The American Revolution in Georgia, 1763–1789

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GEORGIA'S most important contact with the other states in the 1780's was in the writing of the federal constitution of 1787. Georgia first took up this matter when the assembly considered the report of the Annapolis Convention in January and February of 1787. On February 10 the assembly elected William Few, Abraham Baldwin, William Pierce, George Walton, William Houstoun, and Nathaniel Pendleton, or any two of them as delegates to meet with delegates from the other states to revise the federal constitution.\(^1\) Few and Pierce were then in Congress, meeting in New York, and the other four were well known in Georgia political circles.

Few was in Philadelphia on May 14, the scheduled opening date for the convention, and attended its first session on May 25. Pierce arrived on May 31, and Baldwin and Houstoun first appeared on June 1 and 11, respectively. Thereafter with the exception of July 23 (or 26) through about August 6, Georgia had two delegates present at the convention. Baldwin remained throughout, and Few remained except for July 4 through August 3 when he was absent in Congress. Pierce left about July 1 and Houstoun about July 26.\(^2\)

Baldwin was easily Georgia's outstanding delegate in the constitutional convention, yet he spoke but eight times and was concerned with but two important items. Houstoun spoke seven times, Pierce four times, and Few not at all.\(^3\) Pierce wrote a series of interesting character sketches of the members of the convention that throw some light on how the delegates appeared to their
contemporaries. He also kept notes on debates from May 31 through June 6 that add some information to the knowledge of that period. Pierce evidently found note taking a greater chore than he had contemplated, for his notes decrease in length every day before stopping altogether.4

Baldwin and Pierce both favored a central government with real powers, but would safeguard the rights and powers of the states because they did not think that Congress could care for local matters adequately. Baldwin thought that the first branch of the legislature should represent the people and the second branch the wealth or property of the country. Pierce favored the election of the first branch of the legislature by the people and the second branch by the states so that both would be represented individually and collectively. He insisted that the government must have direct contact with the people and that the states must give up some of their sovereignty; otherwise there would be no improvement over the existing government. Georgia's delegation usually voted with the "large state" or "stronger central government" group in the convention, as the opinions of Baldwin and Pierce would indicate.5

Once the convention split badly over the question of the basis of representation in the upper house and it seemed might even break up over this matter. When a crucial vote was taken on July 2, the Georgia delegation divided its vote and thus caused a tie. A committee was then appointed which brought in the famous Connecticut compromise providing for proportional representation to the lower house and equal representation to the upper house. Some think that without this tie vote and the resulting delay in determining this important question, the convention would have ended before finishing its work. Ordinarily Georgia would have voted with the proportional representation group, but Baldwin voted for equal representation. Neither Baldwin nor Houstoun ever gave any reason for their votes, but Luther Martin of Maryland said that Baldwin voted against proportional representation because he was afraid that if proportional representation carried, the small states would withdraw from the convention. Baldwin was closely associated with the delegates from Connecticut, his former home, and may have been influenced by them. He and Houstoun may have agreed to split Georgia's vote to allow further time to work out a compromise, but there is no proof beyond Martin's statement.6
The other matter in which Georgia's delegates showed some positive interest was the foreign slave trade. Baldwin joined Charles Pinckney and Charles Cotesworth Pinckney of South Carolina in arguing that slavery was a local matter which should be left to the states, that Georgia would oppose any attempt to abridge one of her "favorite prerogatives," and that the states still allowing the foreign slave trade probably would abolish it shortly if left alone. Only the Carolinas and Georgia favored further importation, but the other states gave in and allowed importation until 1808, agreeing with Madison that importation was bad but union was better.7

Few and Baldwin signed the finished constitution, and Pierce said that he would have signed gladly had he been in Philadelphia at the time of the signing. He did not think the constitution perfect but said that it was perhaps the best that could be got just then. Local circumstances, inequality of the states, and the different interests of the various parts of the union made it impossible to get a better document. There is no reason to suppose that Houstoun would not have signed the constitution if he had been in Philadelphia at the end of the convention.8

Pierce and Few returned to Congress and were present when it voted to send the proposed constitution to the states. Pierce sailed for Savannah about a week after Congress' action and brought a copy of the new constitution with him. He arrived in Savannah on October 10, and three days later the constitution was first published in the Georgia State Gazette.9 Within a week the assembly met in Augusta in a special session to consider the Indian troubles and called for the selection of a ratifying convention in the winter election.10

