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John Marshall Papers

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Sotheby's Sale of John Marshall Letters

Charles F. Hobson

One of the pleasures of documentary editing is the discovery of a hitherto unknown cache of letters written by the subject of the edition. According to the ideal scenario, these documents will be found in the proverbial trunk in the attic, having reposed there unread for generations if not centuries. Perhaps the newly uncovered papers will be of such compelling importance as to cast the subject in a different light, requiring a fundamental revision of the standard interpretation.

Recently the John Marshall Papers project accessioned a series of nine autograph letters signed from the chief justice to Bushrod Washington, written between 1814 and 1821. Let me state at the outset that the letters disclose no secret loves, no shady financial dealings, no bizarre personal habits. Candor also obliges me to confess that their discovery was not the result of years of painstaking research, of pursuing leads that brought me ever closer to the trunk in the attic of a decaying Virginia mansion. The story behind the acquisition of the letters is not without interest, however, and even a touch of drama. It is also a story of splendid cooperation among people and institutions to achieve a desirable result.

As documentary editors, we try to keep abreast of the latest developments in the autograph market, either by perusing the catalogs of dealers and auction houses or by having someone do it for us. The Marshall Papers is fortunate in having this valuable service performed by Margaret Cook, curator of Manuscripts and Rare Books at the Earl Gregg Swem Library of the College of William and Mary Ms. Cook systematically searches the catalogs and notifies me whenever a Marshall document is offered for sale. (I should note that the staff of the National Historical Publications and Records Commission also searches on behalf of the projects it sponsors.) Every so often, depending on the cooperation of the dealers and collectors, this process yields a new document for our files. Even if we do not succeed in obtaining a copy of the document, we at least have a record of its existence.

On 9 December 1985, I received from Ms. Cook a copy of a page from



John Marshall

Silhouette of John Marshall by William H. Brown

Courtesy of the Massachusetts Historical Society

Sotheby's (London) catalog of items to be sold on the eighteenth of that month. This page contained a description of Lot 299, nine letters from Marshall to Bushrod Washington, 1814–21, with tantalizing excerpts. This was one of nine lots of Washington family papers to be sold, the property of Kenneth W. Ewing of England. I realized at once that this sale was of a different order of magnitude than the usual and that we had to make every effort to obtain copies. We also had to move quickly, for the sale was to take place in just over a week's time.

Nine Marshall letters addressed to a fellow justice of the Supreme Court who was also a close personal friend—this promised to be the most significant new find in the history of the project. For various reasons, the chief of which is that Marshall apparently paid little attention to preserving his papers, his surviving corpus is regrettably small. It pales in comparison to the rich collections of the Adams family, George Washington, Thomas Jefferson, and James Madison among others. Incoming correspondence and letterbook copies of outgoing correspondence are virtually nonexistent. What we have for the most part are letters that happened to have survived among the papers of his correspondents. Not surprisingly, there are numerous gaps in the record, some of them quite large. Indeed, there is a notable dearth of personal letters for the period in which those to be sold by Sotheby's fell.

Given the urgency of the situation, how did I proceed to secure these valuable manuscripts? My great fear was that the lot would be sold to a dealer, who would then peddle them separately to private collectors or institutions, thereby compounding the difficulty of recovering them. My first course of action, taken the very day I learned of the impending sale, was to write to Sotheby's, explaining the nature of our project and the vital importance of our obtaining copies. If Sotheby's could not supply copies, would they kindly pass my letter on to the purchaser?

Frankly, I did not have much confidence in this mode of proceeding. In the past our success rate with this approach was perhaps a little better than 50 percent. But I had to write Sotheby's in case my other plan for landing these letters fell through. The idea that quickly formed in my mind was to persuade the College of William and Mary, our sponsoring institution, to purchase the originals. What better way to insure that we would get copies? Happily, no persuasion was necessary, for the college (which claimed both correspondents among its alumni) readily agreed that Special Collections of the Swem Library was the proper home for the letters. This depository already had a small but important collection of Marshall manuscripts, including letters from Marshall to Judge Washington.

