

YAZOO

A Buy-Centennial Story

© 1995 by Richard A. Noegel

(All quotations in this manuscript are direct from original sources.)

HANG 'EM HIGH

It is early 1795. All over Georgia, outraged citizens stream from their homes, making their way to hastily called public meetings. For on 7 January, the Georgia legislature has passed a law authorizing the sale of more than 35 million acres of public land to private investors—for about a penny and a half an acre. The members of the General Assembly have been bribed. They have sold their votes for shares in the real estate speculation companies that have “bought” the land.

In Burke County, a large and angry crowd gathers, intent on killing the corrupt lawmakers. A massacre is avoided only through the intervention of some of the lawmakers who had not sold their votes.

In Oglethorpe County, two neighbors encounter each other on their way to a public meeting with Mr. Musgrove, their state representative. One of them, Miles Jinnings, is holding a rope. His neighbor spots it—

“What’s that rope for, Jinnings?”

“To hang Musgrove.”

It is a time far less cynical than our own.

When they arrive at the courthouse in Lexington, all Oglethorpe County is already there. Miles Jinnings dismounts and hitches his horse as his neighbor slips quickly into the crowd.

Jinnings wades into the center of the seething assembly. Suddenly, he thrusts the rope into the air. Outraged satisfaction surges in every heart. The taste for vengeance tantalizes every tongue. The crowd falls silent: tense; angry; waiting.

“Neighbors!” Jinnings cries. “This rope is to hang Musgrove, who sold the people’s land for a bribe!”

The crowd erupts. A cry of triumphant fury rises in every throat. No human power can save Musgrove now. Except that—warned by Jinnings’ neighbor—Musgrove has flown the coop. He skips the state.

In Hancock County, a furious populace decides to tie state Senator Robards Thomas to a sapling and whip him publicly. Senator Thomas wisely high-tails it to South Carolina. But one of his constituents follows him there, finds him sitting alone in a cabin, and shoots him. The sight of Senator Thomas’s death agony

arrested the strong current of indignant feelings which had led to the act. The avenger became the miserable sinner. He returned home, shut himself up in a dark room from intercourse with the world for eighteen years, begging as if for his own life, that God would pardon him for taking the life of another.¹

Frustrated, downtrodden people everywhere are overthrowing their rulers. In France, heads are rolling—literally—because of the revolution there. Haiti and other French islands of the Caribbean are awash with the blood of the former ruling classes. But to their eventual detriment, Representative Musgrove and Senator Thomas and their cronies here in Georgia are not paying attention. Their eyes are on something else...

¹ *Georgians*, Gilmer, GR: D. Appleton, New York, 1855; privately reprinted 1989 by MB Warren; pp. 152-3. One can only speculate as to how very different things might be in our own day if elected officials knew that they would be killed for misconduct in office.

WHO DEALT THIS MESS?

The end of the American Revolution found Georgia independent, sovereign, and with an immense but virtually unpopulated territory stretching from the Savannah River to the Mississippi River, comprising nearly all of what is now Georgia, Alabama, and Mississippi. Only the portion between the Savannah and the Oconee rivers, however, was actually settled and possessed. In the political climate of 1788, it was taken for granted that Georgia's sovereignty would continue even within the newly forming federal union. That year, Georgia became the fourth state to enter the new federal union by unanimously ratifying the unamended US Constitution.

Moreover, Georgia entered the Union without ceding any territory to the United States. Most other states possessed of western lands² had ceded them to the United States by 1787. That political climate did not change over the next few years, so Georgians in those formative years of the republic found it inconceivable that land granted by the Crown of England to the founders of the Georgia colony could belong to anybody else *but* Georgia. The troublesome issue of states' rights was not a new one even then, so when the federal government asked Georgia to cede to the Union all lands between the Chattahoochee and the Mississippi rivers, Georgia refused, asserting instead her own sovereignty over the rich and coveted territory. The US Constitution went into effect in 1788, erecting the federal union and the federal government, but retaining for the individual thirteen states all power and authority that was not specifically granted to the federal government. It remained a difficult task indeed, however, to work out the practical, day-to-day details of just what that meant. The recurrent, fractious issue of states' rights would arise again and again, ultimately to be decided at Vicksburg and Sharpsburg; at Cemetery Ridge and Lookout Mountain. The year 1790 saw the first census of the United States and the inauguration of George Washington as the first president. Great things were happening—great and mighty things. It was a heady, turbulent time.

In fact, things were downright messy. It is hard for us today to imagine the generalized turmoil and turbulence in the earliest days of our republic. The American Revolution, as all revolutions are wont to do, had created conditions

² In this manuscript, the term “western lands” refers to the territory described in the royal Proclamation of 1763. The proclamation reserved to the sovereignty of the Crown all lands lying west of the sources of those rivers that empty into the Atlantic. The king, however, in issuing instructions to Governor Wright the following year, 1764, made it clear that Georgia's boundary was the Mississippi River.

in which scheming, plotting, and speculations of all sorts and varieties were rampant throughout the United States.³ The fact that most states with western territory had ceded it to the United States by 1787 causes thousands of people in other states to turn eager eyes towards Georgia, with her huge tracts of western lands—rich, open, and unsettled—that were there for the taking. In particular, Maryland, Virginia, and the Carolinas disgorged thousands of their citizens during this turbulent period. They began pouring into Georgia, founding such towns as Elberton, Washington, Warrenton, Sparta, Waynesboro, and others.

The great engine of the Industrial Revolution was beginning to heat up. Advances in technology were setting the stage for the appearance of steamships and steam locomotives and for the development of power to run factories and mills. The long process of industrialization and urbanization was well underway in Europe and in America. By the mid-1790s, advertisements are appearing in *The Augusta Chronicle* for a “new ginning machine” that can separate cotton seed from cotton fibers at a rate scarcely dreamt of until now, heralding the ascent of King Cotton to his throne. And the Southern planter class, King Cotton’s courtiers, quickly accept their kingly boon: they will now clothe the world. The slave trade is revitalized. Speculation in land is already reaching a fever pitch. It is, quite simply, in the air: revolutionary changes bringing unprecedented problems and opportunities; fever for westward expansion; fever for land; fever for new agricultural opportunities; fever for new industrial undertakings; fever for money; greed. The whole atmosphere is “can-do!” Anything seems possible; everything within reach.

