

Educator Resource Series: Teacher Guides for Civic Literacy Enhancement



A MORE PERFECT UNION: U.S. MARSHALS AND OUR GOVERNMENT

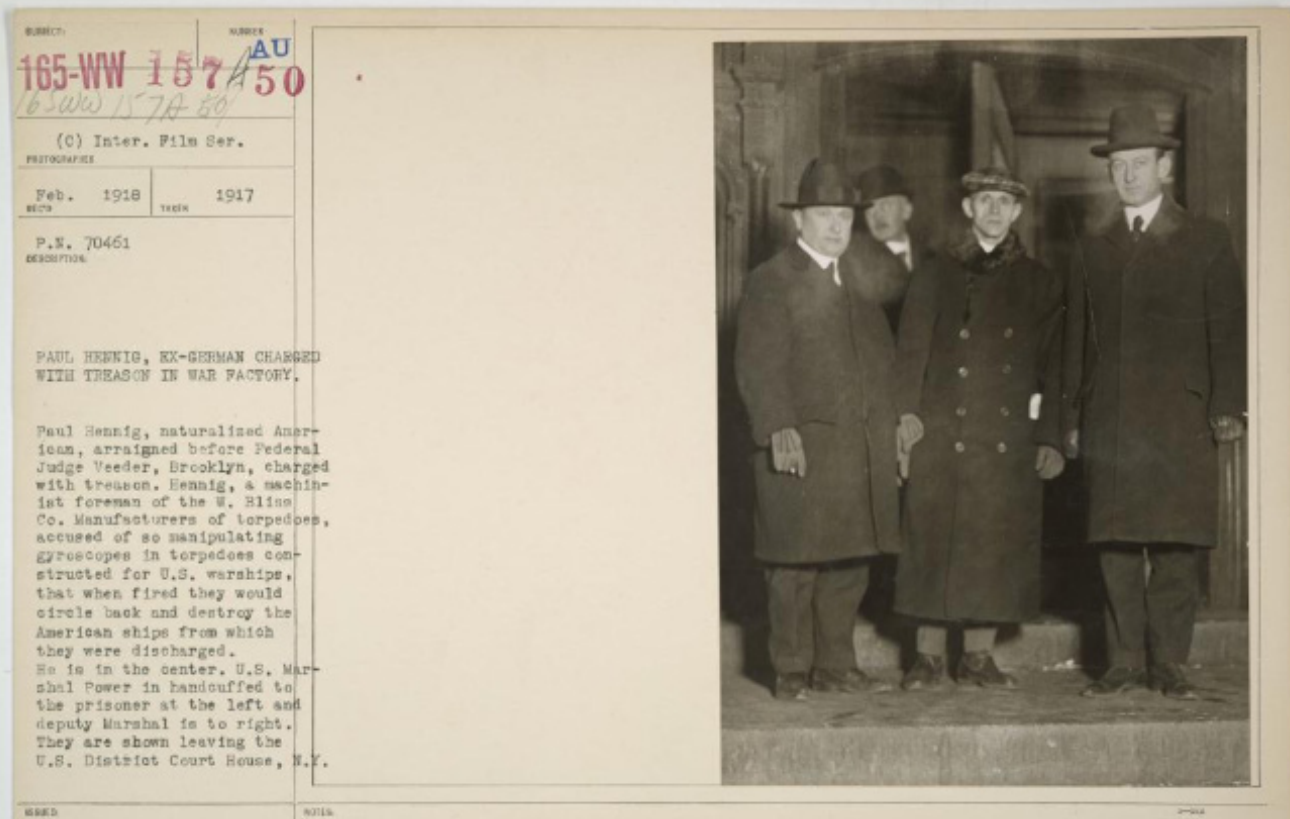
A MORE PERFECT UNION: U.S. MARSHALS AND OUR GOVERNMENT

This publication is part of the United States Marshals Museum
Educator Resource Series: Teacher Guides for Civic Literacy Enhancement



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Paul Hennig (center), naturalized American citizen, in the charge of U.S. Marshal James M. Power (left) and a deputy U.S. Marshal (right) outside the U.S. District Courthouse, New York, 1917. Hennig was charged with treason for manipulating torpedoes to circle back and destroy the American warships from which they were fired during World War I. Courtesy of the National Archives and Records Administration.



INTRODUCTION

“The United States Marshal occupies an anomalous position. He is appointed by the President. He is an officer of the United States District Court, and is under a duty to serve its process and carry out certain of its orders. ... The Attorney General is given by express statutory provision superintendence and direction over the United States Marshals and control over the appointment of deputies.”

~Attorney Alexander Holtzoff, on the position of United States Marshal, 1935.

From their inception in 1789 through the early days of our country, U.S. Marshals were often the only contact many people had with their federal government. At a time when the most common form of communication between the government and its people were broadsides (or posters) posted on buildings or community bulletin boards, marshals were often the only physical representative of the federal government in their areas. Their early roles were primarily as officers of the federal courts—providing court security, serving warrants, locating and renting court and jail space, paying court costs, and performing other judicial duties—but they were often assigned other jobs conducting a wide variety of federal business.

As the country grew and changed, so did the role of the marshals. To their court roles were added investigative duties, prisoner operations, emergency management, witness protection, and more. Today, they are one of the most diverse agencies in our government. Though one of the smallest government law enforcement agencies, they have a wider range of duties than any other law enforcement agency. They are often referred to as the “other duties” agency.

But one thing hasn’t changed. Throughout their history, the marshals have always worked closely with all three branches of our government. From judicial security to presidential appointments to enforcement of our laws, marshals are unique among government agencies in that they are tied in some way to all three branches. This Teacher Guide will give you a deeper insight into how the U.S. Marshals Service (USMS) functions within our government, and how the marshals have been, and continue to be, an important part of our republic today.



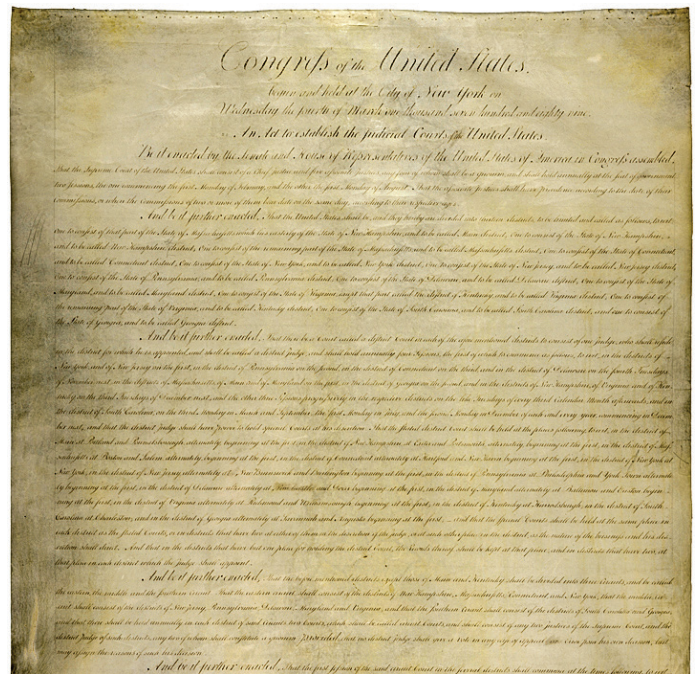
THE JUDICIAL BRANCH

The Judicial Branch of our government was established by Article III of the U.S. Constitution. Unlike Articles I and II, which established the Legislative and Executive branches, respectively, Article III of the Constitution established the Supreme Court, but left it up to Congress to develop the rest of the federal court system. Where the president and members of Congress are elected by the people, judges of the federal judiciary are appointed by the president and confirmed by the U.S. Senate. The primary role of the Judiciary is to interpret and apply the laws created by Congress.

The Constitution and the Judiciary Act

Officially titled “An Act to Establish the Judicial Courts of the United States,” the Judiciary Act was signed into law on September 24, 1789, by President George Washington. This Act established a consistent system of federal courts throughout the nation, and, except for minor adjustments, it is the same system we still employ today.

In the Judiciary Act of 1789, Congress created the district courts (one in each of the 13 districts) and the courts of appeal (one in each of 11 regions and the District of Columbia). It set the number of Supreme Court justices at six: one chief justice and five associate justices. Today there is still only one chief justice, but we now have eight associate justices. The number has fluctuated between six and 10 since 1789. The Judiciary Act created 13 judicial districts within the 11 states that had ratified the



The Judiciary Act of 1789. Courtesy of the National Archives and Records Administration.

