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## Georgia Constitution of 1798 as amended through 1849

State of Georgia

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CONSTITUTION OF GEORGIA—1798 \* <sup>a</sup>

The constitution of the State of Georgia, as revised, amended, and compiled by the convention of the State, at Louisville, on the 30th day of May, 1798

## ARTICLE I

SECTION 1. The legislative, executive, and judiciary departments of government shall be distinct, and each department shall be confided to a separate body of magistracy; and no person or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

SEC. 2. The legislative power shall be vested in two separate and distinct branches, to wit: A senate and house of representatives, to be styled "The general assembly."

SEC. 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.

SEC. 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 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.

SEC. 5. The senate shall elect, by ballot, a president of their own body.

SEC. 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. Judgment 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, judgment, and punishment according to law.

SEC. 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 color. The actual enumeration shall be made within two years, and within every

\* Verified by "Watkins' Digest of the Laws of Georgia, Philadelphia, 1800," pp. 31-43.

<sup>a</sup>This constitution was framed by a convention which met at Louisville May 8, 1798. It was signed May 30, 1798, and went into effect on the first Monday of October of that year, without having been submitted to the people.

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; M'Intosh, 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; Greene, three; Oglethorpe, three; and Franklin, two.

SEC. 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 public business of this State or of the United States,) and shall be possessed in his own right of a settled freehold estate of the value of two hundred and fifty dollars, or of taxable property to the amount of five hundred dollars within the county, for 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.

SEC. 9. The house of representatives shall choose their speaker and other officers.

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

SEC. 11. No person holding any military commission or other appointment, having any emolument 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 moneys 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 exception, 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.

SEC. 12. The meeting of the general assembly shall be annually, on the second Tuesday in January, until such day of meeting be altered by law; a majority of each branch shall be authorized 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.

SEC. 13. Each house shall be the judges of the elections, returns, and qualifications of its own members; with powers to expel or punish, by censuring, fining, and imprisoning, or either, for disorderly behavior; 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 behavior in its presence, or who, during session, shall threaten harm to the body or estate of any member, for anything said or done in either house, or who shall assault or arrest any witness in going to or returning therefrom, or who shall rescue any person arrested by order of either house.

SEC. 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 anything spoken in debate in either house, in any court or place elsewhere; but shall nevertheless be bound to answer for perjury, bribery, or corruption.

SEC. 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.

SEC. 16. All bills for raising revenue or appropriating moneys shall originate in the house of representatives, but the senate shall propose or concur with amendments, as in other bills.

SEC. 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.

SEC. 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.

SEC. 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 judgment, appear most

conductive 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.”

SEC. 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.

SEC. 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 house of representatives, with respect to their adjournment, the governor may adjourn them.

SEC. 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.

SEC. 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, 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 shall be as follows, 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 Apalachicola, or Chatahoochee; thence, along the middle thereof, to its junction with Flint River; thence straight to the head of Saint Mary's River; and thence, along the middle of Saint Mary's 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 lying westward of the river Chatahoochee, on such terms as may be beneficial to both parties; and may procure an extension of settlement and 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.

SEC. 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 moneys for such purposes 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 and 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 moneys 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 moneys be drawn from the treasury, they shall be considered altogether at the risk 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 moneys 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 person whatever but by the concurrence of two-thirds of the general assembly.

SEC. 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 color residing therein, distinguishing, in separate columns, the free white persons from persons of color, 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 person 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 plans prescribed by this constitution, and to provide an adequate compensation 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 the 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.

SEC. 26. The Legislature shall have no power to change names, nor to Legitimate persons, nor to make or change Precincts, nor to establish Bridges or Ferries, but shall, by law, prescribe the manner in which said powers shall be exercised by the Superior or Inferior courts, and the privileges to be enjoyed.

## ARTICLE II

SECTION 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.

SEC. 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.

SEC. 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 debts, over and above that sum.

SEC. 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.

SEC. 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."

SEC. 6. He shall be commander-in-chief of the army and navy of this State, and of the militia thereof.

SEC. 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.

SEC. 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.

SEC. 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, agreeable to the mode pointed out by this constitution or by the legislature.

SEC. 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.

SEC. 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 re-passed by two-thirds of both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 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 increased or diminished during the period for which they shall have been elected.



SEC. 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 this convention, cause the great seal to be altered by law.

SEC. 14. The governor shall have power to appoint his own secretaries.

### ARTICLE III

SECTION 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 court 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 also 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.

SEC. 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.

SEC. 3. There shall be a State's 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.

SEC. 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 behavior, 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.

