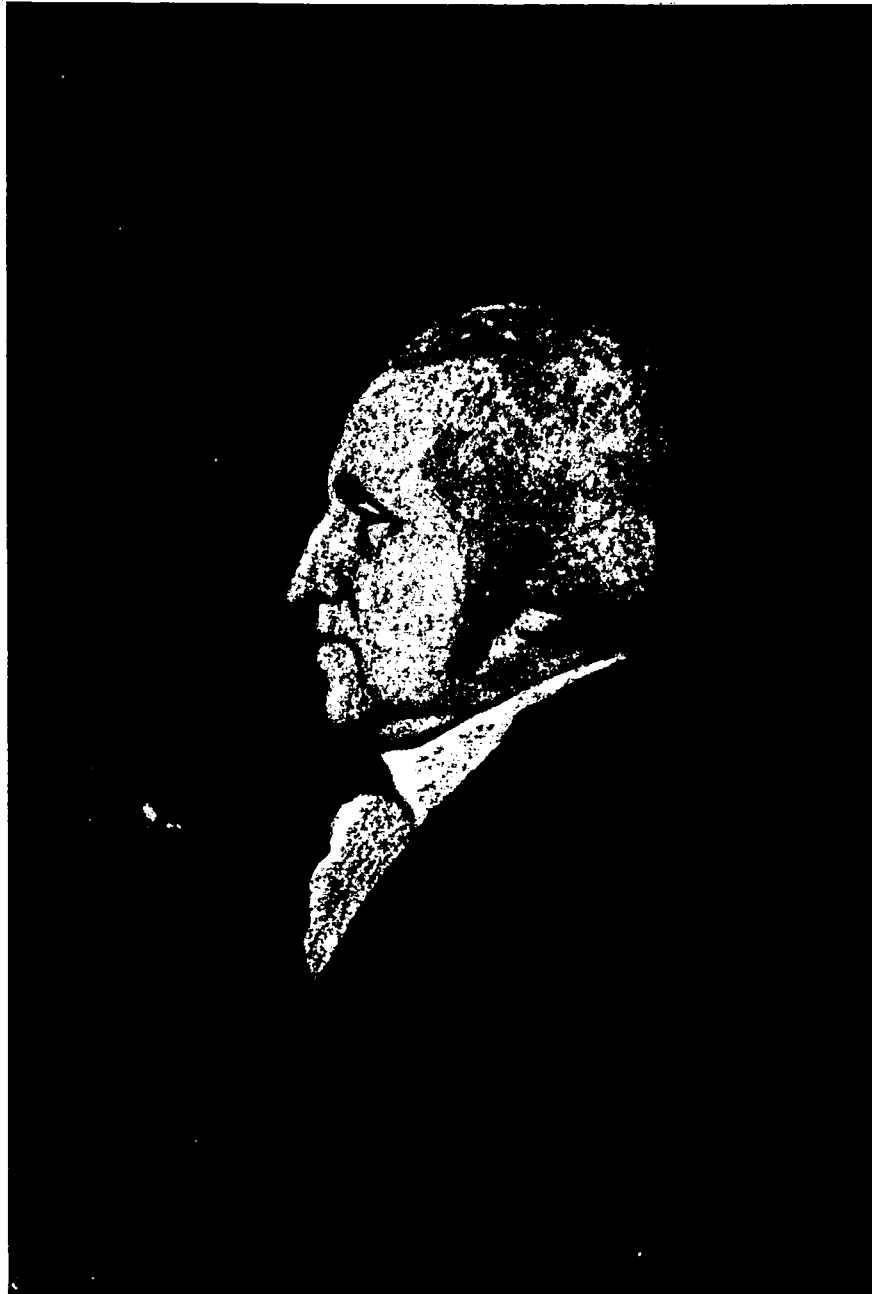


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DEVELOPMENT OF THE EXECUTIVE BRANCH

1790-1800



DEVELOPMENT OF THE EXECUTIVE BRANCH

1790 - 1800

by

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at

Office of History
Independence National Historical Park

Summer, 1991

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DEVELOPMENT OF THE EXECUTIVE BRANCH 1790-1800

The Constitution was written after much deliberation and a series of compromises. The end result was a system of checks and balances in which three branches of government would ensure that authority was properly distributed. The two-house legislature, independent executive, and independent judiciary each were delegated specific functions, in contrast to the Confederation times when a unicameral legislature had held most of the governmental power not already delegated to state governments. While the changes seemed an improvement, the fact remained that the Constitution was an open document whose success rested upon the initiative taken during the first years of the new nation.

This short series of essays will address some of the major issues of executive authority during the time period from 1789-1800. Leonard White's book, The Federalists: A Study in Administrative History, is the foundation and ultimate authority for this research. All the issues discussed are laid out in White's book, and the following pages only highlight White's exhaustive study. My research centered around the role of executive departments in the development of governmental administration. The essays and backup files both have been organized in that manner.¹

THE FIRST PRESIDENT

The fragile new government George Washington headed in 1789 had been narrowly adopted after bitter debate. The ratification process showed that the Constitution's ambiguity allowed for a wide range of varying interpretations. As chief executive, Washington realized that every move his administration made would be interpreted as a reason to support and maintain the controversial document which held together the country. Because the Constitution was deliberately vague on the details of administration, Washington and the members of the Federal Congress knew that the precedents they set would systemize the government. "In our progress toward political happiness my station is new; and if I may use the expression, I walk on untrodden ground. There is scarcely any part of my conduct wch. may not hereafter be drawn into precedent," wrote George Washington to his friend, Catherine Macaulay Graham on Jan 9, 1790.²

LENDING HIS PRESTIGE

The Constitution's framers had created the chief executive with Washington in mind. The delegates fully expected Washington to serve his country once more and depended upon the General's prestige to validate and buttress the new government. Washington's popularity and support were

¹During this time, Congress created three executive departments - of Treasury, State, and War - and two major agencies - the offices of the Attorney General and the Postmaster General.

²Writings of Washington, Vol. 30, p. 496.

unparalleled. Some supporters had even offered to establish the General as the head of a monarchical type of government but Washington had prudently refused. Washington's reputation was of vital issue to the precarious new union since the idea of an independent executive had been a point of heavy contention. Many feared that giving one man too much power would lead to tyranny. Though the country's leaders could not agree on the limits of the government, they unilaterally trusted Washington to provide initiative during the government's formative years. "It cannot be considered as a compliment to say that on your acceptance of the office of President the success of the new government in its commencement may materially depend," Alexander Hamilton wrote to Washington in 1788 (9 Hamilton Papers, 1st Series, 501).³ Washington's unquestionable patriotism presented him as invulnerable to abusing executive power. To the nation, Washington was a symbol the republican values the new government espoused. The general himself had little desire to hold any public office but his sense of duty compelled him to accept the presidency after his unanimous election by electors from ten states.

PRESIDENTIAL PROTOCOL

As president, Washington knew his public image would establish the image of the government and his office. He immediately set about establishing a well systemized and planned government and a dignified image for the presidency. In the latter matter, he consulted John Jay, John Adams, and Alexander Hamilton in order to create an appropriate presidential protocol. Washington decided to follow Hamilton's advice which detailed holding weekly levees (in the British tradition), accepting no dinner invitations, and holding formal parties regularly. Though Washington approached these official duties somberly, many Republicans disapproved of the "monarchical tendencies." For example, after returning from France Jefferson expressed his dismay at the formality which he considered "not at all in character with the simplicity of republican government, and looking as if wistfully to those European courts." Washington was also concerned that public opinion be favorable to himself and the new government. Though his opinions on major policy decisions were never swayed by the public, he paid close attention to the press. Washington distrusted newspapers, who often criticized the Federalist program (in particular, Freneau's National Gazette).

A SECOND TERM

This concern for public opinion was, once again, closely tied to Washington's desire to serve the Union. Though Washington had hoped to fulfill this duty after one term of office, other prominent individuals convinced him that he was still needed. At that point, ideological dissensions within the administration, mainly between Hamilton and Jefferson, were becoming more noticeable and more vehemently expressed in public. "The public mind is no longer confident and serene," Jefferson wrote to Washington in a letter which went on to address the urgent need for Washington to remain

³Hamilton Papers, 1st Series, Vol. 9, p. 501.

⁴Jefferson Himself, 156.

president.⁵ Both Jefferson and Hamilton were convinced that only Washington could provide a sufficient moderating force in those precarious times. "The impression is uniform -- that your declining would be to be deplored as the greatest evil, that could befall the country at the present juncture...that the affairs of the national government are not yet firmly established...that if you continue in office nothing materially mischievous is to be apprehended," Hamilton wrote to Washington in July, 1792.⁶ Such pressure from his colleagues convinced Washington that his duty lay in another term in office. By the end of this term however, Washington's original Cabinet had broken up and the divisions were final. Though he had no formal affiliation, Washington leaned towards Hamilton and the Federalists, and the debate in the newspapers had begun to criticize the President personally. Tired of politics and ready for retirement, Washington left office. In his Farewell Address, though, he warned the country of the danger of the internal dissensions which had plagued his administration. His government had been a success, however, in its ability to provide a stable and efficient administration.

⁵Jefferson Himself, 172.

⁶A Great and Good Man, 214.

PRESIDENTIAL DUTIES

As Set Forth in the Article II of Constitution:

1. Commander in Chief of the Army and Navy of U.S. and militia of the States
2. To solicit the opinion, in writing, of the executive department heads on any subject relating to that department.
3. To grant reprieves and pardons for offenses against the U.S., except in the case of impeachment.
4. To make Treaties, with advice and consent of Senate
5. To nominate and appoint ambassadors, public ministers and Consuls, Supreme Court judges, and other federal officers, with Senate's advice and consent.
***but Congressional law can provide President to appoint inferior officers and department heads.
6. To nominate and fill vacancies that occur during Senate's recess.
7. To deliver a State of the Union address

As Later Established by Congressional Law:

The early Congress passed dozens of laws which specified presidential powers. The President received most of the administrative authority and each of his subordinate officers was designated to be under his direction.

