

Constitution Discovery Headed for Auction

by Lita Solis-Cohen

“Edenton has a rich history that is ripe for new discoveries,” declared Robert Leath, executive director of the Edenton (North Carolina) Historical Commission, speaking to a group planning the stabilization of structures at the Hayes Farm, a 184-acre plantation sold by the Wood family in December 2022 to the Elizabeth Vann Moore Foundation. The Wood family had owned and managed the plantation for over 150 years, according to an online posting that announced North Carolina lawmakers had appropriated \$6.1 million to acquire the property and transform it into a public historic site. Down East Preservation is in charge of the restoration with assistance from the Edenton Historical Commission and the town of Edenton.

In 2022 when art and antiques advisor and appraiser Ken Farmer of Charlottesville, Virginia, was called by the Wood family to appraise “some leftovers that would not remain in the house,” he found at the bottom of a pile of papers from a file drawer a sheet of old laid paper folded to make four pages with “We the People of the United States” on the first page.

“When I picked it up and saw the signature of [Charles] Thomson at the bottom of the last page, I knew Thomson spelled without a ‘p’ was the name of the secretary of the Continental Congress, and I thought I might be looking at an early printing of the Constitution,” said Farmer on the phone.

Ken Farmer closed his auction business a few years ago and became a full-time appraiser. “An honest appraiser can’t buy and sell what he appraises, so I told my clients if they wanted to sell anything, they should contact Andrew Brunk at Brunk Auctions in Asheville,” Farmer recounted. The Wood family did just that.

It has taken some homework by Andrew Brunk to discover that the printing of the Constitution he will offer for sale is indeed very rare. It is from the printing ordered by the Confederation Congress meeting in New York to be sent to the state assemblies for discussion and ratification. It is one of nine that survive, and the only one in private hands. All the other located copies are in archives and libraries.

Early printings of the Constitution have been bringing in big bucks. In November 2021 a rare first printing of the U.S. Constitution from the press of Philadelphia printers John Dunlap and David C. Claypoole, the official printers of the Constitutional Convention, sold at Sotheby’s in New York City for \$43.2 million, a record price for a document or book sold at auction. Investor Ken Griffin outbid a group of 17,000 cryptocurrency enthusiasts from around the world who had used crowdfunding to raise the funds to bid. That printing was one of 14 known copies (and one of only two in private hands) of the 500 copies printed on six pages on the night of September 17, 1787, at the culmination

of the convention’s four months of deliberations. The previous time it had sold at Sotheby’s, in 1988 to real-estate developer Howard Goldman, the price was \$165,000. His widow, Dorothy Tapper Goldman, donated it through her foundation in 2021 to benefit the teaching of constitutional history.



When the only other example still in private hands was to be offered for sale at Sotheby's in December 2022 with a \$20/30 million estimate, the offering was halted to give interested institutions time for fund-raising. That example sold privately later for an undisclosed sum.

On September 19, 1787, Dunlap and Claypoole reset the Preamble and made other format adjustments to reuse most of the standing type and printed the Constitution as a four-page special issue of the *Pennsylvania Packet*, and *Daily Advertiser*. About 30 of these first public printings of the Constitution survive, most of them in institutions.

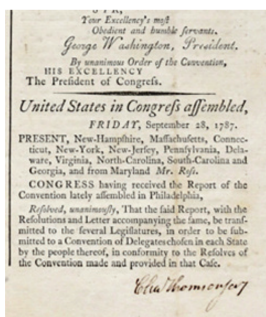
One sold to dealer Seth Kaller, Inc., at Sotheby's on June 26 for \$1,020,000 and is expected to be offered in his upcoming catalog, "Conceived in Liberty." It is considered the purest newspaper text. Four other Philadelphia papers printed the Constitution on the same day, incorporating variations in spelling, punctuation, and type size. By 20 days after the convention, at least 55 of 80 American newspapers of the period had printed the Constitution, including editions in German and Dutch.

The Constitution to be sold at Brunk is not one of those official Philadelphia printings and is in fact much rarer. What Farmer found at the Hayes Plantation is one of the 100 copies of the Constitution printed by John McLean in New York City on September 28, 1787, for the Confederation Congress meeting in New York to send to the states for discussion and ratification. Only a fraction of the 100 were signed by Thomson. (Another 100 were printed a few days later.) The four-page double-column text is 15 3/4" x 11". It is signed "Cha Thomson Sec'y." Marginalia in pencil, "Adopted, it must be," is right next to the paragraph that refers to amending the Constitution, and elsewhere is the name "Taylor," with other flourishes by an unknown hand.

