



HISTORY OF THE PRINTED ARCHETYPE

OF THE CONSTITUTION OF THE
UNITED STATES OF AMERICA

Denys P. Myers

TWO ARCHETYPES OF THE CONSTITUTION of the United States of America exist, both authorized by the Federal Convention which drafted it.

One is the copy engrossed on parchment which was signed on September 17, 1787, by the members of the Federal Convention and deposited as its “report” with the Continental Congress, the “United States in Congress assembled” of the Articles of Confederation. This is the copy enshrined in the National Archives.¹

This essay first appeared at pages 49 to 65 of THE CONSTITUTION OF THE UNITED STATES OF AMERICA: APPROVED BY THE CONTINENTAL CONGRESS, TRANSMITTED TO STATE LEGISLATURES FOR RATIFICATION AND RATIFIED BY CONVENTIONS OF THE ORIGINAL THIRTEEN STATES, Senate Document No. 49, 87th Congress, 1st Session (1961).

¹ Since December 15, 1952, when it was transferred with the Declaration of Independence from the Library of Congress, where they had been on display since February 28, 1924. The two documents were in the Department of State until September 30, 1921.

This display of the engrossed copy contrasts with earlier treatment of the document. J. Franklin Jameson wrote that in 1882 when he “first visited the Library of the Department of State at Washington, the Constitution of the United

The other archetype was simultaneously printed by the Federal Convention for its members. It was reproduced by the Continental Congress for the ratification of conventions in the States and finally published by the Congress of the United States with its first session laws as a “correct copy.”

For approximately a century this printed archetype was the model followed in official editions of the laws and other governmental issues. Discrepancies in editing crept in – the texts printed with the laws in the official editions of 1796, 1815 and 1845 are not identical. On the other hand, the frequent prints for the use of the Houses of Congress in what became the Senate and House Manuals reproduced the printed archetype with great fidelity, although after about 1819 no archetype seemed to be available.

The engrossed copy bearing the holograph signatures of the makers of the Constitution in the Federal Convention was well known and became famous as a result of its display by the Department of State at the Centennial Exposition at Philadelphia in 1876. It was first reproduced by direction of Congress in *Revised Statutes of the United States*, 2d Edition, 1878, and thereafter became the accepted archetype of the Constitution.

The first printed edition of the Constitution was made on September 18, 1787, for the members of the Federal Convention under the direction of its Committee of Style and Arrangement, which also controlled the text of the engrossed copy of the “report.” That printed copy was the working paper of the Continental Congress in formulating its resolution of September 28, 1787, which transmitted this “Report of the Convention lately assembled in Philadelphia” to the Legislatures of the States for ratification by Conventions of Delegates. This text, as reprinted by the Congress for that purpose and ratified by the States, is here reproduced.*

The first Congress convened under the Constitution by a resolu-

States was kept folded up in a little tin box in the lower part of a closet while the Declaration of Independence, mounted with all elegance, was exposed to the view of all in the central room of the library.” (*Introduction to the Study of the Constitutional and Political History of the States*).

* Editors’ note: Please see the author note on page 217.

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tion dated July 6, 1789 directed that a “correct copy” of the Constitution be printed with the laws of its first session. This third edition² of the printed archetype is identical with the one issued by the Continental Congress, except that House, Senator and Representative are given initial capital letters.

ORIGIN OF THE ARCHETYPES

The “United States in Congress assembled,” as the Continental Congress established by the Articles of Confederation of July 9, 1778, was officially called, resolved on February 21, 1787, that a convention be held in May 1787 at Philadelphia –

for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the federal Constitution adequate to the exigencies of Government and the preservation of the Union.

The Federal Convention was called at Philadelphia for May 14, 1787, but the necessary quorum of deputies or commissioners of seven States was not present until May 25. On September 8 the work had advanced far enough for the convention to appoint a Committee of Style and Arrangement “to revise and place the several parts under their proper heads” of what was already being referred to as a constitution. The committee consisted of William Samuel Johnson (Connecticut), Alexander Hamilton (New York), Gouverneur Morris (Pennsylvania), James Madison, Jr. (Virginia), and Rufus King (Massachusetts). Working with the print of August 6³ and the subsequent records, the committee, on September 12,

² Acts passed at a Congress of the United States of America, begun and held at the City of New York, on Wednesday the Fourth of March in the Year M,DCC,LXXXIX . . . , v-xiv (New York, Francis Childs and John Swaine, n.d.).

³ Department of State, Bureau of Rolls and Library, *Documentary History of the Constitution of the United States, 1787-1870*, I, 285-308, 338-60; III, 338-85 (Congressional set, vols. 4184-86); Max Farrand, *The Records of the Federal Convention of 1787*, II, 177. The original is on 7 proof pages.

reported “the Constitution as revised and arranged” and it was “ordered that the Members be furnished with printed copies thereof.”⁴

The Convention continued a second reading procedure on provisions of the instrument and the Committee of Style and Arrangement proceeded to revise and refine the language until Saturday, September 15, 1787. On that day the Convention by unanimous vote “Ordered to be engrossed and 500 copies struck,” as James McHenry (Maryland) recorded in his notes of the proceedings.⁵ Or as Washington put it in his diary:

Adjourned till Monday that the constitution which it was proposed to offer to the People might be engrossed – and a number of printed copies struck.⁶

The convention thus provided for the simultaneous preparation of an engrossed copy and a printed copy of its decisions. The Committee of Style and Arrangement, which met daily through September 15 when the Convention completed its approval, was still responsible for any question respecting the text. Both engrossment and printing were under its direction. The engrossed and printed copies of the report which the Federal Convention was directed to make to Congress by the resolution of February 21, 1787, were prepared at the same time, under the same authority, but had very different histories.

