

**Constitutions of the World
from the late 18th Century
to the Middle of the 19th Century**

**Verfassungen der Welt
vom späten 18. Jahrhundert
bis Mitte des 19. Jahrhunderts**

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from the late 18th Century
to the Middle of the 19th Century**

Sources on the Rise
of Modern Constitutionalism

Editor in Chief
Horst Dippel

America: Volume 1

**Verfassungen der Welt
vom späten 18. Jahrhundert
bis Mitte des 19. Jahrhunderts**

Quellen zur Herausbildung
des modernen Konstitutionalismus

Herausgegeben von
Horst Dippel

Amerika: Band 1

**Constitutional Documents
of the United States of America
1776–1860**

**Part II:
Georgia – Kansas**

Edited by
Horst Dippel

**Verfassungsdokumente
der Vereinigten Staaten von Amerika
1776–1860**

**Teil II:
Georgia – Kansas**

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Horst Dippel

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Constitution of Georgia (1776)

[Rules and Regulations of the Colony of Georgia]¹

Colony of Georgia:

Whereas the unwise and iniquitous System of Administration obstinately persisted in by the British parliament and ministry against the good people of America hath at len[g]th driven the latter to take up arms as their last resource for the preservation of their Rights & Libertys which God and the Constitution gave them. And whereas an armed Force with hostile intentions against the people of this Province, having lately arrived at Coxspur² – His Excellency Sir James Wright Bart. the³ Kings Governor of Georgia in aid of the views of⁴ administration & with a design to add to those inconveniencys which necessarily flow⁵ from a state of confusion suddenly & unexpectedly withdrew himself from his Government⁶ carrying of⁷ the great seal of the Province with him. And whereas in consequence of this and other events doubts have arisen with the several magistrates how far authoris[ed] they are⁸ to act under the former appointments, and the greatest part of them have⁹ absolutely refused to do so whereby all Judicial powers are become totally suspended to the great danger of persons & property. – And whereas before any general System or Form¹⁰ of Government can be concluded upon – It is necessary that application be made to the Continental Congress for their advice and directions upon the same – but nevertheless in the present state of things[:] It is indispensibly requisite that some temporary Expedient be fallen upon to curb the Lawless & protect the peacable. This Congress therefore, as the representatives of the people with whom all power

originates, & for whose benefit all Government is intended, deeply impressed with a sense of duty to their Constituents – of love to their country & Inviolable attached¹¹ to the libertys of America, and seeing how much it will tend to the advantage of each to preserve Rules Justice and order, do take upon them for the present and untill the further order of the Continental Congress, or of this or any future Provincial¹² Congress to declare and they do accordingly¹³ declare order & direct that the following Rules & regulations be adopted in this Province – that is to say –

1st. That¹⁴ there shall be a president and commander in chief appointed by Ballot in this Congress for six months or during the time above aforesaid¹⁵.

2^d. That¹⁶ there shall in like manner & for the like time be also¹⁷ a council of safety (consisting of 13 persons besides the five Delegates to the general congress) appointed to act in¹⁸ nature¹⁹ of a privy Council to the said president or commander in Chief.

3^d. That the president shall be invested with all the Executive powers of Government (not inconsistent with what is hereafter mentioned) but shall be bound to consult and follow the advice of the said Council in all cases whatsoever. – And any Seven of the²⁰ said Council²¹ shall be a quorum for the purpose of advising.

4th. That all the Laws whether Common or Statute and the acts of assembly which have formerly been acknowledged to be of force in this Province, and which do not

interfere with the proceedings of the Continental or our Provincial Congresses and also all and Singular the resolves & recommendations of the said continental & provincial Congresses²², shall be of full Force Validity & effect untill otherwise ordered.

5th. That there shall be a chief Justice and two assistant Judges an Atty. General, a provost Marshall and clerk of the court of Sessions appointed by Ballot to serve during²³ pleasure of the Congress. – The court of Sessions or Oyer & terminer, shall be opened and held on the Second Tuesday in June & December, and the former Rules & method²⁴ of proceeding²⁵ as nearly as may be shall be observed in regard to summoning of Juries & all other cases whatsoever.

6th. That the president or commander in chief with the advice of the Council as before mentioned shall appoint magistrates to act during pleasure in the several Parishes throughout this Province & such Magistrates shall conform themselves as nearly as may be to the old Establishment²⁶ Forms and Methods of proceeding²⁷.

7th. That all Legislative powers shall be reserved to the Congress and no person who holds any place of profit, Civil or Military, shall be eligible as a member either of the Congress or²⁸ council of safety.

8th. That the following sums shall be allowed as Sallerys to the respective Officers for and during the time they shall serve, over & besides all such perquisites & Fees as has²⁹ been formerly annexed to the said officers³⁰ respectively:

To the President & Commander in chief at &³¹ after the rate p. Annum of £ 300 Sterling³²

To the chief Justice
d^{to.33} – 100 –

To the Att^y. General
d^{to.} – 25 –

To the provost Marshall
d^{to.} – 60 –

To the Clerk³⁴ Court
d^{to.} – 50 –

The above in the Report of the Committee ordered to devise a temporary Constitution or form of Government with the amendment made in Congress scratched out. 15th April 1776 which Col. McIntosh begs leave to Inclose.³⁵

¹ Verified by the copy sent by Lachlan McIntosh to George Washington on April 28, 1776, preserved in the George Washington Papers at the Library of Congress, 1741–1799: Series 4: General Correspondence, 1697–1799, Georgia Legislature, April 15, 1776, Report of Constitutional Committee, images 994–995 (<http://memory.loc.gov/mss/mgw/mgw4/035/1000/1018.jpg> and 1019.jpg), and checked against the versions as published in *The Revolutionary Records of the State of Georgia*, comp. and publ. under Authority of the Legislature by Allen D. Candler, 3 vols., Atlanta, GA: The Franklin-Turner Company, 1908, I, 274–277, in Walter McElreath, *A Treatise on the Constitution of Georgia Giving the Origin, History and Development of the Fundamental Law of the State, with all Constitutional Documents Containing such Law, and with the Present Constitution, as Amended to date, with Annotations*, Atlanta: Harrison Company, 1912, 60–62, and in Walter Gerald Cooper, *The Story of Georgia*, 4 vols., New York: The American Historical Society, 1938, I, 510–511. Candler reprinted the document from the Proceedings of the Georgia Provincial Congress from White's Historical Collections and Collections of the Georgia Historical Society, which appear to be no longer extant. Spelling, capitalization, and punctuation as in the McIntosh copy. The temporary constitution, “a ground-work of a more stable and formal government”, as it was called according to Candler, was adopted by the Provincial Congress on April 15, 1776, and remained in force until being replaced by the Constitution of 1777 (q.v.).

² In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “Cockspur”.

³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “and”.

⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “of the”.

⁵ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “result”.

⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “withdrew himself from his Government” missing.

⁷ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “carried off”.

⁸ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “authoris[ed] they are”.

⁹ In Cooper, *The Story of Georgia*, I, 510, word missing.

¹⁰ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 60, and in Cooper, *The Story of Georgia*, I, 510, “or Form” missing.

¹¹ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 510, “attachment”.

¹² In Cooper, *The Story of Georgia*, I, 510, “Provisional”.

¹³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 275, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “accordingly do”.

¹⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, word missing.

¹⁵ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “specified above”.

¹⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, word missing.

¹⁷ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “shall be [...] also”.

¹⁸ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “in the”.

¹⁹ In McElreath, *Treatise on the Constitution of Georgia*, 61, “name”.

²⁰ In Cooper, *The Story of Georgia*, I, 511, word missing.

²¹ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “Committee”.

²² In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “Congress”.

²³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “during the”.

²⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “methods”.

²⁵ In *Revolutionary Records of Georgia*, ed. by Candler, I, 276, in McElreath, *A Treatise on the Constitution of Georgia*, 61, and in Cooper, *The Story of Georgia*, I, 511, “proceedings”.

²⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “established”.

²⁷ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “proceedings”.

²⁸ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “or of the”.

²⁹ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “have”.

³⁰ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “offices”.

³¹ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “at &” missing.

³² In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, and in McElreath, *A Treatise on the Constitution of Georgia*, 62, “Sterling £300”; in Cooper, *The Story of Georgia*, I, 511, “sterling 300 pounds”.

³³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, “d^{to}.” Generally missing.

³⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 277, in McElreath, *A Treatise on the Consti-*

tution of Georgia, 62, and in Cooper, *The Story of Georgia*, I, 511, "Clerk of".

³⁵ In *Revolutionary Records of Georgia*, ed. by Can-

dlar, I, 277, in McElreath, *A Treatise on the Constitution of Georgia*, 62, and in Cooper, *The Story of Georgia*, I, 511, sentence missing.

Constitution of Georgia (1777)

The Constitution of the State of Georgia¹

WHEREAS the Conduct of the Legislature of Great-Britain for many Years past, has been so oppressive on the People of America, that of late Years, they have plainly declared, and asserted a Right to raise Taxes upon the People of America, and to make Laws to bind them in all Cases whatsoever, without their Consent; which Conduct being repugnant to the common Rights of Mankind, hath obliged the Americans, as Freemen, to oppose such oppressive Measures, and to assert the Rights and Privileges they are intitled to, by the Laws of Nature and Reason; and accordingly it hath been done by the general Consent of all the People of the States of New-Hampshire, Massachusetts-Bay, Rhode-Island, Connecticut, New-York, New-Jersey, Pennsylvania, the Counties of New-Castle, Kent and Sussex² on³ Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, given by their Representatives met together in General Congress, in the City of Philadelphia.

AND WHEREAS it hath been recommended by the said Congress on the Fifteenth of May last, to the respective Assemblies and Conventions of the United States, where no Government, sufficient to the Exigencies of their Affairs, hath been hitherto established, to adopt such Government, as may, in the Opinion of the Representatives of the People, best conduce to the Happiness and Safety of their Constituents in particular, and America in general.

AND WHEREAS the Independence of the United States of America has been also declared, on the Fourth Day of July, One

Thousand Seven Hundred and Seventy six, by the said Honourable Congress, and all political Connection between them, and the Crown of Great-Britain, is in Consequence thereof dissolved

We therefore, the Representatives of the People, from whom all Power originates, and for whose Benefit all Government is intended, by Virtue of the Power delegated to us, DO ordain and declare, and it is hereby ordained and declared, that the following RULES and REGULATIONS be adopted for the future Government of this⁴ State.

I. The legislative⁵, executive, and judiciary Departments shall be separate and distinct, so that neither exercise the Powers properly belonging to the other.