Constitution (North Carolina and Rhode Island were added in 1790, and other districts were created as states were admitted to the Union). It also created the office of Attorney General and provided for the appointment of a U.S. Marshal (in sections 27 and 28), one or more deputy marshals, and a U.S. Attorney for each district. After the passing of the Judiciary Act, President Washington appointed the first 13 U.S. Marshals in states that had ratified the Constitution, and appointed a total of 16 marshals during his presidency as more states joined the Union. He commented on his choices for the original marshals on September 30, 1789,

“The high importance of the Judicial System in our National Government made it an indispensable duty to select such Characters to fill the several offices in it as would discharge their respective trusts in honor to themselves and advantage to their Country.”

Marshals and the Courts

The marshals today hold several roles within the federal judiciary, and are involved in practically every federal law enforcement initiative. This includes court security in both district courts and the Supreme Court, federal prisoner operations (apprehension, custody, and transportation), and the Witness Security Program, or WITSEC (also known as the Witness Protection Program).

The oldest and most important job of the U.S. Marshals is court security—protecting not only federal judges, but also the judicial process. In addition, through the 19th century, U.S. Marshals were responsible for paying all court costs, juror and witness fees, district attorneys, and court clerks. They rented courtroom space and jail space for federal prisoners, and hired bailiffs. Though many of their responsibilities have evolved over the last 230 years, their protection of the judiciary has remained paramount. The marshals are the keepers of our national court system, helping to ensure that the courts run as they were intended to, and to ensure safe and fair trials for all involved, including federal judges, other court officials, witnesses, jurors, the visiting public, and prisoners. The agency oversees the daily operation



*Two deputy U.S. Marshals guard a prisoner during his court appearance.
Courtesy of the U.S. Marshals Service.*

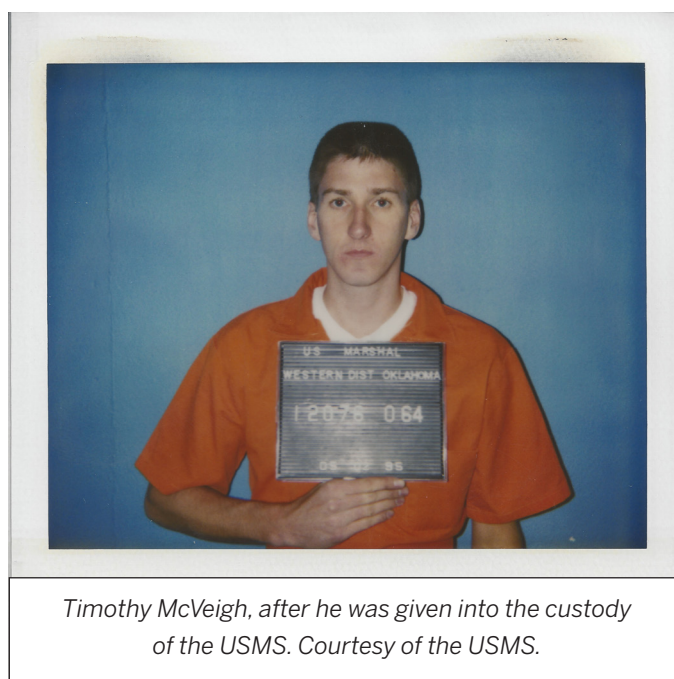
and management of security services performed by approximately 5,200 court security officers stationed in more than 400 judicial facilities within the 94 U.S. District Courts and 12 circuits of the U.S. Court of Appeals. The Judicial Security Division manages contracts for over 5,100 court security officers and maintains more than 1,700 residential security systems in judges' personal residences. The USMS evaluates security incidents, preliminary assessments, and protective investigations relating to protected court members. The agency opens protective investigations based on the presence of or the potential for criminal activity.

The U.S. Marshals Service runs one of the largest prisoner networks in the world. Prisoner operations include apprehension, custody, and transportation. Marshals are responsible for serving warrants handed down from the federal courts (making arrests), holding custody and housing those prisoners in the custody of the Federal Bureau of Prisons from their arrest through trial and sentencing, and transporting prisoners for trial dates, prison transfers, and any other reason they need to be moved.

A great example of this was the USMS custody of Timothy McVeigh following his arrest after the Oklahoma City Bombing. McVeigh was arrested by a State Trooper in Perry, Oklahoma, for a weapons violation 90 minutes after the bombing on the morning of April 19, 1995. After his participation in the bombing was determined, he was taken into custody by the Federal Bureau of Investigation (FBI) and returned to Oklahoma City. After appearing before the U.S. Magistrate Judge, he was transferred to the custody of the USMS. McVeigh's accomplice, Terry Nichols, was also placed in USMS custody after being arrested in Kansas. Both McVeigh

and Nichols were housed in a federal correctional facility in Reno, Oklahoma, 30 miles from Oklahoma City and the Western District of Oklahoma's USMS Office. It fell to the USMS to determine the best way to safely house the prisoners—two of the most hated men in America at the time—until they could stand trial. This not only providing safe housing, but also how to safely transport them and produce them for trial as needed, and who would be allowed to attend hearings. McVeigh and Nichols both had frequent court appearances, and each appearance required an operational plan. Each operational plan included prisoner transport, perimeter monitoring, courtroom security, and media access. Both men were transferred in armored vehicles.

McVeigh and Nichol's trial were eventually set for May 17, 1996, in Lawton, Oklahoma. The USMS immediately began operational planning for moving the suspects to Lawton, and organizing the daily trips to and from the courthouse that would be required. Planning also included determining space for jurors, housing for USMS personnel in Lawton, communication, evacuation routes



United States District Court

NORTHERN

DISTRICT OF

TEXAS

UNITED STATES OF AMERICA
V.

WARRANT FOR ARREST

ELRY DEWAYNE COOPER

CASE NUMBER: CR4-89-0029

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest Elry Dewayne Cooper
Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

Indictment Information Complaint Order of court Violation Notice Probation Violation Petition

charging him or her with (brief description of offense)

Use of a Communication Facility in Commission of a Felony - one count
Distribution of Marihuana - three counts

SEALED

in violation of Title 21 United States Code, Section(s) 843(b) & 841(a)(1)

NANCY DOHERTY
Name of Issuing Officer
Beth Brown
Signature of Issuing Officer Deputy Clerk

CLERK OF COURT
Title of Issuing Officer
02/09/89 @ Fort Worth, Texas
Date and Location

Bail fixed at \$ _____ by _____
Name of Judicial Officer

RETURN		
This warrant was received and executed with the arrest of the above-named defendant at _____		
DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

Arrest warrant, 1989. Courtesy of the National Archives and Records Administration.

in case of emergency, and more. When the presiding judge was replaced in December 1995, additional plans and adjustments be made. Then in February 1996, the judge decided the two men simply could not receive an impartial trial in the state of Oklahoma, and ordered the trial moved to the District of Colorado, requiring yet another new set of operational plans. On March 30, 1996, the prisoners were transferred to Will Rogers World Airport in unmarked cars, immediately put on planes that were ready with engines running and flown to Colorado by USMS Air Division pilots. The USMS held custody of McVeigh through his trial, sentencing, and subsequent execution in June 2001, and held Nichols through his trial, sentencing, and transfer to the custody of the Bureau of Prisons.

The USMS Justice Prisoner and Alien Transportation System (JPATS) was the inspiration for

the 1997 *Con Air*. Formed in 1985, JPATS is the largest prisoner transfer system in the world, averaging over 1,000 prisoner transfers per day. With headquarters in Kansas City, Kansas, it operates the only regularly scheduled, government-run airline in the country and accommodates both domestic and international requests, accompanied by the use of vans, cars, and buses. Because it is such an efficient and secure system, both military and civilian law enforcement agencies can request to use JPATS airline to move their prisoners. All prisoner movements are kept confidential, even from the prisoners themselves, in order to minimize the risk of escape attempts and interference from the outside. The JPATS airline services approximately 40 cities, both domestic and international, and others on an "as needed" basis.