Some Presidential Powers (as categorized by White)

1. General Continuing Powers:
including - determining the duties of the department heads,
an all-inclusive grant of administrative powers.
approving all loan and debt transactions
directing the armed forces (in Constitution but confirmed)
nominating and removing officers
consenting when the U.S. seal is to be used.
2. Specific Continuing Authorities:
for example - signing patents for inventions
approving each contract for building a lighthouse
making regulations for governing trade with Indians
3. Ad Hoc powers:
such as - devising a form for a land patent & a passport for vessels
authorized to lay an embargo & to make individual exceptions
& to revoke the embargo
authorized to order aliens to leave country or license them
to remain
to erect two docks

Rather than distributing duties among different executive offices, Congress maintained the unity of the executive branch by directly placing the responsibility for both large and small duties in the president who would then delegate them.

THE PRESIDENT AND DEPARTMENTS

The Constitution had left the organization of the executive branch wide open, aside from establishing the offices of President and Vice President. The delegates had assumed that executive departments to deal with questions of Foreign Affairs, War, and the Treasury would be established as they existed under the Confederation. The Constitution itself mentioned departments only in Article II, Section 2 where the President was authorized to solicit the opinions of department heads.

Through the spring and fall of 1789, the Confederation departments and officers continued their work under Washington. John Jay was Secretary of Foreign Affairs, Henry Knox the Secretary of War and a three member board headed the Treasury. Accordingly, the first Congress created these three departments although the Treasury now had a single Secretary as its head (The Foreign Affairs Dept was renamed the State Dept in the fall to encompass domestic duties and the Navy Dept was created in 1798). All administrative authority for these departments was vested in the President. Two other executive offices - the Postmaster General and the Attorney General were also established. The Attorney-General acted mainly as a legal advisor, with an ill-defined position.

The statutes creating these departments were broad outlines of the duties of each agency, with the exception of the Treasury department whose internal structure was more detailed. This open structure gave the President the right to appoint the department heads and, consequently, the responsibility to set the pattern for the president's relationship to the departments.

Washington approached his appointments seriously and sought prominent individuals to fill offices. By the beginning of Congress' second session, he had chosen Alexander Hamilton as Sec. of the Treasury, Thomas Jefferson as Sec of State, Henry Knox as Sec of War, and Edmund Randolph as Attorney-General. All four men were able and dedicated individuals, and Hamilton and Jefferson were great political thinkers as well. Knox, who had been Secretary of War under the Confederation, provided a sense of continuity into the new government.

Though Washington respected the abilities of his secretaries, he closely monitored their actions and took full responsibility for all administrative decisions. He examined all materials addressed to him and the department heads, and every matter of consequence passed through Washington. He "exercised that participation in the suggestion of affairs which his office made incumbent on him; and met himself the due responsibility for whatever was done," wrote Jefferson.⁷ To keep abreast of all happenings, Washington insisted upon a detailed system of records and correspondence. The secretaries were entitled to make up a packet of materials for Washington to read each day. Often, Washington would meet with the secretary over breakfast

⁷Cunliffe, 47.

the next morning to discuss the material. Washington's control did vary from department to department. He considered himself an expert on military and foreign affairs and therefore actively participated in decisions of War and State. With little knowledge of fiscal policy, however, the president trusted Hamilton's judgment. Aside from consulting, Washington also asked Hamilton and other close associates to draft public papers, such as his Farewell Address.

Washington consulted his advisors collectively as well as individually. On important policy questions, Washington used the department heads as an advisory council. He considered each opinion individually, regardless of the issue and the department under which it would fall. Various sources cite that Washington and his four advisors collected together regularly to discuss important issues. At the onset, Washington asked the secretaries to discuss the question, vote, and then arrive at a decision on questions of policy. However, Washington later began to ask them to submit their opinions, usually in writing, and then came to his own decision. Jefferson cites Washington's strong personality and "power of decision" as the key to the Cabinet system's success.⁸

Washington's determination to preserve the unity of the nation included keeping harmony among its chief officials. To this end he often found himself acting as a moderator between Jefferson and Hamilton, whose political differences intensified daily over fiscal policy and foreign affairs. Despite Washington's efforts, the two secretaries soon became "daily pitted in the Cabinet like two cocks," wrote Jefferson as the disagreements continued.⁹ Though Washington did not take any particular side, his own views usually coincided with Hamilton's, and Jefferson's frustration over this issue and others prompted his decision to resign in December, 1793. After Hamilton and Randolph too had resigned over different issues, Washington decided that future appointments would be made based upon political philosophy as well as ability. He would no longer appoint an official "whose political tenets are adverse to the measures which the general government are pursuing."¹⁰ This new attitude reflected a permanent change in Presidential appointments which have been made to preserve order within the government.

In this manner, the Cabinet evolved into a legitimate advisory body during Washington's administration. By 1800, it was regularly referred to as the "Cabinet" though it was only officially named so in 1907. The influence Cabinet members had would vary from president to president. Both Washington and Adams faced the problem of finding qualified individuals to fill vacant cabinet positions. The salary of \$3500 could not cover living expenses and thus the president could not convince many prominent individuals such as John Marshall and Patrick Henry to accept positions. The situation led to the Cabinet being filled by men who were independently wealthy. However, the

⁸Cunliffe, 50.

⁹Jefferson Himself, 186.

¹⁰Cunliffe, 50.

5/20/92
TO: John Bond, Chief Resource Planning & Preservation Division
MARO

FROM: COXEY TOOGOOD, HISTORY DIVISION, INDE

SUBJECT: DISTRIBUTION OF REPORTS BY PHEAA INTERNS

5/11/92

The two Pennsylvania Higher Education Assistance Agency interns for the History Division last summer did a terrific job. Both finished reports assigned.

Margot Fleishman (sophomore at Harvard) completed a descriptive list of six boxes of manuscripts and documents in the Museum Division's collections. As diligent as Margot was (and she did an amazing job of organizing and describing the manuscripts, many of which would be a challenge to read by the best of historians), she could not complete the entire collection. Several boxes remain to be described and thus this catalog is labeled Part I.

Seema Misra (Junior at Princeton) summarized secondary sources on the role of the Executive Branch during the capital city decade. She put together facts and figures in a very readable and succinct manner which should be helpful for digesting the role of the Executive during the formative first ten years under the Constitution.

Please feel free to contact me if you have any questions or requests for copies. (597-1189)

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Coxey

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	3222	190	Congressional Liaison		3230	773	Park Planning & Protection Division
	3130	199	ASSOCIATE DIRECTOR, BUDGET & ADMINISTRATION		1210	774	Environmental Quality Division
	L ST.	230	Contracting & Procurement Division		3122	780	ASSISTANT DIRECTOR, NATIONAL RECREATION PROGRAMS
	L ST.	234	Management Services Division		L ST.	781	Park Practice Program
	3323	240	Personnel Division		L ST.	782	Recreation Resources Assistance Division
	2328	260	WASO Personnel		L ST.	784	Recreation Grants Division
	L ST.	270	Information & Telecommunications Division		3126	800	ASSOCIATE DIRECTOR, MANAGEMENT SYSTEMS
	L ST.	280	Employee Development Division		3320		Tourism
	L ST.		Mather Training Center				<u>FIELD OFFICES</u>
	L ST.		Albright Training Center			472	GIS Division (Denver)
	L ST.		FLETC (Glynco, Ga.)			475	Air Quality Division (Denver)
	2711	300	COMPTROLLER (ASSISTANT DIRECTOR)			479	Water Resources Division (Ft. Collins)
	Reston	309	Accounting Operations Division			1100	Harpers Ferry Center (HFC)
	2711	330	Budget Division			1200	Rocky Mountain Region (RMR)
	3127	400	ASSOCIATE DIRECTOR, CULTURAL RESOURCES			1600	North Atlantic Region (NAR)
	6309 - L ST.		DEPUTY ASSOCIATE DIRECTOR, CULTURAL RESOURCES			2000	Denver Service Center (DSC)
	L ST.	408	Curatorial Services Division			3000	National Capital Region (NCR)
	L ST.	413	Interagency Resources Division			4000	Mid-Atlantic Region (MAR)
	L ST.	418	History Division			5000	Southeast Region (SER)
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	2113 - L ST.		Chief Appeals Officer (Dr. Connally)			8000	Western Region (WR)
	L ST.	429	HABS/HAER Division			9000	Pacific Northwest Region (PNWR)
	L ST.	430	ASSISTANT DIRECTOR, ARCHEOLOGY			9700	Alaska Region (AR)
	L ST.	434	Anthropology Division				
	L ST.	436	Archeological Assistance Division				
	3127	470	ASSOCIATE DIRECTOR, NATURAL RESOURCES				
	3328	473	Senior Scientist				
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Memorandum

To: Superintendent, Independence National Historical Park

From: Chief Historian *W. Thomas C. Bearss*

Subject: Letter of Commendation for Seema Anita Misra



I want to thank you for providing our office with a copy of a Special History Study titled, "*Development of The Executive Branch 1790-1800*" by Seema Anita Misra.

We have read the report and find it to be an invaluable interpretive and research tool, so please extend our congratulations to Princeton University Intern Seema Anita Misra. In addition, I wish to commend the Park, and Historian Toogood on their initiative in this cost effective program that enables talented university and college students to hone their skills and become familiar with the National Park System.

cc: All Regional Historians
Supt., Independence NHP
418 Independence NHP (NPS)

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Jeffersonian Republicans would remedy this problem by increasing the executive salary.