³ Gen. Elijah Clarke, a hero of the Revolution and an immensely popular man in Georgia, acting in open defiance of federal and state authorities, planted a colony—with an army under his own able and experienced command—just west of the Oconee River near Greensboro in May 1794, and proclaimed the “Trans-Oconee Republic” (within the boundaries of Georgia). Their settlement was called Fort Advance. President Washington and Governor Matthews actually had to dispatch troops to put an end to General Clarke’s grand plan, and although there was no fighting, civil war was only narrowly averted. Gen. Clarke and his followers abandoned their adventure in October 1794. Besides that, none other than Patrick Henry privately supported a secessionist movement in northwestern Georgia (now northern Mississippi). Then, of course, there was the well-known (and disastrous) affair in which Aaron Burr tried to set up his own independent republic in territory that is now Arkansas. An Englishman, William Priest, wrote in his diary while traveling in America in the 1790s, “Were I to characterize the United States, it would be by the appellation of ‘the land of speculation...’”

LOCATION, LOCATION, LOCATION

In 1788, Georgia had shown herself willing to cede at least part of her western lands to the United States by offering to Congress a “cede-half, keep-half” deal. The state offers to grant to Congress the tract of land that is now the southern half of Alabama and Mississippi. In return, Georgia wants Congress to confirm Georgia’s sovereignty over the unceded portion (i.e., what is now the northern half of Alabama and Mississippi). Plus, Georgia wants the \$171,428.45 that she has spent trying to pacify the Indians in the region. A sizable portion of that amount is outstanding in the state’s bills of credit (paper money). Congress rejects Georgia’s offer.

About this same time (1788-89), a Major Thomas Walsh⁴ and some land speculators in Georgia and in Philadelphia⁵ form the “Combined Society.” The members of this society swear themselves to secrecy. Then they begin lining up some of Georgia’s leaders who are willing to try to get the General Assembly to sell Georgia’s western lands to Maj. Walsh and his sworn-to-secrecy partners in the Combined Society. But they are soon discovered and exposed. There is more than a little public anger. No matter. They could always try again. So, they just take in some new partners and re-form themselves into new and, this time, public companies: The South Carolina Yazoo Company; the Tennessee Company; and the Virginia Yazoo Company.⁶ And at the head of the Virginia outfit is none other than Patrick “Liberty-or-Death” Henry.

Even before he joins the Virginia Yazoo Company, Mr. Henry buys a tract of land where the city of Memphis, Tennessee, now stands. The Virginia

⁴ James Jackson described Major Walsh as “a swindler.” Walsh is hanged in Charleston in 1792 for forgery.

⁵ Philadelphia was the nation’s capital at the time. The federal government moved to the new-built city of Washington and set up shop around 1800.

⁶ The Yazoo River is a tributary to the Mississippi in what is today northwestern Mississippi. The word “Yazoo means “river of death.” Of course, any historian would gladly take a nickel apiece for all the Indian words that are said to mean “river of death.” Although nowadays, with the destruction of the dollar by Congress and the Federal Reserve, perhaps a dollar—in silver—would be preferable to a nickel. But let us pass over that for now.

company's proposed purchase from Georgia is to adjoin these holdings, which, by the way, just happen to be occupied by hostile Chickasaw Indians. Mr. Henry's land had been ceded to Georgia in 1783 by treaty with the still-powerful Creek Indian nation. But the cession had been made under duress, and that fact clouds Mr. Henry's title to the acreage. Mr. Henry had apparently foreseen such difficulties, however, and had made a concentrated—and successful—effort to have one of his partners, Joseph Martin, appointed federal Indian agent in the region, probably hoping that the Chickasaws could be induced to accept white settlement of their land. Meanwhile, the Creeks are continuing to harass westward-bound American settlers and to wage more-or-less constant warfare against neighboring tribes. Finally, in an effort to stem the ever-increasing encroachments by American settlers and speculators, the Creeks establish relations with the Spaniards in New Orleans. This, of course, makes President Washington and the other leaders of the federal government as jumpy as a cat on a hot tin roof. The ever-rising tide of settlers and the energetic activities of speculators are upsetting the already delicate truce between the United States and the Indians in the region. Then, in December 1789—the same month in which the Georgia legislature authorizes the Virginia Yazoo Company's purchase—the state of North Carolina, which *also* owns a portion of the land that Mr. Henry had bought earlier,⁷ cedes that very same tract to the federal government. Mr. Henry's sense of rage and disappointment knows no bounds. But he feels that the American settlers already in the area will never accept the cession, and that therefore future speculation remains a possibility. Thus he consoles himself. Indeed, his private correspondence with his partners at the time makes it clear that he would have welcomed a secessionist movement by the settlers in the area.

At the time, the settled parts of Georgia lay between the Savannah and the Oconee rivers. So maybe the members of the General Assembly believed that the state would never be in a position to develop land that was so far away.⁸

⁷ No, it's not a misprint or an oversight. Things were up in the air. Land was sold and re-sold to anybody who would buy it—and bother the fact that it is already "owned" by somebody else. The land I sell to you today I'll sell to somebody else tomorrow if I can.