The Witness Security Program (WITSEC) was established by the U.S. Marshals Service in the 1970s,



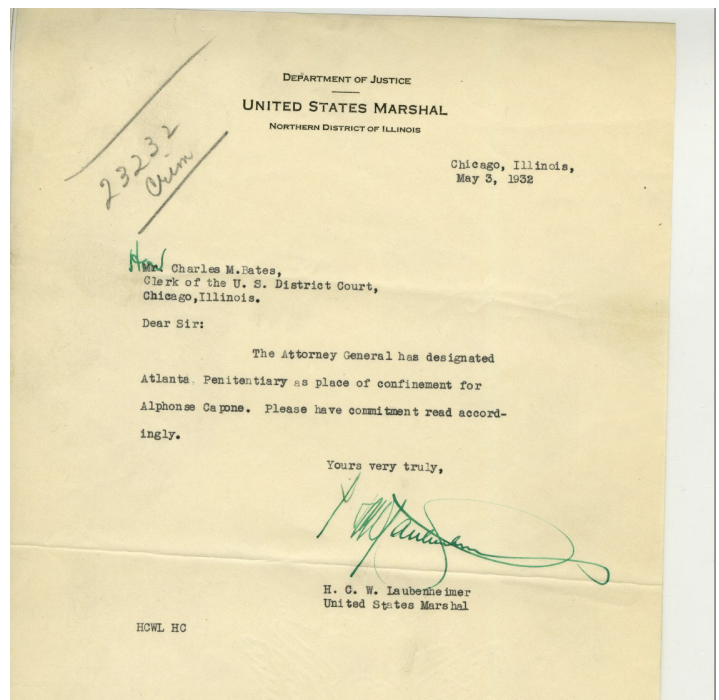
Deputy U.S. marshals guard a WITSEC witness during a trial. Courtesy of the U.S. Marshals Service.

authorized by the Organized Crime Control Act of 1970 and amended by the Comprehensive Crime Control Act of 1984, to protect witnesses providing testimony in federal criminal cases. Witnesses that are entered into the program are given completely new identities, moved to different locations, and forced to give up all outside contacts except those that go through the U.S. Marshals Service. The U.S. Marshals provide 24-hour protection to all witnesses while they are in a high-threat environment including pretrial conferences, trial testimonies, and other court appearances. Since its inception, WITSEC has protected almost 10,000 witnesses and their families, and no one has ever been harmed while following the rules of the program. This program is vital to the function of the federal court system, allowing witnesses to testify without the fear of retribution from defendants or their associates. It is especially valuable for fighting organized crime, drug trafficking, and terrorism. Government officials around the world look to the U.S. Marshals' system for help putting together their own witness protection systems.

Another way the USMS supports the court system is through the Asset Forfeiture Program. After a criminal has been convicted, his or her assets that were purchased with money gained through crime are confiscated by the USMS. Those assets are then sold off at auction. The proceeds are used first to pay back the agency for any costs associated with the investigation, then to pay back victims of the crime. If there is any money left, it is given to charities, such as the National Center for Missing and Exploited Children.

Conclusion

The U.S. Marshals Service is the enforcement arm of the federal court system. Because of their work, the court system is able to function as it was as it was intended, to uphold the Rule of Law and the U.S. Constitution.



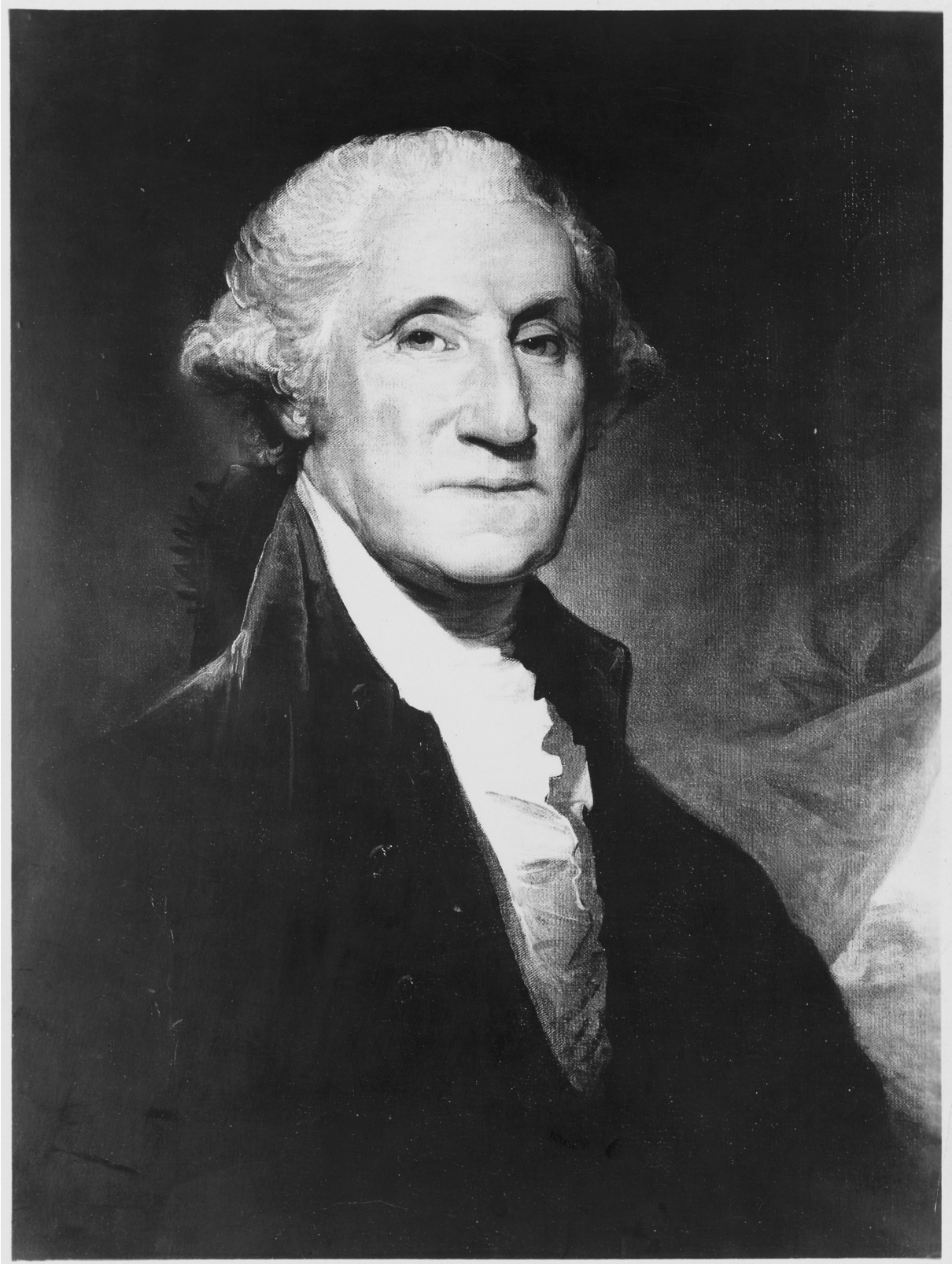
Letter naming Atlanta Penitentiary as the place Alphonse "Al" Capone would be held, 1932. Courtesy of the National Archives and Records Administration.



Photo of Alphonse "Al" Capone. Courtesy of the National Archives and Records Administrations



Ernst Kunwald, former conductor of the Cincinnati Symphony Orchestra, enters the Federal Building, Cincinnati, Ohio, as a prisoner of war in the charge of two deputy U.S. marshals, 1947. Courtesy of the National Archives and Records Administration.



George Washington. Courtesy of the National Archives and Records Administration.



THE EXECUTIVE BRANCH

The **Executive Branch** of our government includes the president, vice president, the 15 Cabinet departments, and other and other supporting agencies such as the Central Intelligence Agency and Environmental Protection Agency. Its primary purpose is to enforce and implement the laws created by Congress. Article II of the U.S. Constitution outlines the duties and responsibilities of the Executive Branch. The president is the head of the government and the U.S. military, and makes hundreds of federal appointments during his time in office.

Supervision

Since their inception, the U.S. Marshals have officially been a part of the Executive Branch. From 1789 through the 1850s, they were placed under the supervision of the secretary of state, the first of which was Thomas Jefferson. The Treasury supervised their accounts. In the country's early days foreign affairs were fairly minimal, and the secretary of state handled a more wide-ranging list of domestic tasks. U.S. Marshals were often assigned duties outside of their law enforcement roles, such as handling the distribution of new laws and proclamations in their districts, and conducting a sizable amount of the federal government's business in their districts. Other Cabinet officials would sometimes assign jobs to marshals as well.