The convention began its work on Friday, December 28, with twenty-four delegates present from ten of the state's eleven counties. John Wereat, a former governor and a delegate from Richmond County, became president. Isaac Biggs, who with William Longstreet was to be given patent rights for steam navigation of the Savannah River within a month of the convention's ending, was elected secretary. Governor George Mathews, ex-Governors Edward Telfair and Nathan Brownson, future Governors George Handley and Jared Irwin, Chief Justice Henry Osborne, and longtime Secretary of State John Milton were chosen as delegates. Most of the delegates had been prominent during the Revolution, but there were a few whose only participation in Georgia politics
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was as members of the convention. The proposed constitution was debated in the convention on Saturday, December 29, and unanimously ratified on Monday morning, December 31. Two days later the formal ratification and signing by the twenty-six delegates present took place. As the last name was signed to the ratification thirteen salutes were fired from two field pieces stationed opposite the state house. On January 5 the convention assembled for its final session, at which it agreed to a letter to the Continental Congress announcing the ratification and ordered its journal published.11

The journal of the convention records only formal actions and gives no indication of the debate that took place. The few letters discovered that mention the convention say that everybody was favorable to the constitution.12 The fact that the debate lasted but one day and that every delegate present signed the ratification bears out this impression. The one located charge of Chief Justice Osborne to a grand jury in the fall of 1787 contains the hope that good would come from the Philadelphia convention.13 William Few, a member of the Philadelphia convention, was a member of the ratifying convention and obviously worked for the ratification of the constitution. William Pierce, another delegate to Philadelphia, was probably in Georgia when the ratifying convention met. Edward Telfair and Nathan Brownson undoubtedly worked for the ratification. Joseph Habersham, later to be Washington's postmaster general, and George Handley, to be appointed collector of the port of Brunswick in 1789, certainly favored the new constitution. No opponent of the constitution in the ratifying convention is known to have existed. The only located advice against complete adoption of the new constitution is a letter from Lachlan McIntosh to a delegate to the ratifying convention in which he suggests ratification with the proviso that another convention be called to reconsider the constitution at some specified future time so that the interests of the Southern states—which would be in a minority in the new government—might be safeguarded.14

The Indian danger in the state for the past two years, with the continued threat of a Creek war, was certainly one of the reasons that Georgia favored the constitution. Georgians realized that they could not protect themselves alone, and appeals to the Continental Congress had brought little help beyond negotiations which possibly delayed actual fighting. Throughout the fall and winter of 1787 Indian trouble was the biggest item of business of
both the state executive and assembly. There seems no doubt that the majority of Georgians hoped to get more and better help against the Creeks out of a strengthened central government. Federal help was Georgia's only hope.

Free importation of slaves until 1808 allayed any opposition on the slavery question. The fact that so many Georgians had been born and raised outside the state must have helped to diminish local prejudice and to create a better feeling for the central government. Several important political leaders had recently moved to Georgia from New England, Virginia, and the Carolinas. There was no great internal political split in Georgia—between the coast and the upcountry, between radicals and conservatives, or between rich and poor—to hurt the chances of ratification. Commercial interests in Savannah and the frontiersmen could and did unite in favor of ratification.

Georgia was the fourth state to ratify the constitution after its submission to the states, and it was one of the three to ratify unanimously. Georgia did act very rapidly, considering that the Philadelphia convention had been adjourned for almost a month before a copy of the constitution was received in Georgia. However, the troubles caused by the Creek Indians were responsible for such rapid action. Except for the special session of the assembly to consider the Indian problem, the ratifying convention would have been delayed several months beyond the date it actually met. After ratification of the new constitution, Georgians anxiously awaited news that enough states had ratified and that the new government could go into operation. When word finally came the news was celebrated in Augusta with proper ceremonies.15

There had been a few attempts before 178716 to amend the Georgia constitution of 1777, but no real action was taken until Georgia had ratified the new federal constitution. The 1788 assembly ignored the amending process specified in the 1777 constitution and provided that a constitutional convention, consisting of three members from each county elected by the assembly, should meet after nine states had adopted the federal constitution, to alter or amend the state constitution. Eighteen of the thirty-three delegates elected by the assembly had been members of the convention that had just ratified the new federal constitution, and twenty of the delegates were members of the assembly that elected them.17

After official word was received of the ratification of the new
federal constitution by nine states, the state constitutional convention was called to meet in Augusta on November 4, 1789, and was in session from November 9 through 24. The constitution drawn up by the convention was modeled on the new federal constitution but retained several items from the 1777 state constitution. The constitution was divided into four articles, the first three of which laid down the organization and duties of the legislative, executive, and judicial departments. The fourth article contained everything not immediately applicable to these three departments. No records of the convention and little debate in the public press or elsewhere about the proposed constitution have been found. There were arguments that it set up a tyranny by taking powers away from the immediate representatives of the people. Others argued that it was superior to the old constitution because it followed closely the new federal constitution. Instead of creating tyranny it would abolish anarchy and create efficient government by giving the governor powers similar to those of the federal president. Instead of containing minute regulations, it gave the government broad powers such as any government needed. The slightly higher property qualification for voting could be easily acquired by any Georgian worth his salt.