By the end of his second term, the Cabinet had been firmly established as the president's personal counsel. The department heads became executive officers, with no official relation to Congress (The exception is the Treasury which gave regular reports). The question of whether department heads should attend Congressional sessions came up for the first and last time in January of 1790 when Hamilton asked to personally deliver a report on public credit which Congress had requested. Congressman Elbridge Gerry of Massachusetts, immediately objected on the grounds that Hamilton's oratory skills would unfairly sway Congress to support him and thereby give the executive undue power. Though Hamilton protested, Congress almost unilaterally decided to have the House secretary deliver the report. After this incident, no cabinet member ever personally delivered his proposals, in contrast to the highly interactive method of British governing. Thus, the cabinet unintentionally became firmly entrenched as subordinate to the presidency, not the Congress.

THE ADAMS CABINET

The close consultative relationship Washington established with his cabinet remained in place when John Adams became the next president in 1797. Adams decided to keep Washington's cabinet intact and continued to hold regular meetings with the members. Nevertheless, Adams' rigid personality could not provide the strength of Washington's leadership. This situation was magnified by Adams' prolonged absences from the capital city. While Adams visited his family in Quincy, Massachusetts, the cabinet members would often take the initiative to confer independent of the President.

Adams' ineffective leadership was also affected by Hamilton's continued meddling in governmental matters. Even after Hamilton had left office in 1795, Washington and his Cabinet had regularly asked for the ex-Secretary's advice on important policy issues. When Adams came into office, only Attorney General Charles Lee and Secretary of the Navy Benjamin Stoddert stood by the President. Secretary of State Pickering, Secretary of the Treasury Wolcott and Secretary of War McHenry all depended upon Hamilton's advice and refused to defer to the Adams' opinion. The problems with authority were magnified by Adams' personal rivalry with Hamilton. Adams suspected that Hamilton had worked secretly to elect Charles P. Pinckney as president in 1796. As a result of the lack of unity in the Cabinet meetings, Adams increasingly made his own policy decisions, especially with regard to relations with France. The Adams cabinet finally fell apart in 1800 after Adams alone made a decision to send a mission to France. McHenry and Pickering argued fiercely that the President could not make policy decisions without first consulting the Cabinet. Adams asked both McHenry and Pickering to resign. Though McHenry did so, Pickering refused and became the first department head to be removed by a president. Years later, Adams addressed the issue of independent judgment in his Letters to the Boston Patriot (1809). "In all great and essential measures he [the President] is bound by his honor and his conscience, by his oath to the Constitution, as well as his responsibility to the public opinion of the nation, to act his own mature and unbiased judgment, though unfortunately, it may be in direct contradiction to the advice of all his ministers," Adams wrote.¹¹ Hamilton himself agreed with Adams.

SOURCES:

In The Federalists, chapter 20 and pages 41-45 cover the Adams cabinet. Chapter 20 also details the Adams-Hamilton conflict. For more information on Hamilton's dislike of Adams, see John Miller's biography of Hamilton, Alexander Hamilton: A Portrait in Paradox.

¹¹White, 44.

THE EXECUTIVE AND LEGISLATIVE BRANCHES

Though Congress had legislated administrative power to lie with the President, Washington had to determine how much he should use his executive authority to influence legislative decisions. The Constitution necessitated that the President and the legislature agree on important matters of policy and administration. The legislature checked the executive through its powers of lawmaking and impeachment. In particular, many viewed the Senate as an executive council. However, Washington had to determine the extent of consultation he would take from the Senate and executive leadership he should provide to it.

Early in his administration, Washington cultivated a formal and distant relationship with the first Congress. In a written correspondence, Washington sometimes suggested topics for discussion but refrained from providing his own opinions unless it had been specifically requested in an informal situation. However, after the departments were established, Hamilton and Jefferson often presented to Congress reports on which they had conferred with the President. In a more subtle approach, Washington once wrote out his ideas for the militia to Knox who then incorporated them into a bill submitted to Congress on January 21 1790.¹² In very rare occasions, he even conferred with senators himself or sent a secretary to speak to a committee.¹³

The main area of interaction between the legislative and executive was foreign affairs. The Senate was required to "advise and consent" the President on the ratification of a treaty. Again, these words could be construed in many ways. Washington was inclined, early in his administration, to take great care in seeking advice from the Senate and in regularly communicating how negotiations were proceeding. This approach changed in August of 1789 when Washington attempted to discuss with the Senate a treaty with the Creek Indians. The senators questioned each point in the treaty and then set it aside for future discussion, presumably when the President would not be present. Washington, accustomed to being in command of a situation, grew visibly frustrated. "This defeats every purpose of my coming here," he retorted and then angrily stood up and left the Senate. He never again attempted to confer in person with the Senate.¹⁴

The handling of the 1794 Jay Treaty further illustrates the relationship between Congress and the President in foreign affairs. Washington had appointed Jay, who was then Chief Justice, to negotiate a treaty with Great Britain on frontier issues. Though the Senate was accustomed to helping the President with his diplomatic instructions, the need for secrecy caused

¹²Washington worked closely with Knox to write the 1792 Militia Bill.

¹³Washington sent Jefferson to a House Committee after St. Clair's defeat (White, 57)).

¹⁴Journal of William Maclay, 128-132.

Washington to negotiate the treaty alone.¹⁵ Thus, the President asserted the executive's right to negotiate a treaty alone which the Senate then would independently judge before ratification. In 1796, the House asked Washington for the negotiation papers before allocation of funds to execute the Jay treaty. However, Washington refused the request, thereby affirming his executive privilege to private negotiation once more. In an earlier incident, Washington had issued a Proclamation of Neutrality (in 1793) which announced that the U.S. would not side with either Great Britain or France in their war. The Senate had disagreed with this action and claimed that Washington had infringed on their right to be consulted on matters of foreign policy. However, the issue had died in the Senate, and Washington had again displayed his executive authority in foreign affairs.

¹⁵Great Britain and France were at war. Federalists generally supported Great Britain and Republicans the French. Thus, a treaty with Great Britain, though over a different issue, was controversial.

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THE DEPARTMENT OF THE TREASURY

(information from White: The Federalists)

Date of Creation: Sept 2, 1789

Size: (of central office)

12/31/89: 39 employees, including: 6 chief officers
3 principal clerks,
28 clerks
2 messengers

1801: 78 officials and employees,

also, a field service with 1,615 employees
and the 880 postmasters were formally under the Treasury

Organization of Major Treasury Offices:

(as described by White)

(modelled after the Treasury under Continental Congress)

Secretary:

Alexander Hamilton (August 11, 1789 - 1795)

Oliver Wolcott (1795 - December 31, 1800)

Samuel Dexter (January 1, 1801 - May 6, 1801)

Larger problems of fiscal policy and general direction
Formulation of policy
Discussions with the president and members of Congress
Preparation of revenue measures
Drafting of public reports
Timing of specific authorization of financial operations
Disposition of public funds in banks and elsewhere

Assistant to Secretary: duties vary - provides general assistance

William Duer 1789

Tench Coxe 1791

The assistant assumes responsibility for the department's books, records and papers if the secretary's office is vacant.

This title is changed to Commissioner of Revenue in 1792

Tench Coxe: 1792 - 1797

William Miller Jr: 1798 - 1799

The other officers took care of the day-to-day routine under the Secretary's supervision. The Comptroller has more independence.

Auditor: makes first examination of accounts
states balances on all claims
(These are final settlements unless appeal is taken
to Comptroller)

Oliver Wolcott Jr. (1789-1791)
Richard Harrison (1793-1799)

Comptroller: Semijudicial capacity
Decisions on settlements are not subject to review
by Secretary of Treasury

Nicholas Everleigh (1789-1791) [he dies]
Oliver Wolcott Jr. (1791-1795)
John Davies, (1795-1796)
John Steele (1796 - 9/30/1802)

The Comptroller, second to the Secretary, is an important officer, especially in terms of administration. He is the "watchdog" who supervises the settling of accounts. If a Comptroller, like John Steele, was too exacting, the process of settling accounts was often delayed. (White, 344-345).

Treasurer: keeps record of funds received and disbursed
possesses all the money paid to the Treasury

Samuel Meredith (1789 - 12/1/1807)

Register: in custody of all records
participates in validating various financial documents

Joseph Nourse (1781-1829 continued at post from Confederation)

Clerks: mainly keep books and accounts, and take care of the
writing and copying.

The Treasury in 1789 established three principal clerks who supervised the offices. A principal clerk differed from a chief clerk (the title given in the State and War Department) in status, more than salary. The chief clerk would have headed the clerical staff of an entire department and the principal clerk would have headed a single office. (in the Treasury for example, one of the principal clerks presided over the Comptroller's office).
(White: 297-8).

Legislative History of the Treasury, 1789 - 1800

Duties given before Treasury Act is passed:

1. Collection act-setting up the customs service (7/31/1789)
2. Lighthouse act (8/7/1789)
3. Act for registering and clearing vessels (9/1/1789)

Duties of officers as established by Treasury Act of 9/2/1789:

The Secretary is directed to:

1. To digest and prepare plans for the improvement and management of the revenue and for the support of the public credit.
2. To prepare and report estimates of the public revenue, and the public expenditures.
3. To superintend the collection of the revenue.
4. To decide on the forms of keeping and stating accounts and make returns.
5. To grant all warrants for monies to be issued from the treasury.
6. To execute such services in the sale of public lands as may be required by law.
7. To report in person or in writing on matters referred by Congress, or pertaining to the office.
8. To perform all such services relative to the finances shall be directed.

The Comptroller is directed to:

9. To superintend the adjustment and preservation of the public accounts.
10. To direct prosecutions for delinquencies of officers of the revenue.