In 1849, control of the marshals' accounts was transferred to the newly created Department of the

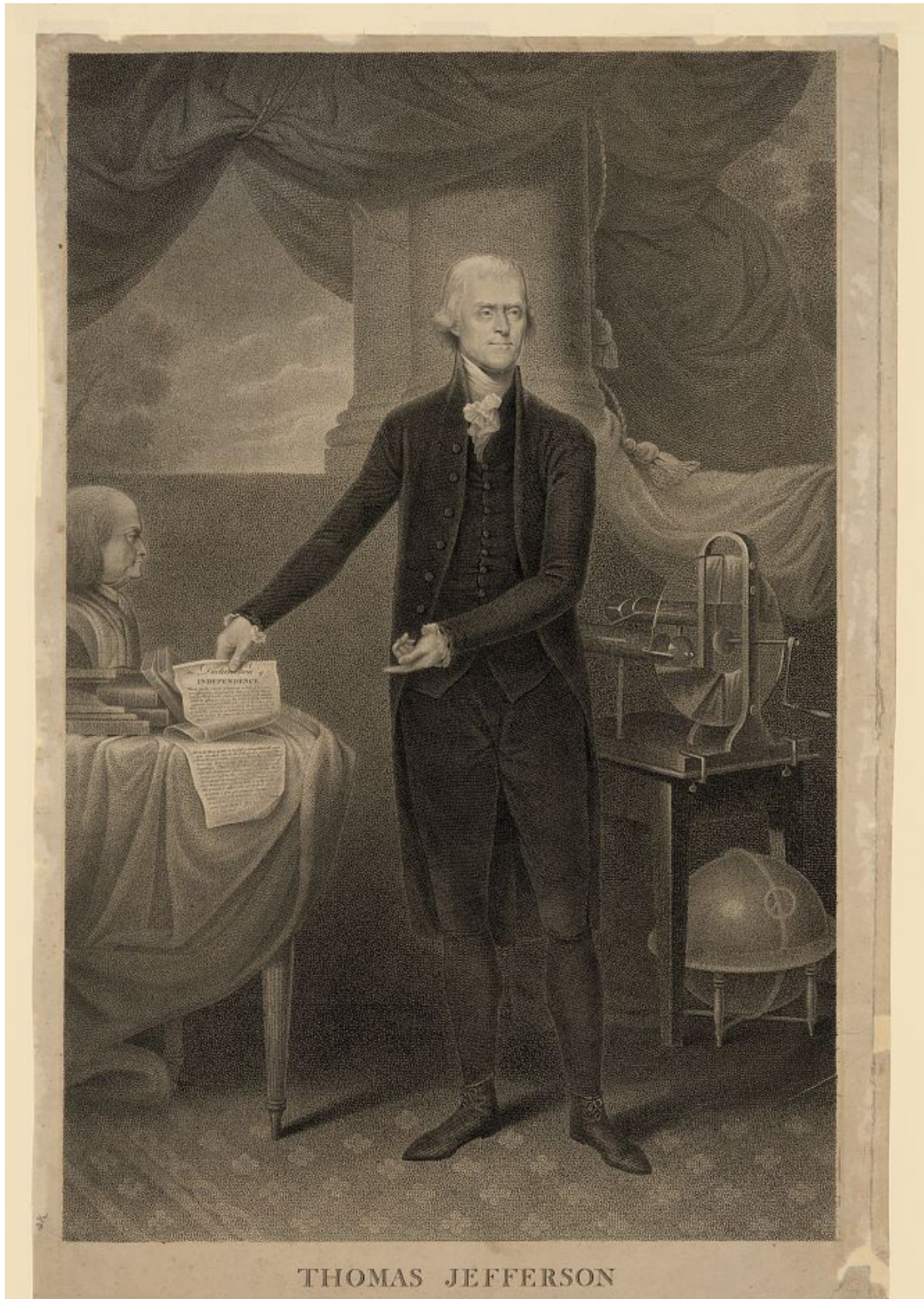
Interior. By 1853, the attorney general had become a more prominent position, and part of the marshals' supervision was handed over to them. By 1861, it was recognized that the attorney general had taken over most supervisory duties, and the marshals' supervision, as well as supervision of the district attorneys, was officially handed over.

In 1870, the Department of Justice was created, and the attorney general, along with the marshals, was transferred to it. General supervision of the marshals and their accounts was housed in the new department.

The U.S. Marshals Service, as the agency was officially created in 1969, is still housed in the Department of Justice today. It is headed by a director, who reports to the attorney general, who reports to the president. With approximately 6,000 employees, the USMS is one of the smallest of the federal law enforcement agencies.

Presidential Appointments

From their creation, U.S. Marshals for each of the 94 judicial districts have been appointed by the president. They are appointed for four year terms, but serve at the pleasure of the president. When presidents of the opposite party are elected, they often appoint new marshals to replace the appointments of the preceding president, though they are not highly political positions. As discussed in the previous chapter, George Washington appointed the first



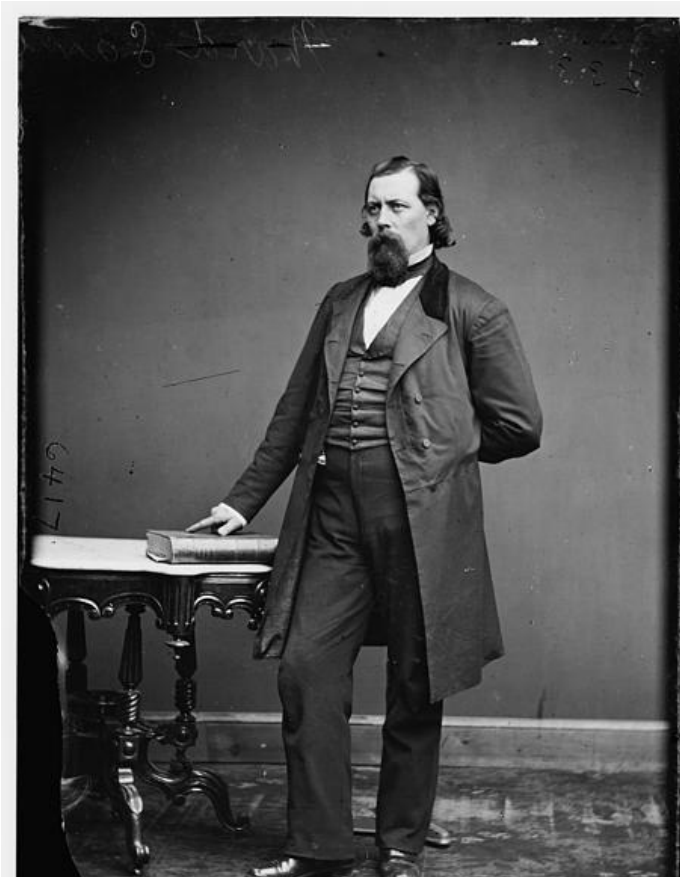
THOMAS JEFFERSON

Thomas Jefferson. Courtesy of the National Archives and Records Administration.

16 marshals during his two terms in office. John Adams dismissed one of Washington's appointments during his term, and James Madison dismissed two. On the other hand, Thomas Jefferson, as an anti-federalist following Adams' Federalist administration, dismissed and reappointed 18 federalist marshals. Because Jefferson could not get rid of federalist judges, who were appointed for life, he replaced attorneys and marshals with anti-federalists.

Ward Hill Lamon

Presidents, especially into the mid -20th century, often

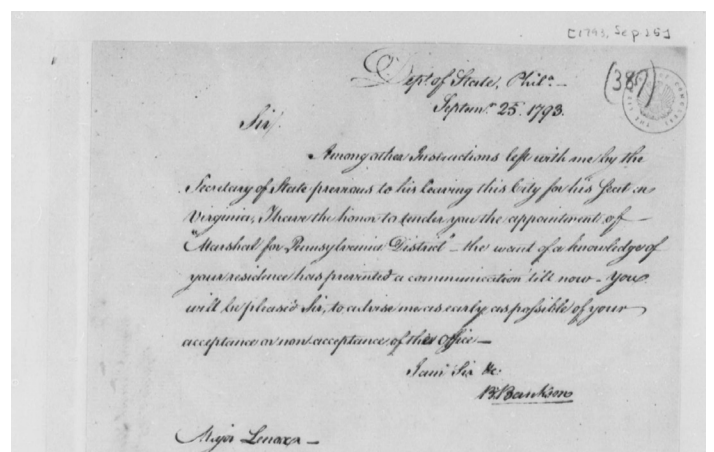


U.S. Marshal Ward Hill Lamon. Courtesy of the Library of Congress.