⁸ Here, we ought to note that the people of Georgia did not, by and large, have a great deal of experience in government and that the Crown had not been extraordinarily generous with grants of land during the colonial and provincial periods, especially to the North Carolina settlers in Georgia. Since the Revolution had put them in charge of things, they had come to look upon their new-born state's government as merely a convenient mechanism for distributing among themselves what they considered already and rightfully their own. Georgia had a very liberal

Whatever their thoughts, when the Virginia Yazoo Company and the other Yazoo companies send agents to Augusta, the capital, to petition for the sale, the legislature sells around 20 million acres for about \$207, 000 on 21 December 1789. The Virginia company's take is an 11,400,000-acre tract along the Yazoo River in northwestern Georgia (now northern Mississippi). The price: \$93,700—less than a penny an acre. The legislature stipulates a partial payment in paper money at an early date, with the balance to be paid within two years “in the currency of the State, or any liquidated debts against the State.” The legislature, moreover, authorizes the sale in spite of the lack of a clear title to the land—or perhaps even because of it, if their aim is to prevent the territory from falling into the hands of the federal government. Georgia deduces her claim to the land from the Crown of England, but the federal government's position is that the Indians' title, based on the Hopewell treaties,⁹ has never been extinguished. Besides that, despite American independence, Spain and France are by no means out of the picture in the Mississippi basin. “Possession,” however, “is nine points of the law,” as the old saying goes, and the *fact* is that *nobody* really *possesses* the land. Nevertheless, Mr. Henry and his partners in the Virginia Yazoo Company begin buying up Georgia's debt certificates in accordance with the terms of sale. But before they are able to present them to the state Treasurer to satisfy the company's debt, the General Assembly orders the Treasurer to accept payment only in gold, silver, or paper currency, and not in redeemed debt certificates as originally agreed upon. The deal collapses.¹⁰

And there the matter rests for a while. But only for a while.

headright system for giving away land to new settlers, and for that very reason many people had come to Georgia in the first place.

⁹ Or, the “Treaty of Hopewell.” This name refers to any of three different treaties signed at Hopewell (the plantation of Andrew Pickens on the Seneca River in northwestern South Carolina) between the Confederation Congress of the United States and the Cherokee (1785), Choctaw (1786), and Chickasaw (1786) nations.

¹⁰ Patrick Henry and his partners probably realize healthy profits from their efforts, however, when the federal government later buys up the debt certificates at their original value in the hope of extinguishing all claims to the territory but its own. The interests of Patrick Henry and the other members of the Virginia Yazoo Company are liquidated by 1794, making it very unlikely that Mr. Henry and the others were involved in the scurrilous scheming that preceded, or in the sordid scandal that followed, the passage of the nefarious Yazoo land grant act by a corrupt Georgia legislature in January 1795.

“THE EVIL MEN DO”

The speculators regroup and change the names of their companies. The General Assembly convenes in Augusta in November 1794.

Now calling themselves the “Georgia Company,” “The Tennessee Company,” the “Upper Mississippi Company,” and the “Georgia Mississippi Company,” the speculators descend on Augusta from all over the country and flock to Government House.

The scene is a shocking one. Members of the legislature are openly bragging about how many shares in this or that company they have gotten in exchange for their votes. Those who hesitate are urged by their cronies to sell their votes and get in on the action. Later testimony from eyewitnesses¹¹ says that one legislator complained that he had sold his vote for six hundred dollars when others had gotten a thousand. One legislator urges another to vote for the sale because he could walk away with eight or ten slaves in payment for his vote. Still another House member encourages a colleague to vote for the sale because it would make a fortune for him and his family forever. One of Georgia’s two United States Senators, James Gunn, is neck deep in the speculation. He offers 50,000 acres to one House member to induce him to convince a member of the Georgia Senate to vote in favor of the sale. Another lawmaker is offered 50,000 acres or \$1000, but he demands—and gets—75,000 acres, the same as some of the other members are getting. Other individual legislators are taking even more than that: as much as 100,000 acres or \$2000 in payment for their votes. One member who could not be bribed to vote for the sale was paid seventy-five dollars to leave the State House and simply go home for the day—and this was done at the behest of US Senator Gunn. Indeed, Senator Gunn, a hero of the Revolution in Georgia, has left Philadelphia even though the US Senate is in session, and he appears in the lobby of the State House in Augusta bullying his “understrappers in speculation” with a “loaded whip,”¹² or speaking “sugar-coated words” to encourage them to vote for the sale. He, too, has accepted a huge number of shares in the speculators’ companies. Even a Justice of the

¹¹ Given before a Burke County Grand Jury in January 1795.

¹² Whatever that might have been.

Supreme Court of the United States, James Wilson, is seen in the State House with \$25,000 cash in hand, offering bribes to the unscrupulous, grasping legislators. Eyewitnesses later testify¹³ that for “many days” the bribery and wheeling and dealing go on unabated, the members of the legislature quite unashamed.

Then, in late December (1794), the General Assembly authorizes the sale on the speculators’ terms. But Governor Matthews vetoes the sale. He knows that the people of Georgia expect him to do that very thing because this speculation business is not new and because they do not trust the members of the General Assembly.¹⁴ At once, a “Major General” (probably John Twiggs) leads an armed force into Augusta to compel the Senate to reject the bill. But the “Major General” decides not to go through with that plan. Immediately after that, a fifth group, the Georgia Union Company, offers \$800,000 for the deal¹⁵ but the legislature—for some reason—rejects that offer in favor of the land companies’ offer of \$500,000. Then, two of Governor Matthews’ sons are made officers of the speculation companies and are given huge numbers of shares in them.

Now the legislature brazenly attaches the vetoed bill to a bill that authorizes pensions for the state’s Revolutionary War veterans. So, on 7 January 1795, the legislature votes on the amended bill and passes it. It remains now only for Governor Matthews to affix his signature. But...

George Crawford, later to become governor, leads a delegation of citizens from Columbia County to see Governor Matthews and to urge him not to sign the bill. Their position is that the public domain of Georgia is not for sale and that

¹³ Before the January 1795 Burke County Grand Jury.

¹⁴ At the time, of course, the governor was elected by the General Assembly, not directly by the voters of the state. The voters would elect the General Assembly and the members would, in turn, elect a governor for a two-year term. Governor George Matthews was a bold and brave military man, a hero of the Revolution in Georgia, and was quite popular with and trusted by Georgians. The people did not trust the General Assembly, but they did trust Governor Matthews. But his fateful approval of the Yazoo Act of January 1795 would force him—for his own safety—to leave Georgia for a while, although he returned later and died in Augusta, where he is buried in St. Paul’s churchyard “by old Savannah’s turbid stream.”

