

Introduction to the Ratification of the Constitution in Georgia

Georgia was the youngest of the thirteen colonies, and in 1776 it had the fewest people. The colony had its beginning in 1732 when King George II granted a twenty-one year charter to a group of trustees-philanthropists and businessmen who were at cross-purposes from the start. The new colony was to serve as a refuge for the poor of Britain and the persecuted Protestants of Europe, as a buffer between South Carolina and Spanish Florida, and as a producer of wine and silk to free Britain from the French monopoly of those products. Large landholdings, slavery, and lawyers were forbidden, as was the importation of strong liquor. None of the plans worked, and the trustees surrendered the charter in 1752, a year before it was to lapse.

When the first royal governor arrived in 1754, there were perhaps 3,000 whites and 1,000 Negro slaves in the colony. A few settlers had come from England, and there were scattered settlements of German Salzburgers, Highland Scots, and New Englanders. They were surrounded by the Spanish in Florida and by thousands of Indians to the west and north who could have annihilated the colony had they chosen to do so.

The third and last royal governor, Sir James Wright, arrived in 1760. Born in London, he moved to South Carolina, where he had served as attorney general for twenty-one years. He transferred his property holdings to Georgia and became one of the colony's wealthiest men, and he achieved remarkable success in developing the colony as a whole. One index of that success was that population more than tripled in twelve years. Shortly after Wright arrived, the colony had about 9,500 people—6,000 whites and 3,500 blacks. In 1773 he reported a population of 33,000–18,000 whites and 15,000 blacks.

One reason for the rapid growth was the removal of the Spanish threat when East and West Florida became British colonies in 1763. Another reason was that Wright opened millions of acres for settlement as a result of his skill in negotiating with the Indians. Land was offered free to anyone who could pay the fees for recording the grants. Each head of family was given 100 acres, plus fifty acres for each dependent, white and black. An additional 1,000 acres could be purchased at the rate of a shilling for each ten acres. As a result, the upcountry along the Savannah River was settled rapidly by farmers from the Carolinas and Virginia. Rice planters from South Carolina, and a few from the West Indies, acquired land along the seacoast and developed rice and indigo plantations, which provided Georgia's major exports by 1776.

The structure of government was similar to that of the other royal colonies, with the governor and Council appointed by the Crown, and an Assembly elected by the voters of the parishes into which the colony was divided. The governor, in turn, appointed such local officials as justices of the peace and militia officers. Georgia was unique, however, in that Parliament paid the salaries of the governor and other royal officials.

The disputes in the colonies to the north that led to independence seemed remote, and most Georgians were slow to follow. In fact, Governor Wright at first found it inconceivable that Georgians would follow. After they heard the news of the "Intolerable Acts" in 1774, delegates from the Georgia parishes met in Savannah in August. They adopted a declaration of rights and established a committee of correspondence, but they refused to elect delegates to the First Continental Congress. After the news of the First Congress reached Georgia, meetings in Savannah and in St. John's Parish, which contained New England settlers, called for a provincial congress. Only five of the twelve parishes sent delegates to Savannah on 18 January 1775. Those present adopted the Continental Association and elected delegates to the Second Continental

Congress. The Assembly, which met the day before the provincial congress, also approved the actions of the First Continental Congress, but Governor Wright thwarted the attempt to elect delegates to the Second Congress by proroguing the session.

Georgians had been and were to remain divided. The merchants and planters in and around Savannah, who controlled the Assembly, and who led the early opposition, soon split, with some of them supporting the Governor and others taking the road to revolution.

The revolution in Georgia began when the news of Lexington and Concord arrived in Savannah on 10 May 1775. The next night, a mob raided the public magazine and carried off the gunpowder. In June a Savannah meeting called for the election of a provincial congress, and 102 delegates from ten of the twelve parishes met in Savannah on 4 July 1775. The congress elected delegates to the Second Continental Congress and agreed to abide by its decisions. It adopted resolutions declaring American rights within the British Empire, appointed a council of safety, issued paper money, and provided for the election of future provincial congresses.

