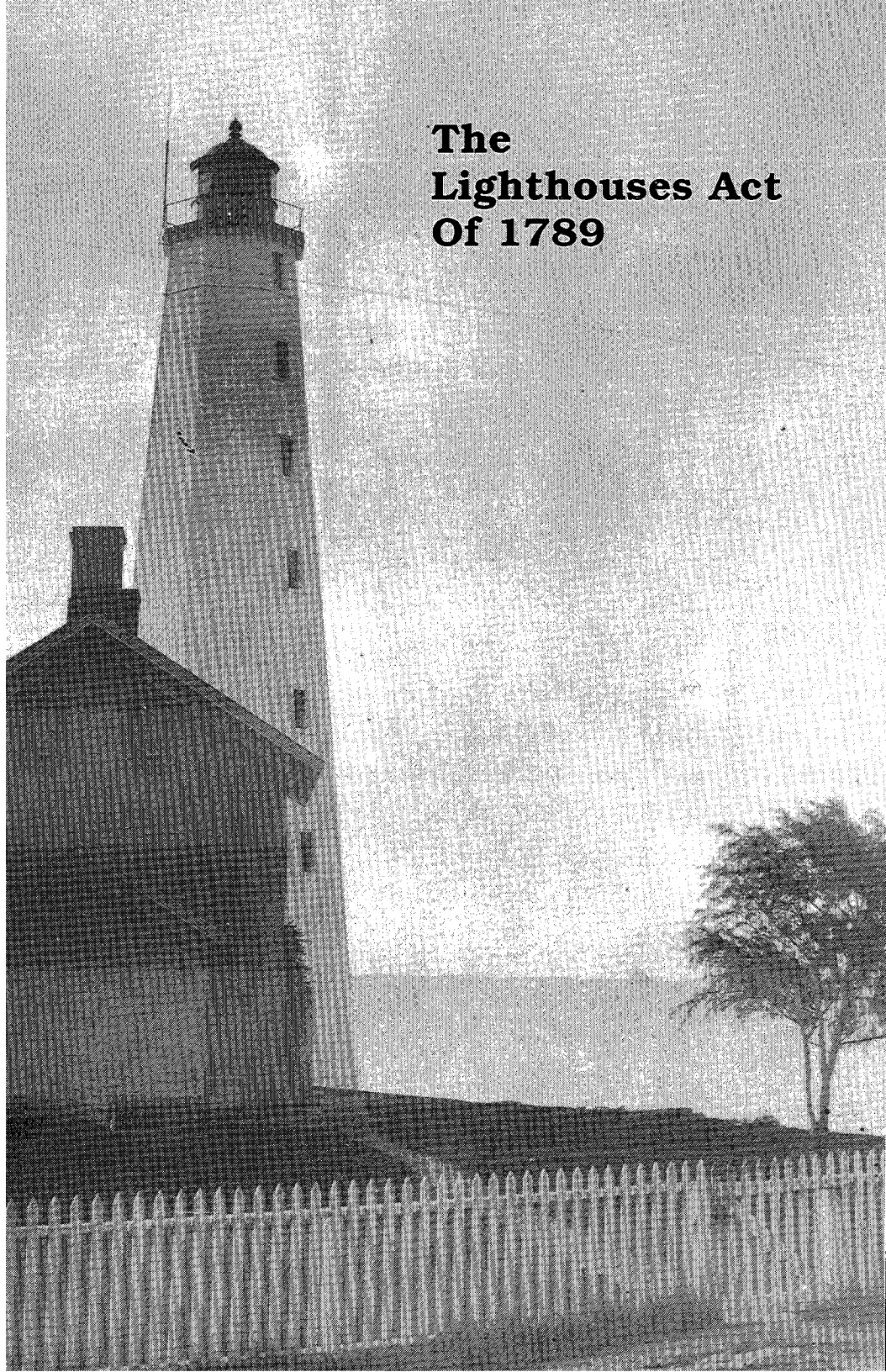


**The
Lighthouses Act
Of 1789**



Cover: New London Harbor Light, Connecticut, erected in 1801 to replace the original 1760 structure. Connecticut ceded the site to the federal government in 1790 pursuant to the Lighthouses Act of 1789.

Acknowledgements: Lighthouse photographs are from the Lighthouse Photograph Collection, Records of the U.S. Coast Guard, RG 26, Still Pictures Branch, National Archives and Records Administration. The valued guidance of George Washington University's First Federal Congress Project is hereby gratefully acknowledged.