¹⁵ This small group of honest, honorable men try to salvage something for the state and people of Georgia, but the speculators have already gotten to the legislators and governor so the Georgia Union Company’s offer is rejected. The Georgia Union Company includes John Twiggs, William Few, John Wreath, and Edward Telfair.

the action is elitist and inimical to the interests of a democratic society. When at last the bill is placed before His Excellency for his signature, his secretary, a gentleman by the name of Urquhart, attempts through subterfuge to prevent the Governor from signing it. So upset is Mr. Urquhart by the entire situation, and so opposed is he to the sale, that he dips the Governor's quill pen in oil so that it will not write. He knows that the Governor is rather a peculiar personality, notoriously superstitious, and even a wee bit indecisive. Mr. Urquhart hopes that if the pen fails to write, the Governor will take it as an ill omen and will back out on signing the bill. Governor Matthews takes the tampered-with pen in hand and tries to sign the paper. Nothing. Neither jot nor tittle. But even though he had vetoed practically the same legislation just the month before (Dec. 1794), he at once takes up another quill and firmly signs the bill into law. This disposes of about two-thirds of Georgia's western lands—more than 35 million acres—for half a million dollars. Thus is one of history's greatest real estate deals concluded.

The territory thus disposed of is larger than England and Wales together and is nearly half the size of France. The lands are among the richest in North America, and they have superior access to markets. Although Congress customarily sells its public lands for a dollar an acre, the Georgia legislature asks only a cent and a half an acre—the same as the old British colonial quit-rents. Even before Governor Matthews signs the Act, Yazoo lands are being sold in the streets of Philadelphia for a dollar an acre—a profit of about ninety-eight cents an acre.

The corruption of the General Assembly, their fraudulent Yazoo Act, and the sale it authorized remain to this day the low-water mark of Georgia's history. Sources contemporary with the sale estimate that there were only five honest votes, but the true number may have been even fewer.¹⁶

The news gets out.

¹⁶ Indeed, Gilmer insists that there were only two honest votes cast out of a total of 70: those of Captain Benjamin Taliaferro (pronounced "Toliver" to rhyme with "Oliver") and of Governor Matthews' son-in-law (*Georgians*, op. cit., p. 153 & p. 124). Two of the Governor's sons, on the other hand, were only too eager to accept the bribes. Governor Matthews did finish his term of office, but upon leaving office in January 1796, he was forced by public disapprobation to leave the state. In his biography of James Jackson, Foster says that only George Watkins—Colonel Robert Watkins's brother—voted in *favor* of the sale *without* accepting any sort of bribe: a foolhardy vote, if an honest one.

“The bribery was noised abroad by rumor’s hundred tongues” according to Gilmer. It spreads throughout Georgia almost overnight.

Events now seem to gain their own momentum. Things happen quickly.

Georgians of the time expect high standards of conduct by their elected officials, but they had been suspicious of the 1795 legislature to begin with, so there is an immense public outcry. Public indignation meetings are held throughout the state so that people can express their fury and decide what to do about it. An outraged crowd assembles in Burke County, threatening to find and kill the guilty members of the assembly. Musgrove manages to escape hanging in Oglethorpe County. Robards Thomas of Hancock County is killed in South Carolina. Besides General James Gunn, Georgia has another US Senator: James Jackson.¹⁷ When the two US Senators return from Philadelphia later in 1795, Jackson, a hero of the Revolution and by far the most popular man in Georgia, is hailed by all but the Yazoo partisans. Senator Gunn, however, is hanged and burnt in effigy by an angry mob in Savannah. Afterwards, he does not dare to appear in public in many parts of Georgia.

THE BATTLE IS JOINED

Senator Jackson spends much of 1795 writing a series of eleven essays in *The Augusta Chronicle* and in Savannah’s *Georgia Gazette* to explain to the people just what had happened and what the ramifications of the sale were likely to be. He writes anonymously, signing the essays “Sicilius.”¹⁸ Asserting that “the

¹⁷ James Jackson was born in England, but he came to Georgia as a young man. He became a lawyer and was elected governor of Georgia at the age of 25. He turned it down, saying that he felt himself too young and untried to discharge the duties of such an office. He loved Georgia with his whole heart and mind and strength, and he remarked once that if his heart were to be taken out and examined, the word “Georgia” would be found visible on it. He was later elected governor again, and that time he accepted the office. A portrait of him hangs today in the capitol in Atlanta. He died 19 March 1806 in Washington, DC, and is buried there.

¹⁸ The essays were later collected and published as a 65-page pamphlet titled *The Letters of Sicilius to the citizens of the state of Georgia*. The pamphlet was used during the 1795 election campaigns to elect a new, “reform” General Assembly that in 1796 would then be expected to rescind the Yazoo Act. The name “Sicilius” is probably a reference to a very obscure character in Shakespeare’s tragedy *Cymbeline*. In that play, the ghost of Sicilius complains to Jupiter about the grim fate of Sicilius’ son, Posthumus, who probably stands for Georgia in Jackson’s

extravagances of a Marie Antoinette are...eclipsed by this abominable Act,"¹⁹ Jackson proceeds to a measured, philosophical argument against the fraudulent Act.