II. The Legislature of this State shall be composed of the Representatives⁶ of the People, as is herein after pointed out: And the Representatives shall be elected yearly, and every Year,⁷ on the First Tuesday in December; and the Representatives so elected, shall meet the First Tuesday in January following, at Savannah, or any other Place or Places, where the House of Assembly for the Time being shall direct.

On the first Day of the Meeting of the Representatives so chosen, they shall proceed to the Choice of a Governor, who shall be stiled *Honourable*; and of an executive Council, by Ballot out of their own Body; viz. two from each County, except those Counties which are not yet entitled to send ten Members. One of each County shall always attend, where the Governor resides, by monthly Rotation; unless the Members

of each County agree for a longer or shorter Period; this is not intended to exclude either Member attending: The remaining Number of Representatives shall be called the House of Assembly; and the Majority of the Members of the said House shall have Power to proceed on⁸ Business.

III. It shall be an unalterable Rule, that the House of Assembly shall expire, and be at an End yearly, and every Year, on the Day preceeding the Day of Election, mentioned in the foregoing Rule.

IV. The Representation shall be divided in the following Manner, ten Members for each County, as is herein after directed, excepting⁹ the County of Liberty, which contains three Parishes, and that shall be allowed fourteen.

The Ceded Lands, north of Ogeechee¹⁰, shall be one County, and known by the Name or Wilkes.

The Parish of St Paul shall be another County, and known by the Name of Richmond.

The Parish of St. George shall be another County, and known by the Name of Burke.

The Parish of St. Matthew, and the upper Part of St. Philip, above Canouchie¹¹, shall be another County, and known by the Name of Effingham

The Parish of Christ Church, and the lower Part of St. Philip, below Canouchie¹², shall be another County, and known by the Name of Chatham.

The Parishes¹³ of St. John, St. Andrew, and St. James, shall be another County, and known by the Name of Liberty.

The Parishes¹⁴ of St. David and St. Patrick, shall be another County, and known by the Name of Glyn¹⁵.

The Parishes¹⁶ of St. Thomas and St. Mary, shall be another County, and known by the Name of Camden.

The Port and Town of Savannah, shall be allowed four Members, to represent their

Trade.

The Port and Town of Sunbury, shall be allowed two Members, to represent their Trade.

V. The two Counties of Glyn¹⁷ and Camden, shall have one Representative each, and also they, and all other Counties that hereafter may¹⁸ be laid out by the House of Assembly, shall be under the following Regulations, viz. at their first Institution, each County shall have one Member, provided the Inhabitants of the said County shall have ten Electors; and if thirty, they shall have two; if forty, three; if sixty¹⁹, four; if eighty, six; if an hundred and upwards, ten; at which Time two executive Counsellors shall be chosen from them, as is directed for the other Counties.

VI. The Representatives shall be chosen out of the Residents in²⁰ each County, who shall have resided, at least twelve Months in this State, and three Months in the County, where they shall be elected; except the Freeholders of the County²¹ of Glyn²² and Camden, who are in a State of Alarm, and who shall have the Liberty of chusing one Member each, as specified in the Articles of this Constitution, in any other County, until they have Residents²³, sufficient to qualify them for more: And they shall be of the Protestant Religion, and of the Age of twenty-one Years, and shall be possessed in their own Right of two hundred and fifty Acres of Land, or some Property to the Amount of two hundred and fifty Pounds.

VII. The House of Assembly shall have Power to make such Laws and Regulations, as may be conducive to the good order and well being of the State; provided such Laws and Regulations be not repugnant to the true Intent and Meaning of any Rule or Regulation contained in this Constitution.

The House of Assembly shall also have Power to repeal all Laws, and Ordinances,

they find injurious to the People: And the House shall chuse its own Speaker, appoint its own Officers, settle its own Rules of Proceeding, and direct Writs of Election, for supplying intermediate Vacancies; and shall have Power of Adjournment to any Time, or Times within the Year.

VIII. All Laws and Ordinances shall be three Times read, and each reading shall be on different and separate Days, except in Cases of great Necessity and Danger; and all Laws and Ordinances shall be sent to the executive Council, after the second Reading, for their Perusal and Advice.

IX. All male white Inhabitants, of the Age of twenty-one Years, and possessed in his own Right of Ten Pounds Value, and liable to pay Tax in this State, or being of any mechanic Trade, and shall have been resident six Months in this State, shall have a Right to vote at all Elections for Representatives, or any other Officers, herein agreed to be chosen by the People at large; and every Person having a Right to vote at any Election, shall Vote by Ballot personally.

X. No Officer whatever shall serve any Process, or give any other Hinderance to any Person intitled to vote, either in going to the Place of Election, or during the Time of the said Election, or on their returning Home from such Election; nor shall any military Officer, or Soldier, appear at any Election in a²⁴ military Character, to the intent that all Elections may be free and open.

XI. No Person shall be entitled to more than one Vote, which shall be given in the County where such Person resides, except as before excepted; nor shall any Person, who holds any Title of Nobility, be entitled to a Vote, or be capable of serving as a Representative, or hold any Post of Honour, Profit or Trust, in this State, whilst such Person claims his Title of Nobility; but if the

Person shall give up such Distinction, in the Manner as may be directed by any future Legislature²⁵, then, and in such Case, he shall be entitled to a²⁶ Vote, and represent, as before directed; and enjoy all the other Benefits of a free Citizen.

XII. Every Person absenting himself from an Election, and shall neglect to give in his, or their Ballot, at such Election, shall be subject to a Penalty not exceeding Five Pounds; the Mode of Recovery, and also the Appropriation thereof, to be pointed out, and directed by Act of the Legislature, provided nevertheless, that a reasonable Excuse shall be admitted.

XIII. The Manner of electing Representatives shall be by Ballot, and shall be taken by two or more Justices of the Peace, in each County, who shall provide a convenient Box for receiving the said Ballots; and on closing the Poll, the Ballots shall be compared in public, with the Lists²⁷ of Voters²⁸, that have been taken, and the Majority immediately declared; a Certificate of the same being given to the Persons elected, and also a Certificate returned to the House of Representatives.

XIV. Every Person entitled to vote shall take the following Oath, or Affirmation, if required, viz.

I A. B. do voluntarily and solemnly swear, or affirm, as the Case may be, that I do owe true Allegiance to this State, and will support the Constitution thereof. So help me God.

XV. Any Five of the Representatives elected, as before directed, being met, shall have Power to administer the following Oath, to each other; and they or any other Member, being so sworn, shall in the House administer the Oath, to all other Members that attend, in order to qualify them to take their Seats, viz.

I A. B. do solemnly swear, that I will bear true Allegiance to the State of Georgia, and will truly perform the Trust²⁹ reposed in me; and that I will execute the same to the best of my Knowledge, for the Benefit³⁰ of this³¹ State, and the Support of the Constitution thereof; and that I have obtained my Election, without Fraud or Bribe whatever. So help me God.

XVI. The Continental Delegates shall be appointed annually by Ballot, and shall have a Right to sit, debate and vote, in the House of Assembly, and be deemed a Part thereof; subject however to the Regulations contained in the Twelfth Article of the Confederation of the United States.³²

XVII. No Person bearing any Post of Profit under this State, or any Person bearing any military Commission under this, or any other State, or States, except Officers of the Militia, shall be elected a Representative. And if any Representative shall be appointed to any Place of Profit, or military Commission, which he shall accept, his Seat shall immediately become vacant, and he shall be incapable of Re-election, whilst holding such Office.

By this Article, it is not to be understood, that the Office of a Justice of the Peace is a Post of Profit.

XVIII. No Person shall hold more than one Office of Profit, under this State, at one and the same Time.

XIX. The Governor shall, with the Advice of the executive Council, exercise the executive Powers of Government, according to the Laws of this State, and the Constitution thereof; save only in the Case of Pardons, and remission of Fines, which he shall in no Instance grant; but he may³³ relieve a Criminal, or³⁴ suspend a Fine, until the Meeting of the Assembly, who may determine therein, as they shall judge fit.

XX. The Governor, with the Advice of the executive Council, shall have Power to call the House of Assembly together, upon any Emergency, before the Time which they stand adjourned to.

XXI. The Governor, with the Advice of the executive Council, shall fill up all intermediate Vacancies, that shall happen in Offices³⁵, till the next general Election: And all Commissions civil and military shall be issued by the Governor, under his Hand, and the great Seal of the State.

XXII. The Governor may preside in the executive Council at all Times, except when they are taking into Consideration, and perusing the Laws and Ordinances, offered to them by the House of Assembly.

XXIII. The Governor shall be chosen annually by Ballot, and shall not be eligible to the said Office, for more than one Year out of three, nor shall he hold any military Commission, under any other State or States.

The Governor shall reside at such Place as the House of Assembly for the Time being shall appoint.

XXIV. The Governor's Oath.

I A. B. elected Governor of the State of Georgia, by the Representatives thereof, do solemnly promise and swear, that I will during the Term of my Appointment, to the best of my Skill and Judgment, execute the said Office faithfully, and conscientiously, according to Law, without Favour, Affection, or Partiality; that I will to the utmost of my Power, support, maintain, and defend the State of Georgia, and the Constitution of the same; and use my utmost Endeavours to protect the People thereof, in the secure Enjoyment of all their Rights, Franchises and Privileges; and that the Laws and Ordinances of the State be duly observed, and that Law and Justice in Mercy be executed in all Judgements. And I do further solemnly promise and swear, that I

will peaceably and quietly resign the Government to which I have been elected, at the Period to which my Continuance in the said Office is limited by the Constitution: And lastly I do also solemnly swear, that I have not accepted of the Government, whereunto I am elected, contrary to the Articles of this Constitution. So help me God.

This Oath to³⁶ be administered to him by the Speaker of the Assembly.

The same Oath to be administered by the Speaker to the President of the Council.

No Person shall be eligible to the Office of Governor, who has not resided three Years in this State.

XXV. The executive Council shall meet the Day after their Election, and proceed to the Choice of a President out of their own Body – they shall have Power to appoint their own Officers, and settle their own Rules of Proceedings.

The Council shall always vote by Counties, and not individually.

XXVI. Every Counsellor, being present, shall have Power of entering his Protest against any Measures in Council, he has not consented to; provided he does it within³⁷ three Days.

XXVII. During the Sitting of the Assembly the whole of the executive Council shall attend, unless prevented by Sickness, or some other urgent Necessity; and in that Case, a Majority of the Council shall make a Board, to examine the Laws and Ordinances sent them by the House of Assembly; and all Laws and Ordinances sent to the Council shall be returned in five Days after, with their Remarks thereon.

XXVIII. A Committee from the Council sent with any proposed Amendments to any Law, or Ordinance, shall deliver their Reasons for such proposed Amendments, sitting and covered; the whole House at that Time, except the Speaker, uncovered.