**Prepared under the direction of
Walter J. Stewart, Secretary of the Senate**

U.S. Senate Historical Office: 1991

Introduction

The Lighthouses Act of 1789, one of several laws that the First Congress passed to regulate and encourage the trade and commerce of the new nation, extended federal control and funding to lighthouses that states had previously administered. Although the Senate records of the First Congress are substantially complete, until recently they included no record of the Lighthouses Act, other than the Senate legislative journal. In the spring of 1991, however, the Senate acquired a printed broadside of the July 20, 1789, House-passed bill and a manuscript list of Senate amendments. In the absence of recorded debates, these records provide the best available account of Senate committee and floor action—crucial stages in the legislative history of the Lighthouses Act. These newly discovered documents also illustrate early Senate legislative and record-keeping procedures. They provide a fascinating glimpse of the early Senate as it tempered and refined legislation initiated by the House of Representatives and reconciled divergent sectional interests to produce a measure acceptable to northern manufacturers and shippers as well as to southern states' rights advocates.



Portland Head Light, Maine, the first lighthouse completed after the federal government assumed control of lighthouses and navigational aids.

The Lighthouses Act of 1789: Legislative History

The Lighthouses Act, like most of the laws that the First Congress enacted, originated in the House of Representatives. The framers of the Constitution had envisioned the Senate as an amending body. This was certainly true of the First Congress, although the Residence Act, the Punishment of Crimes Act, and all legislation relating to the judiciary originated in the Senate.

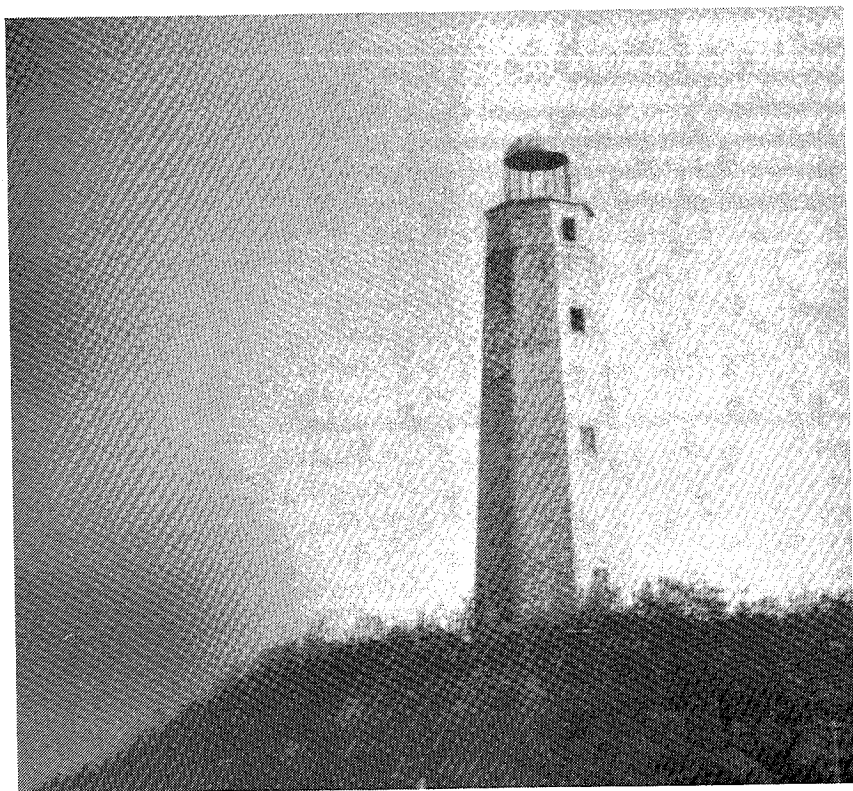
On April 8, 1789, a week after the House of Representatives achieved its first quorum, Virginia Representative James Madison, anxious to put the new nation's financial house in order, proposed a resolution for the collection of impost and tonnage duties. Although Madison's intent was to secure an immediate but temporary windfall by taxing the spring shipments bound for American ports, Thomas Fitzsimons of Pennsylvania broadened the debate the following day with a resolution to impose permanent, protective duties on specific enumerated products. Sectional differences, which the framers of the Constitution had earlier attempted to reconcile, quickly surfaced in the ensuing debate. Representatives of the northern manufacturing states were eager to extend protection to their own products but opposed duties on the imported raw materials essential to their particular industries. The nonmanufacturing southern states, on the other hand, were heavy importers of consumer goods, and viewed all protectionist duties as discriminatory measures disproportionately benefitting northern interests. As the House made slow progress toward compromise, it referred related matters, such as duty collection, ship registration, and lighthouse maintenance, to the "grand committee," composed of one member from each state present. The committee reported these topics as separate bills: the Collection bill, the Coasting bill, and the Lighthouses bill; however, the sectional conflict that polarized the debates over impost and tonnage soon extended to these measures, as well.