On 18 January 1776 Governor Wright and several members of the Council were arrested. Three months later, the provincial congress elected five new delegates to the Continental Congress and instructed them “to propose, join, and concur in all such measures as you shall think calculated for the common good, and to oppose such as shall appear destructive” (JCC, IV, 367n). On 15 April 1776 the provincial congress adopted a temporary state constitution—the “Rules and Regulations of 1776.”

A copy of the Declaration of Independence was publicly read in Georgia on 10 August. Several days later Archibald Bulloch, President of the state, called for the election of a convention to consider “business of the highest consequence to the government and welfare of the state. . . .” The convention met in October 1776, drafted a constitution, and adopted it unanimously on 5 February 1777 (Mfm:Ga. 1).

The constitution provided for a governor, an executive council, a chief justice, and a unicameral legislature, the House of Assembly. Dual officeholding was prohibited, a ban applied rigorously to governors. The Assembly, elected annually on the first Tuesday in December, was to convene on the first Tuesday in January. Assemblymen were required to be adult Protestants owning 250 acres of land or property worth £250, and to be residents of the state for twelve months and for three months of the county which elected them. Voters were to be white, adult males “possessed . . . of ten pounds value, and liable to pay tax in this State, or being of any mechanic trade. . . .” They were also required to be residents of the state for six months and not hold any title of nobility. Voting was by ballot, and any qualified voter who did not vote was subject to a fine of not over £5. The state was divided into counties instead of the colonial parishes. Assemblymen were apportioned among the counties and the towns of Savannah and Sunbury.

When the Assembly convened each January, it elected a governor and an executive council composed of two assemblymen from each county. The Assembly elected all other state and local officials, as well as delegates to Congress who were eligible to sit, debate, and vote in the Assembly. Most of Georgia’s delegates seldom attended Congress, but some of them, George Walton, for example, often attended and voted in the Assembly.

The governor could serve only one year in any three and was required to be a resident of the state for three years. He was commander in chief of the militia, could call special sessions of the Assembly, fill vacancies between its sessions, and issue civil and military commissions. He could

grant temporary reprieves and remissions of fines until the Assembly could make final decisions. In carrying out his duties, the advice of the Council was required. The governor could not veto legislation, and while the Council could propose amendments to bills, the Assembly could ignore them.

The judiciary consisted of one state chief justice and three or more assistant justices for each county superior court. The Assembly elected the chief justice annually and elected the assistant justices who served at its pleasure. Twice each year the chief justice presided over each county court.

The constitution disestablished the Anglican church and guaranteed freedom of religion, but it excluded clergymen from seats in the Assembly. Freedom of the press, trial by jury, and the right of *habeas corpus* were guaranteed, and excessive fines and excessive bail were forbidden.

By the time the constitution was adopted in February 1777, the very existence of the new state was in question. Florida, now in British hands, was once more the enemy, as it had been when in Spanish hands before 1763. The Creek and Cherokee Indians, if they chose to fight for the British, had more warriors than the 4,000 or so potential militiamen in Georgia.

The Continental Congress was anxious to capture the British post at St. Augustine and so were Georgia leaders, who made so many plans that General Charles Lee remarked he “should not be surprised if they were to propose mounting a body of Mermaids on Alligators . . .” (Coleman, 97). Expeditions in 1776, 1777, and 1778 were fiascos. Georgia political officials quarrelled with Georgia militia and Continental Army officers, who, more often than not, were politicians with commissions but without military experience. Thus, while the expeditions started out, they soon started back after quarrels among would-be commanders, with the militia “fleeing” and the Continental troops “withdrawing.”