THE ENGROSSED COPY

The engrossed copy was made by Jacob Shallus, assistant clerk of the Pennsylvania General Assembly,⁷ on four parchment sheets, 13½ x 15½ inches (34 cm. x 39 cm.), and was laid before the Convention at its final meeting on Monday, September 17,

⁴ This draft, printed by Dunlap and Claypoole, on 6 pages, is reprinted in *Documentary History*, I, 362-85, and III, 720-33, and in Farrand, *op. cit.*, II, 590.

⁵ Farrand, *The Records of the Federal Convention of 1787*, II, 634.

⁶ Farrand, *op. cit.*, III, 81; *Documentary History*, IV, 277.

⁷ Sesquicentennial Commission, *History of the Formation of the Union under the Constitution*, 770, gives the story of his identification.

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1787. The engrossed Constitution was read through article VII. Benjamin Franklin made a speech in which he moved its signing and proposed that the enacting clause read: “Done in Convention, by the unanimous consent of *the States present*,” etc. An amendment was adopted to article I, section 2, clause 3, where “forty thousand” was changed to “thirty thousand.” The “enrolled” Constitution was then agreed to for signing. The amendment was made in the engrossed copy by an erasure. The testimonium clause was already in the engrossed copy.⁸ All the members of the Federal Convention except three signed the document. Their last acts before adjournment *sine die* were to remove the injunction of secrecy, and direct the secretary to carry it to the Congress.⁹ It is, of course, the original signatures of the makers of the Constitution that give the engrossed copy a unique character.

William Jackson, secretary of the Federal Convention, took the engrossed copy to New York, “to lay the great result of their proceedings before the United States in Congress.”¹⁰ He left Philadelphia by stage at 10 a.m. September 18 and arrived in New York at 2 p.m. September 19.¹¹ On September 20 he delivered it to the Congress and it was placed in the files, while the members of Congress studied the document in the printed form received from Philadelphia.

The engrossed copy, after its transmittal to the President of the United States in Congress assembled on September 20, 1787, was filed and the delegates deliberated over printed copies of the Federal Convention. Two years later, on July 25, 1789, President Washington instructed Charles Thomson, secretary of that Congress, to deliver to his former deputy secretary, Roger Alden, “the

⁸ Its form had been drawn up by Gouverneur Morris, who had been the stylist of the Committee of Style and Arrangement, and who had put it into the hands of Benjamin Franklin for presentation (Farrand, *op. cit.*, II, 643).

⁹ James McHenry’s notes, Farrand, *op. cit.*, I, 650.

¹⁰ The Pennsylvania Packet, and Daily Advertiser, September 18, 1787.

¹¹ Diary of William Samuel Johnson, with whom Jackson traveled. The Johnson diary is in the Connecticut Historical Society, Hartford.

books, records and papers of the late Congress,”¹² which included the “Report of the Convention lately assembled in Philadelphia.” The act of July 27, 1789 (1 Stat. 28), established the Department of Foreign Affairs and further provided that the Secretary “shall forthwith after his appointment, be entitled to have the custody and charge of all records, books and papers in the office of Secretary for the department of foreign affairs heretofore established by the United States in Congress assembled.” The act also provided for a chief clerk who, during any vacancy in the post of “principal officer” had “the charge and custody of all records, books and papers appertaining to the said department.” The act of September 15, 1789 (1 Stat. 68), which changed the name of the department to Department of State, completed the transfer of papers.

John Jay, who had been the Secretary since September 21, 1784, under the Articles of Confederation, continued in the office under the Constitution until March 22, 1790. He made his Under Secretary, Henry Remsen, Jr., his chief clerk in charge of foreign affairs, and by appointing Roger Alden¹³ chief clerk January 1, 1790, accessioned to his department the “records, books and papers of the Congress.”

The Federal Convention on September 17, 1787, directed that its President “retain the Journal and other papers, subject to the order of Congress, if ever formed under the Constitution.”¹⁴ President Washington complied with that direction and Secretary of State Timothy Pickering gave a receipt for them on March 19, 1796.¹⁵ The papers contained the printed draft of the Constitution of August 6, 1787, but no copy of the Convention’s print of September 18, 1787.

¹² New York Historical Society, Collections, Publication Fund Series, XI, 250-53. “The Great Seal of the Federal Union and the Seal of the Admiralty” were also delivered to Alden.

¹³ Alden was transmitting current papers on August 25, 1789, and was chief clerk from January 1 to July 25, 1790. He was preceded and succeeded by Remsen (Department of State, *Register*, 1874, part 2, p. 43).

¹⁴ Farrand, *op. cit.*, II, 648; III, 82.

¹⁵ *Documentary History*, I, 47; Farrand, *op. cit.*, III, 370.