The Treasurer is directed to:

11. To receive, keep, and disburse the monies of the United States.

Changes and Expansions in the Treasury Department:

(1790): An act to provide payment for the debt authorized a loan of \$12,000,000 to be handled by the Treasury...Loan Commissioners are setup in each state, acting under Treasury's direction. (1 Stat 138).

(1790): Collectors of customs are directed to pay military pensions.

(8/12/1790): The Treasury takes over land surveys (initiated by geographer Thomas Hutchins).

(2/25/1791): Bank of the United States Act of 1791 vested power in Secretary of Treasury to receive reports from the Bank at periods specified by him and to examine its general accounts.

(5/8/1792) Treasury is given authority to buy army supplies. This act validates and extends an activity which Hamilton has been exercising without specific warrant of law.

(1792): Sinking Fund Commission is authorized to purchase portions of the public debt. Sec of Treasury is member of commission-actually a leading member. (1 Stat 281)

The Sinking Fund Act of 8/12/1790 created this board, comprised of the President of the Senate, the Supreme Court Chief Justice, Secretary of State, Secretary of the Treasury and Attorney General to buy evidences of indebtedness. This board would be responsible to the President who was authorized to borrow up to \$2,000,000 for debt redemption. The agency was given the customs and tonnage dues surplus. The President, allowed to make most of the loans, delegated the authority to Hamilton. Thus, Hamilton came to dominate the board. (See White, 351 - 352)

(1793): Collectors become active in the enforcement of the Proclamation of Neutrality. (1 Stat 369)

(1794): Collectors become active in enforcement of the embargo
(1 Stat 369)

(2/23/1795): The office of Purveyor of Public Supplies (under the Treasury) is created. This office extends the Treasury's power to purchase.

(1796): Collectors required to assist in the enforcement of state quarantine laws. (1 Stat 474)

(1796): Office of Surveyor General is created.

(1798): Medical care for sick and disabled seamen is instituted by the general government. The medical services were supported principally from deductions from seamen's wages (after 1799 from those of navy officers, seamen, and marines also) to the sum of 20 cents for each months service. Masters paid these sums to collectors to provide for temporary relief and maintenance in hospitals or other proper institutions. Full responsibility for the service was vested in the President, who delegated his duties to the Treasury Dept.

The collectors of customs appear to have become directors of the hospitals ex officio.

(7/16/1798): Power to purchase is withdrawn for army and navy supplies. Purveyor of the United States still exists.

(1800): First marine hospital to be operated by the govt at Norfolk is purchased. (beg. of Marine Hospital Service..U.S. Public Health Service).

DUTIES DELEGATED AS TREASURY EXPANDS:

**** (1792):** Supervision of the collection of duties on impost and tonnage is delegated to Comptroller of Treasury under Secretary's direction, and of collection of other revenues to Commissioner of the Revenue (Tench Coxe).

**** (1792):** Supervision of lighthouses is also delegated to Commissioner of the Revenue until 1802.

**** (1793):** Superintendence of shipping is turned over to Comptroller.

**** (1794):** Immediate direction of the excise on spirits is in hands of Commissioner of the Revenue.

**** (2/23/1795):** Purchase of supplies is delegated to the Purveyor of Public supplies, Tench Francis.

**** (1796):** Survey of public lands is delegated to Surveyor General, (Rufus Putnam) and surveyors. Field office is established in Pittsburgh.

********The Post office is directed by the Postmaster General from the beginning and is under only nominal supervision of the Treasury Department.

THE TREASURY

The Treasury was the largest executive department throughout the Federalist period. The most urgent problems facing the nascent government were fiscally related: the management of revenue, the support of public credit, and other areas of financial policy. The Treasury's many functions, size, and leadership all contributed to its wide influence. By 1801, more than half of the total civilian government personnel worked for the Treasury.

Unlike the legislation establishing the Departments of State and War, the Treasury Department's internal structure and administration were specifically outlined. The offices of Secretary, Comptroller, Auditor, Treasurer, Register, and an Assistant to the Secretary (later, the Commissioner of the Revenue) were created, and each officer's duties were detailed. Importantly, Congress directly linked itself to the Treasury by making the Secretary its subordinate, rather than that of the President. The Secretary of the Treasury was instructed to give regular reports and information on fiscal issues. In contrast, the President's supervision was specified only in his constitutional power of removal. Thus, the Treasury Department seemed originally to have been designated to come under Congressional influence. Nevertheless, the Salaries Act, which was passed less than two weeks later, [9/11/1789] clearly recognized the Secretary of the Treasury as "an executive officer."

The Treasury became permanently connected to the Presidency and not the Congress after a precedent set in January of 1790. Hamilton had prepared a plan for the support of public credit which he asked to deliver in person. Congress refused and insisted that Hamilton submit his report in writing. The rebuffed Secretary thereafter was restricted to informal methods of winning Congressional support for his fiscal policies. Indeed, he was an ambitious leader who supervised the entire legislative process of his bills and exercised considerable influence in Congress in fiscal matters as well as those relating to other branches of government.¹

Hamilton's persistence was a major reason why the Secretary of the Treasury was not simply a keeper of accounts and statistics. Hamilton's aggressive espousal of policy and innovative proposals led congressmen to accept him as a strong leader, though they themselves would decide whether or not to accept his recommendations. Though he officially headed the Treasury only until 1795, Hamilton's ambition, sense of civic duty, and many contacts reinforced his well-acknowledged and much disputed dominance of executive politics even after his term in office ended. "Most of the important measures of every Government are connected with the Treasury" Hamilton wrote in 1792, and he used this connection to justify his influence in foreign and domestic

¹See John Miller's biography, Alexander Hamilton: A Portrait in Paradox, p 323. This book is a thorough study of Hamilton.

issues.² Washington's support of Hamilton further led to the Secretary's influence in matters beyond strict fiscal policy.

THE FIELD SERVICE

The field service was an important part of the Treasury. The Treasury's wide influence was in part due to its supervision of several agencies which included the customs service, lighthouses, district attorneys, marshals, and the post office.³ Through these agencies, the Treasury influenced almost every large town and section in the country and touched an array of people. Through the Customs Service, it served the mercantile, fishing and shipowning interests. Through the Bank, it touched the main financial and professional groups. Through its excise officers and land agents, it touched the "small people." Through the Purveyor of Public Supplies, the Treasury affected large contractors. And through the management of the Post Office, it touched newspapers and the general public.

Congress acknowledged the need to have agents stationed at different geographical locations and let the executive branch choose these locations. The number of officials in these subordinate agencies far outnumbered the principal officers in Philadelphia. However, when an office opened up in the central office, the officer was usually appointed from outside the field service. In contrast to officers in the central office, who were nationally known individuals, the field officers were "career men" who came from the surrounding area.⁴

SOURCES:

Chapter 17 in White's The Federalists outlines the departments' relationship to the Field Service.

Carl Prince's The Federalists and the Origins of the U.S. Civil Service (New York, 1977) treats the higher and lower levels of the U.S. civil service, with a particular focus on how Federalist politics affected the field officials. It focuses on the customs service, the internal revenue service, the post office, and the judicial service.

THE TREASURY AND THE PURCHASE OF SUPPLIES

The Treasury first had been authorized to take charge of the army supply services in a law passed on May 8, 1792. This law responded to the army's

²Papers of Alexander Hamilton, Vol. XI, p. 442.

³The revenue cutter service, Indian superintendents, Surveyor-General's office, land tax office, and land office were other parts of the field service also under the Treasury's control. Chapter 17 of the Federalists gives an overview of these agencies.

⁴White, p. 199.

infamous mismanagement of supplies. A House Inquiry into the Indian victory over the Army in the St. Clair expedition focused attention to the consistent shortages of supplies.⁵ Knox was reluctant to let Hamilton manage his departmental matters but Washington agreed to let the Treasury buy War Department supplies after being prodded by Hamilton.

The 1792 Act allowed all purchases and contracts for supplying the army with provisions, clothing, quartermaster's department supplies, military stores, and other supplies for the War Department to be bought by the Treasury. This legislation formalized and extended the Treasury's previous involvement in buying provisions and clothing. Tench Coxe, Commissioner of the Revenue, handled these purchases. By 1794, however, Coxe was overburdened by work and Hamilton relieved him of these duties. Congress, in turn, created the office of Purveyor of Public Supplies (2/23/95). Because the act allowed the Purveyor to procure generally all items needed for the U.S., Hamilton then pushed to make the Treasury the central purchasing agent for the entire government.

The issue of military supplies came up once again in 1798. Relations with France had precipitated the creation of the Navy Department and a Provisional Army. Even though the Purveyor of Public Supplies had been created, the army's supplies were still in constant shortage. A congressional committee reported that the division of responsibility for purchasing supplies complicated matters so that both the Secretary of War and Secretary of Treasury contributed to inefficiency. Furthermore, the inadequacies were increased by the poor abilities of Tench Francis, the Purveyor of Public Supplies.⁶ The new Secretary Wolcott, unable to rebut this charge, returned the responsibility of purchasing military supplies to the War and Navy Departments.

⁵See White, 147-150.

⁶Cooke, Jacob E. Tench Coxe. (Chapel Hill: University of North Carolina, 1978), p. 414.

THE DEPARTMENT OF STATE

Date of Creation: July 27, 1789

Secretaries of State:

Thomas Jefferson	Mar 22, 1790 - Dec 31, 1793
Edmund Randolph	Jan 2, 1794 - Aug 20, 1795
Timothy Pickering	Aug 20, 1795 - May 12, 1800
Charles Lee	May 13, 1800 - June 6, 1800
John Marshall	Jun 6, 1800 - Mar 4, 1801

Primary Functions:

July 27, 1789: (This Act named it the Department of Foreign Affairs)

1. Correspondence, commissions, and instructions to ministers and consuls.
2. Negotiations with public ministers from foreign states or princes.
3. Memorials or other applications from foreign ministers or other foreigners.
4. Such other matters on foreign affairs as Pres. assigns.