It is tempting to say that this is Samuel Johnston's copy. He was then governor of North Carolina and chair of the North Carolina conventions to ratify the Constitution. The document was found at the plantation where he is buried and where his son James Cathcart Johnston, to whom he had given the plantation in 1814, built the grand Palladian house designed by William Nichols, an English architect living in Edenton.

When James Johnston died at the end of the Civil War, he left Hayes Plantation to his "friend and advisor" Edward Wood, a wealthy planter who owned more than 5000 acres, managed fisheries and steamboat lines, and invested in canals and railroads. The historical papers documenting three generations of the Johnston family and two generations of the Wood family were sent to the State of North Carolina Archives and are on deposit at the Davis Library and the Wilson Library of the University of North Carolina.

A broadside copy of the Declaration of Independence printed by John Dunlap from this collection was offered at Christie's on April 22, 1983, as the "Property of John Gilliam Wood of Hayes Plantation, Edenton, North Carolina." It sold to Williams College for \$412,500,



Page 4 detail of a very rare printing of the United States Constitution found by appraiser Ken Farmer at Hayes Plantation. He knew it was important when he saw Charles Thomson's signature. Thomson was secretary of the Confederation Congress, which ordered copies to be sent to the 13 states for ratification. This printing is the first to include the Congressional resolution officially starting the ratification process.

which was then an auction record, topping the price for a Dunlap broadside sold May 7, 1969, at Freeman's, Philadelphia, for \$404,000.

Strong Anti-Federalist opposition in North Carolina prevented the state from ratifying the Constitution until November 21, 1789, after George Washington had already taken office as president.

Two weeks after winning a third term as governor and after North Carolina ratified the Constitution, Johnston was elected to the U.S. Senate, where he served until 1792. When he returned to North Carolina he was then a judge on the Superior Court until 1813. He died in 1816 and is buried at Hayes Plantation.

What about the name "Taylor" in pencil on the document? James Taylor was the assistant secretary of the Hillsborough Ratification Convention called in 1788 and reconvened in Fayetteville in 1789.

According to historical document dealer Seth Kaller, who has sold examples of all three Dunlap Convention imprints and for years has tracked the most important Constitution imprints, it isn't clear if one or more signed copies were sent to each state.

The Constitution became law after the ninth state ratified it on June 21, 1788. North Carolina became the twelfth state to approve it on November 21, 1789.

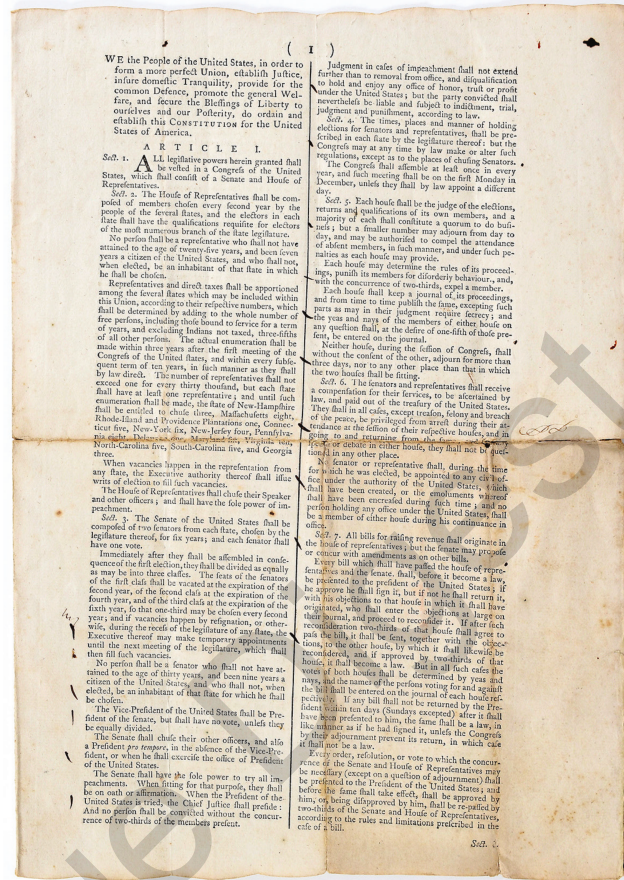
The printer of the document to be offered by Brunk is John McLean, or "M'Lean" as it appears on the masthead of his newspaper, the *Independent Journal or, the General Advertiser*, published on Wednesdays and Saturdays in Hanover Square, New York City. On Saturday, September 22, 1787, he had published the Constitution as a supplement while the Confederation Congress considered the Constitution. Once the resolution of Richard Henry Lee of Virginia that it be sent to every state "to be laid before their legislatures" was passed, Secretary Thomson needed official copies for that purpose.