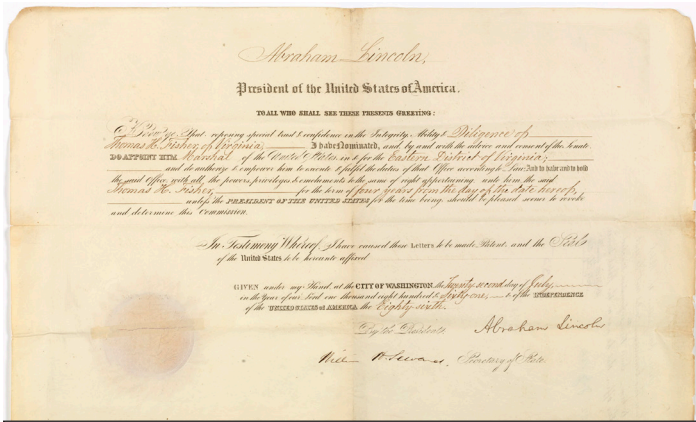
appointed people they were close to, to be U.S. Marshals, so had very close relationships with them. Abraham Lincoln appointed his friend and business partner, Ward Hill Lamon, as the U.S. Marshal for the District of

Columbia. The relationship between Lamon and Lincoln began in 1847 when they were both lawyers serving serving on the Illinois 8th Circuit. They soon became law partners and established an office in Danville. Lamon assisted Lincoln with his 1858 Senate race, which he lost, and then with his presidential campaign in 1860. And, at Lincoln's insistence, Lamon followed his friend to Washington when Lincoln became the 16th president of the United States in 1861. Journalist Clint Clay Tilton wrote of the pair, "No two men ever were more unlike than Lincoln and Lamon, but each recognized some quality in the other that was a perfect foil. Lincoln trusted and depended on the Virginian and the latter responded with a devotion and loyalty that would inspire a classic on friendship."¹

Lincoln rewarded his friend's loyalty by appointing him the U.S. Marshal for the District of Columbia. In this role, Lincoln depended on Lamon for upholding and enforcing the hated Fugitive Slave Law, and for that Lamon endured abuse and criticism from both Republican congressmen and private citizens. In May 1861, Lamon received one of his most difficult assignments when President Lincoln ordered him to arrest U.S. Supreme Court Chief Justice



Letter informing David Lenox of his appointment as U.S. Marshal for the District of Pennsylvania, from the Office of the Secretary of State. 1793. Courtesy of Papers of the War Department, George Mason University.



U.S. Marshal Commission signed by President Abraham Lincoln. Courtesy of the National Archives and Records Administration.

Roger Taney. Taney had declared Lincoln's suspension of the constitutional right of *habeas corpus* to be illegal, a great embarrassment to Lincoln that also heightened the tension between the executive and judicial branches of government. Lincoln personally handed the order of arrest to Lamon with instructions to "use his own discretion about making the arrest unless he should receive further orders."² Lamon declined to serve the arrest warrant and never regretted his decision.

Their biggest disagreements were over Lincoln's security. Lincoln never cared about his own security or believed himself in any danger, which compelled Lamon to worry for him. On April 11, 1865, Lincoln sent Lamon to Richmond on business related to Virginia's return to statehood. On the night of April 14, against Lamon's suggestion, President and Mrs. Lincoln attended a presentation of *Our American Cousin* at Ford's Theatre, where the President was shot by John Wilkes Booth and died the next morning. Lamon resigned from his position as U.S. Marshal two months after Lincoln's assassination.

"Hill, your apprehension of harm to me from some hidden enemy is downright foolishness. For a long time you have been trying to keep somebody—the Lord knows who—from killing me."

—Abraham Lincoln to Ward Hill Lamon, early 1865³

"As God is my judge, I believe if I had been in the city, it would not have happened and had it, I know, that the assassin would not have escaped the town."

—Ward Hill Lamon⁴

James McShane

In 1961, the U.S. Marshals needed new leadership. They had floundered since the early 20th century—a decentralized, political institution with no representation in the Justice Department. When the Kennedys came to power, John and Robert Kennedy knew exactly who that leader should be. He had worked as the replacement chauffeur for Robert Kennedy's in-laws.

James Joseph Patrick McShane started his law enforcement career as a homicide detective in New York City. In 1957, Robert Kennedy convinced him to quit the police force and join the staff of the U.S. Senate Select Committee on Improper Activities in Labor and Management. In 1960, when John Kennedy ran for president, McShane became the campaign's chief of security and John's personal bodyguard. And in 1961, after John's inauguration and Robert's appointment as attorney general, McShane was rewarded with the position of U.S. Marshal for the District of Columbia. A year later, on May 8, 1962, he was appointed as head of the Executive Office for



Chief U.S. Marshal James McShane at the University of Mississippi, 1962. Courtesy of the Library of Congress.

U.S. Marshals, and took the new title of Chief U.S. Marshal. The Kennedys saw in McShane the perfect person to confront resistance to the court-ordered desegregation of the South. He and the marshals were highly involved in many volatile situations including integrating the New Orleans Public Schools in 1960 and the University of Mississippi in 1962. James McShane held the position of Chief U.S. Marshal until his death in December 1968.

Early presidents sometimes worked very closely with their marshals. David Lenox, U.S. Marshal for the District of Pennsylvania, was in direct contact with President George Washington during the Whiskey Rebellion. In part because of Lenox's letters to the president, Washington called out the state militias of Pennsylvania and surrounding states to suppress the rebellion. Lenox also later wrote President Washington and requested that a rebel named Benjamin Parkinson be pardoned for his role in the rebellion. Parkinson had saved Lenox's life when he was captured by the rebels while serving summonses to the rebels, placing himself between

Lenox and his would-be assassins. The Whiskey Rebellion was the first of several incidents where the marshals were the first federal agents to face governmental opposition.

Conclusion

The U.S. Marshals were created primarily to work as the enforcement arm of the judicial branch, but their housing under the Department of Justice, involvement with presidential appointments, and history of working closely with the president and members of the Cabinet make their connection to the Executive Branch just as strong.

1 Rufus Rockwell Wilson, editor, *Intimate Memories of Lincoln*, p. 111 (Clint Clay Tilton, paper for Historical Society of McLean County).

2 Ward Hill Lamon, *The Life of Abraham Lincoln as President*. (West Conshohocken: Montclair Press, 2011), 341.

3 Ward Hill Lamon, *The Life of Abraham Lincoln as President*. (West Conshohocken: Montclair Press, 2011), 412.

4 Frederick Calhoun, *The Lawmen: United States Marshals and Their Deputies: 1789-1989*. (New York: Penguin Books, 1991), 103.

Camp Rostraver Nov 11. 1794

Dear Sir

Altho' we have uniformly during the present Operation
received perfect Satisfaction from your Firmness & Expedition
in the Duties of your Office, yet we have, with sincere
Sympathy, observed the Torture of your Mind, agitated
between a Sense of public Duty & your private Affections,
owing to the unpleasant Accounts you have received
repeatedly of Mr. Lenox's Illness. We cannot withhold
longer our Advice, that you forthwith return Home;
& we trust that, tho' it may be difficult fully to
supply your Place, yet we have a Confidence
that such Arrangements will be made, as to prevent
the public Service suffering by your Absence.

We are with sincere Esteem
Yours obed^t Serv^t

Alexander Hamilton

Richard Peters



Major David Lenox

property of
United
States
Marshals
Museum

Letter sent to David Lenox from Alexander Hamilton and other government officials following the Whiskey Rebellion in 1794. Courtesy of the University of Delaware Library, Special Collections Department.