XXIX. The President of the executive Council, in the Absence or Sickness of the Governor, shall exercise all the Powers of the Governor.

XXX. When any Affair that requires Secrecy shall be laid before the Governor, and the executive Council, it shall be the Duty of the Governor; and he is hereby obliged to administer the following Oath, viz.

I A. B. do solemnly swear, that any Business that shall be at this Time communicated to the Council, I will not in any Manner whatever, either by Speaking, Writing, or otherwise reveal the same, to any Person whatever, until Leave given by the Council, or when called upon by the House of Assembly; and all this I swear without any Reservation whatever. So help me God.

And the same Oath shall be administered to the Secretary, and other Officers, necessary to carry the Business into Execution.

XXXI. The executive Power shall exist, till renewed, as pointed out by the Rules of this Constitution.

XXXII. In all Transactions between the legislative and executive Bodies, the same shall be communicated by Message, to be delivered from the legislative Body to the Governor, or executive Council, by a Committee. And from the Governor, to the House of Assembly, by the Secretary of the Council, and from the executive Council, by a Committee of the said Council.

XXXIII. The Governor for the Time being, shall be Captain General, and Commander in Chief, over all the Militia, and other military and naval Forces belonging to this State.

XXXIV. All Militia Commissions shall specify, that the Person commissioned shall continue during good Behaviour.

XXXV. Every County in this State, that has, or hereafter may have, Two Hundred and Fifty Men, and upwards, liable to bear

Arms, shall be formed into a Battalion; and when they become too numerous for one Battalion, they shall be formed into more, by Bill of the Legislature; and those Counties that have a less Number than Two Hundred and Fifty, shall be formed into independent³⁸ Companies.

XXXVI. There shall be established in each County a Court, to be called a Superior Court, to be held twice in each Year, on the first Tuesday in March, in the County of Chatham.

The second Tuesday in March, in the County of Effingham.

The third Tuesday in March, in the County of Burke.

The fourth Tuesday in March, in the County of Richmond.

The next Tuesday in the County of Wilkes.

And³⁹ Tuesday Fortnight, in the County of Liberty.

The next Tuesday, in the County of Glyn⁴⁰.

The next Tuesday in the County of Camden.

The like Courts to commence in October, and continue as above.

XXXVII. All Causes and Matters of Dispute, between any Parties, residing in the same County, to be tried within the County.

XXXVIII. All Matters in Dispute between contending Parties, residing in different Counties, shall be tried in the County where the Defendant resides; except in Cases of real Estates⁴¹, which shall be tried in the County where such real Estate lies.

XXXIX. All Matters of Breach of the Peace, Felony, Murder, and Treason against the State, to be tried in the County where the Crime⁴² was committed. All Matters of Dispute, both civil and criminal, in any County, where there is not a sufficient Number of Inhabitants, to form a Court, shall be

tried in the next adjacent County, where a Court is held.

XL. All Causes of what Nature soever, shall be tried in the Superiour⁴³ Court, except as hereafter mentioned; which Court shall consist of the Chief-Justice, and three or more of the Justices residing in the County; in Case of the Absence of the Chief-Justice, the senior Justice on the Bench shall act as Chief-Justice, with the Clerk of the County, Attorney for the State, Sheriff, Coroner, Constable, and the Jurors. And in Case of the Absence of any of the aforementioned Officers, the Justices on the Bench⁴⁴ to appoint others in their Room *pro tempore*. And if any Plaintiff or Defendant in civil Causes shall be dissatisfied with the Determination of the Jury then, and⁴⁵ in that Case, they shall be at Liberty within three Days, to enter an Appeal from that Verdict; and demand a new Trial by a⁴⁶ special Jury, to be nominated as follows, viz. each Party Plaintiff and Defendant shall chuse six, six more Names shall be taken indifferently out of a Box, provided for that Purpose, the whole Eighteen to be summoned, and their Names to be put together into the Box, and the first Twelve that are drawn out, being present, shall be the special Jury to try the Cause, and from which there shall be no Appeal.

XLI. The Jury shall be Judges of Law, as well as of Fact, and shall not be allowed to bring in a special Verdict; but if all, or any of the Jury, have any Doubts concerning Points of Law, they shall apply to the Bench, who shall each of them in Rotation give their Opinion.

XLII. The Jury shall be sworn to bring in a Verdict according to Law, and the Opinion they entertain of the Evidence; provided it be not repugnant to the Rules and Regulations contained in this Constitution.

XLIII. The special Jury shall be sworn to bring in a Verdict, according to Law, and the Opinion they entertain of the Evidence; provided it be not repugnant to Justice, Equity and Conscience, and the Rules and Regulations contained in this Constitution, of which they shall judge.

XLIV. Captures both by⁴⁷ Sea and Land, to be tried in the County, where such shall be carried in; a special Court to be called by the Chief-Justice, or in his Absence, by the then senior Justice in the said County, upon Application of the Captors, or Claimants, which Cause shall be determined within the Space of ten Days. The Mode of Proceeding and Appeal shall be the same, as in the Superiour Court⁴⁸; unless after the second Trial, an Appeal is made to the Continental Congress; and the Distance of Time, between the first and second Trial, shall not exceed fourteen Days: And all maritime Causes to be tried in like Manner.

XLV. No Grand-Jury shall consist of less than Eighteen; and Twelve may find a Bill.

XLVI. That the Court of Conscience be continued as heretofore practised, and that the Jurisdiction thereof be extended to try Causes, not amounting to more than Ten Pounds.

XLVII. All Executions exceeding Five Pounds, except in the Case of a Court Merchant, shall be stayed, until the first Monday in March; provided Security be given for Debts⁴⁹ and Costs.

XLVIII. All the Costs attending any Action in the Superiour Court shall not exceed the Sum of Three Pounds, and that no Cause be allowed to depend in the Superiour Court longer than two Terms.

XLIX. Every Officer of the State shall be liable to be called to Account by the House of Assembly.

L. Every County shall keep the public Records, belonging to the same; and authenticated Copies of the several Records, now in the Possession of this State, shall be made out, and deposited in that County, to which they belong.

LI. Estates shall not be entailed, and when a Person dies intestate, his or her Estate shall be divided equally among their Children; the Widow shall have a Child's Share, or her Dower, at her Option; all⁵⁰ other Intestates Estates to be divided, according to the Act of Distribution, made in the Reign of Charles the Second;⁵¹ unless otherwise altered by any future Act of the Legislature.

LII. A Register of Probates shall be appointed by the Legislature in every County, for proving wills, and granting Letters of Administration.

LIII. All civil Officers in each County shall be annually elected, on the Day of the general Election, except Justices of the Peace, and Registers of Probates, who shall be appointed by the House of Assembly.

LIV. Schools shall be erected in each County, and supported at the general Expence of the State, as the Legislature shall hereafter point out⁵².

LV. A Court-House and Gaol⁵³ shall⁵⁴ be erected at the public Expence in each County, where the present Convention, or the future Legislature, shall point out and direct.

LVI. All Persons whatever shall have the free Exercise of their Religion; provided it be not repugnant to the Peace, and Safety of the State; and shall not, unless by Consent, support any Teacher, or Teachers, except those of their own Profession.

LVII. The great Seal of this State shall have the following Device; on one Side a⁵⁵

Schroll⁵⁶, whereon shall be engraved, the Constitution of the State of Georgia, and the Motto, *pro bono publico*; – on the other Side, an elegant House, and other Buildings, Fields of Corn, and Meadows covered with Sheep and Cattle; a River running through the same, with a Ship under full sail, and the Motto, *Deus nobis haec Otia fecit*.

LVIII. No Person shall be allowed to plead in the Courts of Law, in this State, except those who are authorized so to do, by the House of Assembly; and if any Person so authorized shall be found guilty of Malpractice before the House of Assembly, they shall have Power to suspend them. This is not intended to exclude any Person from that inherent Privilege of every *Freeman*, the Liberty to plead his own Cause.

LIX. Excessive Fines shall not be levied, nor excessive Bail demanded.

LX. The Principles of the Habeas Corpus Act,⁵⁷ shall be Part of this Constitution.

LXI. Freedom of the Press, and Trial by Jury, to remain inviolate *forever*.

LXII. No Clergyman, of any Denomination, shall be allowed a Seat in the Legislature.

LXIII. No Alteration shall be made in this Constitution, without Petitions from a Majority of the Counties, and the Petitions from each County to be signed by a Majority of Voters in each County within this⁵⁸ State. At which Time the Assembly shall order a Convention to be called for that Purpose, specifying the Alterations to be made, according to the Petitions preferred to the Assembly by the Majority of the Counties as aforesaid.⁵⁹

Constitution of the State of Georgia, Georgia, Savannah: Printed by William Lancaster, M.DCC.LXXXVII [1777], 11 p. The original manuscript is considered to be lost, cf. Albert Berry Saye, *A Constitutional History of Georgia 1732–1945*, Athens, GA: The University of Georgia Press, 1948, 417. Also checked against the versions as published by Robert and George Watkins, *A digest of the laws of the state of Georgia. From its first establishment as a British province down to the year 1798, inclusive, and the principal acts of 1799: in which is comprehended the Declaration of Independence; the state constitutions of 1777 and 1789, with the alterations and amendments in 1794. Also the constitution of 1798* [...], Philadelphia: Printed by R. Aitken, 1800, 7–16, in *The Revolutionary Records of the State of Georgia*, comp. and publ. under Authority of the Legislature by Allen D. Candler, 3 vols., Atlanta, GA: The Franklin-Turner Company, 1908, I, 282–297, and by Walter McElreath, *A Treatise on the Constitution of Georgia Giving the Origin, History and Development of the Fundamental Law of the State, with all Constitutional Documents Containing such Law, and with the Present Constitution, as Amended to date, with Annotations*, Atlanta: Harrison Company, 1912, 229–241. Spelling, capitalization, and punctuation as in the *Georgia Constitutional Gazette* with its idiosyncratic use of capitalization, probably due to the manuscript handed over to the printer. With more time available, the printer seems to have edited the text for the separate print correcting capitalization to normal usage. Obvious typographical errors in the *Gazette* have been tacitly corrected and disregarded in the other versions. Italics were used in conformity with the *Gazette* print. The Constitution of 1777 was unanimously adopted in convention on February 5, 1777, without being ratified by the people. It replaced the Rules and Regulations of 1776 (q.v.) and in consequence of the adoption of the Federal Constitution of 1787 (q.v.) was itself replaced by the Constitution of 1789 (q.v.).

² In *Revolutionary Records of Georgia*, ed. by Candler, I, 282, “Suffex”.

³ Ibid., “on the”.

⁴ Ibid., 283, “the”.

⁵ Ibid., “legislature”.