Duties added by act of September 15, 1789: Dept is renamed "Department of State" when domestic duties are added. (This change responds to a proposition that a Department of Home be created).

5. The custody and publication of the laws, and their distribution to the states.
6. The custody of the seal of the United States
7. The preparation and authentication of commissions issued by the President. (though special warrant of Pres needed to cause the seal to be affixed to any document).
8. Federal marshals and attorneys will receive their instructions from State Dept & federal judges correspond with this office on matters of judicial business.
9. Petitions for pardons are received & recommendations prepared (in conjunction with the Attorney-General, for President's consideration.
10. Supervision of territories (this probably was not carried through, though)

Principal Subsequent Legislation:

1. Taking the Census (3/1/1790 & 2/28/1800).
2. Granting patents (4/10/1790 & 2/21/1793).
3. Granting copyrights (5/31/1790).

4. Supervising the Mint (4/2/1790) and its executive direction.
5. Recording land patents (5/18/1796).
6. Protecting American seamen (5/28/1796) and its executive direction.
7. Granting ship passports (6/1/1796).

In short, the State Department handled all domestic duties not given out elsewhere (the most important exception is the Treasury's control of the Post office). Though some of these domestic duties were relatively minor, the State Department's other domestic duties included giving federal marshals and attorneys their judgments and corresponding with federal judges on matters of judicial business.

Size:
(from White)

CENTRAL OFFICE

- 1789: (The Confederation) the Secretary & two clerks
(in two rooms—a parlor and a workshop)
- 1789: Secretary, undersecretary (actually, a chief clerk), two clerks, an interpreter, a doorkeeper and messenger, and a sum of \$150 for translation at the current rate of two shillings per hundred words.
- 1792: two more clerks are added.
- 1801: one chief clerk, seven clerks, and a messenger.

Most of the clerical staff's work is copying.

FIELD STAFF

- 1792: ministers (or charges de affaires) at Paris, London, Lisbon, the Hague, and Madrid.
- 1801: same # of diplomatic representatives but a consular service is added:
 - consul general at Algiers
 - 47 consuls
 - 4 vice consuls
 - 11 commercial agents

The State Department's largest task was maintaining contact with its "field staff." This was a cumbersome task because of the poor modes of communication of the day.

Location:

1. Northwest corner of Market Street (Dumas Malone, p. 321)
2. Southeast corner of Arch and Sixth Streets

3. North Alley
4. Northeast corner of 5th and Chestnut Streets

PREDECESSOR OF THE STATE DEPARTMENT

The Department of Foreign Affairs which had existed under the Continental Congress stemmed from a 5-member Committee of Secret Correspondence (CSC), created in 1775. The committee, which included Benjamin Franklin as its chair and John Jay as a member, was formed to correspond with various individuals abroad, including non-Americans, who might provide service to the Colonies. Occasionally, the committee would send representatives abroad as well. The committee's scope and impact were decidedly limited because Congress usually determined its policies, especially on important issues. Also, Congress' other special committees and standing committees often handled issues within the jurisdiction of the CSC, thereby deprioritizing its efforts and decentralizing conduct of foreign affairs even further. These proceedings were not evaluated, however, and the CSC's inefficiencies continued without any changes except for its renaming as the Committee for Foreign Affairs on April 17, 1777.

In May of 1780, the Continental Congress began to consider the establishment of a Department of Foreign Affairs. By August 1781 Robert J. Livingston, a former Committee member, was appointed Secretary of the Department. The new administrative office was deemed necessary because of the United States' rising importance among European powers. Livingston was an agent of Congress, however, and not an executive officer. As Secretary, he was directed to correspond with United States representatives at foreign courts and ministers of foreign powers to elicit useful information on foreign affairs and then present this information to Congress, and, when needed, to the ministers abroad. Livingston relied greatly on his friend Benjamin Franklin for information from abroad. Livingston was allowed to attend Congressional sessions but not to ask questions, thus further muddling the duties, demands, restrictions of his position.

Livingston, unsatisfied with his ambiguous position, informed Congress of the deficiencies and requested more control. Congress favorably responded to his report by appointing two Undersecretaries of Foreign Affairs. Livingston was allowed to control Departmental matters and settle private complaints against foreign states without consulting Congress. He could go to Congressional sessions and ask and answer questions, explain his policies, and have access to Congressional records. Despite these changes, Livingston continued to face the same difficulties of Congressional interference. Congress would pass resolutions directing the policies of foreign ministers and sometimes even deal directly with the foreign representatives in Philadelphia. Special Congressional committees often intruded upon the Secretary's delegated duties. Slow and tedious correspondence (mail was slow and correspondence was written only in longhand) made Livingston's job even more difficult.

Nevertheless Livingstone made the following achievements:

1. A diplomatic code based on international law

2. The department's smooth and effective functioning
3. The Secretary's important role in shaping country's policy (insisted on regular reports from ministers & consuls)
4. Only Americans were appointed to foreign diplomatic posts (* still this way today)
5. Salaries which were not dependent on fluctuation of the exchange rate.

Livingston resigned in November, 1782 and left office in June, 1783 because his salary did not cover his expenses. For a year, Congress directly handled correspondence, but eventually it realized the ineffectiveness of committees and appointed John Jay as the new Secretary of Foreign Affairs. Jay, a respected diplomat, insisted on Congress' affirming the centralization of his office (2/11/85). He remained Secretary of State until Thomas Jefferson replaced him under the new constitutional government, at which time Jay went on to his preferred position of United States Chief Justice.

SOURCE: Stuart, The Department of State, Chapter 1

THE DEPARTMENT OF STATE

The Department of State dealt primarily with foreign affairs. This huge job was left to the Secretary, usually the only qualified individual to perform it. Congress gave the Department its domestic duties by an act of September 15, 1789 which also renamed the Department of Foreign Affairs as the Department of State. This change responded to a proposal by Senator John Vining (Del.) to create a Home Department which would handle issues over manufactures, agriculture, commerce, patents and copyrights. However, the Congress defeated this proposal because of the economic costs of maintaining another department. The department of State was relatively unimportant as an administrative office during the Federalist period. It is noteworthy, however, for the eminent individuals who served in it.

In contrast to the equivalent office under the Continental Congress, the first Congress carefully legislated that the Secretary of State would be the President's subordinate. Congress itself retained no special hold on him - requiring no periodical reports, etc. The Secretary of State's secondary position was practiced during the Federalist years. Both Washington and Adams closely supervised foreign affairs conduct and the selection of American ministers.¹ (For example, examine Adams' involvement with the Alien and Sedition Acts and the XYZ affair).

However, the Secretary did take care of daily matters himself. He himself took care of most of the correspondence with ministers abroad. The

¹White, 131.

four secretaries of state who served from 1790-1801 all worked independently to make decisions. The clerks duties revolved around domestic issues. By the end of the decade, the clerical offices became specialized to deal with specific matters, such as patents. The chief clerk handled the Secretary's routine duties during his absence.²

SOURCES:

White, The Federalists, chapter 11.

Malone, Dumas. Jefferson and the Rights of Man. (Boston: Little, Brown & Company, 1951).

This volume is a good reference to Jefferson's view of the department. Chapter 15 provides information on the Secretary of State's early duties. The dispute between Jefferson and Hamilton and Jefferson's foreign policy views are also discussed in detail in subsequent chapters.

Stuart, Graham. The Department of State. (New York: Macmillan, 1949).

This book gives a political history of the development of the department. Chapters 1 - 3 deal with the Federalist years.

PATENTS

Jefferson's most time-consuming administrative duty was handling patents. The first patent act (4/10/90) had set up a Board of Arts which included the Secretary of State, the Secretary of War, and the Attorney-General. Any two of these officers could act to grant a patent. The patent was then examined by the Attorney-General, sealed by the President's approval, and recorded by the Secretary of State. The State Department handled the routine clerical work in granting a patent, and Jefferson's personal interest in the matter made him the most involved person on the Board of Arts.

The procedure followed by the Board of Arts was time-consuming. At first, the Board met the last Saturday of every month to read new applications. These proposals would not be considered any further unless models, drafts, and other forms of proofs had been submitted. By July, 1791, however, each member of the Board was reading each patent proposal privately. The Board member would then submit his notes on the matter to Harry Remsen (chief clerk of the State Department) who would compile them. The board then used the notes to confer as a group.

The law stated that an invention needed to be useful if a patent were to be granted. Jefferson himself took upon most of the responsibility for this task. He tested each application and carefully determined the proposal's authenticity and utility before granting petitions. Though he enjoyed this

²Stuart, 36.

challenge, Jefferson soon hoped to be relieved of this duties. Granting patents absorbed the Secretary of State too much, Jefferson wrote to Congressman Hugh Williamson. It "cuts up his [the Secretary of State's] time into the most useless fragments and gives him from time to time the most poignant mortification".³ Furthermore, he felt unable to properly determine the importance of inventions and "do justice by them." Therefore, Jefferson wrote a bill which would free his office from most of its patent functions. Though this bill did not pass, Congress took a similar approach in the Patent Act of 1793 which no longer required patent applications to be examined. Thus, patent applications were granted almost automatically. The 1793 act also established a procedure to follow in cases of competing applications. The case would be considered by a three-member arbitration board - the Secretary of State and one appointed by each applicant. This board would decide who would attain the patent right. Earlier, the Secretary of State had been responsible for settling disputes. Therefore, Jefferson was relieved of another responsibility. One element of the personal touch still remained in the new policy to grant patents: each patent was signed personally by the President.