At first the British were no more successful, although Georgia Loyalists informed the commander at St. Augustine of invasion plans almost as soon as they were made. Then in December 1778, the British captured Savannah without opposition because the state and Continental officers were so busy quarrelling over the right to command the defense, that they did not realize that the British had arrived until after they had occupied the town. The British reestablished the royal government, and in July 1779 Sir James Wright returned and was governor until July 1782. At times the British occupied most of the settled area of Georgia, but they never had enough troops to win complete control. And they were constantly harassed by patriot guerrilla bands which simultaneously carried on a civil war with Georgia Loyalists.

The state had been divided by personal and factional rivalries from the beginning, and as the British occupation continued, the state government disintegrated. In 1779 two rival factions claimed legal power, and between May 1780 and July 1781 there is no evidence that any government at all existed. Personal rivalries, often settled by duels, added to the confusion. One example was the feud between Button Gwinnett, President under the “Rules and Regulations of 1776,” and Lachlan McIntosh, brigadier general of Georgia’s Continental troops. Both men insisted on commanding the 1777 expedition against St. Augustine, and they were forced to return to Savannah. The Assembly approved Gwinnett’s conduct but did not elect him the first governor of the state. McIntosh then reportedly called Gwinnett “a scoundrel and a lying rascal” to his face in the Assembly. In the duel that followed, both men were wounded and Gwinnett died three days later.

Such disputes were in part a reflection of factional rivalries. Gwinnett was a member of the faction that supported the new state constitution, insisted on civil control over military operations, and demanded a harsh policy toward Loyalists. McIntosh was a member of a faction that opposed the state constitution as too “democratical,” wanted the military freed from civilian control, and favored a more lenient policy toward Loyalists.

Government under the constitution of 1777 got underway again after the British evacuated Georgia in July 1782, and within months the legislature embarked on the course of expansion that dominated Georgia life until after the end of the century. In February 1783, before the preliminary articles of peace had arrived and the boundaries of the United States were known, the Assembly described Georgia’s limits. In establishing a land office, the Assembly declared that the state “do and did, and of right ought to extend” from the Atlantic Ocean to the Mississippi River. The northern boundary was the Savannah River and a line drawn due west from its source to the Mississippi River. The southern boundary was the thirty-first parallel of latitude from the Mississippi River to the Chattahoochee River, and thence to the point at which the Chattahoochee meets the Flint River; from there, east to the head of the St. Marys River and along that river to the Atlantic (Mfm:Ga. 2).

Most of the area claimed was occupied by powerful Indian nations and some of it by the Spanish to whom Britain returned East and West Florida in 1784. However, Georgians did not look upon such facts as barriers but as obstacles to be removed by whatever means necessary. Treaties were negotiated with some chiefs of the Creek Nation at Augusta in 1783, Galphinton in 1785, and Shoulderbone in 1786. However, the Upper Creeks, led by Alexander McGillivray, insisted that the treaties had been obtained by fraudulent means from a few chiefs who did not represent the Creek Nation. McGillivray was the son of a Scottish trader who, as a Loyalist, had his property confiscated by Georgia, and of a mother who was half white and half Creek. Until his death in 1793, McGillivray fought Georgia expansion by every means at his command.

Georgia ignored Creek protests and established Franklin and Washington counties in 1784 and Greene County in 1786. And in 1785 the legislature created Bourbon County, extending from the Indian cessions on the east to the Mississippi River on the west. The Assembly elected justices of the peace and commissioners to establish the new county, but when the Georgians appeared at Natchez where the Spanish had a military post, the Spanish commander soon ordered them to leave, and they did.

The “imperial” plans of the Assembly were coupled with a “free land” policy unmatched by any other state. The policy was begun in June 1777 when the Assembly, to encourage “persons to come and settle in this state,” offered each head of family a 200-acre headright, fifty acres for each family member, and fifty acres for each slave up to ten slaves. The grantee had to settle on the land within six months, not transfer it for five years, and pay a rent of two shillings per hundred acres. The land act of February 1783 granted the 200-acre headright free except for the payment of costs, but a limit of 1,000 acres was placed on the amount of land a grantee might receive. Two years later, in February 1785, the free headright grant was raised to 1,000 acres, and the limit on the amount of land that could be purchased was abandoned.