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A resolution of the 15th Congress approved March 27, 1818, directed –

that the journal of the convention which formed the present constitution of the United States, now remaining in the office of the Secretary of State, and all acts and proceedings of that convention, which are in the possession of the government of the United States, be published under the direction of the President of the United States (3 Stat. 475).¹⁶

President Monroe charged Secretary of State John Quincy Adams with the task of compiling the publication, which was printed by Thomas B. Wait at Boston in October 1819, entitled *Journal, Acts and Proceedings of the Convention . . . which formed the Constitution of the United States*. This volume did not reproduce either the copy of the document ordered printed on September 15, 1787, or its engrossed counterpart ordered at the same time and signed by the delegates for transmission to Congress. It ended with the ratifications by the States of the Constitution (p. 392-438) and the “Constitution of the United States, with all the ratified amendments, as at present existing” (p. 489-510). This text was an edited form of the archetype of Congress, using fewer initial capitals, but otherwise having the distinctive characteristics of the copy which was ratified, including the full names in the signatures.

Immediately after publication of that volume an edition of the engrossed parchment “copied from and compared with the roll” was issued “under the direction of the Department of State” in 1820. The search for the Journal papers in the disordered¹⁷ files had appar-

¹⁶ The further distribution of the 1,000 copies printed was determined by a resolution approved January 19, 1820 (3 Stat. 609); also 3 Stat. 719; 4 Stat. 607.

¹⁷ The clerk in charge of the papers, Josiah W. King, wrote in March 1825:

“A great portion of my time is occupied in searching after old papers, and documents connected with the Offices of the Secretary of the Congress, and of foreign affairs under the Confederation – which papers from the repeated Removals of the Archives of this Department, before they were transferred to this City, and since that period from house to house here, are necessarily in a state of much disorder and confusion – and consequently require more time and labor for researches thro’ them.” – Natalia Summers, *Outline of the Func-*

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ently brought its four sheets to light.

In 1846 William Hickey published his *Constitution of the United States of America, with an Alphabetical Analysis*, a governmental manual which for 30 years was a “fireside companion of the American citizen.” Hickey was bothered by discrepancies which he found in editions of the Constitution – in one, 204, and in another, 176 errors, by his count. So he asked the Department of State to give him an authentic text. James Buchanan, Secretary of State, gave him a certificate on July 20, 1846, that the Constitution in his edition had been “critically compared with the originals [the engrossed copy] in this Department and found to be correct, in text, letter and punctuation.” Copies of Hickey’s book were bought for distribution under a Senate resolution of February 18, 1847.¹⁸

Another print of the engrossed copy “compared with the original in the Department of State, September 17, 1872” was issued under the Government Printing Office imprint. For the Senate in 1877 Ben Perley Poore prepared the *Organic Laws of the United States of America*, from which the engrossed copy of the Constitution was taken for printing in the front of the second edition of *Revised Laws of the United States of America* in 1878. Since that date the engrossed copy of the Constitution has been the commonly accepted archetype. It has been regularly reproduced from that period in both the House and Senate *Manuals* and in the *United States Code*.

The Department of State issued an edition “compared April 13, 1891” and has published it as a “literal print” in 1895, 1902, 1907, 1908, (1912), 1916, 1920, 1921, 1923, 1924, 1933 (Pub. 435), and 1934 (Pub. 539).

tions of the Office of the Department of State, 1789-1943, III (National Archives).

¹⁸ Journal of the Senate, 29th Cong., 2d sess., 204. Such purchases continued for several years. Hickey’s book, of which the last edition was in 1879, began the “alphabetical analysis” which is the basis of the Index to the Constitution since familiar in Government prints. In his 1846 edition he numbered the clauses, on which Secretary of State Buchanan in his certificate commented: “The small figures designating the clauses are not in the original & are added merely for convenience of reference.” They had been used since the Bioren and Duane edition of the laws in 1815.

THE PRINTED ARCHETYPE

The printed archetype authorized by the motions of the Federal Convention of September 15 and 17, 1787, was put into type at Philadelphia in the shop of John Dunlap and David C. Claypoole, who published the *Pennsylvania Packet, and Daily Advertiser*. The report of the Committee of Style and Arrangement of September 12 had been set up in this shop and the “Report of the Convention” was corrected from that text under the direction of the committee to embody the changes made from September 13 to 17. The 500 copies printed for the Convention were on 6 pages measuring 26 x 40.5 cm. and were distributed on September 18.¹⁹ Dunlap and Claypoole reset the preamble in 36-point type and made up the type in 4 pages for publication in No. 2690 of the *Pennsylvania Packet, and Daily Advertiser* of September 19.²⁰ Both of these Philadelphia prints included the resolution of the Convention and the letter of transmittal. The wide type measure was 16.4 cm., 39 m’s pica.

The *Independent Journal or, the General Advertiser*, which was published Wednesdays and Saturdays in Hanover Square, New York, by John McLean, in No. 398, Saturday September 22, 1787, published an item that the President of the State had submitted the “result of our deliberations in the late Convention” to the Speaker of the General Assembly and the reader was further referred to the “Supplement.” These four pages of supplement were titled “Copy of the Result of the Deliberations of the Federal Convention” and contained the letter of transmittal, the text of the Constitution (as before without a caption) and the resolution of the Federal Conven-

¹⁹ Several members of the Federal Convention, including Washington, sent it to friends by letters dated September 18, 1787 and later, Documentary History, IV, 287-312; Farrand, *op. cit.*, III, 82-3, 98-100; John C. Fitzpatrick, *The Writings of George Washington from the Original Manuscript Sources*, vol. 29, 276-78. This print is reproduced in *The Declaration of Independence and the Constitution of the United States of America*, Senate Document No. 79, 73rd Congress, 1st Session; Congressional set, vol. 9747 (1934).

