

Spencer

THE CONSTITUTION

OF

The State of North Carolina
Annotated

BY

HENRY G. CONNOR

Late one of the Associate Justices of the Supreme Court of
North Carolina; now United States District Judge for
the Eastern District of North Carolina

AND

JOSEPH B. CHESHIRE, Jr.,
of the Raleigh, North Carolina, Bar

RALEIGH:
EDWARDS & BROUGHTON PRINTING COMPANY
1911

Only the forms which affect the merits are essential to the validity of an election, or the registration of an elector.

DeBerry v. Nicholson, 102 N. C., 465 (1889).

4. REGISTRATION PRIMA FACIE OF RIGHT TO VOTE.

Registration is essential to the exercise by a citizen, possessed of the other legal qualifications, of his right to vote, and, when duly made, is *prima facie* evidence of the right.

Hampton v. Waldrop, 104 N. C., 453 (1889).

The registration books are *prima facie* evidence of who are qualified voters.

Rigsbee v. Durham, 98 N. C., 81 (1887); Duke v. Brown, 96 N. C., 127 (1887).

5. FAILURE TO COMPLY WITH, EFFECT OF.

a. *In general.*

A party, offering to vote without registration, may be refused this right for not complying with the registration laws; but, if the party is allowed to vote and such vote is received and deposited, the vote will not afterwards be held to be illegal, if he is otherwise qualified to vote.

Quinn v. Lattimore, 120 N. C., 426 (1897); Boyer v. Teague, 106 N. C., 576 (1890).

Where one was allowed to vote, who was qualified to register and vote, and who had presented himself for registration and had been sworn, although through neglect of the registrar, or for some other reason, his name did not appear on the registration books, such vote should be counted.

Quinn v. Lattimore, 120 N. C., 426 (1897).

b. *Through error as to domicile.*

Where qualified voters living near the dividing line of two townships, which line was not definitely located, in good faith registered and voted in the township in which they did not reside, but it appeared that they had listed their property for taxation, sent their children to school, and for many years previous had registered and voted in the same townships, such votes having been cast must be counted.

Quinn v. Lattimore, 120 N. C., 426 (1897); Boyer v. Teague, 106 N. C., 576 (1890).

c. *Registration by person other than registrar.*

Where a person, entitled under the Constitution and laws, to be a registered voter, was registered by one with whom the registrar left the books, and such registration was accepted as sufficient by the registrar and acted on by the judges of elections, the vote of such person will not be rejected for such irregularity.

Quinn v. Lattimore, 120 N. C., 426 (1897), holding that to reject such votes would be a fraud on the electors, as well as upon the parties for whom they voted, and also upon the State.

ARTICLE VI, SECTION 4.

Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language; and before he shall be entitled to vote, he shall have paid, on or before the first day of May of the year in which he proposes to vote, his poll tax for the previous year as prescribed by Article V, section 1, of the Constitution. But no male person who was on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: Provided, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under section 2 of this article: Provided, such person shall have paid his poll tax as above required.

Const. 1868; 1899, ch. 218; 1900, ch. 2, sec. 4.

I. EFFECT OF SECTION GENERALLY.

The suffrage amendment of 1900 fixed a new qualification for voters, but left the matter of registration to the Legislature as before.

Cox v. Comrs., 146 N. C., 584 (1908).

II. POLL TAX.**1. MEANING OF.**

This section, depriving the citizen of the right to vote unless he has paid his poll tax for the previous year, refers to the poll tax prescribed by Art. V, sec. 1, to wit, that for State and county purposes, which can never exceed \$2. The right of suffrage, therefore, can not be affected by an increased poll tax levied by municipal corporations and special tax districts.

Perry v. Comrs., 148 N. C., 521 (1908); Railroad v. Comrs., 148 N. C., 220 (1908).

2. NECESSITY FOR PAYMENT OF.

No one, though otherwise qualified and duly and lawfully registered, is entitled to vote unless he shall have paid his poll tax. Before this is done he may be registered, but he can not be a "registered voter," because he can not vote.

Pace v. Raleigh, 140 N. C., 65 (1905).

III. PERMANENT RECORD OF THOSE ENTITLED TO VOTE WITHOUT EDUCATIONAL QUALIFICATIONS.**1. PURPOSE OF.**

The making of a permanent roll, or record, was intended to be done for the sole purpose of furnishing convenient and available evidence of the fact that those, whose names appear thereon, are not required to have the educational qualification.

Clark v. Statesville, 139 N. C., 490 (1905).

2. DOES NOT DISPENSE WITH REGULAR REGISTRATION.

The fact that a voter is registered on the permanent roll, as provided by this section, does not dispense with the necessity of his registering anew in order to become a qualified voter, whenever so required by the statutes regulating the registration of voters. This provision should be construed with Art. VI, sec. 3.

Clark v. Statesville, 139 N. C., 490 (1905).