⁶ Ibid., “of the Representatives” missing.

⁷ In McElreath, *A Treatise on the Constitution of Georgia*, 230, “and every Year,” missing.

⁸ In *Revolutionary Records of Georgia*, ed. by Candler, I, 284, “to”.

⁹ In McElreath, *A Treatise on the Constitution of Georgia*, 230, “except”.

¹⁰ In Watkins, *Digest of the laws of Georgia*, 8, in *Revolutionary Records of Georgia*, ed. by Candler, I, 284, and in McElreath, *A Treatise on the Constitution of Georgia*, 230, “Ogechee”.

¹¹ In Watkins, *Digest of the laws of Georgia*, 8, in *Revolutionary Records of Georgia*, ed. by Candler, I,

¹ Verified by “The Constitution of the State of Georgia”, in: *The Georgia Constitutional Gazette*, No. 41, Savannah: Printed by William Lancaster, Monday, March 31, 1777, 1–2, and checked against *The*

284, and in McElreath, *A Treatise on the Constitution of Georgia*, 230, “Canouchee”.

¹² In Watkins, *Digest of the laws of Georgia*, 8, in *Revolutionary Records of Georgia*, ed. by Candler, I, 284, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “Canouchee”.

¹³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 284, “parish”.

¹⁴ *Ibid.*, 285, “parish”.

¹⁵ In Watkins, *Digest of the laws of Georgia*, 8, in *Revolutionary Records of Georgia*, ed. by Candler, I, 285, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “Glynn”.

¹⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 285, “parish”.

¹⁷ In Watkins, *Digest of the laws of Georgia*, 9, in *Revolutionary Records of Georgia*, ed. by Candler, I, 285, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “Glynn”.

¹⁸ In *Constitution of the State of Georgia*, 3, in Watkins, *Digest of the laws of Georgia*, 9, in *Revolutionary Records of Georgia*, ed. by Candler, I, 285, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “may hereafter”.

¹⁹ In McElreath, *A Treatise on the Constitution of Georgia*, 231, “fifty”.

²⁰ In *Revolutionary Records of Georgia*, ed. by Candler, I, 285, “of”.

²¹ In *Constitution of the State of Georgia*, 3, in Watkins, *Digest of the laws of Georgia*, 9, in *Revolutionary Records of Georgia*, ed. by Candler, I, 285, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “counties”.

²² In Watkins, *Digest of the laws of Georgia*, 9, in *Revolutionary Records of Georgia*, ed. by Candler, I, 285, and in McElreath, *A Treatise on the Constitution of Georgia*, 231, “Glynn”.

²³ In *Revolutionary Records of Georgia*, ed. by Candler, I, 285, “residence”.

²⁴ *Ibid.*, 287, word missing.

²⁵ In McElreath, *A Treatise on the Constitution of Georgia*, 232, “legislation”.

²⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 287, word missing.

²⁷ *Ibid.*, and in McElreath, *A Treatise on the Constitution of Georgia*, 233, “list”.

²⁸ In Watkins, *Digest of the laws of Georgia*, 10, in *Revolutionary Records of Georgia*, ed. by Candler, I, 287, and in McElreath, *A Treatise on the Constitution of Georgia*, 233, “votes”.

²⁹ In Watkins, *Digest of the laws of Georgia*, 10, in *Revolutionary Records of Georgia*, ed. by Candler, I, 288, and in McElreath, *A Treatise on the Constitution of Georgia*, 233, “trusts”.

³⁰ In *Revolutionary Records of Georgia*, ed. by Candler, I, 288, “benefits”.

³¹ In McElreath, *A Treatise on the Constitution of Georgia*, 233, “the”.

³² The final version of the Articles of Confederation not having been ratified in February, 1777, reference is made to art. XII of the preliminary draft, cf. the French version of 1776 (*q.v.*), published in the present edition I, 38–39. In the final version of November 15, 1777 (*q.v.*), correct reference would have been to art. V, *ibid.*, 21–22.

³³ In McElreath, *A Treatise on the Constitution of Georgia*, 234, “made”.

³⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 289, word missing.

³⁵ In McElreath, *A Treatise on the Constitution of Georgia*, 234, “office”.

³⁶ *Ibid.*, 235, “is to”.

³⁷ In Watkins, *Digest of the laws of Georgia*, 12, in *Revolutionary Records of Georgia*, ed. by Candler, I, 291, and in McElreath, *A Treatise on the Constitution of Georgia*, 235, “in”.

³⁸ In McElreath, *A Treatise on the Constitution of Georgia*, 237, “dependent”.

³⁹ *Ibid.*, “The”.

⁴⁰ In Watkins, *Digest of the laws of Georgia*, 13, in *Revolutionary Records of Georgia*, ed. by Candler, I, 293, and in McElreath, *A Treatise on the Constitution of Georgia*, 237, “Glynn”.

⁴¹ In McElreath, *A Treatise on the Constitution of Georgia*, 237, “estate”.

⁴² In Watkins, *Digest of the laws of Georgia*, 13, in *Revolutionary Records of Georgia*, ed. by Candler, I, 293, and in McElreath, *A Treatise on the Constitution of Georgia*, 237, “same”.

⁴³ In Watkins, *Digest of the laws of Georgia*, 13, and in McElreath, *A Treatise on the Constitution of Georgia*, 237, “supreme”.

⁴⁴ In Watkins, *Digest of the laws of Georgia*, 14, in *Revolutionary Records of Georgia*, ed. by Candler, I, 294, and in McElreath, *A Treatise on the Constitution of Georgia*, 238, “on the Bench” missing.

⁴⁵ In McElreath, *A Treatise on the Constitution of Georgia*, 238, word missing.

⁴⁶ In *Revolutionary Records of Georgia*, ed. by Candler, I, 294, word missing.

⁴⁷ *Ibid.*, “by the”.

⁴⁸ In *Constitution of the State of Georgia*, 9, in Watkins, *Digest of the laws of Georgia*, 14, in *Revolutionary Records of Georgia*, ed. by Candler, I, 295, and in McElreath, *A Treatise on the Constitution of Georgia*, 238, “Courts”.

⁴⁹ In *Revolutionary Records of Georgia*, ed. by Candler, I, 295, and in McElreath, *A Treatise on the Constitution of Georgia*, 239, “debt”.

⁵⁰ In *Revolutionary Records of Georgia*, ed. by Candler, I, 296, “And”.

⁵¹ 22 & 23 Charles II, ch. 10 (1670). The Convention had ordered on February 5, 1777, “that five hundred copies [of the Constitution] be immediately struck off, with the Act of Distribution, made in the reign of Charles the second, and the Habeas Corpus Act annexed” (*Constitution of the State of Georgia*, iv).

⁵² In *Revolutionary Records of Georgia*, ed. by Candler, I, 296, “and direct” added.

⁵³ In *Constitution of the State of Georgia*, 10, “goal”; in Watkins, *Digest of the laws of Georgia*, 15, in *Revolutionary Records of Georgia*, ed. by Candler, I, 296, and in McElreath, *A Treatise on the Constitution of Georgia*, 240, “jail”.

⁵⁴ In *Revolutionary Records of Georgia*, ed. by Candler, I, 296, “to”.

⁵⁵ In McElreath, *A Treatise on the Constitution of Georgia*, 240, “of a”.

⁵⁶ In *Revolutionary Records of Georgia*, ed. by Can-

dlar, I, 296, and in McElreath, *A Treatise on the Constitution of Georgia*, 240, “scroll”.

⁵⁷ 31 Charles II, ch. 2 (1679) (cf. above n. 51).

⁵⁸ In *Revolutionary Records of Georgia*, ed. by Candler, I, 297, “the”.

⁵⁹ In Watkins, *Digest of the laws of Georgia*, 16, and in *Revolutionary Records of Georgia*, ed. by Candler, I, 297, added: “Done at Savannah, in Convention, the fifth day of February, in the year of our Lord one thousand seven hundred and seventy-seven, and in the first year of the Independence of the United States of America.”

Constitution of Georgia (1789)

The Constitution of the State of Georgia¹

We the underwritten delegates from the people, in Convention met, do declare that the following articles shall form the Constitution for the Government of this State; and by virtue of the powers in us vested for that purpose, do hereby ratify and confirm the same.

The Constitution of the State of Georgia

ARTICLE I

SECT. 1. The Legislative power shall be vested in two separate and distinct branches, to wit, a Senate and house of Representatives, to be stiled “the General Assembly.”

SECT. 2. The Senate shall be elected on the first Monday in October in every third year, until such day of election be altered by law, and shall be composed of one member from each County, chosen by the electors thereof, and shall continue for the term of three years.

SECT. 3. No person shall be a member of the Senate who shall not have attained to the age of twenty-eight years, and who shall not have been nine years an inhabitant of the United States, and three years a Citizen of this State, and shall be an inhabitant of that County for which he shall be elected, and have resided therein six months immediately preceeding his election, and shall be possessed in his own right of two hundred and fifty acres of land or some property to the amount of two hundred and fifty pounds.

SECT. 4. The Senate shall elect by ballot a President out of their own body.

SECT. 5. The Senate shall have solely the power to try all impeachments.

SECT. 6. The election of Members for the House of Representatives shall be annual on the first monday in October, until such day of election be altered by Law, and shall be composed of members from each County in the following proportions: Camden, two; Glynn, two; Liberty, four; Chatham, five; Effingham, two; Burke, four; Richmond, four; Wilkes, five; Washington, two; Greene, two; & Franklin, two.

SECT. 7. No person shall be a member of the house of Representatives; who shall not have attained to the age of twenty-one years, and have been seven years a Citizen of the United States; and two years an inhabitant of this State, and shall be an inhabitant of that county for which he shall be elected, and have resided therein three months immediately preceeding his election: and shall be possessed in his own right of two hundred acres of land or other property to the amount of one hundred and fifty pounds.

SECT. 8. The house of Representatives shall choose their Speaker and other Officers.

SECT. 9. They shall have solely the power to impeach all persons who have been or may be in office.

SECT. 10. No person holding a military commission or office of profit; under this, or the United States, or either of them

(except Justices of the peace and Officers of the Militia) shall be allowed to take his seat as a member of either branch of the General Assembly: Nor shall any Senator or Representative be elected to any office of profit which shall be created during his appointment.

SECT. 11. The meeting of the General Assembly shall be annual, on the first Monday in November; until such day of meeting be altered by law.

SECT. 12. One third of the members of each branch shall have power to proceed to business; but a smaller number may adjourn from day to day, and compel the attendance of their members; in such manner as each house may prescribe.

SECT. 13. Each house shall be Judges of the elections, returns, and qualifications of its own members, with powers to expel or punish for disorderly behaviour.

