges against Governor Holden:
 - a. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - b. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr and over 100 other people and denied them a writ of habeas corpus?
 - c. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?
2. Write one or two questions for each witness: Josiah Turner, John Kerr, Albion Tourgée, and Governor William Holden.

At the trial, you must do the following:

1. To ensure that the trial stays on schedule, you must keep time for each step of the trial. Use a watch or other approved timer.
2. Open the trial by explaining why court is in session and announcing the questions before the court/charges against Holden.
3. Announce the jury instructions:

- The NC Senate will vote on all three questions facing the court/charges against Governor William Holden. Senators should decide their vote for guilt or innocence for all three questions/charges only after hearing all of the evidence.
- To assist with your decision, senators should complete their notes handout by writing down any information or evidence presented by each witness.
- After all the witnesses have been questioned and closing statements have been issued, the senate will vote on each question before the court. A two-thirds majority is required to convict on each charge and to remove Governor Holden from office.

4. Inform the class on how the trial will proceed:

At the conclusion of the trial, you must do the following:

1. At the conclusion of the trial, you will ask the Senate to vote on each question facing the court/charge against Holden. Witnesses and lawyers are not allowed to vote.
2. Announce the first question, ask those who vote “yea” to raise their hands, and then ask those who vote “nay” to raise their hands. Tally the votes. Repeat the procedure for the remaining questions.
3. Once all of the votes have taken place, summarize the verdicts and thank the senators for their service.

The Trial of William Holden – Defense Attorneys

Directions: You're **William N.H. Smith & Nathaniel Boyden**, the attorney's selected to defend Governor William Holden at his impeachment trial. You're responsible for working with your defense team to build a case for the governor's innocence.

To prepare for the trial, you must do the following:

1. Using the sources provided to your defense team and any other available resources, research the questions before the court/charges against Governor Holden:
 - a. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - b. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr, and over 100 other people and denied them a writ of habeas corpus?
 - c. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *NO* for all three questions.

2. After completing your initial research, you should work on the following:
 - **William N.H. Smith:** Work with your witnesses (Albion Tourgée & Governor William Holden) to write your opening and closing statements. These statements should summarize your case and briefly explain why the governor should not be convicted. Both statements should be no longer than three minutes. You will deliver these at the start and end of the trials. Remember that you want to convince the senate to acquit Governor Holden, so try to be as dramatic as possible when delivering your statements.
 - **Nathaniel Boyden:** Work with your defense team to create a list of questions that you will ask the witnesses for the defense (Albion Tourgée & Governor William Holden) and the witnesses for the prosecution (Josiah Turner & John Kerr). During the trial, you will have five minutes to question each witness, so make sure you have enough questions.

During the trial, you are responsible for:

- **William Smith:** Delivering your opening and closing statements. The judge will inform you when your time is up. You may also assist your co-council by creating new questions to ask witnesses as the trial progresses
- **Nathaniel Boyd:** Questioning the witnesses for the defense and the prosecution. You have five minutes to question each witness. The judge will inform you when your time is up.

At the conclusion of the trial: *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden – Prosecuting Attorneys

Directions: You're **Thomas Bragg & William A. Graham**, the attorney's selected to prosecute Governor William Holden at his impeachment trial. You're responsible for working with your prosecution team to build a case to convict the governor.

To prepare for the trial, you must do the following:

3. Using the sources provided to your prosecution team and any other available resources, research the questions before the court/charges against Governor Holden:
 - d. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - e. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr, and over 100 other people and denied them a writ of habeas corpus?
 - f. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *YES* for all three questions.

4. After completing your initial research, you should work on the following:
 - **Thomas Bragg:** Work with your witnesses (Josiah Turner & John Kerr) to write your opening and closing statements. These statements should summarize your case and briefly explain why the governor should not be convicted. Both statements should be no longer than three minutes. You will deliver these at the start and end of the trials. Remember that you want to convince the senate to convict Governor Holden, so try to be as dramatic as possible when delivering your statements.
 - **William A. Graham:** Work with your defense team to create a list of questions that you will ask the witnesses for the defense (Albion Tourgée & Governor William Holden) and the witnesses for the prosecution (Josiah Turner & John Kerr). During the trial, you will have five minutes to question each witness, so make sure you have enough questions.