THE LEGISLATIVE BRANCH

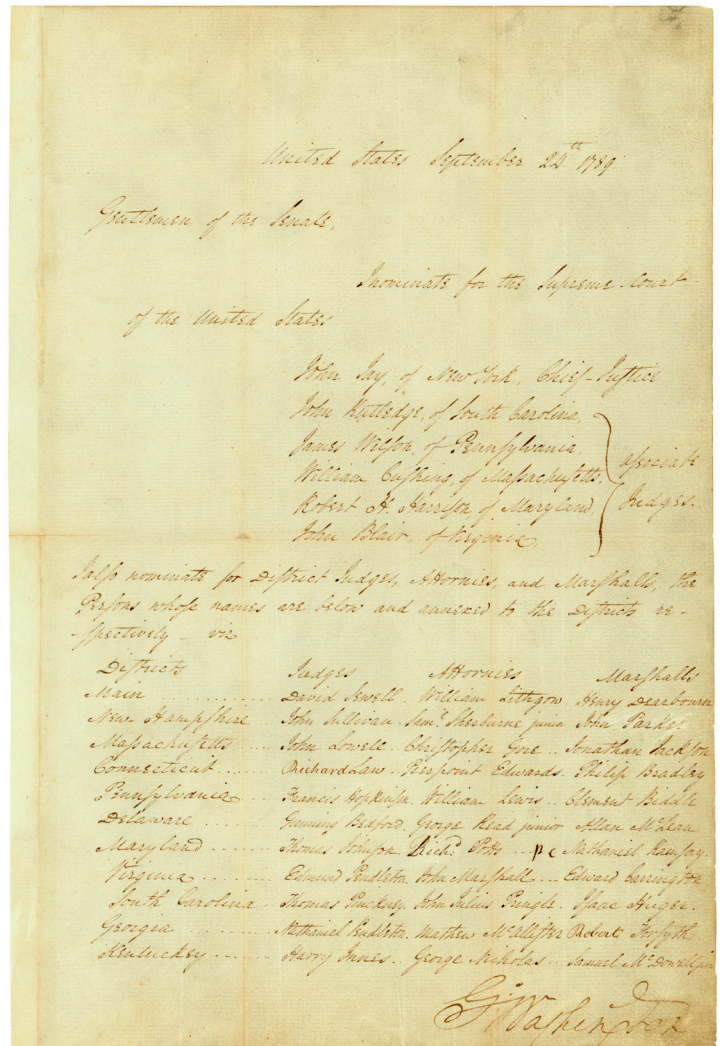
The **Legislative Branch** of our government is the branch that creates laws. It includes Congress, both the House of Representatives and the Senate. Article I of the U.S. Constitution establishes the duties and responsibilities of the Congress, including enacting laws, declaring war, and confirming or denying many appointments made by the president. It is the USMS's job to enforce the laws determined by Congress.

Confirming Presidential Appointments

Article II, Section 2 of the Constitution gives the president the power to nominate certain positions within the government, but only with the advice and consent of the U.S. Senate. When the president makes a nomination for a government position, a letter with the nomination is sent to the Senate, and then sent to the appropriate Senate committee. The committee debates the nomination, reviews the background of the candidate, requests information, and more, and committee hearings may occur. The nomination then goes to the floor for a vote, and the president is notified whether their nomination was confirmed or denied. If confirmed, the nominee will be sworn into the office. If denied, the process will start over.

The president is responsible for nominating the U.S. Marshals for each of the 94 judicial districts across the country and the U.S. territories, as well as the director of the U.S. Marshals Service. These nominations all have

to be approved by Congress before the Marshals can take office. Deputy U.S. Marshals are not appointed by the president—they are hired through the same civil service process as any other government employee.



President George Washington's original appointments for judges, attorneys, and marshals. Courtesy of the National Archives and Records Administration.

ACTS OF CONGRESS

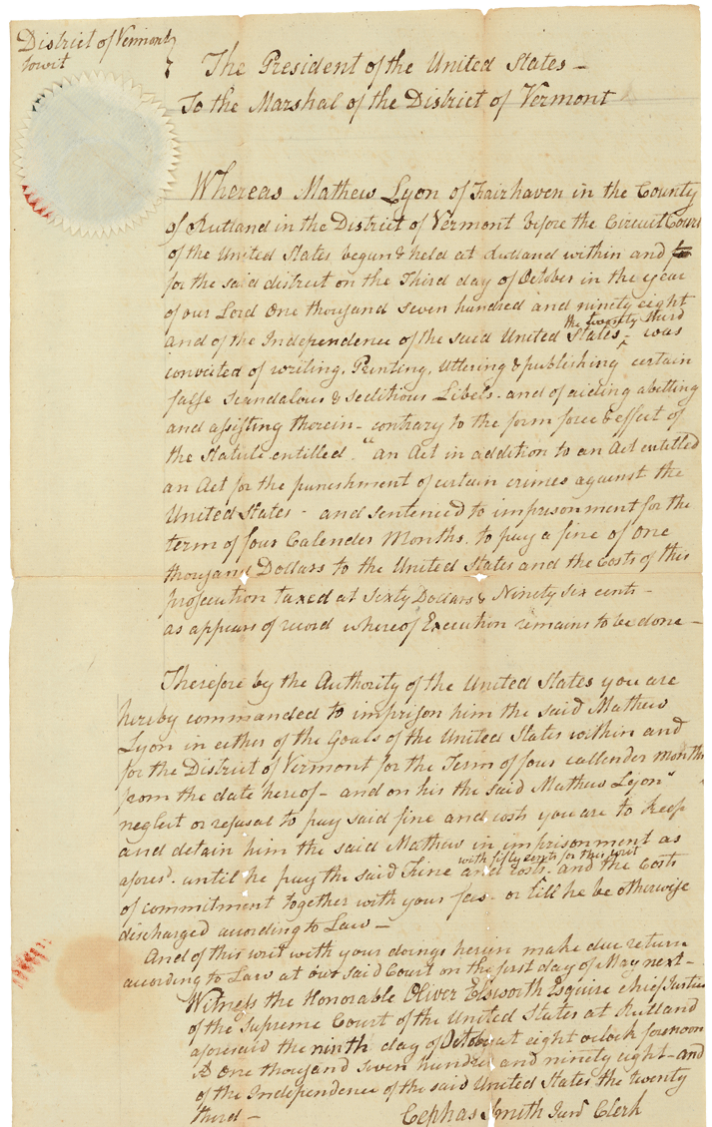
The Judiciary Act

As with all laws, the Judiciary Act 1789 was written and passed by members of Congress. After Article III of the Constitution established the Supreme Court, it was left up to Congress to create and establish the rest of the federal judicial system. The primary author of the Judiciary Act was Oliver Ellsworth of Connecticut. The final version was passed on September 21, 1789, and it was sent to President George Washington's desk for his signature. It was signed on September 24, 1789, and later the same day Washington appointed the first 13 U.S. Marshals.

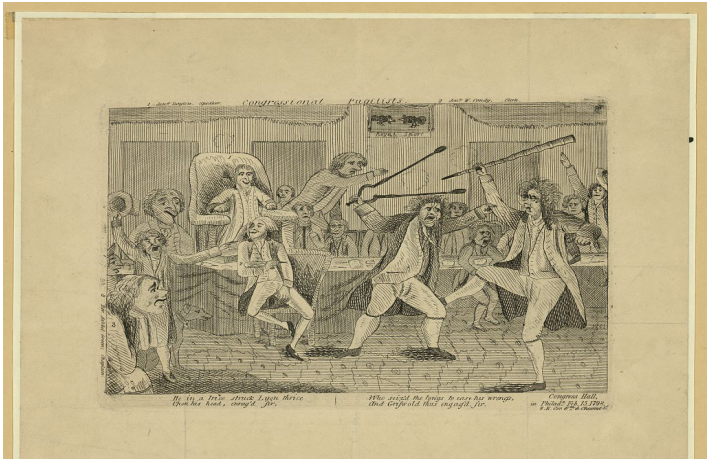
The Sedition Act

Signed into law by President John Adams in July 1798, the Sedition Act restricted speech critical of the federal government. The Act made it a crime to "print, utter, or publish... any false, scandalous, or malicious writing" about the government. The intent was to weaken the Republican Party and to draw on American fears of the terrors going on in France during the French Revolution. As enforcers of federal law, the U.S. Marshals were responsible for serving warrants for the arrest of those accused of violating the Act and for holding prisoners. Though many Americans questioned the constitutionality of the Act, U.S. Marshals dutifully fulfilled their oaths to enforce the law.

One famous case involving the Sedition Act included both a Congressman and a U.S. Marshal. Congressman Matthew Lyon was a native of Ireland, and came to America as an indentured servant before the Revolutionary War. He quickly became involved in politics and was elected to Congress in 1796 as one of the few Republican members from New England. His sharp tongue



Congressman Matthew Lyon's warrant for imprisonment.
Courtesy of the National Archives and
Records Administration.



Matthew Lyon Cartoon. Courtesy of the Library of Congress.

PRISON TERM FOR PREACHER

Waldron, Vermont Pacifist, Sentenced to Serve Fifteen Years.

BURLINGTON, Vt., March 21.—The Rev. Clarence H. Waldron, pacifist preacher, who was convicted by the Federal court here this week of disloyal utterances and of attempting to obstruct the operation of the draft, was sentenced today to a fifteen-year term in the Federal penitentiary at Atlanta. A motion by counsel for a stay of execution was denied by Judge Howe, who, however, in imposing sentence announced that the motion might be presented later.

A group of Pentecostals, with which sect Waldron had been associated since his retirement from the Baptist Church at Windsor, occupied front seats in the courtroom when he was brought in for sentence. While waiting for the jury to report Tuesday night these friends of the accused spent their time in prayer. Waldron was accused of having spoken against the Liberty Loans and advising young men to resist the draft even to the point of facing a firing squad.