The Yazoo Act stipulates that the settlers in the territory in question are to pay no taxes until they gain representation in the General Assembly. Jackson points out that they could thereby avoid taxation for generations by not asking for representation. Then eastern Georgia alone would be governed by the legislature. That would ensure mass migration out of eastern Georgia (between the Savannah and the Chattahoochee). It would ensure, further, that nobody would then replace those who leave: Eastern Georgia would be deserted. Taxes in the east would rise while land values fell. Georgia's liberal headright system of land grants²⁰ has, until now, allowed a citizen one thousand acres; why should the people be stinted now? To enrich the few? How, he asks, could the generation that had fostered and won the Revolution now justify granting millions of acres to a few by robbing the many? He explains that, since 1777, Georgians have taken great pains to avoid or suppress speculation, but that by this hateful Act, a few men have "had whole kingdoms poured into their laps." What he finds particularly reprehensible is the Act's provision that any individual foreigner may buy land in any amount. Therefore, two-thirds of the Yazoo territory could easily go to foreigners, forcing the people of Georgia to buy their own land back from them at inflated prices.²¹ Citing Montesquieu and

metaphor. Of his son, Sicilius says: "Great nature, like his ancestry, Moulded the stuff so fair, That he deserved the praise o' the world, As great Sicilius' heir." The spectral wife of Sicilius, whom I take to be the Mother of Georgia in Jackson's extended metaphor, then prays thus to Jupiter: "Since, Jupiter, our son is good, Take off his miseries." Then Jupiter, appearing in thunder and lightning, tells Sicilius, "Whom best I love, I cross [...] Be content; Your low-laid son our godhead will uplift: His comforts thrive [...]." My guess is that by signing himself "Sicilius," Senator Jackson was addressing "the citizens of the state of Georgia" as his own children and, by extension, was adducing his own prophecy that God was angered by what the corrupt politicians had wrought but that Georgia's ultimate future, under the hand of God, was to be a happy one, the then-current Yazoo crisis notwithstanding. Such was the timbre of public discourse before the advent of universal suffrage.

¹⁹ Marie Antoinette had gone quite recently to her fate—October 1793—so this vivid reference was quite fresh in the minds of Georgia readers.

²⁰ Georgia had what was called a headright system for distributing land to new settlers. The head of a family had the right to get so many acres of land per head. The system had already occasioned plenty of abuse: Between 1789 and 1796, the state's executive officers managed to sell three times the amount of land that was actually available.

²¹ The notion of selling the country to foreigners is not new. Remember *Ecclesiastes*? ("...there is no new thing under the sun.")

others, “Sicilius” seeks to prove that the people are sovereign and that the Georgia Constitution must prevent the General Assembly from depriving them of their rights. (Too bad this guy is dead.) The Georgia Constitution, he declares, bestows no authority on the legislature to grant unheard-of real estate monopolies to a few individuals. Senator Jackson, writing as Sicilius, shows that he wishes Congress to remain well out of the fray until the “reform” legislature of 1796 should have the opportunity to rescind the sale authorized by the corrupt legislature of 1795. Certificates of ownership of much of the land in question having been sold *already* to unsuspecting purchasers throughout the country, Jackson fears that Congress will be persuaded to buy up these certificates, thus coming into possession of the territory that Georgia has consistently refused to cede to the United States. Accordingly, he writes to James Madison asking him to prevent Congress from taking any such measures and stating that the people of Georgia would annul the sale regardless of Congress’s actions, even if they had to resort to force of arms to assert their sovereign will.

THE ELECTIONS OF 1795

The Convention of May 1795 changes the appointed time for the convening of the next General Assembly. Not only will the next assembly meet in Louisville—Georgia’s new and “permanent” capital city—but the meeting time is changed from November to January, where it remains to this day. On the last day of October 1795, a committee of citizens in Savannah ask James Jackson to resign his seat in the Senate of the United States to run for the General Assembly of Georgia from Chatham County so that he can personally see to the rescinding of the detested, fraudulent Yazoo Act. In an action that is nowadays inconceivable, Jackson agrees. Jackson had been offered half a million acres by the speculators in 1794 for his support of their schemes. The offer, according to Jackson himself, came from someone he described only as a citizen “high in judicial rank.”²² To the offer of the bribe, Jackson responded that he had fought for Georgia and that she belonged to the people and to their heirs and that if the sale went through, he would consider it null and void. He wins election to the 1796 legislative session, of course, with a hefty majority. In the single-issue campaigns of 1795, nearly the whole legislature is overturned. The General Assembly of 1796 will consist almost entirely of reformist members. After the

²² Justice James Wilson of the United States Supreme Court is my chief suspect here.

elections, most counties hold mass meetings and instruct their legislative delegations to rescind what Georgians are calling the “usurped” Yazoo Act when the assembly convenes in January of ’96.

CAPITAL GAINS

As early as 1792, Georgia Secretary of State John Wilcox had written to the Governor from “the capital at Louisville.”²³ In 1786, the legislature had passed an act for “erecting Public buildings and establishing the Seat of government and the University, provided the same shall be within twenty miles of Galphin’s Old Town” The legislature appointed Hugh Lawson, Nathan Brownson, and William Few²⁴ to select a “permanent” site for the capital city. At that time, the center of population²⁵ in Georgia was in what is now Jefferson County.²⁶ Those three gentlemen accordingly choose Louisville. At last, in May 1795, the removal of the capital from Augusta to Louisville is ordered. Augusta had become the capital during the Revolution when Savannah fell to the British and had remained the capital while the new state buildings were being built in Louisville. And so it was that when the time came for the “reform” legislature to convene in January 1796, it would do so in the new State House in Louisville.

George Matthews is still governor. He sends a message to the legislature explaining that all the land companies have paid the state in full for the sale,

²³ Pronounced “Lewis-v’l.” Get it right. It was renamed during the Revolution for the King of France from its original name, Queensborough, in honor of Queen Charlotte, the former Princess Charlotte von Mecklenburg, wife of George III.

²⁴ William Few and Abraham Baldwin signed the US Constitution for Georgia.

²⁵ In demographics, the center of population of a region is a geographical locus that describes a center point of that region’s population. The *mean center* is the point on which a rigid, weightless map would balance perfectly if the population members are represented as points of equal mass. What?? Relax; here are some illustrations. Today, the mean center of the population of the United States is in Texas County, Missouri. But in 1790—and yes, this calculation *was* done in 1790—the mean center of population of the United States was in Kent County, Maryland.