COPYRIGHTS

President Washington had recommended to Congress that the granting of patents for scientific inventions be connected to copyrights for literature and art. However, Congress passed a separate Copyright Act on May 31, 1790. The law gave the administration of copyrights to the clerks of the district courts. However the State Department was also involved in that the law directed that, within six months of publication, a copy of all books, charts, and maps should be given to the Department of State for preservation. Later, engraved prints and musical compositions were also included. The State Department provided this function until the Department of the Interior was created in 1859. In 1870, the Library of Congress was established for this purpose.⁴

SOURCES:

White, The Federalists. pp. 136-139.

Malone, Dumas, Jefferson and the Rights of Man. pp. 281-285.

Stuart, The Department of State, p. 22.

³White, 138.

⁴Stuart, 22.

THE MINT

The issue of a Mint had first arisen after Congress requested Jefferson to report on a system of uniform coinage, weights and measures (Jan 15, 1790). However, a few months later on April 15, the House requested Hamilton to prepare a plan for a Mint. Jefferson submitted a report on Congress' proposal to obtain copper coinage from abroad. He had conferred with Hamilton and recommended establishing a mint at home instead (7/13/90). After conferring with Jefferson, Hamilton submitted his own report on Jan 28, 1791. Hamilton did not recommend assigning the mint to the Treasury, but his detailed organizational proposal suggested he hoped to be in control. After considering both reports, the first Congress authorized a Mint on March 3, 1791 and directed the President to determine its organization.

The Act actually establishing the Mint was passed on April 2, 1792. The President, as executive head, was given full control of the institution, though an intermediary Director was created. By 1792, the hostility between Hamilton and Jefferson was well-known and Congress avoided assigning the Mint to either the Treasury or the State.⁵ By the time of the 1792 Act, Jefferson had begun seeking workers for the mint. Jefferson had also submitted the name of the first Director, David Rittenhouse, to Washington. The Mint was assigned to Jefferson in the fall of 1792.

According to some accounts, Washington's decision to give the Mint to Jefferson was a conscious effort to moderate the political antagonism between Hamilton and Jefferson. The issue of controlling the Mint was closely connected to control of the Post Office. The Postmaster General had been assigned to the Treasury because he was regarded as a revenue officer. However, Jefferson believed the Post Office Act in 1792 had expanded the definition of the Post Office to merit its annexation to the Department of State.⁶ In explaining his reasoning to Washington, Jefferson even expressed his fear that the Treasury was apt to become too powerful for the good of the executive branch. Washington decided to leave the Post Office as it was but did assign the mint to the Department of State.⁷

The Mint and the Post Office were both poorly managed, probably because they should have been assigned to different departments. The Mint's problems lay in every direction. There was a constant lack of coins and technical problems caused constant breakdowns. Rittenhouse, already in poor health, retired in 1794 and Elias Boudinot became the new Director. Though Boudinot

⁵This interpretation comes from Dumas Malone.

⁶The Postal Service originally had been seen as a source of revenue. The Postmaster General thus became a revenue officer under the Treasury's direction. However, the 1792 Act had defined its services more broadly. For example, the act had addressed mailing newspapers and increasing the speed of the postal service. Revenue was less central than the delivery service itself.

⁷This interpretation is in Malone, 432-433.

was eager for reform, the coin assayer died soon afterward. On January 20, 1794, the Mint barely escaped an act to terminate it. When the federal government moved to its new home in Washington, a Senate committee again proposed closing the mint and contracting coinage of money. However, the Mint stayed open after a compromise. Still, Congress refused to spend the money needed to move it to Washington, and the Mint stayed in Philadelphia under the State Department's unsteady direction.

SOURCES:

White: The Federalists. pp. 139-143.

Malone, Dumas. Jefferson and the Rights of Man. p. 281, 432-33.

EDMUND RANDOLPH

After Jefferson's resignation, Washington asked his trusted friend and then Attorney-General, Edmund Randolph, to become the new Secretary of State. In a time when political parties were forming, Randolph stood out as an individual who made his decisions on the basis of careful judicious reasoning, rather than political philosophy. Neither the Federalists nor the Republicans cared for Randolph and his objective approach to politics.

Randolph knew from his Cabinet experience that Jefferson's resignation had been due largely to constant interference from other executive officers. One of the first steps Randolph took was to write a polite yet firm reminder to the Secretaries of Treasury and War that he would not appreciate their gratuitous advice. In the two identical letters, Randolph wrote, "... I have therefore prescribed this rule for myself: that if anything, supposed to be done in the other departments shall create dissatisfaction in my mind, I will check any opinion, until I can obtain an explanation which I will ask without reserve. By these means I shall avoid the uneasiness of suspicion; and I shall take the liberty of requesting, that the same line of conduct may be pursued with respect to myself...."^a

Randolph's term in office was brief (1/2/94 - 8/19/95) but he did confront some important foreign policy issues during that time. The war between England and France made diplomatic decisions difficult. (For information on the two most important issues, the Citizen Genet incident & the Jay Treaty, consult any history volume. The Jay Treaty kept the peace between the U.S. and Britain and retrieved hopes of resolving boundary disputes and post-Revolutionary debt disagreements. The President's treatment of the Jay Treaty is a good example of the Secretary of State's lack of independence to

^aReardon, 251.

deal with policy issues.) Washington, heeding Hamilton's advice, appointed John Jay as a special minister to conduct a controversial commercial treaty with Great Britain.

Despite Washington's deference to Hamilton, the President also placed great value in Randolph's attention to the constitutionality of actions. Washington's trust in Randolph makes the circumstances of Randolph's resignation even more poignant. After months of secret negotiation, the signed Jay Treaty had been sent to Randolph and Washington in March, 1795. The Senate had adjourned, and realizing the concessions being made to the British would be unpopular, the two decided to keep the treaty a secret until the Senate could discuss it in closed sessions.

In the meantime, the Royal Navy had found private letters written by the French minister, Fauchet, to his government. One of the letters seemed to indicate that Randolph had attempted to bribe Fauchet. The British minister, Hammond, sent the letter to the Oliver Wolcott, Secretary of the Treasury. Wolcott, in turn, showed the letter to the Cabinet members aside from Randolph. The three quickly summoned Washington and Randolph to return to Philadelphia (from Virginia) for consultation on a crucial matter. After reading the letter, Washington called a cabinet meeting (Aug 12) to discuss the Jay Treaty. During that meeting, Washington ignored Randolph's opposition to the treaty and told his advisors that he would sign the Jay Treaty immediately. This move directly opposed Washington and Randolph's private discussions in which the two had decided to wait.

Washington then decided to hold another cabinet meeting when he would confront Randolph with the letter. On August 19, Randolph arrived at the meeting and found Washington, Wolcott and Pickering waiting for him. Randolph did not have to question the awkward atmosphere for too long because Washington handed Randolph the Fauchet letter and asked for an explanation. The other advisors, ready to condemn, watched Randolph read the letter. Though they listened to his unprepared explanation, Randolph soon perceived that his colleagues had already pronounced him guilty. He asked to examine the letter privately and submit a written explanation. Washington agreed but first conferred with Wolcott and Pickering. When Washington summoned Randolph back, the Secretary of State realized the President's uncompromising attitude and decided immediately to resign.

Though history has given Randolph a bad name, modern historians usually agree that Randolph was innocent. Though he may have made some indiscrete remarks, they were minute compared to the standards of the day. The reasons for Washington's uncharacteristic animosity are still unclear. However some cite Pickering's belligerence towards Randolph's opposition to the Jay Treaty as reason for the Secretary of War to destroy Washington's trust in Randolph. Indeed, Pickering's version of Randolph's resignation is the most uncompromising.

"He, the Secretary of State, to whose trust the foreign relations of the country, are confided, has been conducting an intrigue with the ambassador of a foreign government to promote the designs of that government which were to overthrow the administration of which he Randolph was a trusted member,

receiving from that ambassador money to aid in accomplishing this object; soliciting from him more to accomplish the same purpose," Pickering wrote as his assessment of the situation.⁹

SOURCES:

Clarfield, Gerard H. Timothy Pickering and the American Republic.

(Pittsburgh: Univ of Pittsburgh, 1980).

pages 157-162 deal with Randolph's resignation. The interpretation is interesting because it questions whether Pickering, a Federalist, misrepresented evidence to charge Randolph and ensure the Jay Treaty's ratification.

Reardon, John. Edmund Randolph. (New York: MacMillan, 1974).

Stuart, Gilbert. The Department of State. pp. 23 - 28.

TIMOTHY PICKERING

"Happy is the country to be rid of Randolph," Adams wrote to his wife, "but where shall be found good men and true to fill the office of government?"¹⁰ Adams words echoed Washington's increased agitation over the Randolph affair as he discovered the difficulty of finding a replacement. After five men refused the post, Washington reluctantly asked Pickering, Secretary of War, to become the Secretary of State (Stuart, 29). In a letter to Washington, Hamilton expressed the President's own disappointment in the lack of qualified individuals. "In fact, a first rate character is not attainable. A second-rate must be taken with good dispositions and barely decent qualifications. I wish I could throw more light. 'Tis a sad omen for the government."¹¹ Pickering too displayed reluctance in accepting the position and claimed that he was more suited to military than diplomatic affairs. Washington undeniably must have agreed with Pickering's self-assessment.

Pickering's involvement in foreign affairs can be found in Clarfield's biographies of him and in Stuart, pp. 29 - 34. He was known for his brusque, uncompromising ways. "The idea that a diplomat might need to set aside his own political philosophy in order to serve his nation's best interests never occurred to him."¹² His moral rigidity and his unmitigated animosity towards the French, did not make for a successful diplomat.

Pickering's term lasted into the Adams administration where Pickering's unwillingness to compromise provided the basis for his continuous affronts to

⁹Stuart, 28.