Sotheby's catalog did not give the exact dates of the letters, but the provenance and the excerpts persuaded me that the entire lot had remained in the family until put up for sale. I wanted to make doubly certain, however, and to do this I had to find out the dates and then compare them with our own records. My first thought was to call Sotheby's directly, but I had never made a transatlantic call and did not know whom to ask for. It then occurred to me to call the New York Sotheby's, where I knew one of our own, Mary-Jo Kline, was employed. Mary-Jo was out when I called, but Selby Kiffer, her colleague in the Books and Manuscripts Department, came to my aid. He agreed to call London to obtain the information. To my pleasant surprise, he called me back the very next day, December 10, with the dates, enabling me to confirm my original suspicion.

As a documentary editor, I was of course keenly interested in learning more details about the provenance of these manuscripts. Mr. Ewing, who put the letters on the market, lives in Highcliffe, Christchurch, Dorset. How did the letters move across space and time, from Mount Vernon on the Potomac in the early nineteenth century to a home on the southern coast of England in the late twentieth century? Although the full story of this odyssey cannot be recovered, information supplied by Sotheby's catalog and other sources makes possible a partial reconstruction of the provenance.

Judge Bushrod Washington, who had inherited Mount Vernon from his uncle, died in 1829. Having no children, he divided his estate among two nephews and a niece, the children of his brother Corbin Washington. One of the nephews, Bushrod C. Washington, had married in 1810 Anna Maria Thomasina Blackburn. A son of this union was Thomas Blackburn Washington (1812–54), whose daughter, Anna Maria Thomasina Washington (1854–1909), married Alfred Ewing (1855–1935) in 1879. Ewing was a Scotsman who was later knighted after a notable career as a scientist and engineer. They had one son, Dr. A. W. Ewing (1881–1961), the father of Kenneth Washington Ewing, now living in Dorset.

The Washington manuscripts containing the nine letters of John Marshall passed to the ownership of the Ewings sometime after 1879, when the two families were united by marriage. This much is solid fact; the account of the vicissitudes of these papers before and after their transatlantic migration must rest on plausible conjecture. Until 1829 the papers were at Mount Vernon. After Judge Washington's death, the estate passed to John A. Washington, his nephew and brother of Bushrod C. Washington. As some point the two brothers evidently divided up their uncle's papers. Bushrod C. Washington, Mrs. Ewing's grandfa-

ther, lived at Claymont, which he built in 1820, one of a cluster of Washington family homes still standing in the vicinity of Charles Town (Jefferson County), West Virginia. Thomas Blackburn Washington inherited Claymont in 1851, and it was here that the future Mrs. Ewing was born in 1854. If the papers were transferred from Mount Vernon to Claymont before 1838, then they miraculously escaped the destruction in the fire that leveled Claymont that year. (It was rebuilt the same year.)

The marriage of Anna Maria Thomasina Washington and Alfred Ewing took place at the British legation in Tokyo. He was then serving as a professor of engineering at the Imperial University, where he remained until 1883, when he returned home to accept a post at the University of Dundee. He subsequently held academic and government posts in Cambridge, London, and Edinburgh. At his death in 1935 he had retired to Cambridge. Did the family papers take a circuitous route to Great Britain by way of Japan? Perhaps, but I doubt it. My guess is that Mrs. Ewing took possession of the family papers on the death of her mother, the widow of Thomas Blackburn Washington, in 1890.

Bidding on the Marshall letters at the Sotheby sale was to be done for the College of William and Mary through an agent. The auction house estimated the price of the lot at between £4000 and £5000. Acting Librarian John Haskell authorized the agent to bid as high as £5000. Less than a week before the sale—on Friday the thirteenth—Mr. Haskell called me with some bad news. The agent had informed him that the bidding on this lot would be heavy and would go for no less than £8000. In these circumstances, said Mr. Haskell, the college would probably have to withdraw from the bidding. On Monday the sixteenth—the sale was to take place on Wednesday—I talked with Mr. Haskell again, and we both agreed that the college should not let this opportunity slip by for want of funds. He soon called back to say that we would extend the limit to £8000 and worry about getting the money later.