SEC. 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 litigated demand does not exceed thirty dollars, in such manner as the legislature may by law direct. They shall hold their appointments during good behavior, or until they shall be removed by conviction on indictment in the superior court, for malpractice 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.

SEC. 6. The powers of a court of ordinary, or register of probates, shall be invested 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.

SEC. 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.

SEC. 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.

SEC. 9. Divorces shall not be granted by the legislature until the parties shall have had a fair trial before the superior court, and a verdict shall have been obtained authorizing a divorce upon legal principles. And in such cases two-thirds of each branch of the legislature may pass acts of divorce accordingly.

SEC. 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 behavior.

SEC. 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

SECTION 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 may have 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 of an 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.

SEC. 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* until the legislature shall otherwise direct.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 6. No person who heretofore hath been, or hereafter may be, a collector, or holder of public moneys, 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.

SEC. 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.

SEC. 8. Convictions on impeachments which have heretofore taken place are hereby released, and persons lying under such convictions restored to citizenship.

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

SEC. 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 judgment; nor shall he ever be obliged to pay tiths, taxes, or any other rate, for the building or repairing any place of worship, or for the maintenance 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.

SEC. 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 their 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.

SEC. 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.

SEC. 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.

SEC. 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 superseded 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 carrying this constitution into full effect.

SEC. 15. No part of this constitution shall be altered, unless a bill for that purpose, specifying the alterations intended to be made, shall have been read three times in the house of representatives, and three times in the senate, on three several days in each house, and agreed to by two-thirds of each house respectively; and when any such bill shall be passed in manner aforesaid, the same shall be published at least six months previous to the next ensuing annual election for members of the general assembly; and if such alterations, or any of them, so proposed, shall be agreed to in their first session thereafter, by two-thirds of each branch of the general assembly, after the same shall have been read three times, on three separate days, in each respective house, then, and not otherwise, the same shall become a part of this constitution.

We, the underwritten delegates of the people of the State of Georgia, chosen and authorized by them to revise, alter, or amend the powers and principles of their government, do declare, ordain, and ratify the several articles and sections contained in the six pages hereunto prefixed, as the constitution of this State; and the same shall be in operation from the date hereof.

In testimony whereof we, and each of us, respectively, have hereunto set our hands, at Louisville, the seat of government, this thirtieth day of May, in the year of our Lord one thousand seven hundred and ninety-eight, and in the twenty-second year of the Independence of the United States of America; and have caused the great seal of the State to be affixed thereto.

Article 4, section 11, and the first line, the following words being interlined, to wit, "after the first day of October next."

JARED IRWIN, *President.*

JAMES M. SIMMONS, *Secretary.*

AMENDMENTS TO THE CONSTITUTION OF 1798.<sup>a</sup>

(Ratified December 16, 1808)

ART. III. SEC. 10. *So altered and amended as to read:* That the clerks of the superior and inferior courts shall be elected on the same day as pointed out by law for the election of other county officers.

(Ratified 1812<sup>b</sup>)

ART. III. SEC. 4. *So altered and amended as to read:* The justices of the inferior courts shall be elected on the third Tuesday in October, eighteen hundred and thirteen, and on the third Tuesday in October in every fourth year thereafter, by the electors entitled to vote for members of the general assembly, which election shall be held and conducted in the same manner as pointed out by law for the elections of clerks and sheriffs; and the persons so elected shall be commissioned by the governor, and continue in office for the term of four years, unless removed by impeachment for malpractice in office, or by the governor, on the address of two-thirds of both branches of the general assembly. They may be compensated for their services in such manner as the legislature may by law direct; and there shall be five justices for each county, who shall hold their offices until their successors are elected and qualified; and when any vacancy shall happen by death, resignation, or otherwise, of any justice of the inferior court, it shall be the duty of two or more justices of the inferior court, or justices of the peace, to give at least twenty days' notice by advertisement, at three of the most public places in the county, previous to the election, to fill such vacancy; which election shall be held in the same manner as is by this section before expressed.

ART. III. SEC. 5. *So altered and amended as to read:* There shall be two justices of the peace in each captain's district, in the several counties of this State, either or both of whom shall have power to try

<sup>a</sup> These amendments were successively passed by the legislature, and adopted by the legislature of the following year, as prescribed by the constitution, without ratification by the people.