²⁶ The first Federal Census (1790) showed Wilkes County as the most populous in the state. Augusta (Richmond County), and Petersburg (Wilkes County) were the second- and third-largest towns in the state at the time, after Savannah (Chatham County). Petersburg, of course, no longer exists. But there were white trading posts in this part of Georgia before the founding of Savannah (1733) or Augusta (1735), although those settlements have not survived. The point is that the upcountry population very early and quickly outstripped that of the coastal areas, making Savannah a less than optimal location for a capital city.

that they have canceled all mortgages, and that they are now in full possession of the disputed land. He recommends rescinding the Yazoo Act. The case has become complicated. On 11 January 1796, the General Assembly elects Jared Irwin governor.

Governor Irwin appoints a committee to make a recommendation on rescinding the hated Act. Although the committee members are threatened with violence, they report that “the fraud evinces the utmost depravity in the majority of the late legislature”; that “the public good was placed entirely out of view and private interest alone consulted; that the rights of the present generation were violated, and the rights of posterity bartered”; and that “the bounds of equal rights were broken down, and the principles of aristocracy established in their stead.” The committee reports a recommendation to rescind the Act.

FIRE FROM HEAVEN

As a result, one of the 1796 legislature’s very first acts is to repeal the hated Yazoo Act that had been so disgracefully passed by the previous legislature.²⁷ The rescinding act is introduced by James Jackson, is passed by huge margins in both houses, and is signed into law by Governor Irwin on 13 February 1796. The action is based on the committee’s report that the fraud and vote-buying had rendered the Act null and void from the very outset. The text of the rescinding act “departed from the general nature of a law to argue for pages against the wickedness and unconstitutionality of the Yazoo Act.” The General Assembly then decides to excise from all official records every trace of the hated Yazoo Act and to burn them ceremonially before the State House door.

A committee is appointed to collect all written references to the hated Act. Even the Act itself is literally cut out of the statute books. That being accomplished, the entire General Assembly gathers with the newly elected governor, Jared

²⁷ Their last act was to erect Jefferson County out of parts of Warren and Burke counties, so that Louisville, the new and permanent capital of Georgia, would lie in a new county. “Permanent” turned out to mean nine years, however, as the capital was moved to a new city on the Piedmont Plateau, Milledgeville, in 1805 because Louisville’s situation on the Coastal Plain and beside the Ogeechee River was thought less than perfectly healthful (malaria and Yellow Fever). The Jefferson County courthouse now stands on the site of the old State House. The only known picture of the old State House is an old print that was drawn from an oral description of the scene by a Mr. Fleming, late of Jefferson County. That scene was reproduced on a Wedgwood china plate made in England for the Transylvania Club of Sandersville for Georgia’s bicentennial celebration in 1932. It shows the famous scene of Fire from Heaven consuming the Yazoo Papers before the state’s highest officials, gathered before the State House door. It is now the official State Plate of Georgia. The plates are available from Wedgwood.

Irwin, in the Representatives Hall on 15 February 1796. They exit the Hall in solemn procession and gather on the grounds before the door of the new State House. The committee hands the papers and records to the president of the Senate, who in turn gives them to the Speaker of the House. The Speaker passes them to the Clerk, and the clerk gives them to the Messenger of the House. Suddenly, according to a tradition that still lives today in Georgia, an unknown old man gallops up on a white horse, declaring to the crowd that he has come to see justice done. Only Fire from Heaven, he declares, is fit for the purpose of destroying the obnoxious Act. He then draws a magnifying glass from his pocket and uses it to bring down Fire from Heaven to consume the repudiated Act. As the papers catch fire, the members of the legislature remove their hats, and the Messenger of the House declaims the appointed words: “God save the State! And long preserve her rights! May every attempt to injure them perish as these corrupt Acts now do!” Then as Fire from Heaven consumes the papers to ashes, the mysterious old man remounts his horse and rides away, never to be seen again.²⁸

About a month after that, the Georgia House votes “no confidence” in US Senator James Gunn.

To many people throughout the country, rescinding the Yazoo Act ends the controversy. Actually, 1796 will turn out to be the worst of a period of eighteen years of bitter controversy that rages throughout the country and echoes on the floor of Congress and in the halls of the United States Supreme Court.

GENTLEMEN, CHOOSE YOUR WEAPONS!

²⁸ The story of the old man on the white horse is apocryphal, although it is absolutely certain that the Act and other papers mentioning it were indeed consumed by “Fire from Heaven.” The late Dr. Lawton B. Evans attributed to James Jackson the use of the glass to ignite the papers. Someone claiming to have been an eyewitness to the ceremony later attributes it to “a common hangman.” But the mysterious old man on the white horse is a far better story—one that Senator Jackson himself later repeated and even wrote about and, I suspect, dined out on. It is my considered opinion, however, that this tells us more about James Jackson than about his subject. It was certainly this particular story that captured the fancy of this writer when, as a boy listening raptly to his Jefferson County grandfather telling these stories as family stories—Governor Irwin and his first cousin Hugh Lawson (p. 13) were our kinsmen, so their deeds were important to my grandfather—was fascinated by the scene and believed it fervently. The more prosaic truth, however, seems clear from the fact that the legislature planned the entire ceremony, including the words declaimed by the Messenger of the House when the papers burst into flame. It was a calculated scene of high drama, even without the mysterious old man on the white horse.

After the passage of the rescinding act in January and the “no confidence” vote soon after that, the fat is really in the fire.

Rumor has it that several members of the Georgia House have signed certain documents about Senator Gunn and have sent them to Georgia Congressman Abraham Baldwin in Philadelphia. So about six weeks after the “no confidence” vote, Senator Gunn asserts in a public letter that the statements against him and his interest in the western lands and his part in the corruption of the General Assembly had been solicited by a committee that was chaired by his enemy James Jackson.²⁹ He further alleges that statements favorable to him have been suppressed owing to partisan politics. Then he writes to Mr. Baldwin to demand the papers that rumor says he has. When Baldwin refuses, Gunn names Frederick Frelinghuysen as his second and challenges Baldwin to a duel. When the matter is brought before James Madison, chairman of the US House Committee on Privileges, Senator Gunn’s challenge withers on the vine.