On Thursday the nineteenth Mr. Haskell notified me of the college's successful bid for the Marshall letters. As predicted, the competition was stiff. Up and up the bidding went in £100 increments until at £7500 the college's agent jumped to £7800, to which there was no reply. After a few weeks of anxious waiting, I received word that the precious cargo had arrived safely at Special Collections. (Looking back, I should have contrived to be sent to London as an emissary to receive the letters and escort them back to Virginia soil.)

We soon had our copies, which were immediately assigned accession numbers 3854 through 3862 in our correspondence control file. I was not disappointed in my expectation that these would be meaty letters. While helping to

fill a notably large gap in the correspondence, they provide new information about Marshall's professional and personal concerns. Several discuss cases before the Supreme Court and the respective Circuit Courts attended by the two justices. Noteworthy in this regard is an 1814 letter, in which the chief justice ponders the question whether a state bankruptcy law violates that clause of the Constitution prohibiting the states from enacting laws "impairing the obligation of contracts." So far as I know, this is the only recorded occasion Marshall discussed this subject other than in his opinions in the cases of *Sturges v. Crowninshield* (1819) and *Ogden v. Saunders* (1827).

Personal matters covered in the letters include plans for an edition of George Washington's letters, a venture in historical editing that did not materialize (though it was subsequently revived by Jared Sparks). Also discussed is a second edition of Marshall's *Life of George Washington*, which had been published in five volumes between 1804 and 1807. The first edition of the ponderous *Life* had not sold as well as Marshall had hoped, and he was not eager to produce another prematurely. "I do not think a new edition ought to be hurried," he wrote Bushrod in 1816. "It cannot be pressed on the publick. We must wait till it is required." (A second edition, compressed to two volumes, eventually appeared in 1832.) Another letter, written in 1815, reflects Marshall's pain and embarrassment over his son James's dismissal from Harvard for misbehavior. He asked Bushrod, then holding circuit in Philadelphia, for help in placing the erring son in a countinghouse in that city. "I am willing to bind him & to comply with the terms which those gentlemen may require," he wrote. "I hope they will not be dissatisfied with my son should they take charge of him." The letters will be published in full in volumes 7 and 8 of our series.

It occurred to me that I should attempt to get in touch with Mr. Ewing directly on the chance he still retained some family manuscripts. Not having an address, I wrote to him care of Sotheby's. In time a letter posted from Bournemouth arrived in the mail. Mr. Ewing, alas, had no more letters, but at least I had the satisfaction of having followed the trail to its source and of eliciting a most gracious reply. "I am so glad that the College of William and Mary are now the owners of the nine letters," he wrote, "and that they will be published eventually in your edition of Marshall's papers."

How many more letters, I wonder, are "out there" in the hands of people we do not know about and who have never heard of us? Before this acquisition I assumed that our collection was more or less complete, that no significant additions were likely to occur. I could never have imagined that there was a collateral descendant of Bushrod Washington living in a Dorset town who happened

to own some original letters addressed to his ancestor. It was our good fortune that these manuscripts managed to survive intact until the sale alerted us to their existence. I can only hope that lady luck will strike again before our work is done.

Richmond March 16th 1815

My dear Sir

As soon will I hope restore commerce to the United States I have again turned my attention to the profession for which I originally intended my son James. He is now at Cambridge but I should remove him without hesitation the instant it becomes proper to place him in a counting house. He was fifteen in February but I have made an great proficiency in his studies as is usual with boys of that age.

You would be glad as to apply for his admission into the counting house of Messrs. Willing & Francis & I understand those gentlemen were willing to receive him. Will you be so obliging as to speak to them once more on this subject as they are still willing to take him, let me know what are their terms & when they wish him to come. I am willing to bind him & to comply with the

The first page of John Marshall's letter to Bushrod Washington, March 16, 1815, requesting assistance in placing Marshall's fifteen-year-old son James in a Philadelphia countinghouse. James had recently been dismissed from Harvard.

Courtesy of the Earl Gregg Swem Library of the College of William and Mary

