

POLITICAL ECONOMY

IN THE CAROLINAS

**WILLIAM WOODS
HOLDEN WAS
IMPEACHED
FOR ENDING A
KU KLUX KLAN
INSURRECTION.
A FULL PARDON.**

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William W. Holden was North Carolina's first Republican governor, elected in 1868 in the early days of Reconstruction. In 1871 he was impeached for failing to observe habeas corpus while putting down a violent Ku Klux Klan insurrection. Holden's experience offers a snapshot of a tragic and tumultuous period in North Carolina's political history. This essay sheds light on why he should be posthumously pardoned. Efforts to pardon him were partially successful in 2011: the North Carolina Senate voted unanimously for a pardon, but the House of Representatives shied away from voting to pardon him.

THE RECONSTRUCTION SETTING

Born in 1818, William W. Holden became a successful newspaper publisher in Raleigh before the Civil War. He was outspoken and sometimes caustic, and he moved from party to party. First a Whig, then a Democrat, and then a Democratic-Conservative (the party formed when the Democrats split), he finally left the Democrats and helped create the Republican Party. The new party initially dominated North Carolina's state government, and Holden was an important and controversial part of it, both because of his strong will and because he supported political equality for newly emancipated Blacks (Harris 1987, pp. 1–7; Raper 1985, pp. xiii–xvi, 252.) In 1869, when he spoke at the University of North Carolina's commencement, Holden specifically opposed the creation of a separate college for blacks. “[I]t will be *one* university. Education knows no color or condition of mankind,” he said

(Snider 1992, p. 81).

Ku Klux Klan violence erupted after the Republican victories, especially in Alamance and Caswell Counties (Trelease 1971, pp. 189–207). As explained by historian Richard L. Zuber (1996, p. 27), the Klan “was mainly a political organization” that “grew in strength as soon as the Republicans came into power and disappeared soon after the [Democratic-] Conservatives regained control of the legislature.”

At the Klan’s height, members committed arson, lynching, and political assassination. Allen Trelease (1971) recounts horrific examples of violence against Black Republicans, including the shooting of a woman and her children and burning their house down. One of the Klan members said later that a participant “killed one of the children by kicking its brains out with the heel of his boot” (Trelease 1971, p. 192).

In Alamance County, late one night Klan members dragged Black Republican Wyatt Outlaw, an elected town commissioner and constable, from his home to the town square near the county courthouse and hanged him (Zuber 1996, p. 29). In Caswell County, Klan members trapped a white Republican state senator, John W. Stephens, in the county courthouse, cut his throat, and stabbed him in the heart (Zuber 1996, pp. 29, 33).

Beseched by white and Black Republicans to protect them from Klan violence, Holden declared Alamance and Caswell in a state of insurrection and dispatched the state militia there. It took control of the county courthouses and arrested over one hundred accused Klan members in the two counties

(Zuber 1996, p. 35).¹ Klan violence there ended (p. 33). In Orange County, the second-in-command of the militia ordered the arrest of Josiah Turner, an inflammatory newspaper editor who supported the Klan and had dared Holden to have him arrested (p. 39).

While Holden’s actions to address the insurrection were clearly legal, the arrests resulted in confrontations over writs of habeas corpus.

THE DISPUTE OVER HABEAS CORPUS

One of those arrested in Alamance, Adolphus G. Moore, petitioned the chief justice of the state supreme court for a writ of habeas corpus. The prominence of his lawyers, three leading Democratic-Conservatives, made the matter a contest between their party and Holden (Zuber 1996, p. 35). The chief justice responded by issuing a writ for the militia commander, George W. Kirk, to bring Moore before him. The commander refused to do so unless he was ordered by Holden. Moore’s lawyers then asked for a court order against the commander to have him brought before the court. The chief justice issued the order but declined to have a sheriff serve it (pp. 35–41). To order the sheriff to intervene, explained the chief justice, would “plunge the whole State into civil war.”²

Thus, the chief justice concluded that Governor Holden had the authority to declare the two counties in a state of insurrection but that that authority did not include suspending the writ of habeas corpus. The militia commander had some excuse for disobeying the writ, as he had been ordered

1. The N. C. Statute of 1869–1870, chap. 27, § 1, provided: “The Governor is hereby authorized and empowered, whenever in his judgment the civil authorities in any County are unable to protect its citizens in the enjoyment of life and property, to declare such County to be in a state of insurrection, and to call into active service the militia of the State, to such an extent as may become necessary to suppress the insurrection.”

by his commander, the governor, not to obey it. The chief justice then directed the court marshal to exhibit the writ to the governor, putting the burden on the governor: “If he orders the petitioner to be delivered to the Marshal, well; if not . . . I have discharged my duty; the power of the Judiciary is exhausted, and the responsibility must rest on the Executive.”³

Holden responded to the chief justice that his actions had been required by the Klan’s control of the two counties, then reminded him of the murders of Outlaw and Stephens and said, “It would be mockery in me to declare that the civil authority was unable to protect the citizens against the insurgents [the Klansmen] and then turn the insurgents over to the civil authority” (Zuber 1996, pp. 38–39).

The *Moore* case was soon followed by a suit filed by John Kerr and others arrested by the militia in Caswell County, with a similar result. Next was *State v. Holden* (64 N. C. 829, 1870), an opinion on an application by Josiah Turner, the Klan supporter arrested in Orange, who sought a court order for the arrest of Holden and the militia’s commander and second-in-command. Recognizing the constitutional and statutory authority of the governor to declare counties in insurrection and recognizing the doctrine of separation of powers, the supreme court did not allow a warrant against the governor. It also ruled that it had no authority to issue warrants against the militia officers while they were acting under the governor’s orders in suppressing the insurrection in Alamance and Caswell, but that outside those counties the

officers could be arrested.