During the trial, you are responsible for:

- **Thomas Bragg:** Delivering your opening and closing statements. The judge will inform you when your time is up. You may also assist your co-council by creating new questions to ask witnesses as the trial progresses
- **William A. Graham:** Questioning the witnesses for the defense and the prosecution. You have five minutes to question each witness. The judge will inform you when your time is up.

At the conclusion of the trial: *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden – Witnesses for the Prosecution

Directions: You're **Josiah Turner**, editor of the Raleigh *Sentinel*, outspoken critic of Governor William Holden, and one of the people arrested by Col. Kirk, jailed, and denied habeas corpus. The prosecution has called you as a witness to testify against Governor Holden. **You want to see Governor Holden convicted and removed from office.**

Background information

Josiah Turner, Jr., Confederate congressman, editor, and militant foe of Reconstruction, from Hillsborough, NC. Turner was famous for being ardent to the point of excess in every cause he took up. This included his opposition to secession; but once the decision was made, he raised a company of cavalry for the Confederate service and became its captain. In 1863 he was elected to the Confederate Congress as a peace candidate and opponent of the Jefferson Davis administration. He delivered as promised, opposing conscription, impressment, taxation, and the suspension of habeas corpus so outspokenly as to be assigned to the "lunatic fringe" of that congress. In November 1865, as an old opponent of secession, he was elected to the Federal Congress but, due to restrictions imposed under Radical Reconstruction, was denied his seat.

At the end of the war, Turner set himself against any changes from the old, Pre-Civil War order. He became the most outspoken and uncompromising enemy of congressional (Radical) Reconstruction. In 1867, Turner bought the Raleigh *Sentinel* and made it the leading Conservative newspaper in the state. He used this platform to attack the Republican administration of Governor William W. Holden with loosely substantiated charges of fraud and dictatorship, ridiculing its supporters for their real or imaginary foibles, often with outrageously clever nicknames, and lending encouragement to every Conservative opposition device including the Ku Klux Klan. (A rival paper, the *Standard*, referred to Turner as King of the Ku Klux, but there is no evidence that he was ever more than an apologist for the order.) Turner was a master of partisan journalism at a time when that style was in high fashion. This was all the more pleasant for Turner, as he had been briefly imprisoned by the governor's militia earlier that year owing to the blunder of one of its commanding officers.

Edited by the NC Civic Education Consortium from the following source: <http://ncpedia.org/biography/turner-josiah-jr>

To prepare for the trial, you must do the following:

1. Write a short biography that you will use to introduce yourself to the court when asked by the Chief Justice.
2. Work with the **prosecution** to research the questions before the court/charges against Governor Holden:
 - a. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - b. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr, and over 100 other people and denied them a writ of habeas corpus?
 - c. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer YES for all three questions.

3. Help prosecutor, **Thomas Bragg**, write his opening and closing statements. Opening and closing statements should summarize the case against Governor William Holden and should be no longer than three minutes.

At the trial, you are responsible for:

- Presenting your biography when asked by the Chief Justice.
- Answering any questions asked by the prosecutors and the defense team.
- Assisting the prosecutors with their case when you're not testifying.
- *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden – Witnesses for the Prosecution

Directions: You're **John Kerr**, former congressman, and one of the people arrested by Col. Kirk, jailed, and denied habeas corpus by Governor William Holden. The prosecution has called you as a witness to testify against Governor Holden. **You want to see Governor Holden convicted and removed from office.**

Background Information

John Kerr, Jr., congressman, judge, and legislator, was born in Halifax County, Va. He attended school and studied law in Richmond, where his father was pastor of the First Baptist Church. In 1832 he settled in Yanceyville, Caswell County, N.C., the home county of his father and grandparents, and in April took an oath to practice as an attorney before the county court. The frequency of his name on deeds, wills, and court cases in Caswell records indicates that his legal practice was large.

Active in politics and a forceful orator in judicial circles, Kerr was an unsuccessful candidate for governor in 1852 on the Whig ticket. He may have lost the election because of his campaign to allow the people to vote on a state constitutional amendment rather than to have the legislature adopt it. Soon afterwards, however, he was elected as a Whig to the Congress of 1853–55. Kerr was a staunch believer in slavery, and in October 1854 the citizens of Yanceyville honored him with a public dinner for his efforts to promote passage of the Kansas-Nebraska Act. In the same year he was speaker for the first Agricultural Fair in Yanceyville. In 1858–60 he served in the General Assembly, and in 1862–63 he was a judge of the Superior Court. With the fall of the Whig party, he became a Democrat.