Georgians new and old and of every rank speculated in lands to such an extent and with so little regard for legality that the clerk of a land court in 1784 informed the governor that “speculation . . . has certainly extinguished in many men, passing for gentlemen, every spark of probity and integrity” (Coleman, 218–19).

The lure of free and cheap land was irresistible to people in states to the north, and they poured into Georgia in such numbers that a population of perhaps 35,000 to 40,000 in 1775 grew to a population of about 82,500 by 1790—53,250 whites and 29,250 blacks. People settled in Wilkes County, in the new counties created from the Indian cessions, and even pushed beyond them. The Indians retaliated with increasing raids to the point where all-out war seemed inevitable by the summer of 1787.

By the end of 1785 the migration of people had shifted the center of population and political power from the lowcountry counties of Chatham, Liberty, Glynn, and Camden to the upcountry counties of Richmond, Burke, Effingham, Wilkes, Franklin, and Washington. Between 1786 and 1789, all of the governors, three of the five speakers, a majority of the Assembly's leaders, and most of the delegates to Congress came from the upcountry.

Moreover, the leaders of the upcountry were far different in origin and political attitudes than the lowcountry planters and merchants who had controlled the colonial assembly. Some of the new leaders were rough frontiersmen who had won fame as guerrilla leaders during the war, and most of them were recent arrivals in Georgia. George Walton, William Few, Elijah Clarke, and George Mathews are examples.

Walton, born in Virginia, was orphaned and apprenticed to a carpenter. He arrived in Georgia in 1769, studied law, and was admitted to the bar. He was elected to Congress in 1776, signed the Declaration of Independence, and was reelected repeatedly, but he seldom attended. He was governor in 1779, chief justice from 1783 to 1786, and governor in 1789.

William Few came to Georgia from North Carolina in 1776. Members of his family had been North Carolina Regulators, and one brother was hanged after the Battle of Alamance Creek in 1771. Few was elected to Congress repeatedly from 1780 onward, and served as a justice of the Richmond County Superior Court in 1778–81 and 1783–84. In 1787 he was a delegate to Congress and to the Constitutional Convention. After 1789 he was a United States Senator and United States district judge.

Elijah Clarke was another North Carolina Regulator who came to Georgia. He arrived in 1774, and during the war he was a guerrilla leader who fought the British and the Georgia Loyalists alike. After the war he was an Indian fighter and served continuously in the Assembly or the Council.

George Mathews, the son of an immigrant from Ireland, was born in Augusta County in far backcountry Virginia and was a Virginia officer during the war. In 1785 he brought a group of Virginia families to Georgia, and became a militia brigadier general and a Wilkes County justice of the peace. Two years later he was elected governor of the state.

Georgia, however, made room for leaders of another kind. One was Abraham Baldwin, the son of a Connecticut blacksmith, who graduated from Yale in 1772. He became a minister and was a tutor at Yale from 1775 to 1779, when he left to become an army chaplain. In 1781 he was offered the professorship of divinity at Yale but rejected it to study law. He had moved to Georgia by 1784. In January of that year the Assembly admitted him to practice law and in December Wilkes County elected him to the Assembly. During 1785 he wrote the charter for a state educational system and the future University of Georgia. He was also elected to Congress, where he served until 1788. In 1787 he was a delegate to the Constitutional Convention, and in 1789 he was elected to the United States House of Representatives. He served in the House until 1799, when he was elected to the United States Senate where he served until his death in 1807.