<sup>b</sup> Changed by the amendment of 1819.

all cases of a civil nature within their district, where the debt or liquidated demand does not exceed thirty dollars, in such manner as the legislature may by law direct; they shall be elected on the first Saturday in January, eighteen hundred and thirteen, and on the first Saturday in January in every fourth year thereafter, by the citizens of the district to which they respectively belong, entitled to vote for members of the general assembly; which election shall be superintended by three freeholders of the district, whose duty it shall be to take the following oath, to be administered by the captain or commanding officer of said district, to wit: "I, A B, do solemnly swear that I will, to the best of my abilities, superintend the election of justices of the peace for this district; so help me God;" and they shall transmit a return of said election, within twenty days, to his excellency the governor, who is hereby authorized to commission the persons so elected accordingly; and they shall hold their appointments during the term of four years, and until their successors are elected and qualified, unless they shall be removed by conviction on indictment in the superior court, for malpractice 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. And when any vacancy shall happen by death, resignation, or otherwise, of any justice of the peace, between the time of such election and the expiration of the time for which such justice or justices were elected, it shall be the duty of two of the justices of the peace, in any of the adjoining districts, where such vacancy or vacancies may happen, to advertise in three of the most public places in the district, where such vacancy or vacancies may happen, the time of holding an election for the purpose of filling such vacancy or vacancies, and give at least fifteen days' notice of the time and place where such election shall be held, which shall be in the district where such vacancy or vacancies shall have happened; and it shall be the duty of the said justices to superintend such election, and certify the same, under their hands, to his excellency the governor, who shall, within ten days after receiving the same, commission the person having the highest number of votes, provided the same is not contested.

(Ratified December 15, 1818)

ART. II. SEC. 4. *So amended and altered as to read:* In case of the death, resignation, or disability of the governor, the president of the senate, or the last acting president of the senate, shall exercise the executive powers of the government until such disability be removed, in the election and qualification of a governor by the general assembly; and in case of the death, resignation, or disability of the president of the senate, or of the last acting president of the senate, the speaker of the house of representatives, or the acting speaker of the house of representatives, shall exercise the executive powers of the government, until such disability be removed in the election and qualification of a governor by the general assembly.

(Ratified December 18, 1818<sup>a</sup>)

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a superior, inferior, and jus-

<sup>a</sup> Changed by the amendment of 1835.

tices' courts, and such other courts as the legislature shall from time to time ordain and establish. The judges of the superior courts shall be elected for the term of three years, and shall continue in office until their successors shall be elected and qualified; removable by the governor, on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior courts shall have exclusive and final jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty, and for contempt of court, for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences, committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and port of entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct;) which shall be tried in the county where the crime was committed; and in all cases respecting titles to lands, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases; and shall have power to correct errors in inferior judicatories by writ of *certiorari*, as well as errors in the superior courts, and 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 have appellate jurisdiction in such other cases as are or may be pointed out by law, which shall in no case tend to move 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 opinion on the minutes of the court. The inferior courts shall also have concurrent jurisdiction in all civil cases, (except in cases respecting the titles to lands,) which shall be tried in the county where the defendant resides; and in case of joint obligors and joint promissors, residing in different counties, the same may be brought in either county, and a copy of the petition and process served on the party 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 have or may direct. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

(Ratified November 23, 1819 <sup>a</sup>)

ART. III. SEC. 4. *So altered and amended as to read*: The justices of the inferior court shall be elected by the persons entitled to vote for members of the legislature, in such manner as the legislature may by law direct.

ART. III. SEC. 5. *So altered and amended as to read*: The justices of the peace throughout this State shall be elected by the persons

<sup>a</sup> This amendment was adopted in the place of a previous amendment of the same sections, in 1812.

residing in their respective districts, entitled to vote for members of the general assembly, under such rules and regulations as the legislature may by law direct.

(Ratified November 17, 1824)

ART. II. SEC. 2. *So altered and amended as to read:* The governor shall be elected by the persons qualified to vote for members of the general assembly, on the first Monday in October, in the year of our Lord one thousand eight hundred and twenty-five; and on the first Monday in October in every second year thereafter, until such time be altered by law; which election shall be held at the place of holding general elections, in the several counties of this State, in the same manner as is prescribed for the election of members of the general assembly. The returns for every election of governor shall be sealed up by the presiding justices, separately from other returns, and directed to the president of the senate and the speaker of the house of representatives, and transmitted to his excellency the governor, or the person exercising the duties of governor for the time being, who shall, without opening the said returns, cause the same to be laid before the senate, on the day after the two houses shall have been organized, and they shall be transmitted by the senate to the house of representatives. The members of each branch of the general assembly shall convene in the representative chamber, and the president of the senate, and the speaker of the house of representatives, shall open and publish the returns in presence of the general assembly; and the person having the majority of the whole number of votes given in shall be declared duly elected governor of this State. But if no person have such majority, then from the persons having the two highest number of votes who shall be in life, and shall not decline an election at the time appointed for the legislature to elect, the general assembly shall elect immediately a governor by joint ballot; and in all cases of election of a governor by the general assembly, a majority of the votes of the members present shall be necessary for a choice. Contested elections shall be determined by both houses of the general assembly, in such manner as shall be prescribed by law.