The New York Times

Published: March 22, 1918
Copyright © The New York Times

New York Times article detailing the conviction of Reverend Clarence Waldron under the 1918 Sedition Act. Courtesy of The New York Times

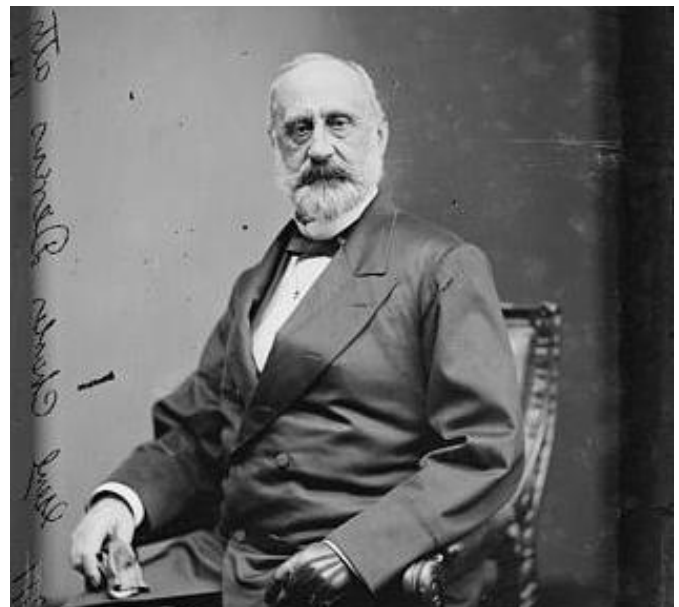
and brisk manner quickly gained him many enemies in the House of Representatives. He even spat in the face of another congressman who belittled his Revolutionary War service, which earned him the name “the spitting Lyon.” During the 1798 campaign, Lyon’s attacks on the president and the Federalist Party placed him in violation of the Sedition Act. He was arrested by a deputy U.S. marshal, proving that even government officials themselves were not above the law, and placed in the custody of U.S. Marshal Jabez G. Fitch, where he remained for four months. He conducted his reelection campaign from jail, and won by a landslide.

The Sedition Act contributed to the defeat of the Federalist Party in the next election, and was repealed after Thomas Jefferson became president in 1801. Jefferson pardoned all those who had been convicted under the act, and Congress reimbursed all fines paid.

The Sedition Act of 1798 would not be America’s only experiment with suppressing free speech. In 1918 Congress passed, and President Woodrow Wilson signed, another Sedition Act after the outbreak of World War I. This Act made it a crime to speak out against the war or try to keep people from enlisting in the military. The best example of this law in action was the arrest of Clarence Waldron, a minister from Vermont. He was sentenced to 15 years in prison for telling his congregation that Christians should not take part in wars, or spill their own blood for their country. This Act was repealed in 1920.

The Fugitive Slave Act

In 1850, Congress passed the Fugitive Slave Law, requiring all runaway slaves to be returned to their owners if and when they were caught, no matter where they were caught. Escaping to the anti-slavery North was no longer a safe haven. Opposition to the law appeared in the North soon after its passing. The Compromise of 1850, introduced by Senator Henry Clay of Kentucky, included



Charles Devens. Devens served as U.S. Marshal of the District of Massachusetts prior to the Civil War (1849-1853), and was appointed attorney general in 1877 by President Rutherford B. Hayes, a position until 1881. Courtesy of the National Archives and Records Administration.

five laws that dealt with slavery. The most controversial was the Fugitive Slave Act. The Act ultimately provided more fuel for the anti-slavery movement as runaway that slaves and free blacks alike had no legal defense in court against accusations, and it allowed slave hunters to seize alleged slaves with no due process of law. Attacks on the law were viewed as attacks on the government itself. The marshals were sworn officers of the federal government and took their oaths seriously. While southern slave owners expected the marshals to uphold the Fugitive Slave Law, apprehending and returning fugitive slaves to their owners, northern abolitionists often worked to make enforcing the law as difficult as they possibly could, inciting riots, hiding fugitive slaves or helping them escape to Canada, or simply blocking the marshal's way to make it more difficult for them to serve warrants. They angered southerners with their charge to stop the African slave trade in the South, while being applauded for those efforts in the North. The job of pursuing fugitives fell to the U.S. Marshals, and they were expected to uphold the law no matter what their personal feelings on the subject.

A good example of personal struggle can be seen in U.S. Marshal Charles Devens. In 1851, U.S. Marshal Devens risked a riot by Boston abolitionists when he arrested a fugitive slave named Thomas Sims and returned him to his owner in the South. During the Civil War, Devens fought for the Union and was wounded at the battles of Fair Oaks and Chancellorsville. In 1877, President Grant appointed Devens Attorney General of the United States. During his time in office, Devens helped oversee the dismantling of the North's Reconstruction of the South, and he hired Thomas Sims as a messenger for the Department of Justice.

Fighting over the Fugitive Slave Law continued throughout the 1850s, until it was effectively nullified by

the Civil War and the 13th Amendment. The chance to save the Union through compromise had come and gone. Most southern marshals resigned their commissions when war broke out to fight for the confederacy, and most northern marshals took commissions with the Union army. Their role after the Civil War would change dramatically, when they would work for the protection of America's newest group of citizens, the millions of former slaves, rather than pursuing them in defense of the "peculiar institution."

U.S. Marshals and the Census

Article I, Section 2 of the Constitution states that the number of representatives from each state in the House of Representatives would be determined by the number of people living in those states. To determine this, a census was to be taken within three years of the signing of the Constitution, and repeated every 10 years thereafter. In "An Act providing for the enumeration of the Inhabitants of the United States," Congress set the first census for August 1790, and assigned the responsibility to the U.S. Marshals. They were the obvious choice. Spread throughout the country's judicial districts, they were often the only representatives of the federal government in their areas.

Leaflet from the 1790 census, Kentucky. Courtesy of the National Archives and Records Administration.

Names of the Counties and Towns within the district aforesaid.

	Free white males of 16 years and upwards, including heads of families.	Free white males under 16 years.	Free white females, including heads of families.	All other free persons.	Slaves.	Total.
Fayette County	3241	3878	6738	30	3680	17576
Nelson	2456	2746	4644	34	1210	11099
Woodford	1767	1929	3267	27	2220	9210
Bourbon	1645	2035	3249		908	7837
Mercer	1411	1515	2691	7	1317	6941
Lincoln	1375	1441	2630	8	1094	6548
Jefferson	1008	997	1630	4	876	4565
Madison	1231	1421	2383		737	5772
Macon	431	676	952		208	2267
Lexington, in Fayette County	276	203	290	2	63	834
Washington, in Macon County	163	95	183		21	462
Beards Town, in Nelson County	52	49	85	1	29	216
Louisville, in Jefferson County	49	44	79	1	27	200
Danville, in Mercer County	49	28	51		22	150
<i>The whole amount,</i>	15154	17057	28922	114	12430	73677

SAMUEL M'DOWELL, Jun.
Marshal for the Kentucky District.

Leaflet from the 1790 census, Kentucky. Courtesy of the National Archives and Records Administration.

Each U.S. Marshal hired a number of assistant marshals to help conduct the census. Each assistant was assigned a section of the district, and went from house to house collecting information. Once the collection was completed, the U.S. Marshal compiled the results into a single document and filed them with the district clerk. President Washington sent the final tally to Congress in October 1791. The country totaled 3,929,214 free people in the United States.

Based on these results, Congress set the number of representatives from each state in the House of Representatives. Results were also used for other government business, such as where to build new post offices and postal roads.

Taking the census was a complicated job that continued to grow more challenging every 10 years. Assistant marshals were required to visit every household, a task made even more difficult given the primitive transportation of the time.

The marshals continued to be responsible for the census through 1870. In 1880 the task was turned over to the newly created Census Bureau.

Organized Crime Control Act of 1970 and the Comprehensive Crime Control Act of 1984

In the 1950s organized crime began to become a major concern, and lawmakers began looking for ways to address the issue. A U.S. Senate committee was formed to investigate the increase of organized crime. By 1970, lawmakers were ready to take action. They passed the Organized Crime Control Act (OCCA), which was signed by President Richard Nixon. The purpose of the Act was said to be to strengthen legal tools available for building cases against those charged with crimes connected to the Mafia, as well as others, including providing rules that made it easier to gather evidence from witnesses.