SECT. 14. No Senator or Representative shall be liable to be arrested during his attendance on the General Assembly, or for a reasonable time in going thereto, or returning home, except it be for treason, felony, or breach of the Peace: Nor shall any member be liable to answer for any thing spoken in debate in either house, in any Court or place elsewhere.

SECT. 15. The members of the Senate, and House of Representatives shall take the following oath or affirmation. "I A.B. do solemnly swear (or affirm as the case may be) that I have not obtained my election by bribery or other unlawful means, and that I will give my vote on all questions that may come before me as a Senator or Representative in such manner as in my Judgement, will best promote the good of this State, and that I will bear true faith and allegiance to the same, and to the utmost of my power observe, support, and defend the Constitution thereof."

SECT. 16. The General Assembly shall have power to make all laws, and ordinances, which they shall deem necessary and proper, for the good of the State, which shall not be repugnant to this Constitution.

SECT. 17. They shall have power to alter the boundaries of the present Counties, and to lay off new ones, as well out of the Counties already laid off, as out of the other territory belonging to the State. When a new County or Counties shall be laid off out of any of the present County or Counties, such new County or Counties shall have their representation apportioned out of the number of the Representatives of the County or Counties out of which it or they shall be laid out; and when any new County shall be laid off in the vacant territory belonging to the State, such County shall have a number of Representatives not exceeding three, to be regulated and determined by the General Assembly. And no money shall be drawn out of the treasury or from the public funds of this State: except by appropriations made by Law.

SECT. 18. No Clergyman of any denomination shall be a member of the General Assembly.

ARTICLE II

SECT. 1. The Executive power shall be vested in a Governor, who shall hold his Office during the term of two years, and shall be elected in the following manner:

SECT. 2. The House of Representatives shall on the second day of their making a house in the first and in every second year thereafter vote by ballot for three persons, and shall make a list containing the names of the persons voted for, and of the number of votes for each person; which list the Speaker shall sign in the presence of the house, and deliver it in person to the

Senate: And the Senate shall on the same day proceed by ballot to elect one of the three persons having the highest number of votes, and the person having a majority of the votes of the Senators present shall be the Governor.

SECT. 3. No person shall be eligible to the Office of Governor who shall not have been a Citizen of the United States twelve years, and an inhabitant of this State six years, and who hath not attained to the age of thirty years, and who does not possess five hundred acres of land in his own Right within this State; and other Species of property to the amount of One thousand pounds Sterling.

SECT. 4. In Case of the death, resignation, or disability of the Governor, the President of the Senate shall exercise the Executive powers of Government, until such disability be removed, or until the next meeting of the General Assembly.

SECT. 5. The Governor shall at stated times receive for his services² a compensation which shall neither be increased, nor diminished during the period for which he shall be elected; neither shall he receive within that period any other emolument from the United States or any of them, or from any foreign power. – Before he enters on the execution of his Office he shall take the following Oath or Affirmation. “I do solemnly swear (or affirm as the case may be) that I will faithfully execute the Office of Governor of the State of Georgia, and will to the best of my abilities preserve, protect and defend the said State, and cause Justice to be executed in mercy therein, according to the Constitution and laws³ of the same.”

SECT. 6. He shall be Commander in Chief in and over the State of Georgia, and of the Militia thereof.

SECT. 7. He shall have power to grant

reprieves for offences against the State, except in cases of impeachment; and to grant pardons in all cases after conviction, except for treason or murder, in which cases he may respite the execution, and make a Report thereof to the next General Assembly, by whom a pardon may be granted.

SECT. 8. He shall Issue writs of election to fill up all vacancies that happen in the Senate or House of Representatives, and shall have power to convene the General Assembly on extraordinary occasions, and shall give them from time to time information of the State of the Republic; and recommend to their consideration⁴ such measures as he may deem necessary and expedient.

SECT. 9. In Case of⁵ disagreement between the Senate and House of Representatives, with respect to the time to which the General Assembly shall adjourn, he may adjourn them to such time as he may think proper.

SECT. 10. He shall have the revision of all bills passed by both Houses before the same shall become laws; but two-thirds of both houses may pass a law notwithstanding his dissent; and if any bill should not be returned by the Governor within five days after it hath been presented to him, the same shall be a law, unless the General Assembly by their adjournment shall prevent its return.

SECT. 11. The great Seal of the State shall be deposited in the office of the Secretary, and it shall not be affixed to any instrument of writing without it be by order of the Governor, or the⁶ General Assembly, and the General Assembly may direct the great Seal to be altered.

ARTICLE III

SECT. 1. A Superior Court shall be held

in each county twice in every year, in which shall be tried and brought to final decision, all causes civil and criminal, except such as may be subject to a Federal Court, and such as may by law be referred to inferior jurisdictions⁷.

SECT. 2. The General Assembly shall point out the mode of correcting errors and appeals, which shall extend as⁸ far as to empower the Judges to direct a new trial by jury within the County where the action originated which shall be final.

SECT. 3. Courts merchant shall be held as heretofore Subject to such regulations as the General Assembly may by law direct.

SECT. 4. All Causes shall be tried in the county where the defendant resides, except in cases of real estate, which shall be tried in the county where such⁹ estate lies, and in criminal cases, which shall be tried in the county where the crime shall be committed.

SECT. 5. The Judges of the superior Court, and attorney General, shall have a competent salary established by law, which shall not be increased nor diminished during their continuance in office; and shall hold their Commissions¹⁰ during the term of three years.

ARTICLE IV

SECT. 1. The electors of the members of both branches of the General Assembly shall be citizens and inhabitants of this State, and shall have attained to the age of twenty-one years, and have paid tax for the year preceeding the election, and shall have resided six months within the county.

SECT. 2. All elections shall be by ballot, and the House of Representatives, in all appointments of State officers shall vote for three persons, and a list of the three persons

having the highest number of votes shall be signed by the Speaker and sent to the Senate, which shall from such list determine by a majority of their votes the Officer elected, except militia Officers and the Secretaries of the Governor, who shall be appointed by the Governor alone, under such regulations and restrictions as the General Assembly may prescribe. The General Assembly may vest the appointment of inferior officers in the Governor, the Courts of Justice, or in such other manner as they may by law establish.

SECT. 3. Freedom of the press and trial by Jury shall remain inviolate.

SECT. 4. All persons shall be entitled to the benefit of the writ of Habeas Corpus.

SECT. 5. All persons shall have the free exercise of Religion, without being obliged to contribute to the support of any religious profession but their own.

SECT. 6. Estates shall not be entailed, and when a person dies intestate, leaving a wife and children, the wife shall have a child's share, or her dower at her option: If there be no wife, the estate shall be equally divided among the children, and their legal representatives of the first degree. The distribution of all other intestate estates may be regulated by law.

SECT. 7. At the General election for members of Assembly in the year one thousand seven hundred and ninety four, the electors in each County shall elect three persons to represent them in a Convention for the purpose of taking into consideration the alterations necessary to be made in this Constitution, who shall meet at such time and place as the General Assembly may appoint; and if two thirds of the whole number shall meet and concur, they shall proceed to agree on such alterations and amendments, as they may¹¹ think proper: provided that

after two thirds shall have concurred to proceed to alterations and amendments, a majority shall determine on the particulars of such alterations and amendments.

SECT. 8. This Constitution shall take effect and be in full force, on the first Monday in October next, after the adoption of the same, and the Executive shall be authorised to alter the time for the sitting of the Superior Courts, so that the same may not interfere with the annual elections in the respective Counties, or the meeting of the first General Assembly.

Done at Augusta in Convention the sixth day of May in the year of our Lord one thousand Seven hundred and eighty nine, and in the year of¹² Sovereignty and Independence of the United States the thirteenth.

WILLIAM GIBBONS, *President and Delegate from Chatham.*

Asa Emanuel	}	<i>Chatham</i>
Justus H. Scheuber		
Benjamin Lanier	}	<i>Effingham</i>
John Green		
Nathan Brownson		
David Emanuel	}	<i>Burke</i>
Hugh Lawson		
William Little		
Abraham Marshall	}	<i>Richmond</i>
William F. Booker		
Leonard Marbury		
John Talbot	}	<i>Wilkes</i>
Jeremiah Walker		
Lauchlan M ^c Intosh	}	<i>Liberty</i>
Alexander Bissett	}	<i>Glynn</i>
Jared Irwin	}	<i>Washington</i>
John Watts		
Joshua Williams		
Middleton Woods	}	<i>Franklin</i>

Joseph Carmichael }
Henry Karr¹³ } *Greene*

Attest D. LONGSTREET, *Secre^y* – 14

¹ Verified by *The Constitution of the State of Georgia. Ratified the 6th of May, 1789*, Augusta: Printed by John E. Smith, Printer to the State, MDCCLXXXIX [1789], 24 p., and corrected according to the original manuscript as preserved in the Georgia State Archives in Morrow, GA. Also checked against the versions as published by Robert and George Watkins, *A digest of the laws of the state of Georgia. From its first establishment as a British province down to the year 1798, inclusive, and the principal acts of 1799: in which is comprehended the Declaration of Independence; the state constitutions of 1777 and 1789, with the alterations and amendments in 1794. Also the constitution of 1798 [...]*, Philadelphia: Printed by R. Aitken, 1800, 25–30, and by Walter McElreath, *A Treatise on the Constitution of Georgia Giving the Origin, History and Development of the Fundamental Law of the State, with all Constitutional Documents Containing such Law, and with the Present Constitution, as Amended to date, with Annotations*, Atlanta: Harrison Company, 1912, 242–248. Spelling, capitalization, and punctuation as in the original manuscript, with obvious typographical errors in the printed versions tacitly disregarded. The Constitution of 1789 replaced the Constitution of 1777 (q.v.) and, nine years later, gave way to the Constitution of 1798 (q.v.). It was once amended in 1795 (q.v.).

² In McElreath, *A Treatise on the Constitution of Georgia*, 245, “service”.

³ Ibid., “law”.

⁴ In *Constitution of the State of Georgia*, 17, and in Watkins, *Digest of the laws of Georgia*, 28, “considerations”.

⁵ In McElreath, *A Treatise on the Constitution of Georgia*, 246, “of a”.

⁶ Ibid., word missing.

⁷ Ibid., 247, “jurisdiction”.

⁸ Ibid., “so”.

⁹ Ibid., “the”.

¹⁰ Ibid., “commission”.

¹¹ Ibid., 248, word missing.

¹² Ibid., “of the”.

¹³ First names spelled out according to *Constitution of the State of Georgia*, 24, when abbreviated in the original manuscript.

¹⁴ In Watkins, *Digest of the laws of Georgia*, 30, and in McElreath, *A Treatise on the Constitution of Georgia*, 248, names of county delegates missing.