²⁰ An error – “seven” in Article V instead of “eight” – was corrected in the newspaper print.

tion in that order. The supplement was set in double columns (22 m's pica wide), Article I, Section I, of the Constitution ending column 1 of page 1 and the signatures ending at the top of column 2 of page 4.

The Report of the Convention in the engrossed copy was delivered by William Jackson, secretary of the Federal Convention, to the President of the Congress, Arthur St. Clair, at New York on September 20, 1787, together with the resolution of the Convention and the letter of transmittal signed September 17 by George Washington, President of the Federal Convention. According to a letter dated September 21, 1787, by William Bingham, a member of the Congress from Pennsylvania, to Thomas Fitzsimons, a signer of the Report for Pennsylvania, the Report was read on September 20 in the Congress, though there is no such entry in the *Journal*. In the printed *Journals* the engrossed copy is editorially reproduced under that date with the inserted caption "Report of the Convention of the States."²¹

The Report was assigned for consideration on Wednesday, September 26, according to the Bingham letter. On September 27 –

according to Order Congress resumed the Consideration of the form of a Constitution framed and transmitted to Congress by the Convention of the States held at Philadelphia pursuant to the Resolve of the twenty first day of February last.

Richard Henry Lee of Virginia made a motion, seconded by Melancthon Smith of New York, that the "plan of a new federal constitution" be sent to the executive of every state to be laid before their legislatures. The motion was concerned with overcoming the difficulty perceived in amendment of the Articles of Confederation in force between 13 States by a document which could be brought into

²¹ *Journals of the Continental Congress, 1774-1789*, XXXIII, 488-500. It is unlikely that the engrossed copy was actually read, since printed copies of the Convention text were available and would be more convenient to read. In any case the reading would not show the differences in capitalization and other variations between the engrossed and printed copies.

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force by only nine States and which was prepared by a Convention constituted under the authority of 12 states.²² Abraham Clark of New Jersey, seconded by Nathaniel Mitchell of Delaware, moved to postpone that motion in order to take up one providing that the Constitution, resolution and letter of transmittal of the Convention be transmitted to the executives of each State for submission by the legislatures to conventions of delegates as recommended in the resolution of the Convention. On a yea-and-nay vote the postponement was decided, 10 to 1. The Clark motion was then itself postponed on motion of Edward Carrington of Virginia, seconded by William Bingham of Pennsylvania. This motion on “the Constitution for the United States” said that “Congress do agree thereto” and recommended submission to state conventions “that the same may be adopted, ratified and confirmed.” In the printed Journal of September 27, 1787, there is also given a motion of Nathan Dane of Massachusetts providing for submission of the “report of the Convention” to the state executives on the ground that members of Congress did not feel –

themselves authorised by the forms of Government under which they are assembled, to express an opinion respecting a system of Government no way connected with those forms.

The Journal of Friday, September 28, 1787, reads simply:²³

United States in Congress assembled, Friday, September 28, 1787. *Present*, New-Hampshire, Massachusetts, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Virginia, North-Carolina, South-Carolina and Georgia, and from Maryland, Mr. [David] Ross.

Congress having received the Report of the Convention lately assembled in Philadelphia,

Resolved, unanimously, That the said Report, with the Resolutions and Letter accompanying the same, be transmitted to the several Legislatures, in order to be submitted

²² Rhode Island was not represented in the Federal Convention.

²³ *Journals of the Continental Congress, 1774-1789*, XXXIII, 548-49.

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to a Convention of Delegates chosen in each State by the people thereof, in conformity to the Resolves of the Convention made and provided in that Case.

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This resolution, adopted unanimously, deftly left the problem of approval, in the several aspects contemplated in the previous motions, to the conventions in the States, which were thus implicitly recognized as having plenary authority to decide.

In fulfilment of the resolution, Thomson required copies of the Constitution for transmission to the legislatures. The Supplement of the *Independent Journal* of September 22, which was standing in type, was used for the purpose after some important corrections.²⁴ The print which was ordered was without caption, began with the Constitution, followed by the resolution of the Federal Convention, the letter of transmittal to Congress, ending with the resolution of Congress. The 4-page double column text of the four documents was printed on folios 28 x 44 cm. in size, the type surface being 19 x 35.5 cm., and an edition of 100 copies was struck.²⁵

This print was forwarded to governors of the States by a circular letter, which read:²⁶

(Circular)

OFFICE OF THE SECRETARY OF CONGRESS

September 28, 1787

SIR

In obedience to an unanimous resolution of the United States in Congress Assembled a Copy of which is annexed, I have the honor to transmit to your Excellency the Report

²⁴ The preamble was reset in eight lines of 14-point type, hanging indention, instead of five flush lines of 12-point and corrected and Article I, section 2, paragraph 2, and Article VI, paragraph 2, were reset for corrections. "Judgement" was changed to "judgment", "priviledge" to "privilege", and "habeus corpus" became "habeas corpus", to give typical examples of the proof reading.