¹⁰Clarfield, Pickering and the American Republic, 164.

¹¹Clarfield, Timothy Pickering and American Diplomacy, 31.

¹²Clarfield, Timothy Pickering and American Diplomacy, 32.

President Adams. Pickering, like the other Cabinet members, consistently opposed President Adams to heed Hamilton's advice. According to Leonard White, this situation violated the confidence between the executive chief and executive officers. Finally, Adams was forced to dismiss the Secretary of War on May 12, 1800 when he refused to resign.

SOURCES:

Clarfield, Gerard. Timothy Pickering and American Diplomacy. (Columbia: U. of Missouri, 1969).

Clarfield, Gerard. Timothy Pickering and the American Republic. (Pittsburgh: University of Pittsburgh, 1980).

Stuart: The Department of State.

THE DEPARTMENT OF WAR

Date of Creation: August 7, 1789, by act of Congress

Secretaries of War:

Henry Knox	Sep 12, 1789 - Dec 31, 1794
Timothy Pickering	Jan 2, 1795 - Feb 5, 1796
James McHenry	Feb 6, 1796 - May 31, 1800
Benjamin Stoddert	Jun 1, 1800 - Jun 12, 1800 (acting ad interim)
Samuel Dexter	Jun 12, 1800 - Mar 3, 1801

* Under the Articles of Confederation, this title was "Secretary at War" but was now changed to "Secretary of War."

Initial Responsibilities: (by Act of Aug 7, 1789)

duties concerning military commissions, land and naval forces, ships and supplies, land grants for military service during the Revolution, Indian affairs, and other military and naval affairs as determined by the President.

Principal Subsequent Legislation:

1. Military Establishment is enlarged - April 30, 1790
(Military Establishment Act)
1. Office of a Paymaster established on 5/8/92.
2. Treasury control of buying military equipment in 1792. (5/8/92)
(Also creates an Accountant in the War Department who is responsible to Comptroller.)
3. Office of Superintendent of Military stores created on 4/2/94.
4. Provision of Arsenals (4/2/94)
5. Various legislation to deal with Indian affairs.
(1 Stat 137, 452, 469)
6. Power to purchase military supplies goes back to War Department on 7/16/98. This act also creates an office of purveyor in the War Department.

***The War Department's jurisdiction was much clearer than those of other departments. Its primary responsibility was maintaining the armed forces. The major subsequent legislation (as shown above) did not broaden or narrow its duties, until the Navy Department was created in 1798. The peace of the nation depended also on harmonious relations with Indians, and this task occupied much of the Secretary of War's time.

PROBLEM OF SUPPLIES - This issue is attached to summary of Treasury Department. Chapter 14 of Harry Ward's The Department of War 1781-1795 gives a viewpoint sympathetic to Secretary of War, Knox. Ward faults general inefficiency, rather than the War Department administration for the supply problem. "The chief failing was not in the procurement of supplies but in proper arrangements with the contractors for the transportation of these supplies," Ward writes on General St. Clair's defeat in 1791 (Ward, p. 134). Ward's approach is decidedly anti-Hamiltonian. "Actually, the constant

interference of Hamilton at every level of command of the supply operation, often by-passing not only the Secretary of War, but also the field commander and the Quartermaster General, was to prove disastrous to the whole financial structure of the Army's supply system," Ward writes (Ward, 152).

Some modern historians feel that Knox's capabilities have been underestimated. Knox has not been well regarded, partly because he often attached his name to Hamilton's opinions. However, these opinions also represented Knox's viewpoints; the Secretary of War, less eloquent than Hamilton, perhaps preferred to approach matters in that way.

SOURCES

White, The Federalists

Ward, Harry. The Department of War, 1781-1795 (Pittsburgh: U. of Pittsburgh, 1962)

Callahan, North. Henry Knox. (New York: Rinehart, 1958).

THE DEPARTMENT OF NAVY

Date of Creation: April 30, 1798

Secretary of the Navy:

Benjamin Stoddert

Jun 18, 1798 - Mar 31, 1801

Responsibilities:

The act of April 30, 1798 creates an executive office, the Department of the Navy. Its head, the Secretary of the Navy is the President's subordinate and executes orders related to "the procurement of naval stores and materials" and "the construction, equipment, and employment of vessels of war, and other naval matters." It also created a principal clerk who would report to the Secretary.

* An act of July 16, 1798, created the office of Accountant of the Navy.

Size:

Secretary's office: chief clerk, four or five subordinate clerks, and a messenger (payroll in 1800 = \$9,152 - Secretary's \$4,500.)

Accountant's office: (created on 7/16/98) uses six or seven clerks.

one civilian officer - Joshua Humphreys, principal naval constructor. (stationed in Phila.)

THE NAVY

The development of a navy was a partisan issue, supported by the Federalists and opposed by the Republicans, who felt it would be a needless expense. The act creating the Department of War had left that office in charge of both the army and the navy. In actuality, supervision of naval affairs meant nothing since the Revolution had left no vestige of a United States Navy.

On March 27, 1794 Congress passed an Act for Naval Armament which legislated that six ships be built by the Department of War. Congress was responding to a need to protect American commercial interests in the Mediterranean from the harassment of Algerian corsairs. The act directed that the building of the six ships would halt if peace was attained with Algeria. When a treaty was signed with Algeria in March of 1796, the ships had yet to be completed. After Congressional debate, the Republicans and Federalists compromised to pass an act which would allow three of the original six ships to be completed (4/20/96). In 1798, deteriorating relations with France prompted the Federalists to establish the Navy Department. The law narrowly passed only after considerable debate over whether another executive office was necessary; however, Secretary of War McHenry himself had suggested that a new department be created.

Benjamin Stoddert, the first Secretary, is credited for the quick and efficient growth of the navy. Stoddert's main mission was to build a navy. His success is evidenced by the growth of the Navy during his administration.

The three ships originally legislated under the War Department's construction had not been completed until 1797. However, under Stoddert the Navy had 20 ships by the end of 1798 and 33 ships by the end of 1799. Stoddert also planned to establish his naval yards and docks around the country. By the end of his term, he had laid the groundwork for six naval yards. In spite of Stoddert's successes, the Secretary always felt he lacked the expertise needed to head the Navy.

All information from White's The Federalists: 156-163.

THE ATTORNEY-GENERAL

Date of Creation: September 24, 1789
(Judiciary Act, sec. 35)

Attorney-Generals:

Edmund Randolph	Feb 2, 1790 - Jan 2, 1794
William Bradford	Jan 27, 1794 - Aug 23, 1795
Charles Lee	Dec 10, 1795 - Mar 3, 1801

Duties:

The Judiciary Act of 1789 created an Attorney-General who would represent the United States in all suits before the Supreme Court. His only other duty would be to act as a legal advisor to the President and Department heads. The Attorney-General did not have the prestige of being an executive officer and had no influence upon the broader judiciary court system. Though his office was not legally declared a "department," the Attorney-General began to attend Cabinet meetings regularly in 1792. Randolph's biographer, John Reardon, attributes this arrangement to the high regard Washington held for the Attorney General, one of the day's most prominent public figures.

The Attorney-General's peripheral importance was visible also in his lack of administrative duties. With a salary of only \$1500, it was fully expected that the Attorney-General continue his private practice as a lawyer. He was expected to use his private office to conduct his public duties as well. Furthermore, he had no authority over the lower federal courts.

During his first year as Attorney General Randolph attempted to establish the Attorney General's jurisdiction. In a letter to Washington (12/26/91), he suggested having his office replace the State Department as coordinator of the district attorneys (White, 167). In a similar attempt to establish the Attorney-General as the chief director of federal law enforcement, Randolph recommended hiring a clerk. Washington submitted these proposals to Congress without comment. Neither request was granted.

Randolph did not pursue this failure any further because he was occupied by his new role within Washington's cabinet. The fundamentally non-partisan Attorney General was used to establish a middle ground between the polarized opinions of Hamilton and Jefferson.

The Attorney General was slowly granted additional duties by acts of Congress. Randolph took a place on the Board for Patent applications after the Patent Act of 4/10/90. His office was subsequently relieved of that duty by the Patent Act of 2/21/93. During that time, however, he had also been placed on the Sinking Fund Commission by the act of 5/8/92. One additional duty was that the Attorney-General was asked to appear before commissioners and give legal advice to counter British claims. For this task, he was given a \$600 stipend in addition to his salary.

Hayburn's Case (August, 1792):

Until Randolph became involved in keeping the peace between Hamilton and Jefferson, he had no significant function as Attorney-General. Washington often consulted Hamilton and Jefferson, as well as the Attorney-General, on issues of constitutionality. As a result, it was Randolph's own responsibility to determine the extent of his official duties.

In August, of 1792, Randolph took an interest in the court petition of William Hayburn, an invalid veteran. Hayburn had petitioned a federal circuit court in Pennsylvania for approval of his pension application. This administrative duty had been assigned to the circuit courts by the Invalid Pension Act (3/23/92) but the Middle Circuit Court had refused to hear Hayburn's claim.¹ The case had been taken on by newspapers, who used the case to address the issue of judicial impeachment.

Randolph, acting as the Attorney General, applied for a mandamus from the Supreme Court which would force the Circuit Court to review Hayburn's application. With this move, he was asking for a decision on the constitutionality of the Invalid Pension Act. Chief Justice John Jay responded by questioning whether Randolph could use his official status to make the request on Hayburn's behalf. Upon Jay's request for an explanation as to why Randolph had acted as Attorney General, Randolph delineated his concept of the Attorney General's office. Unfortunately, that response has not been found. The Supreme Court itself was equally divided on the issue. Randolph then decided to act as Hayburn's private counsel. However, the case was postponed until the February, 1793 term. During the wait, Congress decided to amend the Invalid Pension Act by removing the questionable portions. Randolph's case was therefore dismissed.