Amendments of 1795

[Amendments to the Constitution of Georgia of 1789]¹

*The following are the Alterations and Amendments to the Constitution of the State of Georgia as adopted by the late Convention.*²

GEORGIA.³

We the representatives of the people of the state of Georgia, in Convention met, do ordain and establish the following articles as additions and amendments to the present Constitution, to take effect and be in full force on the 1st Monday in October next.⁴

ART. 1.⁵ The Senate shall be elected annually on the 1st Monday in November until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

ART. 2. All elections to be made by the General Assembly, shall be by joint ballot of the Senate and House of Representatives.

ART. 3. The election of members for⁶ the House of Representatives shall be annual on the 1st Monday in November; and shall be composed of members from each county in the following proportions⁷:—

Camden, 2. Glynn, 2. Liberty, 4. McIntosh, 2. Bryan, 2. Chatham, 4. Effingham, 2. Scriven, 2. Montgomery, 2. Burke, 3. Richmond, 2. Columbia, 2. Wilkes, 3. Elbert, 2. Franklin, 2. Oglethorpe, 3. Green[e], 3.⁸ Hancock, 3. Washington, 3. Warren, 3.

ART. 4. At the general election for members of Assembly in the year 1797, the electors of the present counties shall elect three

persons to represent them in a Convention for the purpose of taking into consideration the further alterations and amendments necessary to be made in the constitution, who shall meet, at the town of Louisville the second Tuesday in May thereafter: A majority of the said Convention shall have power to proceed to, and agree on, such alterations and amendments, as they may think proper.

ART. 5. The meeting of the General Assembly shall be annual on the second Tuesday in January; a majority of whom shall have power to proceed to business.

ART. 6. That Louisville be the permanent seat of government: — and that the Governor, Secretary of the⁹ State, the Treasurer, the Auditor, and the Surveyor-General, remove with¹⁰ their offices thereto, as soon as may be convenient, previously to the next meeting of the General Assembly.

ART. 7. Article of Constituted Rights annexed to the Constitution as amended.

ART. 8. All powers not delegated by the Constitution as amended, are retained by the people.

*Done at Louisville, in Convention, the sixteenth day of May, in the Year of our Lord, one thousand seven hundred and ninety five, and in the year of the sovereignty and independence of the United States the nineteenth.*¹¹

N. W. JONES, *President and Delegate from Chatham.*¹²

Chatham — Josiah Tattnall, jun. Thomas Gibbons.

Columbia – John Foster, John Appling, P. Wilson.

Effingham – Jeremiah Cuyler, John London. John M. Dasher.

Bryan – Joseph Clay, jun. John Wereat, Jesse McCall.

Burke – John Davis, Benjamin Davis, David Emanuel.

Camdey – Thomas King.

Elbert – S. Higginbotham, Stephen Heard, William Barnett.

Franklin – A. Franklin, Obadiah Hooper, Thomas Gilbert.

Glynn – John B. Girardeau.

Greene – Davis Gresham, Philip Hunter, William Fitzpatrick.

Hancock – P. Boyle, Andrew Baxter, Harmon Runnels.

Liberty – James Powell, Jacob Wood, Daniel Stewart.

McIntosh – Ferdinand O’Neal, Lac. McIntosh, Henry D. Stone.

Montgomery – Henry Gaster, Solomon Wood, William Neel.

Oglethorpe – Matthew Talbott, Edmond Daniel, George Swain.

Richmond – John Milton, George Walker, Philip Clayton.

Scriven – Benjamin Lanier, William Skinner, Peyton R. Stith.

Warren – Levi Pruitt, John Cobbs, Peter Goodwin.

Washington – John Rutherford, George Franklyn, Reuben Wilkinson.

Wilkes – Benj. Catchings, Silas Mercer. David Creswell.

Attest.

THOMAS JOHNSON, *Secretary*.

¹ Verified by *Journal of the Convention of the State of Georgia, Convened at Louisville, on Monday, May 3^d, 1795, for the purpose of taking into consideration, the Alterations necessary to be made in the existing Constitution of this State. To which are added, Their Amendments to the Constitution*, Augusta: Printed by A. McMillan, Printer to the State, 1795, 33–34. Checked against the versions as published by Robert and George Watkins, *A digest of the laws of the state of Georgia. From its first establishment as a British province down to the year 1798, inclusive, and the principal acts of 1799: in which is comprehended the Declaration of Independence; the state constitutions of 1777 and 1789, with the alterations and amendments in 1794. Also the constitution of 1798* [...], Philadelphia: Printed by R. Aitken, 1800, 30–31, and by Walter McElreath, *A Treatise on the Constitution of Georgia Giving the Origin, History and Development of the Fundamental Law of the State, with all Constitutional Documents Containing such Law, and with the Present Constitution, as Amended to date, with Annotations*, Atlanta: Harrison Company, 1912, 249–250. Spelling, capitalization, and punctuation as in the *Convention Journal*. The Amendment was adopted on May 16, 1795.

² In McElreath, *A Treatise on the Constitution of Georgia*, 249, sentence missing.

³ In Watkins, *Digest of the laws of Georgia*, 30, and in McElreath, *A Treatise on the Constitution of Georgia*, 249, word missing.

⁴ In McElreath, *A Treatise on the Constitution of Georgia*, 249, sentence missing.

⁵ In *Convention Journal*, 33, articles not counted.

⁶ In McElreath, *A Treatise on the Constitution of Georgia*, 249, “of”.

⁷ Ibid., “proportion”.

⁸ Ibid., “Elbert, 2. Franklin, 2. Oglethorpe, 3. Greene, 3.” missing.

⁹ Ibid., word missing.

¹⁰ In Watkins, *Digest of the laws of Georgia*, 31, and in McElreath, *A Treatise on the Constitution of Georgia*, 249, word missing.

¹¹ In *Convention Journal*, 34, sentence obviously misplaced between Art. 6 and 7; in McElreath, *A Treatise on the Constitution of Georgia*, 250, sentence and signatures missing.

¹² In Watkins, *Digest of the laws of Georgia*, 31, signatures of county delegates missing.

Constitution of Georgia (1798)

The Constitution of the State of Georgia¹

ARTICLE I

SECT. 1. The Legislative Executive and Judiciary departments of Government shall be distinct and each department shall be confided² to a separate body of Magistracy; and no person or collection of persons being of one of those³ departments shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

SECT. 2. The Legislative power shall be vested in two separate and distinct branches to wit, a Senate and house of Representatives to be stiled the “General Assembly.”

SECT. 3. The Senate shall be elected annually on the first Monday in November, until such day of election be altered by law; and shall be composed of one member from each county, to be chosen by the electors thereof.

SECT. 4. No person shall be a Senator who shall not have attained to the age of twenty five years and have been nine years a citizen of the United States, and three years an inhabitant of this State and shall have usually resided within the county for which he shall be returned at least one year immediately preceding his election, except persons who may have been absent on public business of this State or of the United States; and is and shall have been possessed in his own right, of a settled freehold estate of the value of five hundred dollars; or of taxable property to the amount of one thousand dollars within the county for one year

preceding his election – and whose estate shall, on a reasonable estimation, be fully competent to the discharge of his Just debts over and above that sum.

SECT. 5. The Senate shall elect by ballot a President out⁴ of their own body.

SECT. 6. The Senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath, or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present. Judgement in cases of impeachment, shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit within this State; but the party convicted, shall nevertheless be subject to indictment, trial, Judgement and punishment according to law.

SECT. 7. The house of Representatives shall be composed of members from all the counties which now are, or hereafter may be, included within this State, according to their respective numbers of free white persons, and including three fifths of all the people of colour; the actual enumeration shall be made within two years, and within every subsequent term of seven years thereafter, at such time and in such manner, as this Convention may direct. Each county containing three thousand persons agreeably to the foregoing plan of enumeration, shall be entitled to two members. Seven thousand to three members, and twelve thousand to four members; but each county shall have at least one, and not more than four members.

The Representatives, shall be chosen annually, on the first Monday in November, until such day of election be altered by Law. Until the aforesaid enumeration shall be made, the several counties shall be entitled to the following number of Representatives respectively. Camden two, Glynn two, Liberty three, McIntosh two, Bryan one, Chatham four, Effingham two, Scriven two, Montgomery two, Burke three, Bullock one, Jefferson three, Lincoln two, Elbert three, Jackson two, Richmond three, Wilkes four, Columbia three, Warren three, Washington three, Hancock four, Greene⁵ three, Oglethorpe three, and Franklin two.

SECT. 8. No person shall be a Representative who shall not have attained to the age of twenty one years and have been seven years a Citizen of the United States, three years an inhabitant of this State and have usually resided in the County in which he shall be chosen one year immediately preceding his election unless he shall have been absent on the⁶ public business of this State or of the United States; and, shall be possessed in his own right of a settled freehold estate⁷ of the value of two hundred and fifty dollars; or of taxable property to the amount of five hundred dollars within the County for⁸ one year preceding his election; and, whose estate shall, on a reasonable estimation be competent to the discharge of his Just debts over and above that sum.

SECT. 9. The house of Representatives shall choose their Speaker and other officers.

SECT. 10. They shall have solely the power to impeach all persons who have been, or may be in office.

SECT. 11. No person holding any military commission, or other appointment, having any emolument, or compensation⁹ annexed thereto, under this State, or the United States, or either [of] them, except

Justices of the Inferior Court, Justices of the peace, and officers of the Militia; nor any person who has had charge of public monies belonging to the State unaccounted for and unpaid, or, who has not paid all legal taxes, or contributions to the Government, required of him, shall have a seat in either branch of the General Assembly: nor, shall any Senator or Representative be elected to any office or appointment by the Legislature, having any emoluments or compensation annexed thereto, during the time for which he shall have been elected, with the above exceptions¹⁰, unless he shall decline accepting his Seat by notice to the Executive within twenty days after he shall have been elected; nor shall any member after having taken his Seat, be eligible to any of the aforesaid offices or appointments during the time for which he shall have been elected.

SECT. 12. The meeting of the General Assembly shall be annual¹¹ on the second Tuesday in January, until such day of meeting be altered by Law; a majority of each branch shall be authorised to proceed to business; but a smaller number may adjourn from day to day and compel the attendance of their members, in such manner as each house may prescribe.

SECT. 13. Each house shall be the Judges of the elections, returns¹², and qualifications of its own members, with powers to expel or punish by censuring, fining and imprisoning, or either for disorderly behaviour, and may expel any person convicted of any felonious or infamous offence, each house may punish by imprisonment, during session, any person not a member, who shall be guilty of disrespect by any disorderly or contemptuous behaviour in its presence, or who, during session, shall threaten harm to the body or estate of any member, for any thing said or done in either house or who shall assault any of them therefor; or

who shall assault¹³, or arrest any witness, in going to, or returning therefrom, or who shall rescue any person arrested by order of either house.