Madison first raised the issue of federal support for lighthouses on April 21, 1789, when he urged that a tonnage duty was "necessary for the support of light-houses, hospitals for disabled seamen, and other establishments incident to commerce." On May 5, James Jackson of Georgia justified his proposal for a six-cent-per-ton duty with the argument that

the tonnage would be applied toward "the support of light-houses and beacons for the purposes of navigation," as well as for "the encouragement of American shipping" and "raising a revenue." However, specific provisions for lighthouse maintenance were not mentioned until June 2, when John Laurance of New York moved to instruct the grand committee to prepare a bill "directing the mode of registering and clearing vessels, ascertaining their tonnage, and regulating the coasting trade, pilots, and light-houses."

The committee chose to propose separate legislation for the different purposes in the resolution and on July 1 reported HR-12, "A Bill for the Establishment and Support of Light Houses, Beacons, and Buoys, and for authorizing the several States to provide and regulate Pilots." The bill provided federal support for lighthouses and other aids to navigation, contingent upon cession by the states, and for the erection of a lighthouse "near the entrance of the Chesapeake-Bay." River and harbor pilots would remain the responsibility of the state legislatures, but state legislation toward that end would be "subject to the revision and controul of Congress." The House postponed consideration of the Lighthouses bill until July 16, while it debated the Collection bill.

When the Committee of the Whole House took up the Lighthouses bill on July 16, sectional differences colored the debate. Lighthouses and navigational aids were essential to the merchants and shipbuilders of the northern states, where a rocky and treacherous coastline posed unique hazards to navigation. The southern coastline offered safer approaches, and navigational facilities were less important to the noncarrying southern states that relied on English shipping. Although lighthouses and beacons dotted the northern coastline, only two—one at Tybee Island, Georgia, the other in Charleston harbor—stood sentry at southern ports. The South Carolina delegation, in particular, opposed the cession requirement as "an infringement of states rights." The July 17, 1789, *New York Daily Advertiser* reported a lively debate between South Carolina representatives Thomas Tudor Tucker and William Loughton Smith and Pennsylvania's Fitzsimons. On July 16, Tucker offered an amendment to "place the establishment both of light-house and pilots in the hands and under the controul of the state government." Under the Tucker substitute, lighthouse maintenance costs would be defrayed by "the appropriation of a certain proportion of the duty on tonnage of vessels, not exceeding six cents per ton"; additional funds, if necessary, would come from tonnages imposed by the states "on all vessels entering the



Cape Henry Light, Virginia. The Lighthouses Act provided for the construction of a lighthouse "near the entrance of the Chesapeake-Bay."

ports where such houses were erected." Fitzsimons, the foremost protectionist advocate in the First Congress, attacked Tucker's amendment on constitutional grounds. The Constitution, "in giving the regulation of commerce to Congress, had conferred every power which was incidental and necessary to it," Fitzsimons argued; "regulations respecting light houses and pilots were a part of the commercial system and had been given up by the States." Tucker's funding mechanism, "by the states laying an impost," was both "unconstitutional" and "inadequate, because, there were many light houses established, and there might be many more, in places distant from any harbor, on the extremities of capes." Tucker and Smith countered that the cession requirement was "an improper intrenchment upon the territorial jurisdiction of the states, and would be very odious to them." They warned that Congress might "with equal justice" use the argument that navigational aids were "incidental" to its power to regulate commerce to "take possession of the mouths of rivers, and seize all such convenient places, as they should

deem proper for the regulation of trade." The House ultimately rejected Tucker's amendment but adopted Smith's motion to strike the river and harbor pilot clause authorizing congressional review and control of the state legislatures. On July 17, the House ordered the amended bill "engrossed," or drawn up in final form. The House approved its final version of the Lighthouses bill on July 20 and ordered House Clerk John Beckley to "carry the said bill to the Senate and desire their concurrence."