This case is significant because Randolph petitioned the Supreme Court as Attorney General. White interprets the Supreme Court's division over whether the Attorney-General could act in that manner as an indirect decision that Randolph had no jurisdiction over the lower courts.

SOURCES

Information from White's The Federalists: p. 164 - 172 and John Reardon's biography of Edmund Randolph, Chapter 15.

¹ By the Invalid Pension Act (3/23/92) anyone disabled as a result of serving the U.S. during the Revolution could apply for placement on list of eligibility for pensions. The claimant had to give evidence of his service to the circuit court. The judges, then would decide the validity of the request and the amount of the pension. However the Secretary of War could change the judge's decision.

The Supreme Court Judges felt this Act compromised their independence and violated the Constitution's provision of separation of powers. Out of sympathy for the act's intentions however, some judges worked outside their official capacity as judges and heard the claimants.

APPENDICES

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Extent of Postal Service:

1790: 1,875 miles of post road at 75 post offices
1800: 20,817 miles of post road with 903 offices.

SOURCES

White, The Federalists. Chapters 5 & 6 describe the Business of the Post Office. Chapter 6 details the actual handling of the mail. It also gives reasons and examples for the slow delivery and describes the capabilities of Pickering and Habersham. White asserts that bad administration is the main cause of the post office's poor service. On p. 8 he begins to address the problems with deputy postmasters and contractors.

Prince, Carl. The Federalists and the Origins of the U.S. Civil Service. This book's thesis is the extreme politicization of the Civil Service, and Prince claims that the post office was more political than any other agency, especially under Pickering (p. 84+). Accordingly, Prince asserts that the deputy postmasters comprised the Federalist parties' middle class leadership. In contrast, White claims that politicization was not an important factor in the post office appointments made during the Federalist era (p. 79).

Butler, Ralph Lapham. Doctor Franklin, Postmaster General. (Garden City: Doubleday, 1928). This Ph.D dissertation is a general study of Franklin's years as Postmaster General. (Chapter 3 includes Franklin's major accomplishments as Postmaster General) Butler notes that there are few records of this service.

carelessness on the part of the deputy postmasters, who headed the local offices. "Indeed if old Timothy [Pickering] knew how the mail is conducted in this Country, I guess he would kick up a rumpus, for sometimes, it is lost & picked up by Waggoners, which I do not wonder at for it is but a few days ago that the man passed here carrying the mail, was so drunk he scarcely could sit on his horse," wrote Erkuries Beattie at the end of 1794 (Pennsylvania Magazine, Vol. XLIV, p. 260). The inadequate service was also a result of poor adminstration by the contractors who carried the mail.

The Postmaster Generals:

Samuel Osgood	Sep 26, 1789 - Aug 9, 1791
Timothy Pickering	Aug 9, 1791 - Jan 2, 1795
Joseph Habersham	Feb 25, 1795 - Nov 2, 1801

Size: (from White, 177)

1792: Pickering, one assistant, & 1 clerk in 2 rooms of his home

1794: 3 more clerks are added.

1800: Postmaster General, his assistant, a chief clerk, five clerks, and a messenger. (office in Washington)

Duties of the Postmaster General:

(as described by Joseph Habersham in White, p. 177)

1. superintend business generally
2. direct the principal arrangements for carrying the mail.
3. establish post offices
4. appoint Postmasters
5. inform Postmasters in questions relating to the law and their duty
6. attend to exterior correspondence of the office.

Duties of Postmaster General's Assistant:

1. Keeps accounts
2. Deals with stoppages of the mail or thefts.

Duties of First Clerk: examines accounts.

Duties of Other Clerks: (**Clerks have specialized duties)

1. Dealing with dead letters
2. Working on books.

Habersham also mentions a solicitor who makes contracts and sues delinquent postmasters.

THE POST OFFICE

Though remembered mainly as a diplomat, Benjamin Franklin is also credited for his efforts to systemize the postal service. Franklin served as Deputy Postmaster General of North America from 1753 to 1774 when he was discharged for being pro-American during a time of mounting political tensions between England and the colonies. At that point, Franklin became a leading proponent of the "Constitutional Post," an independent postal system created to boycott the royal mail. In recognition of his abilities, the Continental Congress appointed him the Postmaster General of the postal service it established by act of July 26, 1775.¹ Franklin left this position in March of the next year in order to carry out his diplomatic duties. The act which established the postal system on February 20, 1792 essentially retained the postal service provided by the Confederation.²

The U.S. government realized that disseminating information would be much easier once an efficient and extensive postal service was established. The postal service also could "be made to aid considerably the advancement of internal commerce and territorial improvement, and expedite the sudden operations of the Executive department," noted Tench Coxe in a 1789 letter to Madison (as quoted in White, 176). The Postal Act of Feb 20, 1792 established the General Post Office as it would exist in the Federalist era.

The February 1792 "Act to establish the Post Office and Post Roads within the United States" created a Postmaster-General whose duties included:

1. to appoint an assistant and deputy postmasters.
2. to determine how often to carry the mail and whether by stage carriages or horses.
3. to prescribe regulations for the deputy postmasters
4. to superintend the business of the department
5. to determine postal routes

These provisions provided the basis for the central organization called the General Post Office.

The post office was criticized for being consistently slow. Mail delivery itself was inefficient, and along the route, the mail was often tampered with or stolen. Much of this incompetence was due to the

¹This post office was essentially the one Franklin had helped systemize under the colonial government. The chief office of the Confederation's postal service was in Philadelphia.

²Franklin's accomplishments included extending the postal system as well as increasing the regularity of its service. He is also credited for establishing the Penny Post, a local mail system. The Postal Service depended on commercial patronage. Therefore, delivery often depended on the economic demands of the area. Mail arrived quicker in the North and quite slowly in the South.

UNITED STATES CONSULS
1789-1800

SAMUEL SHAW	1790-94	CANTON, CHINA
RICHARD HARRISON	1789-91	CADIZ, SPAIN
EDWARD CHURCH	1790.	BILBAO, SPAIN
JOHN MARSDEN PINTARD	1789-99.	MADEIRA, SPAIN
JAMES MAURY	1789-1831	LIVERPOOL, ENGLAND
THOMAS AULDJO	1790	POOLE, ENGLAND
JAMES YARD	1789	SANTA CRUZ, DANISH WEST INDIES
WILLIAM KNOX	1790-92	DUBLIN, IRELAND
ETIENNE CATHALAN, JR	1790	MARSEILLES, FRANCE
JAMES FENWICK	1790	BORDEAUX, FRANCE
BURRILL CARNES	1789-90	NANTES, FRANCE
SR _____ LA MOTTE	1790	LE HAVRE, FRANCE
NATHANIEL BARRETT	1789	ROUEN, FRANCE
SYLVANUS BOURNE	1789-92	HISPANIOLA, WI
FULWAR SKIPWITH	1790-99	MARTINIQUE, WI
JOHN PARISH	1790-96	HAMBURGH, PRUSSIA
WILLIAM CARMICHAEL	1790-95	MADRID, SPAIN *
EBENEZER BRUSH	1790-92	SURINAM, SA
WILLIAM SHORT	1789-92	PARIS, FRANCE *

* CHARGE D'AFFAIRES

UNITED STATES
DISTRICT ATTORNEYS
1789-1800

		TERM
CT	PIERREPONT EDWARDS [1750-1826]	1789-1806
DE	GEORGE READ, JR. [1765-1836]	1790-1820
GA	MATTHEW McALLISTER [1758-1823]	1789-96
KY	GEORGE NICHOLAS [1753-1799]	1789-92
MD	RICHARD POTTS [1753-1808]	1789-91
MA	CHRISTOPHER GORE [1758-1827]	1789-96
	ME:WILLIAM LITHGOW [1750-1796]	1789-94
NH	SAMUEL J. SHERBURNE [1757-1830] *	1789-93
NJ	RICHARD STOCKTON, JR. [1764-1828]	1790-91
NY	RICHARD HARRISON [1748-1829]	1789-1801
NC	WILLIAM HILL [1767-1809]	1790-94
PA	WILLIAM LEWIS [1751-1819]	1789-91
RI	WILLIAM CHANNING [1751-1793]	1790
SC	JOHN J. PRINGLE [1753-1843]	1789-92
VT	STEPHEN JACOB [1755-1817]	1791
VA	WILLIAM NELSON, JR. [17?-1813]	1789

*LOST LEG IN RI CAMPAIGN, 1778.

UNITED STATES MARSHALLS
1789-1800

		TERM
CT	PHILIP B. BRADLEY [1757-1821]	1789-1802
DE	ALLAN McLANE [1746-1829]	1789-97
GA	ROBERT FORSYTH [1754-1794] *	1789-94
KY	SAMUEL McDOWELL, JR [1764-1834]	1789-98
MD	NATHANIEL RAMSAY [1741-1817]	1790-98
MA	JONATHAN JACKSON [1743-1810]	1789-91
	ME: HENRY DEARBORN[1751-1829]	1789-93
NH	JOHN PARKER [1732-91]	1790-91
NJ	THOMAS LOWRY [1737-1806]	1789-1803
NY	WILLIAM S. SMITH [1755-1816] **	1789-1800
NC	JOHN SKINNER [17?-??]	1790
PA	CLEMENT BIDDLE [1740-1814]	1789-93
RI	WILLIAM PECK [17?-1832]	1790
SC	ISAAC HUGER [1743-1797]	1790
VT	LEWIS R. MORRIS [1760-1825]	1791-1801
VA	EDWARD CARRINGTON [1748-1810]	1789

* KILLED IN LINE OF DUTY.

** SON-IN-LAW OF JOHN ADAMS.

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