²⁵ The cost was £3/10s, according to an entry in Dunlap's account of September 29; a second 100 copies cost £1/4s, according to Dunlap's account of October 3.

²⁶ *Documentary History of the Constitution*, II, 23. The text reproduced is a transcript from the Virginia Archives. Several other States still possess their copies.

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of the Convention lately assembled in Philadelphia, together with the resolutions and Letter accompanying the same, and have to request that your Excellency will be pleased to lay the same before your Legislature in order that it may be submitted to a Convention of Delegates to be chosen by the people of the State, in conformity to the Resolves of the Convention, made and provided in that case.

with the greatest respect

I have the honor to be

Your Excellency's

Most obedient &

most hum Serv^t

Cha^s Thomson

The governors of the thirteen States or their equivalent – Delaware had a president – sent the document to the Legislatures, which in the resolutions establishing the conventions to consider ratification generally ordered the printing of editions for the use of the delegates and the information of the people.²⁷

The “Report of the Convention lately assembled in Philadelphia” was still not the Constitution of the United States of America. Ratifications of the conventions were reported to the Congress. By July 2, 1788, the ninth ratification, that of New Hampshire, was received and the president (Cyrus Griffin, Virginia) called attention of the members to the fact that this number was by Article VII sufficient for the establishment of the Constitution. Thereupon the Congress²⁸

Ordered that the ratification of the Constitution of the United States transmitted to Congress be referred to a

²⁷ The Virginia House of Delegates, for example, on October 24, 1787, “Ordered, That the public printer do strike forthwith 5,000 copies of the report . . . , to be distributed among the citizens of the Commonwealth.” North Carolina printed 1,500 copies and South Carolina 1,000 copies. Massachusetts and other States ordered prints without stating the size of the editions. The Poughkeepsie imprint of the document by Nicholas Power is interleaved in the Journal of the New York convention.

²⁸ *Journals of the Continental Congress*, XXXIV, 281; *Documentary History*, II, 161, 163.

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Committee to examine the same and report an Act to Congress for putting the said Constitution into operation in pursuance of the resolutions of the late federal Convention.

The committee consisted of Edward Carrington (Virginia), Pierpont Edwards (Connecticut), Abraham Baldwin (Georgia), Samuel Allyn Otis (Massachusetts), and Thomas Tudor Tucker (South Carolina).

This committee on July 8, 1788, reported a resolution which recited the establishment of the Federal Convention, read in its “report,” quoted the procedure laid down in the resolution of Congress of September 28, 1787, noted that the ratifications of nine States had been “returned to Congress and filed in the Office of the Secretary,” and resolved concerning a date for appointing electors in the States, a date for the electors to assemble and vote for a President, and a date “for commencing proceedings under the said Constitution” at a place not yet specified.

In July ratifications of two more States were received, bringing the total to 11.²⁹

It was not until September 13, 1788, that the Congress perfected its resolution. The debate and defeat of several proposals was on the dates in the resolution itself and the place for “commencing proceedings.” The preambular clauses were modified in the resolution of September 13 in two respects. The original intention to read in the “report” of the Federal Convention was changed to say that the convention reported “to the United States in Congress assembled a constitution for the people of the United States.” The list of the ratifying States was omitted, and it was stated that —

²⁹ The ratifications “returned to Congress” between January 22 and July 30, 1788 were: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 25, 1788; New York, July 26, 1788.

North Carolina ratified on November 21, 1789; and Rhode Island, on May 29, 1790.

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the constitution so reported by the Convention and by Congress transmitted to the several legislatures has been ratified in the manner therein declared to be sufficient for the establishment of the same and such ratifications duly authenticated have been received by Congress and are filed in the Office of the Secretary.

The operative resolution read:³⁰

That the first Wednesday in Jan^y next [January 7, 1789] be the day for appointing Electors in the several states, which before the said day shall have ratified the said Constitution; that the first Wednesday in feb^y next [February 4, 1789], be the day for the electors to assemble in their respective states and vote for a president; and that the first Wednesday in March next [March 4, 1789] be the time and the present seat of Congress [New York] the place for commencing proceedings under the said constitution.

The Continental Congress, having given effect to the ratifications of the States and provided for the operation of the Constitution, left a full record of the action. A manuscript volume entitled *Ratifications of the Constitution*³¹ was prepared for the Secretary of Congress by Benjamin Bankson, a clerk of the Congress who continued with the Government under the Constitution. The copy of the Constitution in the manuscript follows the printed copy of September 28, 1787, indicating that the print was the working text used by the Congress.

The instruments of ratification relate to the “Constitution reported by the convention at Philadelphia,” or an equivalent description of the document. Nine of the instruments reproduce the document from the printed copy, with such variations as omission of the signatures, disregard of original paragraphing, and in two

³⁰ *Journals of the Continental Congress, 1774-1789*, XXXIV, 521; *Documentary History of the Constitution*, II, 263.