After the Civil War, Kerr suffered much humiliation from Reconstruction forces and during the Kirk-Holden war was arrested by George Kirk—along with other residents of Caswell County—and imprisoned in Raleigh. His denial of a writ of habeas corpus before the North Carolina Supreme Court shocked the country and aroused sympathy from his state.

Edited by the NC Civic Education Consortium from the following source: <http://ncpedia.org/biography/kerr-john-jr>

To prepare for the trial, you must do the following:

1. Write a short biography that you will use to introduce yourself to the court when asked by the Chief Justice.
2. Work with the **prosecution** to research the questions before the court/charges against Governor Holden:
 - a. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - b. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr and over 100 other people and denied them a writ of habeas corpus?
 - c. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *YES* for all three questions.

3. Help prosecutor, **Thomas Bragg**, write his opening and closing statements. Opening and closing statements should summarize the case against Governor William Holden and should be no longer than three minutes.

At the trial, you are responsible for:

- Presenting your biography when asked by the Chief Justice.
- Answering any questions asked by the prosecutors and the defense team.
- Assisting the prosecutors with their case when you're not testifying.
- *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden - Witness for the Defense

Directions: You're **Albion Tourgée**, judge, civil rights activist, and supporter of Governor William Holden. The defense has called you as a witness to testify for Governor Holden. **You want to see Governor Holden exonerated and remain in office.**

Background Information

Albion Tourgée was a North Carolina judge, civil rights activist, and friend of Senator John Stephens. After moving to North Carolina after the Civil War, he represented Guilford County at the state constitutional convention in 1868. He publicly campaigned against the KKK and was an early opponent of segregation.

During his six years as a judge, Tourgée provoked intense opposition with his outspoken, effective, and equalitarian Republicanism. He was stigmatized as a carpetbagger and was considered "for many years the most thoroughly hated man in North Carolina." His courtroom was a center of racial conflict and Ku Klux Klan atrocities, including the brutal assassinations of Wyatt Outlaw and John Walter Stephens in Alamance and Caswell counties respectively. Nonetheless, Tourgée also won recognition for his ability, candor, and courage. He was an excellent judge, and his role in reforming the law brought praise. Becoming one of Greensboro's leading citizens, he was active in a variety of community affairs and was a founder of the African American school that became Bennett College. Despite ostracism, persecution, and frequent danger, Tourgée proved himself an able and involved citizen of his adopted state, and much in his conduct and achievement demanded respect. There were some remarkable exchanges of mutual admiration between Tourgée and his Southern foes, but Reconstruction politics and the issue of race still divided them.

He later became the lead attorney for Homer Plessy in the famous *Plessy v. Ferguson* Supreme Court case, where he was credited with coining the phrase, or "justice is color blind."

Edited by the NC Civic Education Consortium from the following source: <http://ncpedia.org/biography/tourg%C3%A9e-albion-winegar>

To prepare for the trial, you must do the following:

1. Write a short biography that you will use to introduce yourself to the court when asked by the Chief Justice.
2. Work with the **defense team** to research the questions before the court/charges against Governor Holden:
 - d. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - e. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr and over 100 other people and denied them a writ of habeas corpus?
 - f. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *NO* for all three questions.

3. Help defense attorney, **William Smith**, write his opening and closing statements. Opening and closing statements should summarize the case against Governor William Holden and should be no longer than three minutes

During the trial, you are responsible for:

- Presenting your biography when asked by the Chief Justice.
- Answering any questions asked by the prosecutors and the defense team.
- Assisting the defense team with their case when you're not testifying.
- *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden - Witness for the Defense

Directions: You're **Governor William Holden**, the man on trial. The defense has called you as a witness to testify on your own behalf to explain your actions during the Kirk-Holden War. **You want to be exonerated and to remain in office.**

Background Information

William Woods Holden was a printer, editor, politician, governor, and the most controversial state figure during Reconstruction.

Holden faced enormous challenges during his governorship: reorganization of local and state governments, reestablishment of public schools open to all children, penal reform and the construction of a state penitentiary, development of a deteriorating economy by encouraging northern migration of labor and capital, expansion of railroads and other internal improvements, and obtaining equal justice for all persons. The last issue caused the greatest concern, as many North Carolinians were unwilling to extend full civil rights and suffrage to the Negro. Thus, as elsewhere in the South, the Ku Klux Klan was organized to restore whites to local and state offices. Holden attempted to maintain law and order by suppressing the Klan, although the state was unable to convict known offenders; by encouraging prominent men to take active roles in preventing depredations; and by securing from President Ulysses S. Grant and federal authorities the military aid to maintain peace.