In March (1796), the Georgia legislature adjourns, and James Jackson returns to his home at Cedar Hill Plantation near Savannah. But the Yazoo partisans give him no peace, insulting him in almost every issue of the state’s main newspapers. They hope thereby to goad the hypersensitive and scrappy Jackson—an experienced, almost eager duelist—into as many duels as it takes to get him out of the way permanently.

There is a tradition in Georgia that Senator Jackson fought a duel with Senator Gunn over the Yazoo controversy in 1796, but there seems to be no documentation for that. What *is* documented, however, is the long-running feud between Jackson and Colonel Robert Watkins of Augusta.

Lieutenant Colonel Robert Watkins of the Richmond County militia had been in the legislature of 1795, but he had not voted for the Yazoo sale. He and Jackson are political opponents anyway, however, and Watkins vigorously opposes Jackson’s equally vigorous attacks on the Yazooites. One day, as Jackson later writes to his dear friend John Milledge, he was walking in Louisville when Watkins and a group of his Yazooite friends “dogged” him to the State House, thinking him unarmed.³⁰ At the State House, Watkins accuses

²⁹ While there does not seem to be any surviving direct evidence, this writer knows of secondary sources that indicate that Senator Gunn’s protestations might very well have been true, even if only partially. See footnote 38. The truth, I fear, must remain forever uncertain.

³⁰ Personal letter from Jackson to Milledge, undated. Georgia Archives.

Jackson of heading a “damned venal...faction who have disgraced their Country” [i.e., Georgia]. At that, Jackson begins to whale the tar out of Watkins with his small “lucas stick” until the stick breaks. That gives Watkins the chance to strike Jackson a blow to the head that knocks him to the ground, stunning him. But, Jackson says, “I rose and my blood rose with me—.” Then, a man by the name of Flournoy, one of the Yazoo partisans, proposes a duel between Jackson and Watkins for the following morning. Jackson’s response is simply to draw a pistol and fire at Watkins. The ball would have killed Watkins, Jackson goes on to tell Milledge, if someone had not “knocked up my hand.” Jackson then throws Watkins to the ground twice, but then Watkins tries to gouge Jackson’s eyeballs out with his thumbs.³¹ Senator Jackson bites Colonel Watkins’s finger with enough force to induce Watkins to give up the gouging, thereby escaping with nothing but “a skinned eye.” But now the fight gets serious. Watkins stabs Jackson twice with a bayonet affixed to his pistol. One thrust strikes Jackson in the ribs and one in the collarbone, but Jackson narrowly escapes being stabbed to death. “Half an inch lower...would have finished my business,” Jackson later writes to Milledge.

About five weeks later, the Colonel and the Senator trade insults at the federal district court, and they start to duke it out right then and there. Watkins gives Jackson “a scratch of the face” and then takes himself off to escape being tarred and feathered by the furious crowd.³²

Captain Benjamin Taliaferro³³ had resisted all efforts to buy his vote in the 1795 legislature. So after his term in the House expires, Georgians elect him to a Superior Court bench in spite of the fact that he is not a lawyer, so greatly do they trust and admire him. Later on, when several of these land speculation cases are pending before him, some of the speculators conspire to force him from the bench. The conspirators arrange for a Colonel Willis to challenge

³¹ A peculiarly popular practice of the period. Indeed, the Georgia legislature had found it desirable several years earlier to outlaw the practice by passing what was generally called the “Gouging Act.”

³² The bad blood between Jackson and Watkins may have led to Jackson’s decision (as Governor, 1798—1800) not to pay Watkins and his brother, George, for a digest of Georgia’s laws that they compile and print in 1799—with the support of the General Assembly—because the digest contains the text of the fraudulent Yazoo Act of January 1795. Jackson and Watkins finally settle their score at a duel in Louisville in June 1802. Watkins shoots Jackson in the thigh, wounding him seriously. He eventually recovers. But the encounter grants “satisfaction” to both parties, and they finally bury the hatchet.

³³ Pronounced “Toliver” to rhyme with “Oliver.”

Judge Taliaferro to a duel on some flimsy pretext or other, certain that because of his reputation—as a military man, a man of honor, a hero of the Revolution in Georgia—he will accept the challenge to maintain his honor, forcing him to resign from the bench for dueling. Judge Taliaferro accepts the challenge, however, without resigning. When the conspirators see that, they decide to take a different tack: to try to frighten the Judge’s wife, Martha, into pressuring her husband to withdraw.³⁴

They hope thereby to shame Judge Taliaferro publicly, and so to force him to resign from the bench. So they decide to practice for the duel within sight and earshot of Mrs. Taliaferro’s window. What they do not know is that while they are posturing outside her window, she is inside cleaning her husband’s dueling pistols. In due course, in Gilmer’s words, “the Judge and his opponents met. The pistol, which had been oiled by the wife, sent its ball so near the speculator’s vitals that he declined receiving a second shot.”³⁵

In a pathetic and tragic sideshow, the fallout from the whole bombshell eventually drives General Gunn’s wife to suicide. The Gunns’ servants tell the Jacksons’ servants, who tell Mrs. Jackson, who tells her husband, that Mrs. Gunn had taken to her room, declaring to her husband that she “would never bed with him again.”³⁶ However, after Senator Gunn insists on coming into her room, as Jackson goes on to say, Mrs. Gunn puts “a period to her existence by a strong dose of poison which she had kept sometime by her.” After that, Senator Gunn returns to the US Senate in Philadelphia,³⁷ returning to Georgia only a few weeks before his death in 1801. He is buried in an old-fashioned,

³⁴ Captain Benjamin Taliaferro’s affection for his wife—the former Martha Meriwether—was well known. She had been engaged to marry Zack Taliaferro, Benjamin’s brother. During the Revolution, Benjamin had been captured by the British at the fall of Charleston, but had been permitted to return to his native Virginia on parole. (Those who have walked down the Duke of Gloucester Street in Williamsburg will have seen the Taliaferro home there.) He was six feet tall, handsome, intelligent, with military bearing and polished manners. His brother’s betrothed found him as irresistible as he found her. Gilmer says that the Captain tried hard to resist Miss Meriwether’s charms. But love conquers all. The brothers quarreled and parted in anger, never again to meet on friendly terms. Captain Taliaferro wedded Miss Martha, and they came to Georgia in 1784. Taliaferro County is named in his honor.