³¹ Preserved in the National Archives, formerly in the Library of Congress, Manuscript Division. The instruments of ratification in this manuscript are reproduced in the *Documentary History of the Constitution*, II, 22-309.

cases an extra sprinkling of initial capitals.³² Five instruments call for future enactment of guaranties of the nature of a bill or rights and two propose amendments.³³

Chief Justice John Marshall in a famous decision of the Supreme Court describes the effect of the several steps which brought the Constitution into being as follows:³⁴

The Convention which framed the Constitution was indeed elected by the State legislatures. But the instrument, when it came from their hands, was a mere proposal, without obligations, or pretensions to it. It was reported to the then existing Congress of the United States, with a request that it might “be submitted to a Convention of Delegates, chosen in each State by the people thereof, under the recommendation of its Legislature, for their assent and ratification.” This mode of proceeding was adopted; and by the Convention, by Congress, and by the State Legislatures, the instrument was submitted to the people. They acted upon it in the only manner in which they can act safely, effectively, and wisely, on such a subject by assembling in Convention . . .

From these Conventions the Constitution derives its whole authority.

The ratifications of the conventions are therefore the acts which transformed it from a report of the Federal Convention and a recommendation of the United States in Congress assembled into the

³²The ratifications of Pennsylvania, New Jersey, Georgia, Maryland, South Carolina, Virginia, New York, North Carolina and Rhode Island reproduce the printed copy, those of Georgia, South Carolina, Virginia and North Carolina conforming very closely to it.

All States except Connecticut, Delaware, Massachusetts and New Hampshire included the text of the Constitution in the instrument of ratification, these versions differing in style but all clearly following the archetype of September 28, 1787.

³³Massachusetts, New York, North Carolina and Rhode Island expressed that desire, and South Carolina wrote in certain understandings. New York and North Carolina proposed amendments.

³⁴*McCulloch v. Maryland*, 4 Wheaton 316, 403 (1819).

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fundamental law of the United States of America. Likewise, it is the printed copy submitted by circular letter of September 28, 1787, to the States which was so acted upon, and is consequently the authentic printed archetype of the Constitution.

In accordance with the resolution of September 13, 1788, the Articles of Confederation and its “United States in Congress assembled” ended on March 3, 1789, and were superseded on March 4, 1789, by the Constitution of the United States of America and its Congress of the United States.³⁵

A quorum was not present in Congress until April 6 and President Washington was not inaugurated until April 30. The first session of the Congress got along with such copies of the Constitution as the members had in their possession, but it provided for an authentic print.

On July 6, 1789, the House of Representatives passed and the Senate concurred in a resolution –

that there be prefixed to the Publication of the Acts of the present Session of Congress, a correct Copy of the Constitution of the United States.

This resolution, the Constitution, the resolution and letter of transmittal of the Federal Convention were reproduced in the first volume of “session laws” entitled *Acts passed at a Congress of the United States of America, begun and held at the City of New York, on Wednesday the 4th of March in the Year 1789*, published in folio (33½ cm.) at New York by Francis Childs and John Swaine, “printers to the United States.” The text of the Constitution in this first authorized print under the Constitution reproduces in general the typography of the 4-page folio of September 28, 1787, adopted by the “United States in Congress assembled” for submission to the States for ratification. Press editing was not an art in 1789, and a few variations from the prototype in punctuation crept in. The only consistent deviation was in the use of initial capitals on Senator, Representative and House, evidently in compliment to an existent Congress and its members. The session laws of 1789 were also published in octavo

³⁵ *Owings v. Speed*, 5 Wheaton 420 (1820).

(21½ cm.) at New York by “Hodge, Allen and Caldwell, also by T. Lloyd,” presumably from type picked up from the *Congressional Register* of the House of Representatives. It is prefaced with the same constitutional documents, less meticulously reproduced from the prototype. “Tranquility” in the preamble, for instance, is spelled “Tranquillity.”

No master copy was preserved as such, and there is no record of any effort to establish a depository copy for authentication purposes. The text printed in the session laws of 1789, which was undoubtedly reproduced from a copy of the print of September 28, 1787, was accepted as the real thing and in subsequent editions of the laws was subjected to editing and to typographical modifications. John Quincy Adams was able to append an edited copy of it to the *Journal, Acts and Proceedings of the Convention ... which formed the Constitution of the United States* published by authority of the Congress in 1819. The library of the Government Printing Office has a separate print attributed to the Department of State, without imprint or colophon, which clearly reproduces the text of September 28, 1787; this is dated January 1, 1833, and states on the title page that it is “published in this convenient form that it may be had by every one.” No later evidence of its direct reproduction has been found. When accumulated variations were sought to be corrected by collation with an original, the engrossed copy with the original signatures of the members of the Federal Convention was the only known archetype.

Only one copy of the print of September 28, 1787, is in the archives of the United States Government. It is here reproduced for the first time.* It is in quite a casual place, a 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. This Resolve Book is item 122, *Papers of the Continental Congress*,³⁶ and is a record of the transactions with Congress of the

* Editors' note: Please see the author note on page 217.

³⁶ The volume is in the National Archives.

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predecessor of the Department of State. Wafered in between pages 98 and 99 is the 4-page print signed by Charles Thomson, secretary of the Congress, who transmitted it to the Secretary for Foreign Affairs for his information and guidance. It was overlooked when the *Documentary History of the Constitution of the United States, 1787-1870* was compiled in 1894-1905.