(Ratified 1833)

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon legal principles.

(Ratified December, 1835)

ARTICLE I. SEC. 4. *So altered and amended as to read:* 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 lawful business of this State or of the United States.



ARTICLE I. SEC. 8. *So altered and amended as to read:* No person shall be a representative who shall not have attained to the age of twenty-one years, and have been a citizen of the United States seven years, and 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 on the public business of this State or of the United States.

(Ratified 1835<sup>a</sup>)

ART. III. SECTION 1. *So altered and amended as to read:* The judicial powers of this State shall be vested in a supreme court for the correction of errors; a superior, inferior, and justices' courts, and in such other courts as the legislature shall, from time to time, ordain and establish. The supreme court shall consist of three judges, who shall be elected by the legislature for such term of years as shall be prescribed by law, and shall continue in office until their successors shall be elected and qualified, removable by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The said court shall have no original jurisdiction, but shall be a court alone for the trial and correction of errors in law and equity from the superior courts of the several circuits, and shall sit at least once a year, at a time to be prescribed by law, in each of five judicial districts, to be hereafter laid off and designated by the legislature for that purpose, at the most central point in such judicial district, or at such other point in each district as shall by the general assembly be ordained, for the trial and determination of writs of error from the several superior courts included in such judicial districts. And the said court shall at each session in each district dispose of and finally determine each and every case on the docket of such court at the first term after such writ of error brought; and in case the plaintiff in error in any such case shall not be prepared, at such first term of such court, after error brought to prosecute the same, unless precluded by some providential cause from such prosecution, it shall be stricken from the docket, and the judgment below shall stand affirmed. The judges of the superior court shall be elected for the term of four years, and shall continue in office until their successors shall be elected and qualified, removably by the governor on the address of two-thirds of both branches of the general assembly for that purpose, or by impeachment and conviction thereon. The superior court shall have exclusive jurisdiction in all criminal cases, (except as relates to people of color, and fines for neglect of duty and for contempt of court; for violations against road-laws, and for obstructing water-courses, which shall be vested in such judicature or tribunal as shall be or may have been pointed out by law; and except in all other minor offences committed by free white persons, and which do not subject the offender or offenders to loss of life, limb, or member, or to confinement in the penitentiary; in all such cases corporation courts, such as now exist, or may hereafter be constituted, in any incorporated city, being a sea-port town and a port of

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<sup>a</sup> This amendment was adopted in the place of a previous amendment of the same section in 1818.

entry, may be vested with jurisdiction, under such rules and regulations as the legislature may hereafter by law direct,) which shall be tried in the county where the crime was committed; and in all cases respecting titles to land, which shall be tried in the county where the land lies; and also concurrent jurisdiction in all other civil cases, and shall have power to correct errors in inferior judicatories, by writ of *certiorari*, and to grant new trials in said superior courts on proper and legal grounds; and in all cases where a new trial shall be so allowed, the judge allowing the same shall enter on the minutes of said court his reasons for the same; and the said superior courts shall have appellate jurisdiction in such other cases as may be pointed out by law, in cases arising in inferior judicatories, which shall in no case tend to remove the cause from the county in which the action originated.

(Ratified 1840<sup>a</sup>)

ARTICLE I. Whereas a part of the third section of the first article of the constitution is in the following words, viz: "The senate shall be elected annually;" and a part of the seventh section of the first article is in the following words: "The representatives shall be chosen annually;" and a part of the twelfth section of the first article is in the following words: "The meeting of the general assembly shall be annually;" and whereas a part of the third section of the third article is in the following words: "There shall be a State's attorney and solicitor appointed by the legislature and commissioned by the governor, who shall hold their offices for the term of three years;" and a part of the fifteenth section of the fourth article is in the following words: "The same shall be published at least six months previous to the next ensuing annual election for members of the general assembly;" and whereas the before-recited clauses require amendments:

SECTION 1. *Be it enacted by the senate and house of representatives of the State of Georgia, in general assembly met, and it is hereby enacted by the authority of the same,* That so soon as this act shall have passed, agreeably to the requisitions of the constitution, the following shall be adopted in lieu of the foregoing clauses: In the third section of the first article, the following, to wit: "The senate shall be elected biennially, after the passage of this act, the first election to take place on the first Monday in 1843." In lieu of the seventh section of the first article, the following: "The representatives shall be elected biennially, after the passing of this act, the first election to take place the first Monday in October, eighteen hundred and forty-three;" and in lieu of the clause in the twelfth section in the first article, the following: "The meeting of the general assembly shall be biennially, after the passage of this act, on the first Monday in November;" and in lieu of the clause in the third section of the third article, the following, to wit: "There shall be a State attorney and solicitor elected by the legislature, who shall hold their offices for the term of four years;" and in lieu of the clause in the fifteenth section of the fourth article, the following: "The same shall be published at least six months previous to the next ensuing biennial election for