³⁵ Gilmer, *op. cit.*, pp. 124-5.

³⁶ Undated personal letter from James Jackson to John Milledge. Georgia Archives.

³⁷ The General Assembly had re-elected him to serve a second six-year term. Odd. If, that is, all of James Jackson’s statements about Senator Gunn were true.

above-ground brick vault covered with a slab of fine Georgia marble, bearing an elaborate inscription in Louisville's Old Capital Cemetery. By his side—and his vault is in an isolated position in that silent, moss-draped place—is an identical vault with absolutely no inscription.³⁸

CONCLUSION

By now, the Yazoo scrip has been sold and re-sold throughout the United States. Many get rich; many are ruined (including, some historians say, Gouverneur Morris of New York and Pennsylvania). Holders of the now-worthless Yazoo scrip are ceaseless in their demands for Georgia to indemnify them for their losses. Their position is that they had bought in good faith, then the state rescinded the Act—in short, Georgia broke their contract. They wonder why they must suffer loss because the Georgia legislature of 1795 was corrupt. Having bought their shares without knowing any of that—or so they say—their position is that Georgia must pay up!

Finally, Georgia cedes all her western lands to the United States in 1802. Georgians are sick of the whole affair. Besides, in 1799, Congress had established the Mississippi Territory between the Chattahoochee and the Mississippi, and had put a Territorial government into operation in 1800.

Anyway, the ratification in 1795 of the eleventh amendment to the US Constitution had rendered it impossible for claimants to pursue lawsuits against Georgia or any other state.³⁹ Nevertheless, contention continues, especially on the floor of Congress, where the Democrats have a comfortable majority in the House, and the Southern wing of the party controls the party as a whole. Georgia's honor is faithfully defended for ten years by John Randolph of Virginia, who repeatedly rails against the bribe-giving corrupters of the democratic process at every conceivable opportunity. Therefore, from 1804 to

³⁸ Thus has history remembered James Gunn. Until, that is, the recent discovery of new evidence by Doris Gunn Smith, an excellent and discerning researcher in Columbia County. Briefly, it seems from Gunn family records that a scandal-weary Mrs. Gunn merely returned to her father's plantation in Chatham County, died, and was buried there beside him in their family burial-ground. Later events, including the Invasion of Georgia in 1864 and the construction in the 20th century of Interstate 95 have obscured the site of those graves. Therefore, as noted in footnote 29, q.v., the truth must remain uncertain.

³⁹ Nevertheless, questions concerning the 11th amendment have been decided by the Supreme Court as recently as 2002.

1814, he and other states-rights Southern Democrats prevent Congress from performing any sort of much-sought-after federal bailout of the holders of the worthless Yazoo scrip—early American “junk bonds.”

The beginning of the end of the Yazoo story comes when the holders of the “junk bonds” finally see that their repeated petitions to Congress are getting them nowhere fast. They very well know Chief Justice John Marshall’s federalist sentiments, so they decide to try to take a case before him. Accordingly, they collude⁴⁰ to devise the now-famous case of *Fletcher v. Peck*, which the Marshall Court agrees to hear in 1809. Without getting into the particulars of the case (see footnote 40, below), suffice it to say that on 16 February 1810—almost exactly fourteen years to the day after passage by the Georgia legislature of the Rescinding Act—the Supreme Court rules against Fletcher, the plaintiff. What that means is that the bought-and-paid-for Yazoo Act of 7 January 1795 has been lawful and in force all along, and that its provisions remain binding on all parties everywhere, right down the line. In other words, the Marshall Court rules that if a duly and lawfully elected legislative body passes a law that is, in its effects, a contract, and that if people’s rights have vested absolutely under that law (contract), a later session of that same legislative body—also lawfully and duly elected—cannot abrogate its part of the contract (law), even if the original contract (law) was fraudulent. The Marshall Court rules that contracts are sacred—but deals a serious blow to state sovereignty and states’ rights and to Indians’ land rights. What that means is that Georgia will have to make good on the worthless Yazoo scrip. But Georgia had finally ceded the territory in question to the United States in 1802, so that means that Congress will have to redeem the worthless Yazoo paper.

Chagrin is great throughout the South over the affront to state sovereignty and states’ rights. But Georgians are sick and tired of the whole dirty mess, and in any event, their main concern has always been the corruption of their legislature. Besides, war with England (and possibly also with France) is brewing, and foreign affairs come to dominate political life for a while. Nevertheless, John Randolph of Virginia and the other Southern Democrats retain a sufficiently large majority in the House to prevent a federally funded bailout until 1814. In that year—the year the British occupy Washington and

⁴⁰ Both Fletcher and Peck were land speculators whose holdings would be secured if the Supreme Court decided that Indians did not hold original title, so Fletcher, aided and abetted by Peck, set out to lose the case. See also footnote 9, on the Hopewell treaties.

put it to the torch—Congress settles with the Yazoo claimants for \$5 million from the United States Treasury.

Plus ça change, plus c'est le même chose, as the French so sagely say: “The more things change, the more they stay the same.” As one wag put it at the time of the Yazoo controversy, “When the political pot boils, the scum rises to the top.” In that regard, things may have changed while remaining the same. What has decidedly changed, however, is the reaction of Americans to political corruption. Nowadays it is accepted—even *expected*—as part of “business as usual.” If there is a lesson for us in the bicentennial year of the Yazoo scandal, it is to be found in the words of George Santayana: “Those who cannot remember the past are condemned to repeat it.”