Witnesses to organized crime were often reluctant to testify against those charged, fearing retaliation. This made it difficult to gather sufficient evidence to get convictions. The OCCA also allowed for the protection of witnesses to help ensure their cooperation, including safe housing and personal protection.

The OCCA led to the creation of the Witness Security Program, which came to be known as WITSEC. Run by the USMS, this program, which officially began in 1971, greatly contributed to law enforcement's ability to gather information for use in criminal trials. WITSEC eventually grew to offer witnesses not just housing and physical protection, but relocation, new identities, employment assistance, medical care, and more. The USMS provides 24-hour protection, escorting witnesses to and from court and other required appearances.

Since the program's inception almost 10,000 witnesses and their families have been protected through the program. No witness who has followed the rules of the program has been injured. The program has been so successful that other countries have turned to the USMS for help in building their own programs.

The Witness Protection Program is an essential tool of the federal judiciary, helping the court system to function as efficiently as possible, and is a primary part of the fight against organized crime.

Conclusion

In their position to uphold the Constitution, and the Rule of Law, U.S. Marshals and their deputies are bound to the Legislative Branch and to enforce the laws passed by Congress, even when these laws are in conflict with their personal beliefs. One of the reasons the U.S. Marshals have been so successful as an agency is this commitment to duty.

returns of the enumerations hereby directed, to the President of the United States, shall give the return charge to the Grand Jurors in their respective Courts, and shall cause the returns of the several Assistants to be laid before them for their inspection.

And be it further enacted, that every Assistant shall receive at the rate of One Dollar for every One hundred and fifty persons by him returned, where such persons reside in the County, and where such persons reside in a City or Town, containing more than five thousand persons, such Assistant shall receive at the rate of One Dollar for every three hundred persons; but where from the dispersed situation of the People it is more difficult to make a return, One Dollar for every One hundred and fifty persons shall be insufficient, the Marshals, with the approbation of the Judges of their respective districts, may make such further allowance to the Assistants in such districts as shall be deemed an adequate compensation, provided the same does not exceed one dollar for every fifty persons by them returned. The several Marshals shall receive as follows: the Marshal of the district of Maine, two hundred dollars: the Marshal of the district of New Hampshire, two hundred dollars: the Marshal of the district of Massachusetts, three hundred dollars: the Marshal of the district of Connecticut, two hundred dollars: the Marshal of the district of New York, three hundred dollars: the Marshal of the district of New Jersey, two hundred dollars: the Marshal of the district of Pennsylvania, three hundred dollars: the Marshal of the district of Delaware, One hundred dollars: the Marshal of the district of Maryland, three hundred dollars: the Marshal of the district of Virginia, five hundred dollars: the Marshal of the district of Kentucky, two hundred and fifty dollars: the Marshal of the district of North Carolina, three hundred and fifty dollars: the Marshal of the district of South Carolina, three hundred dollars: the Marshal of the district of Georgia, two hundred and fifty dollars. And to Obviate all doubts which may arise respecting the persons to be returned, and the manner of making returns,

Be it enacted, that every person whose usual place of abode shall be in any family on the aforesaid first Monday in August next, shall be returned as of such family; And the name of every person who shall be an Inhabitant of any district, but without a settled place of residence, shall be inserted in the column of the aforesaid Schedule, which is allotted for the heads of families, in that division where he or she shall be on the said first Monday in August next: And every person occasionally absent at the time of the enumeration, as belonging to that place in which he usually resides in the United States.

And be it further enacted, that each and every person more than sixteen years of age, whether heads of families or not, belonging to any family within any division of a district made or established within the United States, shall be, and hereby is, obliged to render to such Assistant of the division, a true account, if required, to the best of his or her knowledge, of all, and every person belonging to such family respectively, according to the several descriptions aforesaid, on pain of forfeiting twenty dollars, to be sued for, and recovered by such Assistant, the one half for his own use, and the other half for the use of the United States.

And be it further enacted, that each Assistant shall, previous to making his return to the Marshals, cause a correct copy, signed by himself of the Schedule containing the number of Inhabitants within his division, to be set up at two of the most public places within the same, there to remain for the inspection of all concerned; for each of which copies, the said Assistant shall be entitled to receive two dollars, provided proof of a Copy of the Schedule having been so set up, and suffered to remain, shall be transmitted to the Marshal, with the return of the number of persons; and in case any Assistant shall fail to make such proof to the Marshal, he shall forfeit the compensation by the act allowed him.

Frederick Augustus Muhlenberg, Speaker of the House of Representatives.
John Adams, Vice President of the United States, and President of the Senate.

Approved March 3,
The year 1790.

J. Washington, President of the United States.

I certify that this Act did originate in the
House of Representatives.

John Beckley, Clerk.

FIFTH CONGRESS OF THE UNITED STATES:

At the Second Session,

Begun and held at the city of Philadelphia, in the state of PENNSYLVANIA, on Monday, the thirteenth of November, one thousand seven hundred and ninety-seven.

An ACT concerning aliens.

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That it shall be lawful for the President of the United States at any time during the continuance of this act, to order all such aliens as he shall judge dangerous to the peace and safety of the United States, or shall have reasonable grounds to suspect are concerned in any treacherable or secret machinations against the government thereof, to depart out of the territory of the United States, within such time as shall be expressed in such order, which order shall be served on such alien by delivering him a copy thereof, or leaving the same at his usual abode, and returned to the office of the Secretary of State, by the Marshal or other person to whom the same shall be directed. And in case any alien so ordered to depart, shall be found at large within the United States after the time limited in such order for his departure, and not having obtained a licence from the President to reside therein, or having obtained such licence shall not have conformed thereto, every such alien shall on conviction thereof, be imprisoned for a term not exceeding three years and shall never after be admitted to become a citizen of the United States. and Provided always, and be it further enacted, That if any alien so ordered to depart shall prove to the satisfaction of the President, by evidence to be taken before such person or persons as the President shall direct, who are for that purpose hereby authorized to administer oaths, that no injury or danger to the United States will arise from suffering such alien to reside therein, the President may grant a licence to such alien to remain within the United States for such time as he shall judge proper, and at such place as he may designate. And the President may also require of such alien to enter into a bond to the United States, in such penal sum as he may direct, with one or more sufficient sureties to the satisfaction of the person authorized by the President to take the same, conditioned for the good behaviour of such alien during his residence in the United States, and not violating his licence, which licence the President may revoke whenever he shall think proper.

Sec. 2. And be it further enacted, That it shall be lawful for the President of the United States, whenever he may deem it necessary for the public safety, to order to be removed out of the territory thereof, any alien who may or shall be in prison in pursuance of this act; and to cause to be arrested and sent out of the United States such of those aliens as shall have been ordered to depart therefrom and shall not have obtained a licence as aforesaid, in all cases where in the opinion of the President the public safety requires a speedy removal. And if any alien so removed or sent out of the United States by the President shall voluntarily return thereto, unless by permission of the President of the United States, such alien on conviction thereof, shall be imprisoned so long as in the opinion of the President, the public safety may require.

Sec. 3. And be it further enacted, That every master or commander of any ship or vessel which shall come into any port of the United States after the first day of July next, shall immediately on his arrival make report in writing to the collector or other chief officer of the customs of such port, of all aliens if any on board his vessel, specifying their names, age, the place of nativity, the country from which they shall have come, the nation to which they belong and owe allegiance, their occupations and a description of their persons, so far as he shall be informed thereof, and on failure every such master and commander shall forfeit and pay three hundred dollars, for the payment whereof on default of such master or commander, such vessel shall also be holden, and may by such collector or other officer of the customs be detained. And it shall be the duty of such collector or other officer of the customs, forthwith to transmit to the office of the department of State true copies of all such returns.

Sec. 4. And be it further enacted, That the circuit and district courts of the United States, shall respectively have cognizance of all crimes and offences against this act. And all marshals and other officers of the United States are required to execute all precepts and orders of the President of the United States issued in pursuance or by virtue of this act.

Sec. 5. And be it further enacted, That it shall be lawful for any alien who may be ordered to be removed from the United States, by virtue of this act, to take with him such part of his goods, chattels, or other property, as he may find convenient; and all property left in the United States by any alien, who may be removed, as aforesaid, shall be, and remain subject to his order and disposal, in the same manner, as if this act had not been passed.

Sec. 6. And be it further enacted, That this act shall continue and be in force for and during the term of two years from the passing thereof.

Jonathan Dayton Speaker of the House of Representatives.

W. W. Johnson

Vice President of the United States and President of the Senate.

Approved June 25, 1798

John Adams
President of the United States

Verify that this act did originate in the Senate

Attest

Samuel A. Otis Secretary





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