SECT. 14. No Senator or Representative shall be liable to be arrested during his attendance on the General Assembly, or for ten days previous to its sitting, or for ten days after the rising thereof, except for treason, felony or breach of the peace; nor shall any member be liable to answer for any thing spoken in debate in either house, in any court or place else where; but shall nevertheless be bound to answer for perjury bribery or corruption.

SECT. 15. Each house shall keep a journal of its proceedings and publish them immediately after their adjournment. And the Yeas and Nays of the members on any question shall, at the desire of any two members be entered on the Journals.

SECT. 16. All bills for raising revenue or appropriating monies shall originate in the house of Representatives; but the Senate shall propose or concur with amendments as in other bills.

SECT. 17. Every bill shall be read three times and on three separate days in each branch of the General Assembly before it shall pass, unless in cases of actual invasion or insurrection, nor shall any Law or ordinance pass, containing any matter different from what is expressed in the title thereof. And all Acts shall be signed by the President in the Senate, and Speaker in the house of Representatives – no bill or ordinance which shall have been rejected by either house, shall be brought in again during the session, under the same or any other title, without the consent of two thirds of each branch.

SECT. 18. Each Senator and Representative before he be permitted to take his seat,

shall take an oath or make affirmation that he hath not practised any unlawful means either directly or indirectly to procure his election; and every person shall be disqualified from serving as a Senator or Representative for the term for which he shall have been elected who shall be convicted of having given or offered any bribe or treat, or canvassed for such election and every candidate employing like means and not elected shall on conviction, be ineligible to hold a seat in either house, or to hold any office of honor or profit for the term of one year, and to such other disabilities or penalties as may be prescribed by law.

SECT. 19. Every member of the Senate or house of Representatives shall before he takes his seat, take the following oath or affirmation to wit, I, A.B. do solemnly swear or affirm (as the case may be) that I have not obtained my election by bribery, treats, canvassing or other undue or unlawful means, used by myself or others by my desire or approbation for that purpose; that I consider myself constitutionally qualified as a Senator or Representative; and that on all questions and measures which may come before me, I will give my vote and so conduct myself, as may in my Judgement appear most conducive to the interest and prosperity of this State; and that I will bear true faith and allegiance to the same and to the utmost of my power and ability observe, conform to, support and defend the Constitution thereof.

SECT. 20. No person who hath been or may be convicted of felony before any court of this State, or any of the United States, shall be eligible to any office or appointment of honor profit or trust within this State.

SECT. 21. Neither house during the session of the General Assembly shall, without the consent of the other, adjourn for more than three days, nor to any other place than

that at which the two branches shall be sitting, and in case of disagreement between the Senate and house¹⁴ of Representatives with respect to their adjournment, the Governor may adjourn them.

SECT. 22. The General Assembly shall have power to make all laws and ordinances, which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this Constitution.

SECT. 23. They shall have power to alter the boundaries of the present counties, and to lay off new ones, as well out of the counties already laid off as out of the other territory belonging to the State, but the property of the soil in a free government being one of the essential rights of a free people, it is necessary, in order to avoid disputes that the limits of this State, should be ascertained with precision and exactness; and this Convention composed of the immediate Representatives of the people, chosen by them, to assert their rights, and¹⁵ to revise the powers given by them to the Government, and from whose will all ruling authority of right flows, Doth assert and declare the boundaries of this State to be as follow¹⁶: That is to say, the limits boundaries jurisdictions and authority of the State of Georgia do, and did, and of right ought to extend from the sea or mouth of the River Savannah, along the northern branch or stream thereof to the fork or confluence of the Rivers now called Tugalo and Keowee, and from thence along the most northern branch or stream of the said river Tugalo, till it intersect the northern boundary line of South Carolina if the said branch or stream of Tugalo extends so far north, reserving all the Islands in the said Rivers Savannah and Tugalo to Georgia; but if the head spring or source of any branch or stream of the said River Tugalo does not extend to the north boundary line of South Carolina, then a west line to the Mississippi to be drawn from the head spring or source

of the said branch or stream of Tugalo River, which extends to the highest northern latitude, thence down the middle of the said River Mississippi until it shall intersect the northernmost part of the thirty first degree of north latitude; south by a line drawn due east from the termination of the line last mentioned in the latitude of thirty one degrees north of the equator, to the middle of the River Appalachicola or Chatahoochee; thence along the middle thereof, to its junction with Flint River; thence straight to the head of St. Marys River; and thence along the Middle of St. Marys River to the Atlantic Ocean; and from thence to the mouth or inlet of Savannah River the place of beginning: including and comprehending all the lands and waters within the said limits boundaries and jurisdictional rights, and also all the Islands within twenty leagues of the Sea coast. And this Convention doth further declare and assert that all the territory without the present temporary line and within the limits aforesaid, is now, of right the property of the free Citizens of this State, and held by them in sovereignty inalienable but by their consent, provided nevertheless that nothing herein contained shall be construed so as to prevent a sale to, or contract with the United States by the Legislature of this State, of, and for all or any part of the western Territory of this State laying westward of the River Chatahoochee, on such terms as may be beneficial to both parties and may procure an extension of settlement and an¹⁷ extinguishment of Indian claims in, and to the vacant Territory of this State to the East and north of the said River Chatahoochee, to which Territory such power of contract or sale by the Legislature shall not extend; and provided also the Legislature may give its consent to the establishment of one or more Governments westward thereof; but monopolies of land by Individuals being contrary to the spirit of our free Government, no sale of Territory

of this State or any part thereof shall take place to individuals or private companies unless a County or Counties shall have been first laid off including such Territory and the Indian rights shall have been extinguished thereto.

SECT. 24. The foregoing section of this article having declared the common rights of the free Citizens of this State, in, and to all the Territory without the present temporary boundary line and within the limits of this State thereby defined, by which the contemplated purchases of certain companies of a considerable portion thereof, are become constitutionally void; and Justice and good faith require, that the State should not detain a consideration for a contract which has failed: the Legislature at their next Session shall make provision by law for returning to any person or persons who has or have bona fide deposited monies for such purchases in the Treasury of this State; provided that the same shall not have been drawn therefrom in terms of the Act passed the thirteenth day of February One thousand seven hundred & ninety six, commonly called the rescinding Act, or the appropriation laws of the years one thousand seven hundred and ninety six and one thousand seven hundred and ninety seven: nor shall the monies paid for such purchases ever be deemed a part of the funds of this State, or be liable to appropriation as such, but until such monies be drawn from the Treasury they shall be considered altogether at the risque of the persons who have deposited the same. No money shall be drawn out of the Treasury or from the Public funds of this State except by appropriation made by Law; and a regular statement and account of the receipts and expenditures of all public monies shall be published from time to time. No vote, resolution, law or order, shall pass the General Assembly, granting a donation or gratuity in favor of any per-

son whatever, but by the concurrence of two thirds of the General Assembly.

SECT. 25. It shall be the duty of the Justices of the Inferior Court, or any three of them in each County respectively, within sixty days after the adjournment of this Convention, to appoint one or more fit persons in each County, not exceeding one for each Battalion district, whose duty it shall be to take a full and accurate *Census* or enumeration of all free white persons and people of colour residing therein, distinguishing in separate columns the free white persons from persons of colour, and return the same to the Clerks of the superior Courts of the several Counties certified under their hands on or before the first day of December next; the persons¹⁸ so appointed being first severally sworn before the said Justices or either of them, duly and faithfully to perform the trust reposed in them, and it shall be the duty, of the said Clerks, to transmit all such returns under seal directed to the Speaker of the House of Representatives at the first Session of the Legislature thereafter; and it shall be the duty of the General Assembly at their said first Session to apportion the members of the House of Representatives among the several Counties agreeably to the plan¹⁹ prescribed by this *Constitution*, and to provide an adequate compensation for the taking of the said census. Every person whose usual place of abode shall be in any family on the first monday in July next shall be returned as of such family; and every person occasionally absent at the time of taking the enumeration as belonging to that place in which he usually resides. The General Assembly shall by law direct the manner of taking such Census or enumeration within every subsequent term of seven years in conformity to this constitution: And it is declared to be the duty of all Officers civil and military throughout this²⁰ State to be aiding and assisting in the

true and faithful execution thereof – in case the Justices of the Inferior Courts should fail to make such appointments, or if there should not be a sufficient number of such Justices in any County, then the Justices of the peace or any three of them shall have and exercise like powers and authority respecting the said census; and if the census or enumeration of any County shall not be so taken and returned, then, and in that case, the General Assembly shall apportion the representation of such County according to the best evidence in their power relative to its population.

ARTICLE II

SECT. 1. The Executive power shall be vested in a Governor who shall hold his Office during the term of two years and until such time as a successor shall be chosen and qualified; he shall have a competent Salary established by law, which shall not be increased or diminished during the period for which he shall have been elected; neither shall he receive within that period any other emolument from the United States or either of them or from any foreign power.

SECT. 2. The Governor shall be elected by the General Assembly at their second annual Session after the rising of this convention and at every second annual Session thereafter, on the second day after the two Houses shall be organized and competent to proceed to business.

SECT. 3. No person shall be eligible to the office of Governor who shall not have been a Citizen of the United States twelve years, and an inhabitant of this State six years – and who hath not attained to the age of thirty years and who does not possess five hundred acres of land in his own right within this State, and other property to the amount of four thousand dollars and whose

Estate shall not on a reasonable estimation be competent to the discharge of his just²¹ debts over and above that sum.

SECT. 4. In case of the death or²² resignation or disability of the Governor the president of the Senate shall exercise the executive powers of Government until such disability be removed or until the next meeting of the General Assembly.

SECT. 5. The Governor shall before he enters on the duties of his Office take the following oath or affirmation, I do solemnly swear or affirm (as the case may be) that I will faithfully execute the Office of Governor of the State of Georgia; and will to the best of my abilities, preserve, protect, and defend the said State, and cause Justice to be executed in mercy therein according to the constitution and laws thereof.

SECT. 6. He shall be commander in Chief of the Army and Navy of this State, and of the Militia thereof.

SECT. 7. He shall have power to grant reprieves for offences against the State, except in cases of impeachment, and to grant pardons or to remit any part of a sentence, in all cases after conviction, except for treason or murder; in which cases he may respite the execution and make report thereof to the next General Assembly, by whom a pardon may be granted.