In March 1870, when civil authority weakened in Caswell and Alamance counties, Holden declared them to be in a state of insurrection as authorized by the Shoffner Militia Act. The appointed militia, led by Col. Kirk, made many arrests in the two counties, ignoring the writ of habeas corpus and causing much fear and alienation. Later, Holden troops accidentally ordered the arrest of Josiah Turner, Jr., editor of the Raleigh Sentinel and "King of the Ku Klux" for his avowed opposition to Republican rule.

Holden hoped to have the Klan prisoners tried by state military commissions. However, a U.S. district judge at Salisbury, issued a writ of habeas corpus that they should be tried in a federal court for possible violation of their constitutional rights. Thus began a series of legal maneuvers culminating in the dismissal of the state troops and any effort to control the Klan, as well as the impeachment of Governor Holden.

At trial, Holden's defense based its arguments on the fact that the violent activities of the Klan required stringent enforcement regulation, that the governor was authorized under state law to use such force, and that any maltreatment of prisoners was done contrary to orders.

Edited by the NC Civic Education Consortium from the following source: http://docsouth.unc.edu/browse/bios/pn0000761_bio.html

To prepare for the trial, you must do the following:

1. Write a short biography that you will use to introduce yourself to the court when asked by the Chief Justice.
2. Work with the **defense team** to research the questions before the court/charges against Governor Holden:
 - g. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - h. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr and over 100 other people and denied them a writ of habeas corpus?
 - i. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?
When doing your research, remember that you want the senate to answer *NO* for all three questions.
3. Help defense attorney, **William Smith**, write his opening and closing statements. Opening and closing statements should summarize the case against Governor William Holden and should be no longer than three minutes

During the trial, you are responsible for:

- Presenting your biography when asked by the Chief Justice.
- Answering any questions asked by the prosecutors and the defense team.
- Assisting the defense team with their case when you're not testifying.
- *You are not allowed to vote at the conclusion of the trial.*

The Trial of William Holden – Defense Team/Senator

Directions: You are responsible for two roles: member of Governor William Holden’s defense team and NC Senator.

To prepare for the trial, you must do the following:

5. Using the sources below and any other available resources, work with defense attorney, **Nathaniel Boyden**, to research the questions before the court/charges against Governor Holden:
 - g. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - h. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr, and over 100 other people and denied them a writ of habeas corpus?
 - i. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *NO* for all three questions.

6. Work with the defense team and provide them with information to support your position. **You want to convince the NC Senate to acquit Governor Holden.** One-way to start by listing the reasons why Governor Holden needed to act against the KKK.
7. Work with the defense attorney, Nathaniel Boyden, to create a list questions to ask each of the witnesses the witnesses.

During the trial, you are responsible for:

- Dropping your role as member of the defense team and assuming the role of NC Senator.
- Listening to the prosecution and defense team as they present their cases.
- Taking notes on your notes sheet when not presenting.

At the conclusion of the trial, you are responsible for

- Voting “yea” or “nay” for each charge read by the Chief Justice.
- You DO NOT have to vote for the position you were assigned. You can vote based upon which side presented the more convincing arguments.

Online Sources

Use the following links or a Google Search to assist your research

- “The Murder or Chicken Stevens”: <http://www.learnnc.org/lp/editions/nchist-civilwar/4815>
- “The Kirk-Holden War”: <http://www.learnnc.org/lp/editions/nchist-civilwar/4810>
- NCPedia: <http://ncpedia.org/>
- Caswell County Historical Association: <http://ncccha.blogspot.com/2011/02/kirk-holden-war-wyatt-outlaw-alamance.html#more>
- “Rise of the Ku Klux Klan”: <http://www.learnnc.org/lp/editions/nchist-civilwar/4814>
- “Encyclopedia of the Reconstruction Era”, pages 358-363: <http://books.google.com/books?id=qTdDyPyyK0C&printsec=frontcover#v=onepage&q&f=false>
- “Kirk-Holden War”: <http://www.rootsweb.ancestry.com/~ncccha/memoranda/kirkholdenwar.html>
- “Some of the Outrages – a Letter from Judge Tourgée to Senator Abbot: <http://www.newspapers.com/image/67826011/?terms=Some+of+the+outrages+-+letter+from+judge+Tourgée+to+senator+abbot>
- “The Reconstruction of White Supremacy: The Ku Klux Klan in piedmont North Carolina” <http://dc.lib.unc.edu/cdm/ref/collection/etd/id/2301>

The Trial of William Holden – Prosecution Team/Senator

Directions: You are responsible for two roles: member of Governor William Holden’s prosecution team and NC Senator.