One might expect that the original States would possess copies of the Constitution sent to them for ratification by the circular letter of September 28, 1787. With the circular letter and folio print of September 28, 1787, both signed "Chas. Thomson Secy," placed together, the Constitution in the latter print would naturally be identified as the text intended for ratification; alone the uncaptioned folio print would not be identified. Several States have the circular letter without the 4-page folio attachment. However, New York has a copy signed by Secretary Thomson which is in the State Library at Albany in the papers of George Clinton who was Governor from 1777 to 1795 and was President of the State Convention, June 17-July 26, 1788; this copy, charred in the 1911 fire, is endorsed in Clinton's handwriting, "New Constitution & Remarks thereon 1788."³⁷ In the North Carolina State Library is a copy signed by Secretary Thomson and evidently a working copy, for it is much annotated, with doodles; it was identified in 1952 by comparison with a photostat of the Department of State copy. The Boston Public Library has a signed copy which was deposited by Charles Francis Adams in 1891.³⁸ Four other copies are known. Two are in the John Carter Brown Library at Brown University, Providence, R.I.³⁹ The

³⁷ Letter of State Librarian Charles Francis Gosnell, Sept. 7, 1961. Governor Clinton submitted the matter to the Legislature in a message of Jan. 11, 1788 (C.Z. Lincoln, ed., *Messages from the Governors*, II, 281) in which he said, "you will easily perceive it would be improper for me to have any other agency in this business than that of laying the papers respecting it before you for your information."

³⁸ A note in an unidentified hand on the paper reads: "An original copy of the Constitution of the United States, attested by Charles Thomson, Secretary to the Confederation Congress."

³⁹ One of these may be the Rhode Island copy. The archivist of Rhode Island re-

New York State Library has a copy in the papers of Andrew Eliot in addition to the Clinton copy. The New York Historical Society found and mounted separately a copy which was bound into a volume of New York State Laws, 1775-1789, which belonged to John McKesson, a secretary of the New York Convention.

What happened to other copies sent to the States is not known. Some may have been sent to the printer for manufacturing the pamphlet editions of the proposed Constitution for the use of the members of the State conventions which ratified it.

EDITIONS OF THE PRINTED COPY

From the publication of the session laws of 1789 until the issuance of the *Revised Statutes* in the second edition of 1878, the printed copy of the Constitution of September 28, 1787, was the basis of official editions printed for or by the Government. The text used in 1819 by John Quincy Adams in the *Journals of the Federal Convention* was quite certainly reproduced from the printed archetype, and the edition of 1833 possibly was. Later than that no evidence that the printed archetype was available for collation has been found.

The Constitution was reproduced from the printed archetype by the two Houses of Congress for many years with great fidelity. Two editions in 26 and 27 pages were published at Philadelphia in 1799 by order of the House of Representatives and one of 200 copies by order of the Congress in the same year. One was put out at Washington by order of the Senate in 1806. In 1807 the last edition was issued under what had been up to that date a common title: *Constitution of the United States of America as Proposed by the Convention ... September 17, 1787 and since ratified by the several States, with the Amendments thereto*. Separate editions with other titles came out in 1816, 1818, and 1819 for the House of Representatives.

Both Houses of Congress developed rules of procedure in their early days, the additions made from time to time calling for successive prints. Jefferson's Manual of Parliamentary Practice was pub-

signed to become Mr. Brown's expert on Americana.

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lished separately in 1820 during the 16th Congress. The Constitution with the rules of the House of Representatives were issued together in 1824 and again in 1827, while in 1828 by order of the Senate a 216-page volume was issued under the title, *The Constitution ... the Rules of the Senate and House of Representatives, with Jefferson's Manual*. In this volume are reproduced the four documents submitted to the States by the Continental Congress: the Constitution, the resolution of the Federal Convention of September 17, 1787, the letter of transmittal to the "United States in Congress assembled" of September 17, 1787, and the resolution of that Congress of September 28, 1787. Volumes were issued for most of the following Congresses, more regularly for the House than for the less numerous Senate. After 1847 Hickey's "Alphabetical Index" was included in Congressional volumes of the rules, but the seven editions of Hickey's manual between 1846 and 1854 served both Houses. By the 1860's biennial compilations were made in the form of manuals for both Houses of Congress, and these consistently carried, in addition to their rules, standing orders and other parliamentary material,⁴⁰ the four fundamental documents, the Declaration of Independence, the Articles of Confederation, the Ordinance of 1787, and the Constitution, with the three related documents of 1787.

The printed archetype of the Constitution was reproduced in the Senate's Manuals until 1868. The House Manual compiled by Henry H. Smith under the Act of March 3, 1877, used the same text through its third edition for the 46th Congress, 1st Session, 1879. The many Congressional issues of the Constitution in such volumes had maintained a remarkable fidelity to the original printed archetype of 1787.

Congress abandoned it for the obvious reasons that reprinting had for a generation – since Hickey's manual of 1847 – multiplied discrepancies in the texts and reproductions compared with the engrossed copy were alone available.

In contrast with the meticulous fidelity of Congress in reproduc-

⁴⁰ John M. Barclay's *Digest of Practice* was included for several years after 1860.

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ing the printed archetype stood the variable editing of the laws. In the 90 years after the Constitution was printed in the session laws of 1789, three editions of the laws were authorized by Congress, each prefaced by the Constitution in a different form. These compilations were:

Laws of the United States of America ... Published by authority. Philadelphia, printed by Richard Folwell, 1796-99. 4 Vols. 21 cm. (Continued until 1815 in 12 vols.) Authorized by Act of March 3, 1795 (1 Stat. 443).