Matters stood that way until state court proceedings were overshadowed by a writ of habeas corpus issued by a federal district court judge under the Federal Habeas Corpus Act of 1867 and the due process clause of the newly adopted Fourteenth Amendment to the Constitution (Zuber 1996, pp. 39–40; Harris 1987, pp. 295–96; Raper 1985, pp. 190–96).

Surprised by the order, Holden nevertheless obeyed it and ordered the release of the prisoners. After the federal writ of habeas corpus had been issued, the prisoners were surrendered to the federal court, except for some subject to the earlier state writs who had been surrendered to the state’s chief justice.

THE IMPEACHMENT TRIAL

As 1870 drew to an end, a former Klan leader and current Democratic-Conservative representative from Orange County proposed impeaching Holden (Raper 1985, p. 205). The House brought eight impeachment charges against Holden (*Impeachment Trial of W. W. Holden* 1871).

The first two charges alleged that he acted unlawfully in ordering the militia to go to Caswell and Alamance Counties; the third and fourth charged that the arrests of Josiah Turner, John Kerr, and others were illegal; the fifth and sixth arose from Holden’s initial refusal to obey the state supreme court’s writs of habeas corpus; the seventh charged that state law regarding the militia had not been followed; and the eighth charged that it was illegal for Holden to pay those who served in the militia (Zuber 1996, p. 43).

The Senate trial took seven weeks in early

2. Ex parte Moore 64 N. C. 802 (1870).

3. Ex parte Moore.

1871, with 57 witnesses against Holden and 113 for him, and with lengthy arguments by counsel for the impeachment managers and counsel for Holden. As Zuber (1996) explains, “It probably did not make much difference what the lawyers said, since the legislature was determined to get Holden one way or the other” (pp. 43–44).

The Senate acquitted Holden on the two charges that he had acted illegally in declaring Alamance and Caswell in insurrection but convicted him on the other six. It ordered his removal and barred him from further state office. The decision was made “by a strictly party vote,” writes Zuber (1996, p. 44). In fact, a newspaper editorialized, “In other words, he was right in declaring the rebellion but wrong in suppressing it. For this decision there could be no respect, even if the trial had been otherwise fairly and decently conducted” (Trelease 1971, p. 225; see also Brisson 2011).

Holden left the state for Washington, DC, and worked as an editor but returned when President Grant appointed him Raleigh’s postmaster in 1873, a position he held until 1881. Holden focused on his family and church, and he withdrew from politics. His private humility, kindness, and piety facilitated his reconciliation with some of his former political opponents, and during the 1880s “Holden and his family were even accepted into the social circle of leading state Democrats in the capital,” writes William C. Harris (1982, p. 370).

HOLDEN’S LEGACY

Holden died in 1892. Among those attending his funeral were the sitting Democratic governor and the chief justice. Of less political significance but more poignancy,

“also present in the galleries of the packed church were numerous blacks, many of them old people who came to show their last respects to the man who more than any other white North Carolinian had championed their cause during the hopeful days of Reconstruction.” As his funeral procession passed the Capitol, “the flag on the dome of the Capitol was lowered to half-mast, the only measure of official vindication that Holden ever received [until 2011] for his acts of courage in protecting the interests of the state and its citizens during the turbulent Reconstruction era” (Harris 1982, p. 372).

Not until 1876 had Holden publicly defended his actions to suppress the Klan violence. He said he had acted “purely as a defensive measure to save human life and to protect and secure free suffrage to all. . . . I had solely in view the vindication of the law, the protection of the citizen, and the good of society. I rejoiced then, as I do now, that no gun was fired, that no resistance was made, and no blood was shed” (Harris 1982, p. 366).

In sum, Holden’s decisions had sufficient justification to obtain a pardon. First, he did not give up the arrested men to the state authorities because the state had failed to exercise control against violence. Second, he acknowledged the federal writ as legitimate and turned the men over to federal authorities. Efforts were made during his life to obtain a pardon. Those efforts were frustrated primarily because the Democratic-Conservatives “unleashed a new wave of denunciation of their favorite villain” (Harris 1982, p. 366).

In 1873, Wake County Republican representative Richard C. Badger (1873, pp.

5–7) argued, “In the mind of the nation he is looked upon as a martyr, stricken down for his loyalty to the Union, and his attempted maintenance of equal manhood rights. . . . And, our action is none the less anxiously looked for by the people of North Carolina. For, Sir, a vast number of our people . . . look to and revere this man as their friend and benefactor.”

As Harris (1982, p. 372) notes, a newspaper of the era predicted that “history will doubtless do his memory justice.” Indeed, it has begun to, as in 2014 the Raleigh Hall of Fame honored Holden as a Centennial Inductee (Raleigh Hall of Fame 2014).

More can be done, however, beginning with completion of the pardon by North Carolina’s General Assembly. Appropriate further opportunities include naming Raleigh’s Century Post Office, a historic site where Holden served as the first postmaster, in his honor. A proposal has been made to rename a building for him at the University of North Carolina (UNC) at Chapel Hill, where Holden spoke in 1869 about the “people’s university” and advocated education for Blacks. Recently, UNC trustees removed the names of opponents of civil rights for Black Americans, including a former Ku Klux Klan leader. Holden’s name would be a fitting replacement.

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