To prepare for the trial, you must do the following:

1. Using the sources below and any other available resources, work with the prosecuting attorney, **William Graham**, to research the questions before the court/charges against Governor Holden:
 - j. Did Governor Holden violate the law when he declared Alamance and Caswell Counties in a state of insurrection?
 - k. Did Governor Holden violate the law when his appointed militia arrested Josiah Turner, John Kerr and over 100 other people and denied them a writ of habeas corpus?
 - l. If Governor Holden did violate the law, are these violations serious enough to warrant his removal from office?

When doing your research, remember that you want the senate to answer *YES* for all three questions.

2. Work with the defense team and provide them with information to support your position. **You want to convince the NC Senate to convict Governor Holden.** Begin by listing why you think Governor Holden is guilty.

During the trial, you are responsible for:

- Dropping your role as member of the prosecution and assuming the role of NC Senator.
- Listening to the prosecution and defense team as they present their cases.
- Taking notes on your notes sheet when not presenting.

At the conclusion of the trial, you are responsible for

- Voting “yea” or “nay” for each charge read by the Chief Justice.
- You DO NOT have to vote for the position you were assigned. You can vote based upon which side presented the more convincing arguments.

Online Sources

- “The Kirk-Holden War”: <http://www.learnnc.org/lp/editions/nchist-civilwar/4810>
- NCPedia: <http://ncpedia.org/>
- Caswell County Historical Association: <http://ncccha.blogspot.com/2011/02/kirk-holden-war-wyatt-outlaw-alamance.html#more>
- “Kirk-Holden War”: <http://www.rootsweb.ancestry.com/~ncccha/memoranda/kirkholdenwar.html>
- “A Pardon for Governor Holden?": <http://michaelchardy.blogspot.com/2011/03/pardon-for-governor-holden.html>
- “High School Student Halts Holden Pardon”: <http://www.wral.com/news/state/nccapitol/blogpost/9325596/>

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE JOINT RESOLUTION 256

Sponsors: Senators Hunt; D. Berger and Blue.

Referred to: Rules and Operations of the Senate.

March 9, 2011

1 A JOINT RESOLUTION TO PARDON WILLIAM W. HOLDEN FROM THE JUDGMENT
2 IMPOSED UPON HIM BY THE SENATE ON MARCH 22, 1871, ON CONVICTION OF
3 ARTICLES OF IMPEACHMENT.

4 Whereas, Governor William W. Holden was first elected following the ratification
5 of the 1868 Constitution of North Carolina; and

6 Whereas, Governor William W. Holden supported political equality for newly
7 emancipated North Carolinians; and

8 Whereas, Governor William W. Holden dispatched the State militia to Alamance
9 and Caswell counties to stop the violence being caused by the Ku Klux Klan; and

10 Whereas, Governor William W. Holden's steadfast resistance to the Klan led to his
11 being impeached and removed from office; and

12 Whereas, the vote to impeach was along party lines to remove the Republican
13 governor from any other public service; and

14 Whereas, Governor William W. Holden was the first governor in the United States
15 to be removed from office; and

16 Whereas, the power of pardon is inherent in the State, and since the Constitution
17 does not delegate the power of pardon of an impeachment to the Governor, it remains available
18 for exercise by the General Assembly; and

19 Whereas, the power of impeachment by the House and conviction by the Senate is
20 not evidenced by passage of legislation but by assignment of this power to the legislative
21 branch, it is an inherent internal power of the legislative branch to reverse; Now, therefore,
22 Be it resolved by the Senate, the House of Representatives concurring:

23 **SECTION 1.** William W. Holden is pardoned from the judgment imposed upon
24 him March 22, 1871, by the Senate, sitting as a court of impeachment.

25 **SECTION 2.** This resolution is effective upon ratification.

Source: <http://www.ncleg.net/Sessions/2011/Bills/Senate/PDF/S256v1.pdf>