Beckley delivered the engrossed bill to the Senate chamber on July 20. Pursuant to the Senate rules adopted on April 16, 1789, which provided that "each bill shall receive three readings previous to its being passed," and that "no bill shall be committed or amended until it shall have been twice read," the Senate read the bill for the first time on July 21 and ordered contract printer Thomas Greenleaf to print fifty copies. The July 20, 1789, broadside is the Senate's official copy of this printing. After a second reading on July 23, the Senate referred the bill to a committee chaired by Robert Morris of Pennsylvania. As was customary in the early Senate, which had no standing legislative committees until 1816, this was a committee appointed for the specific purpose of considering the matter at hand, comprising senators with a direct interest in the subject. The committee membership—Morris, John Langdon of New Hampshire, and Tristram Dalton of Massachusetts—reflected the importance of lighthouses and navigational aids to the northern states. The committee submitted its report to the Senate on July 24, and the Senate ordered the committee amendments printed. So extensive were the committee's revisions that Greenleaf departed from the usual practice of printing only the committee amendments and instead produced a complete text which integrated the amendments into the House-passed version.

The July 24, 1789, interim printing reveals the influence of a committee of Philadelphia merchants who conveyed their concerns regarding the Lighthouses bill to the Pennsylvania delegation. The Philadelphia merchants' committee included some of the most prominent members of the city's mercantile community. Foremost among them was Tench Coxe, a champion of American manufacturing and business interests who later served as assistant secretary of the treasury to Alexander Hamilton. Coxe followed the deliberations of the First Congress with avid interest; his influence was so pervasive that his biographer has called him "the gray eminence of the First Congress." In his frequent correspondence with Madison and the members of the Pennsylvania delegation, Coxe had cautioned that protection for American industries

was essential if the new nation was to achieve economic independence and prosperity. On July 16, 1789, Coxe and his fellow merchants wrote to the Pennsylvania delegation, commenting on the Lighthouses bill "now depending before Congress" and enclosing the first known substitute bill presented to Congress by a special interest group.

The merchants focused on concerns peculiar to the port of Philadelphia. The bill did not include support for public piers, which, the merchants argued, "in our long, rapid River are as necessary as a Light House at our Cape, or anywhere else." Continuity of funding was another problem: the Pennsylvania assembly had authorized the construction of two piers in the Delaware River but would have insufficient revenues to complete the project once the impost reverted to the federal government. Since the duties previously collected by the states to defray the costs of lighthouses and navigational aids would accrue to the federal treasury after August 1, 1789, the merchants reasoned, Congress should assume responsibility for these essential facilities "from the moment the Revenue accrues to them." The merchants were less willing to support specific provisions benefitting other ports, however, and they argued that the clause authorizing the construction of a lighthouse at the entrance to the Chesapeake Bay was "confining the Business too much." Congress should instead provide support for lighthouses "wherever they shall be found necessary." Finally, the merchants agreed that the regulation of river and harbor pilots should be left to the states, but only "until otherwise declared by Congress."

The committee report borrowed heavily from the merchants' draft. The July 24, 1789, interim printing includes lengthy passages drawn from the substitute. The committee recast the main clause of the bill in virtually the exact language suggested by the merchants and included a provision for the support of public piers. They also restored the river and harbor pilot clause, again adopting the merchants' language almost verbatim: "the Legislatures of the several States may provide by Laws, which, whether now subsisting or hereafter made, shall be in force, until otherwise declared by Congress, for the establishment and regulation of Pilots in the Bays, Inlets, Rivers, Harbours and Ports in such States respectively." The July 24 version also reflects the committee's attempt to reconcile and balance competing sectional interests. The committee retained the provision for the Chesapeake Bay lighthouse, but added new language requiring Maryland and Virginia to first "pay into the Treasury of the United States the amount of all monies collected by

"AN ACT for the establishment and Support of LIGHT-HOUSES, BEACONS, and BUOYS," July 20, 1789, broadside. Docketing on the reverse (inset) identifies the broadside as an official Senate record.

1789. July 20. 1789.
Act Oct
for the establishment & Support
of Light Houses, Beacons & Buoys
July 20 1789
Read the third time & passed
with amendments

AN ACT for the Establishment and Support of LIGHT-
HOUSES, BEACONS, and BUOYS. *and public Piers.*

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED, That from and after the first day of August next, the Light-house, or Light-houses of any State in the union, upon application of the Governor or Executive authority thereof, in behalf of such State to the Secretary of the Treasury of the United States, shall be provided with an Overleer or Overleers, and with the necessary materials for keeping the Lights; and such State shall be re-imbursed the expense of supporting the Lights after the said first day of August next, PROVIDED application for such re-imburement be made within twelve months after the passing of this Act; and when a cession is made to the United States of such Light-house, or Light-houses, and of the land appropriated for the same, they shall be kept in good repair at the expense of the United States.