Georgia's new leaders and their upcountry supporters demonstrated their power in the legislature by such measures as moving the capital to Augusta in 1786 and issuing legal tender paper money despite the opposition of the lowcountry. In 1786, Isaac Briggs, who was secretary of the state Convention in 1787, summed up the differences between the two sections from the viewpoint of a Savannah merchant: "The U.C. people say that the L.C. people want to have everything as they please in despite of reason or the common interest, and the L.C. people say that the U.C. people want to have everything as they please without paying taxes for the support of government" (to Joseph Thomas, [Savannah, 6 March 1786], in E. Merton Coulter, ed., "Three Isaac Briggs Letters," GHQ, XII [1928], 178–79).

Despite their differences, most Georgians agreed that slavery was indispensable to the future growth of the state, as was expansion into Indian territory, although some lowcountry leaders apparently had doubts about expansion if it led to open war with the Indians. Georgians agreed too that the Confederation Congress had no right to interfere with Georgia's claim to land extending to the Mississippi River or with her relations with the Indians.

In fact, Georgia had had little to do with the government of the United States since the ratification of the Articles of Confederation. When the Assembly ratified the Articles on 26 February 1778, two of the amendments it suggested reflected major Georgia concerns. One proposed that the guarantee of the privileges and immunities of the citizens of one state in every other state should be limited to free "white inhabitants" rather than being guaranteed to all "free inhabitants." The other proposed statehood for East and West Florida if they joined the Confederation. Congress rejected the amendments, as it did those of other states, and the Georgia delegates signed the Articles on 24 July 1778 (CDR, 126–28).

After the reestablishment of the state government in 1782, Georgia ignored Congress and its requests. The state was not represented in Congress in 1783 nor during the first half of 1784. Thereafter, despite appeals from Congress, the state seldom sent more than two delegates; with the result that when one was absent, the state had no vote.

As long as Georgia was occupied by the British, Congress did not levy requisitions upon it. Then in September 1782, Congress asked Georgia for \$14,400 out of a total requisition of \$1,200,000 on the states, and continued to assign the smallest quotas to Georgia despite its rapid growth. The Assembly ignored such requests until 1786, when it resolved to pay its quota, but no payment followed.

Until 1786 Georgia also ignored proposals for strengthening the central government. In February 1786 the Assembly ratified the proposed amendment to the Articles of Confederation which changed the basis of apportioning expenses among the states from land values to population (CDR, 148–50). In the same month it also approved the Impost of 1783 (CDR, 146–48) but attached several provisos. The most significant one stated that duties could not be levied on the importation of "Negroes or other slaves . . ." (PCC, Item 76, Acts of the Thirteen States, 1775–1788, pp. 306–15, DNA). Five months later the Assembly approved the congressional request of 1784 for temporary power to regulate trade (CDR, 153–54).

Georgia's indifference to national concerns gave the state such a bad reputation that in the spring of 1785 Georgia congressman William Houstoun wrote the governor "that the whole body of Congress are become so clamorous against our state that I shudder for the consequences . . . it is very seriously talked of, either to make a trial of voting Georgia out of the Union or to fall upon some means of taking coercive measures against her" (2 April, LMCC, VIII, 81).

By the beginning of 1787, the mounting threat of Indian war led to a realization in the state that it might need help from the United States, and it began appealing to Congress for arms and ammunition. But on 23 January, the Assembly rejected the Annapolis Convention's call for a constitutional convention on the grounds that Georgia had already "vested Congress with certain powers for the purpose of regulating trade . . . [and] nothing further ought to be done until the determination of Congress on that subject be known" (Mfm:Ga. 3-B). Three days later, however, the Assembly received letters of 1 and 6 December 1786 from Governor Edmund Randolph of Virginia. Randolph enclosed in both letters copies of Virginia's act of 23 November 1786 authorizing the appointment of delegates to the proposed constitutional convention. He declared that the act "breathes a spirit truly federal, and contains an effort to support our general government which is now reduced to the most awful crisis." He urged the states to cooperate "at this trying moment" by appointing delegates to the proposed convention (Mfm:Ga. 3-D). On 10 February the Assembly responded by electing Abraham Baldwin, William Few, William Houston, William Pierce, Nathaniel Pendleton, and George Walton to represent Georgia in the proposed convention (CDR, 204).