Dunlap and Claypoole, who had been the official printers to the Constitutional Convention, were also the official printers of the Confederation Congress in New York. They did not have a press in New York, so they jobbed it out to McLean, who already had the standing type from his newspaper supplement. McLean made a few format changes, and on September 28, 1787, he printed 100 copies, only some of which Thomson signed.

In the definitive study *Printing the Constitution: The Convention and Newspaper Imprints, August-November 1787*, published in 1970, Leonard Rapport (1913-2008) of the National Archives said that Dunlap and Claypoole were not paid for their official printings of the Constitution until 1793, when they received \$420 from Congress (about the amount a journeyman printer was paid for a year's work). They also were paid an additional 3 pounds, 10 shillings for 100 copies of the printing done on September 28 and another 1 pound, 4 shillings for printing another 100 copies on October 3. Rapport suggested these were probably payments for "McLean's imprints...transmitted to the States by Thomson."

Kaller notes that "McLean's records have not been found, but additional evidence of Dunlap jobbing out Congressional print work to McLean supports Rapport's attribution."

One might expect that the original states would each have a copy of McLean's printing. They do not. Only eight copies are accounted for in institutions and libraries. The one Ken Farmer found is the ninth—or the



Page 1 of a very rare printing of the United States Constitution sent to the states for ratification will be offered at Brunk Auctions, Asheville, North Carolina, on September 28, 237 years to the day after it was printed in New York City by John McLean.

tenth if the copy auctioned at the C. F. Libbie Auction in Boston on January 6, 1891, survives and is not already on the institutional list. According to Denys P. Myers in *History of the Printed Archetype* (1961), available online, there is one copy in the National Archives in *Resolve Book of the Office for Foreign Affairs*, covering the term of John Jay as secretary for foreign affairs from May 7, 1784, to January 15, 1790, a period including the transition from the Articles of Confederation to the Constitution. New York's copy signed by Thomson is in the New York State Library in Albany with the papers of George Clinton, who was governor from 1777 to 1795 and was president of the state ratification convention, June 17 to July 26, 1788. Charred in the 1911 fire of the library and state house, it is endorsed in Clinton's handwriting, reading "New Constitution & Remarks thereon 1788." North Carolina's record copy is in the State Library. It is signed by Thomson and is "much annotated, with doodles." The Boston Public Library has a signed copy, which was deposited by Charles Francis Adams in 1891. Two copies are in the John Carter Brown Library at Brown University, and the New-York Historical Society has a copy bound into a volume of New York state laws.

Because there is a copy in the State Archives of North Carolina, Brunk was able to get clearance to sell the Hayes Plantation copy.

Brunk said Kaller has arranged for him to put the document on view in New York City on September 17, the day the Constitution was engrossed by Jacob Shallus and signed by the 39 of the 55 delegates. (In 2004 September 17 was declared Constitution Day.) The exhibit will be at the Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl Street in Manhattan.

Brunk will sell the document on September 28, which is 237 years to the day after the Confederation Congress ordered 100 copies to be printed and sent to the states for ratification. That printing with its particular set of spellings, punctuations, capitalizations, abbreviations, and paragraphs is what the state conventions ratified and what Denys P. Myers called the "Archetype Constitution."

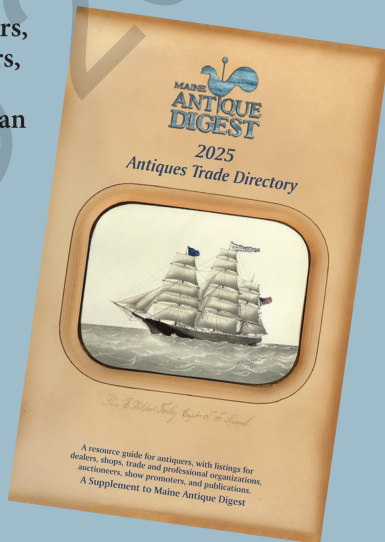
James Madison said the Constitution "was nothing more than the draft of a plan, nothing but a dead letter, until life and validity were breathed into it by the voice of the people, speaking through the several State Conventions." This is the official printing that launched that process.

Brunk said it has been difficult to put an estimate on such a rare document. "We will offer it with a starting bid of \$1,000,000 during our fall historical Americana sale September 27 and 28, along with other documents and historic Americana and Colonial American furniture from the estate of Constance and Dudley Godfrey."

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