The convention provided, in agreement with the resolution calling it into existence, that each county should elect three delegates to meet in January, 1789, “vested with full power, and for the sole purpose of adopting and ratifying, or rejecting” the proposed constitution. This ratifying convention met on January 5 and, instead of ratifying or rejecting the proposed constitution, suggested eleven amendments. The more important of these reduced the property qualification of members of both houses of the assembly, reduced the voter qualification to payment of a tax for the previous year, changed the election of the governor from the assembly to an electoral college in which each county should have one vote, and changed the terms of the judges and the attorney general from seven to three years. The convention then adjourned until the second Tuesday in June to allow consideration of its amendments by the people of the state.

Despite the fact that the great majority of the members of this ratifying convention were also members of the assembly, the assembly directed that a new ratifying convention be elected instead of the old one reassembling. The assembly specified that the third convention could only consider the proposed constitution
and amendments and should propose no amendments itself. Yet the assembly suggested an additional amendment—that no money be drawn from the treasury except by appropriation.\textsuperscript{21}

This third convention met in Augusta on May 4 and was urged by Governor George Walton to take final action and to adopt a constitution that would bring the state and federal governments into harmony. Otherwise, Walton feared the difference in the two constitutions would put the state in an awkward condition. This convention defeated an attempt to consider further amendments, spent only one day in debate, and then adopted a new constitution from the work of the two previous conventions. This constitution was ratified by the convention without further reference to the people and was to go into effect on the first Monday in October, 1789.\textsuperscript{22}

Article I specified that there should be a two-house legislature, the General Assembly, consisting of a senate and a house of representatives. Each county had one senator elected every third year, who must be twenty-eight years of age, nine years an inhabitant of the United States, three years a citizen of Georgia, and the owner of 250 acres of land or property worth £250. Members of the house of representatives, elected annually, must be twenty-one years of age, seven years a citizen of the United States, two years an inhabitant of Georgia, and the owner of 200 acres of land or property worth £150. Both senators and representatives must be residents of the county from which they were elected, a practice not always followed under the constitution of 1777; and none could be clergymen or state or federal officials. Counties received from two to five representatives, roughly according to population. There were thirteen for the coastal counties, ten for the lower Savannah River counties, and eleven for the frontier counties. Probably the coast was over-represented, and the frontier under-represented; but the discrepancy was not so glaring as in some other states.\textsuperscript{23} Each house had the usual legislative powers over its membership, and members were given the usual legislative immunity while attending sessions. General legislative power was conferred by the statement, “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.”

Article II, concerned with the executive, made several important changes. The executive was to consist of a governor
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without any council for the first time in Georgia's history. The governor, to be elected for a two-year term of office by the senate from three people chosen by the house of representatives, must be thirty years of age, a citizen of the United States for twelve years, an inhabitant of Georgia for six years, and the owner of 500 acres of land and £1,000 additional property. Several new powers were given to the governor. He could grant reprieves and pardons except in cases of impeachment, treason, or murder, where the assembly retained final power. He was given a legislative veto which could be overridden by a two-thirds vote of both houses. The governor was also directed to issue writs of election to fill legislative vacancies, to give information to the assembly on the state of the republic, and to make recommendations to the assembly. For the first time some real executive leadership might now be possible in state government.

Article III kept the same judicial organization that already existed. Superior courts, the highest courts in the state, were to be held in each county twice each year under such regulations as the legislature specified. Inferior jurisdictions were to be determined by the assembly. Courts merchant were to continue as previously. Judges and the attorney general were to serve for three-year terms.

Article IV specified that electors must be citizens of the state, twenty-one years of age, who had paid a tax the preceding year and had resided within their county for six months. (The voting qualification under the 1777 constitution had been ownership of £10 property or the following of a mechanic's trade.) All state officials were to be elected by the assembly in the same manner as the governor. Freedom of the press and trial by jury were to continue. All persons were declared entitled to the right of habeas corpus. The free exercise of religion was guaranteed to all, and nobody was to be forced to support any religion but his own. The former constitutional prohibition against excessive fines and bail was dropped. Estates were not to be entailed, and intestate estates were to be divided equally between the children and the widow unless the widow elected to take her dower. For amendment it was specified that in the election of 1794 three members from each county were to be elected to meet in convention to make any needed amendments to the constitution. No mention was made of local government, subordinate state officials, public education, or many other things that had been included in the
constitution of 1777. These things were now taken for granted and were left to the discretion of the assembly.

Georgia was now ready to begin government under new state and federal constitutions. In November, 1788, some confusion was caused by the failure of the assembly to secure a quorum at a session called to provide for the election of presidential electors. The 1789 assembly designated the electors in January just one day before the deadline set by Congress. These electors joined those in the other states in voting unanimously for George Washington as president. William Few and James Gunn were elected federal senators; and George Mathews, Abraham Baldwin, and James Jackson federal representatives. In agreement with the action of the United States Congress, in July all state officials were directed to take an oath to support the constitution of the United States; and the new state constitution went into full effect in November with the meeting of the first assembly organized as it directed. With the new state and federal governments in operation, the limits set for this study are reached.