SECT. 8. He shall issue writs of *Election* to fill up all vacancies that happen in the Senate or House of Representatives, and shall have power to convene the General Assembly on extraordinary occasions and shall give them from time to time information of the State of the Republic, and recommend to their consideration such measures as he may deem necessary and expedient.

SECT. 9. When any office shall become vacant by death, resignation, or otherwise, the Governor shall have the power to fill

such vacancy, and persons so appointed, shall continue in office until a successor is appointed agreeably²³ to the mode pointed out by this constitution, or by the Legislature.

SECT. 10. He shall have the revision of all Bills passed by both houses, before the same shall become laws, but two thirds of both houses may pass a law notwithstanding his dissent, and if any Bill should not be returned by the Governor within five days after it hath been presented to him, the same shall be a law, unless the General Assembly by their adjournment shall prevent its return.

SECT. 11. Every vote, resolution or order, to which the concurrence of both Houses may be necessary, except on a question of adjournment, shall be presented to the Governor and before it shall take effect, be approved by him, or being disapproved, may be repassed by two thirds of both houses, according to the rules and limitations, prescribed in case of a Bill.

SECT. 12. There shall be a Secretary of the State, a Treasurer, and a Surveyor General, appointed in the same manner and at the same Session of the Legislature, and they shall hold their Offices for the like period as the Governor, and shall have a competent salary including such emoluments as may be established by law, which shall not be encreased or diminished during the period for which they shall have been elected.

SECT. 13. The great seal of the State shall be deposited in the Office of the Secretary of State and shall not be affixed to any instrument of writing but by order of the Governor or General Assembly; and the General Assembly shall at their first Session after the rising of this²⁴ Convention cause the great seal to be altered by law.

SECT. 14. The Governor shall have power to appoint his own Secretaries.

ARTICLE III

SECT. 1. The judicial powers of this State shall be vested in a Superior court and in such inferior Jurisdictions as the Legislature shall from time to time ordain and establish. The Judges of the Superior courts²⁵ shall be elected for the term of three years, removable by the Governor on the address of two thirds of both houses for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive and final jurisdiction in all criminal cases, which shall be tried in the County, wherein the crime was committed, and in all cases respecting titles to land, which shall be tried in the County where the land lies; and shall have power to correct errors in inferior *Judicatories* by writs of certiorari, as well as errors in the superior courts and to order new trials on proper and legal grounds: *provided* that such new trials shall be determined and such errors corrected in the superior court of the County in which such action originated. And the said Court shall also²⁶ have appellate jurisdiction in such other cases as the Legislature may by law direct, which shall in no case tend, to remove the cause from the County in which the action originated; and the Judges thereof in all cases of application for new trials or correction of errors shall enter their opinions on the minutes of the Court: The inferior courts shall have cognizance of all other civil cases which shall be tried in the County wherein the defendant resides, except in cases of joint obligors, residing in different Counties, which may be commenced in either county; and a copy of the petition and process served on the party or parties residing out of the County in which the suit may be commenced, shall be deemed sufficient service under such rules and regulations as the Legislature may direct: But the Legislature may by law, to

which two thirds of each branch shall concur, give concurrent Jurisdiction to the superior Courts. The Superior and Inferior courts shall sit in each County twice in every year at such stated times as the legislature shall appoint.

SECT. 2. The Judges shall have salaries adequate to their services established by law, which shall not be increased or diminished during their continuance in office; but shall not receive any other perquisites or emoluments whatever, from parties or others, on account of any duty required of them.

SECT. 3. There shall be a States Attorney and Solicitors appointed by the Legislature and Commissioned by the Governor, who shall hold their offices for the term of three years unless removed by sentence on impeachment, or by the Governor on the address of two thirds of each branch of the General Assembly.

They shall have salaries adequate to their services established by law, which shall not be increased or diminished during their continuance in office.

SECT. 4. Justices of the inferior Courts shall be appointed by the General Assembly and be commissioned by the Governor and shall hold their Commissions during good behaviour, or as long as they respectively reside in the County for which they shall be appointed, unless removed by sentence on impeachment, or by the Governor on the address of two thirds of each branch of the General Assembly. They may be compensated for their services in such manner as the legislature may by law direct.

SECT. 5. The Justices of the peace shall be nominated by the Inferior Courts of the several Counties and commissioned by the Governor and there shall be two Justices of the peace in each Captain's District either or both of whom shall have power to try all

cases of a civil nature within their district where the debt or liquidated²⁷ demand does not exceed thirty dollars, in such manner as the Legislature may by law direct. They shall hold their appointments during good behaviour or until they shall be removed, by conviction on indictment in the superior court for mal-practice in office or for any felonious or infamous crime or by the Governor on the address of two thirds of each branch of the Legislature.

SECT. 6. The powers of a Court of ordinary or Register of Probates shall be vested²⁸ in the inferior Courts of each county from whose decision there may be an appeal to the Superior Court under such restrictions and regulations as the General Assembly may by law direct; but the inferior Court shall have power to vest the care of the records and other proceedings therein, in the Clerk or such other person as they may appoint, and any one or more Justices of the said Court with such Clerk or other person may issue citations and grant temporary letters in time of vacation to hold until the next meeting of the said Court; and such Clerk or other person may grant marriage licenses.

SECT. 7. The Judges of the Superior Courts, or any one of them, shall have power to issue writs of mandamus, prohibition, scire facias, and all other writs which may be necessary for carrying their powers fully into effect.

SECT. 8. Within five years after the adoption of this Constitution, the body of our laws, civil and criminal, shall be revised, digested and arranged under proper heads, and promulgated in such manner as the Legislature may direct; and no person shall be debarred from advocating or defending his cause before any court, or tribunal either by himself or Counsel, or both.

SECT. 9. Divorces shall not be granted by the Legislature untill the parties shall have had a fair trial before the superior Court and a verdict shall have been obtained authorising a divorce upon legal principles, and in such cases two thirds of each branch of the Legislature may pass Acts of divorce accordingly.

SECT. 10. The Clerks of the Superior and inferior Courts shall be appointed in such manner as the Legislature may by law direct – shall be Commissioned by the Governor, and shall continue in office during good behaviour.

SECT. 11. Sheriffs shall be appointed in such manner as the General Assembly may by law direct and shall hold their appointments for the term of two years, unless sooner removed by sentence on impeachment, or by the Governor on the address of two thirds of the Justices of the inferior court and of the peace in the county, but no person shall be twice elected Sheriff within any term of four years; and no County officer after the next election shall be chosen at the time of electing a Senator or Representative.

ARTICLE IV

SECT. 1. The electors of members of the General Assembly shall be Citizens and inhabitants of this State, and shall have attained the age of twenty one years, and have paid all taxes which may have been required of them, and which they have²⁹ had an opportunity of paying agreeably to law, for the year preceding the election, and shall have resided six months within the County; provided, that in case of³⁰ invasion and the inhabitants shall be driven from any County so as to prevent an election therein, such refugee inhabitants being a majority of the voters of such County may meet under the

direction of any three Justices of the Peace thereof, in the nearest County not in a State of alarm, and proceed to an election, without having paid such tax so required of electors, and the persons elected thereat shall be entitled to their seats.

SECT. 2. All elections by the General Assembly shall be by joint ballot of both branches of the Legislature, and when the Senate, and house of Representatives unite for the purpose of electing, they shall meet in the Representative Chamber, and the President of the Senate shall in such cases preside, receive the ballots, and declare the person or persons elected. In all elections by the people, the electors shall vote *viva voce*, untill the Legislature shall otherwise direct.

SECT. 3. The General officers of the Militia shall be elected by the General Assembly; and, shall be Commissioned by the Governor. All other officers, of the Militia, shall be elected in such manner as the Legislature may direct, and shall be Commissioned by the Governor. And all Militia officers now in Commission and those which may be hereafter Commissioned, shall hold their Commissions during their usual residence within the division, Brigade, Regiment, Battalion, or Company to which they belong, unless removed by sentence of a Court Martial, or by the Governor, on the address of two thirds of each branch of the General Assembly.

SECT. 4. All persons appointed, by the Legislature, to fill vacancies, shall continue in office, only so long as to complete the time, for which their predecessors were appointed.

SECT. 5. Freedom of the press, and trial by jury, as heretofore used in this State, shall remain inviolate; and no *ex post facto* law shall be passed.

SECT. 6. No person, who heretofore hath been or hereafter may be, a Collector or holder of public monies, shall be eligible to any office in this State, until such person shall have accounted for, and paid into the Treasury, all sums for which he may be accountable or liable.

SECT. 7. The person of a debtor, where there is not a strong presumption of fraud, shall not be detained in prison after delivering up bona fide all his estate real and personal, for the use of his creditors, in such manner as shall be hereafter regulated by law.

SECT. 8. Convictions on impeachments, which have³¹ heretofore taken place, are hereby released; and, persons laying³² under such convictions, restored to Citizenship.

SECT. 9. The writ of habeas corpus shall not be suspended unless when in case of rebellion, or invasion, the public safety may require it.

SECT. 10. No person, within this State, shall, upon any pretence, be deprived of the inestimable privilege of worshipping God, in a manner agreeable to his own conscience; nor, be compelled to attend any place of worship, contrary to his own faith, and Judgement; nor, shall he ever be obliged to pay tythes, taxes, or any other rate, for the building, or repairing any place of worship, or, for the maintainance of any Minister or Ministry, contrary to what he believes to be right, or hath voluntarily engaged to do. No one religious society, shall ever be established in this State in preference to another; nor shall any person be denied the enjoyment of any civil right, merely on account of his religious principles.

SECT. 11. There shall be no future importation of slaves into this State, from

Africa, or any foreign place, after the first day of October next. The Legislature shall have no power to pass laws for the emancipation of slaves, without the consent of each of their³³ respective owners, previous to such emancipation. They shall have no power to prevent emigrants, from either of the United States to this State, from bringing with them such persons, as may be deemed slaves, by the laws of any one of the United States.

SECT. 12. Any person, who shall maliciously dismember, or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except, in case of insurrection by such slave, and unless such death should happen by accident, in giving such slave moderate correction.

SECT. 13. The arts and sciences shall be promoted, in one or more seminaries of learning, and the Legislature shall, as soon as conveniently may be, give such further donations and privileges, to those already established, as may be necessary to secure the objects of their institution; and it shall be the duty of the General Assembly, at their next Session, to provide effectual measures for the improvement and permanent security of the funds and endowments of such institutions.

SECT. 14. All civil officers shall continue in the exercise of the duties of their several offices, during the periods for which they were appointed, or until they shall be superceded, by appointments made in conformity to this Constitution: and all laws now in force, shall continue to operate, so far as they are compatible with this Constitution, until repealed; and it shall be the duty of the General Assembly, to pass all necessary laws, and regulations, for carry-