<sup>a</sup> See "Journal of the Convention to Reduce and Equalize the Representation of the General Assembly of the State of Georgia, Assembled in Milledgeville, on the 6th Day of May, Eighteen hundred and thirty-nine." Published by Authority, Milledgeville: P. L. Robinson, State Printer, 1839. pp. 74.

members of the general assembly: " the provisions of this act not to go into effect until the year eighteen hundred and forty-three.

(Ratified 1841)

ART. III. SEC. 3. *So altered and amended as to read:* There shall be a State's attorney and solicitors appointed by the legislature, and commissioned by the governor, who shall hold their offices for the term of four years, or until their successors shall be elected and qualified, 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.

ART. IV. SEC. 15. *Amended by striking out the word " annual."*

(Ratified 1843)

ARTICLE I. SEC. 3. *So altered and amended as to read:* The senate shall be elected biennially on the first Monday in October, and shall consist of forty-seven members, and shall be composed of one member from each senatorial district, which district shall be composed of two contiguous counties, not including the county with the largest representative population, which shall constitute a separate district; which districts shall be arranged and organized by the general assembly, at the session when this shall be adopted, and if any new county shall be hereafter formed, it shall be annexed to one of the districts from which it was taken.

ARTICLE I. SEC. 7. *So altered and amended as to read:* The house of representatives shall be composed of one hundred and thirty members; each county shall have one representative, and no county shall have more than two representatives; thirty-seven counties having the greatest population, counting all free white persons, and three-fifths of the people of color, shall have two representatives; the said apportionment shall be made by the general assembly, at the session at which this section shall be adopted as an alteration of the constitution, by an act to be introduced after the adoption thereof, and a new apportionment shall be made at the session next after each future enumeration of the inhabitants of this State, made under the constitution and laws thereof, but at no other time.

ART. III. SECTION 1. *Added to the concluding portion of the section, so that it reads:* And in case of a maker and indorser or indorsers of promissory notes residing in different counties in this State, the same may be sued in the county where the maker resides, and a copy of the petition and process served on the indorser or indorsers residing out of the county in which the suit may be commenced shall be deemed sufficient service, under the same rules and regulations as the legislature have or may direct in the case of joint obligors and joint promisors. The superior and inferior courts shall sit in each county twice in every year, at such stated times as have or may be appointed by the legislature.

ART. IV. SEC. 3. *So altered and amended as to read:* It shall and may be lawful for all major-generals and brigadier-generals to be

elected by the people of the respective divisions and brigades; and all persons subject to military duty shall be entitled to vote for the same only, 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.

(Ratified 1847)

ART. II. SEC. 3. *So altered and amended as to read:* 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.

(Ratified 1849 <sup>a</sup>)

ART. III. SEC. 9. *So altered and amended as to read:* Divorces shall be final and conclusive when the parties shall have obtained the concurrent verdicts of two special juries, authorizing a divorce upon such legal principles as the general assembly may by law prescribe.

### CONSTITUTION OF GEORGIA—1861

[A State convention, called by an act of the legislature, passed an ordinance of secession January 19, 1861, and on March 23, 1861, completed a revision of the State constitution, which was ratified by the people on the first Tuesday of the following July.]

### CONSTITUTION OF GEORGIA—1865 \* <sup>b</sup>

#### PREAMBLE

We, the people of the State of Georgia, in order to form a permanent government, establish justice, insure domestic tranquillity, and secure the blessing of liberty to ourselves and our posterity, acknowledging and invoking the guidance of Almighty God, the author of

\* See "Journal of the Proceedings of the Convention of the People of Georgia, Held in Milledgeville in October and November, 1865, Together with the Ordinances and Resolutions adopted, Published by Order of the Convention, Milledgeville, Ga.; R. M. Orme & Son, Printers for the Convention, 1865." pp. 207-226.

<sup>a</sup> See Journal of the State Convention, Held in Milledgeville, in December, 1850. Milledgeville: R. M. Orme, State Printer, 1850. p. 34.

<sup>b</sup> A convention, called by Provisional Governor James Johnson, met October 25, 1865, repealed the ordinance of secession October 30, and submitted this constitution to the people November 7, 1865. It was ratified, receiving 17,699 votes.