Laws of the United States of America from the 4th of March, 1789, to the 4th of March, 1815 ... Published by John Bioren and W. John Duane, Philadelphia, and R. C. Weightman, Washington City, 1815-16. 5 Vols. 24 cm. (Continued until 1845 in 10 vols.) Authorized by Act of April 18, 1814 (3 Stat. 129).

The Public Statutes at Large of the United States of America, from the Organization of the Government in 1789 ... Boston, Charles C. Little and James Brown, 1845-72. 17 Vols. 25½ cm. (Continued to date as Statutes at Large.) The contract with Little and Brown, authorized by Act of March 3, 1845 (5 Stat. 798), was terminated by the Act of June 29 1874 (18 Stat. 113).

In each of the Acts providing for these editions of the laws it was stipulated that each should contain the Constitution. The Little and Brown edition also included the Articles of Confederation pursuant to the Act. The three texts of the Constitution in the first volumes of these three publications were clearly reprinted from the text adopted after ratification and used by the Congress in 1789. They vary, however, in details of capitalization and punctuation. The greatest deviation occurs in the Folwell edition of 1796 (Vol. 1, p. 5-20), in which various phrases were made parenthetical by setting off with commas, in which commas were superseded by semicolons and semicolons by colons. John B. Colvin edited the Bioren and Duane edition of 1815 and prepared the "copious notes and references," including for the Constitution cross references from and to the amended text and citations to decisions of Federal courts. The

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work was prefaced by four historical chapters concerning the Declaration of Independence, the Articles of Confederation, the Federal Convention and the Constitution, each of the documents being reproduced. The Constitution (Vol. 1, p. 60-74) in this text is closer to the 1789 text of Congress. Initial capitals are generally lacking, including those in the preamble and on such nouns as “congress,” “senate,” and “house of representatives.” Hyphens are omitted in “vice president” and “three fifths” and the original “chuse” reads “choose”; Latin phrases are in roman rather than italic type. Punctuation in general conforms to that of 1789. The sections of articles are centered instead of being run into their first paragraphs, and the paragraphs themselves are numbered by superior figures in the sections. Language in the main instrument is printed in italics if superseded by an amendment and noted as “annulled,” with cross references to the amendment.⁴¹

The Little and Brown edition was edited by Richard Peters (1780-1848). It uses capitals, apparently on the complimentary theory, italicizes Latin words, uses the spelling “choose,” and employs the symbol § for section.

VARIANTS

Variants in the editions of the archetypes mentioned are constant. It may be said that no two are identical. In the majority of cases the variations do not affect meaning and are without significance, but are merely alternative spellings, capitalizations or editorial forms. The capitalization of all nouns by Shallus in the engrossed copy may be dismissed as an innocent matter of style and its reproduction in some editions with the spelling “Tranquillity” in the Preamble is indifferent. But the variants do raise questions of accuracy and make it essential that there be an archetype of determined authority.

⁴¹ Passages so treated are in Article I, Section 3, Paragraph 1; Section 9, Paragraph 1; Section 10; Article II, Section 1, Paragraph 3; and Article III, Section 2, Paragraph 1.

Variations between editions of the same archetype may be many. For instance, there are 60 discrepancies between the copy certified in 1846 by Secretary of State James Buchanan for William Hickey's book and the "literal print" of the engrossed copy published by the Department of State in 1934.

The main differences between the engrossed and printed archetypes are few by category. The Committee of Style and Arrangement allowed Shallus to capitalize every noun in his engrossing but it was restrained in using initial capitals in the printed copy for the Federal Convention. Abbreviation of "section" in the print accounts for 21 variations from the engrossed copy, which does not indicate italics for Latin words. The print closes the 17 short paragraphs enumerating the powers of Congress in Article I, Section 8, with colons; the engrossed copy uses semicolons. In Article I the sixth sentence in Section 9 and the third sentence in Section 10 are not set off as paragraphs, which is done in the engrossed copy. In the printed copy all the signatures are spelled out,⁴² though there are 25 abbreviations in the holograph originals and three misspellings on the engrossed parchment, which lacks 41 commas or periods.

Copies of the printed archetype may be examined for variants in three groups. The five prints between September 17, 1787, and the first session laws in 1789 are the first, or archetype, group; editions by order of Congress are a second; and the compiled laws are a third. Congressional editions up to their reproduction of the engrossed copy – 1868 in the case of the Senate and 1880 in the case of the House of Representatives – were faithful to the printed archetype. Yet Hickey in comparing one of them with the engrossed copy found "several errors in the words, and 65 in the punctuation." But when he came to compare two editions of the laws with the engrossment, he found "that one edition contained 204 and another

⁴² This difference in treating signatures was apparently a deliberate decision of the Committee of Style and Arrangement of the Federal Convention. The engrossed copy, of course, bears the original signatures as they were written. The Committee in the printed copy of September 18, 1787, obviously spelled out abbreviated signatures and punctuated the list uniformly. This contemporary treatment of reproducing manuscript in type is of archival interest.

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176 errors in the punctuation of the Constitution.” The figures are not alarming, for numbering the paragraphs of the instrument accounts for 81 variations.