Pierce was a merchant while the other five delegates were lawyers. Only Houston had been born in Georgia. Pendleton and Walton did not attend the Convention. Pierce left in July to go to New York on business matters and to attend Congress. Houston went to New York to court a lady whom he later married. Only Baldwin and Few were in the Convention on 17 September, and both signed the Constitution.

In the Convention debates the Georgia delegates usually favored giving more power to Congress than it had under the Articles of Confederation, but not when it came to slavery. When Charles Cotesworth Pinckney of South Carolina declared that his state and Georgia could never accept the Constitution if Congress had the power to prohibit the importation of slaves, Abraham Baldwin followed by declaring that "Georgia was decided on this point," and would oppose "an attempt to abridge one of her favorite prerogatives" (Farrand, II, 371-72).

While the Constitutional Convention was meeting, Georgians were concerned above all with the threat of war with the Creek Indians. The two Georgia newspapers and private letters were filled with reports of Indian depredations and accounts of skirmishes. On 9 August, Governor George Mathews called a special session of the Assembly to meet on 20 September to consider the defense of the state (Mfm:Ga. 8), but a quorum was not obtained until 18 October. By that time, the new Constitution had arrived in Georgia and had been printed in the state's two newspapers.

A common assumption is that Georgia ratified the Constitution speedily and unanimously because of the danger from the Indians and the need for help from an effective central government. George Washington, for example, thought that Georgia ought to ratify for such reasons (II below). In time, the explanation of why Georgia ought to ratify became the explanation of why Georgia did ratify. There is perhaps a measure of truth in the assumption. However, only two extant Georgia sources link the threat of Indian war with ratification, and they do not make the assumption that Washington did. Joseph Clay, a Savannah merchant, commented that the new government had been given great power but that it was the lesser of two evils, and that such a government might have prevented the "evil" of an Indian war (II below). Abraham Baldwin, visiting in New Haven, Connecticut, commented that the danger of Indian war might hasten Georgia's action "on the great political question" (II below).

After the state ratified, a French official reported that it was to the state's interest "to appear federally inclined in order to obtain help from the present Union." He added that while Georgia

was the first Southern State to ratify “the new Constitution, it can hardly be expected from eagerness to execute it” (Ducher to Luzerne, 2 February 1788, IV below). The perceptiveness of the comment was demonstrated in the years that followed.

Georgians did want help, and they had appealed to other states and to the Confederation Congress for arms, ammunition, and men to fight the Indians. But they wanted no part of the congressional solution, which was for Georgia to cede its claims to western lands to Congress as other states had done, and for federal agents to negotiate treaties guaranteeing at least some of the Indian lands to the Indians.

The Georgia solution was to destroy the power of the Indians and, if need be, the Indians themselves. To achieve that solution they wanted help from the new government after 1789, as they had from the Confederation Congress. But the new government followed the policies of the old one toward the Southern Indians. Frontiersmen, state officials, and most of the men Georgia elected to the new Congress fought the efforts of the Washington administration to make any peace with the Southern Indians that would limit the right of Georgians to occupy whatever lands they pleased between the Atlantic Ocean and the Mississippi River.

So intransigent were the Georgians that an exasperated President Washington was supposed to have declared that “the United States are at peace with all the world except the state of Georgia” (“Marius,” *Augusta Chronicle*, 24 December 1791). He might well have made the remark, because almost from the beginning most Georgians opposed many of the domestic and foreign policies of his administration and supported the rising opposition to the Federalist Party in its effort to implement the Constitution the state had ratified unanimously on the last day of the year 1787 (see The Aftermath of Ratification, V below).

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