AND BE IT FURTHER ENACTED, That the Beacons or Buoys, already provided by any State, shall on application thereof as aforesaid, be kept in good repair at the expense of the United States.

AND BE IT FURTHER ENACTED, That a Light-House shall be erected near the entrance of the Chesapeake-Bay, at such place when ceded to the United States, as the President of the United States shall direct.

AND BE IT FURTHER ENACTED, That it shall be the duty of the Secretary of the Treasury to provide by contracts, for placing, and keeping in good repair, all necessary Buoys and Beacons, and rebuilding when necessary, the Light-Houses in the several States, and for furnishing the same with all necessary materials, PROVIDED, that no Light-House shall be rebuilt at the expense of the United States, unless the land on which the same is to be rebuilt, shall be ceded to the United States.

1789, July 20th.

Read the third time, and passed the House of Representatives.

in a

in such manner as aforesaid

a

shall ^{will} ~~be~~ ^{be} all to the end
 estate - ~~which shall~~
 of the united States
 at home near the entrance
 for building when
 in good repair the
 and public piers
 and for furnishing the
 of any supplies, and also
 and wages or hire of the
 provided by the Government
 and care of the family

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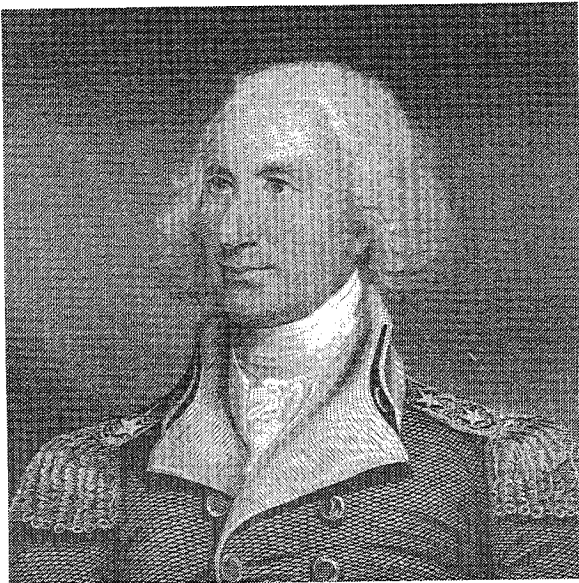
Be it further enacted, that
 piers, rivers, harbors and
 shall continue to be
 with the existing laws
 where in such piers may
 the States may respectively
 the purpose, until further
 shall be made by Congress
 in the premises a

and "and" from between
 and after the word
 piers

~~words or State~~
~~provision of any~~
~~and making such~~
 come or part to
 in the united States

tonnage on shipping, or otherwise, for the express purpose of building such Light-House." With August 1 fast approaching, the committee did not agree to an effective date of August 1, as the merchants had urged, but left the question to the Senate.

The Senate took up the committee report on July 28 and continued its deliberations through July 31. As the Senate met in closed session during the First Congress and the Senate legislative journal does not record floor debate, the recently acquired Lighthouses Act documents provide the most complete account of the Senate floor action. Secretary of the Senate Samuel Otis' annotations on the July 20 printed broadside indicate Senate floor amendments to the House bill. Otis underlined language deleted by the Senate and inserted minor amendments. The accompanying manuscript, in the hand of New York Senator Philip Schuyler, is a list of more extensive changes. Otis similarly annotated Schuyler's list to reflect Senate floor amendments. It is not clear why Schuyler, who was not a member of the Senate committee on the Lighthouses bill, would have drawn up this list of amendments. He was an enthusiastic proponent of navigational improvements, and lighthouses were of vital importance to New York. Although Schuyler did not take his Senate seat until July 27, he was in New York awaiting receipt of his election credentials at the time of the committee's July 23-24 deliberations. The exact date of the Schuyler manuscript is also uncertain: the language clearly reflects the committee



Philip Schuyler

amendments, particularly in the provisions for public piers and for state regulation of pilots, but in a form closer to the enacted version than the July 24 interim version. In fact, the final version of the Lighthouses Act is an exact composite of the July 20 broadside, as annotated by Otis, and the Schuyler manuscript. In the absence of recorded debates or other first-hand accounts, it is not clear why the Senate adopted this language rather than the language of the July 24 interim version of the bill. Yet another mystery is why Otis would have used Schuyler's list to record the floor action.

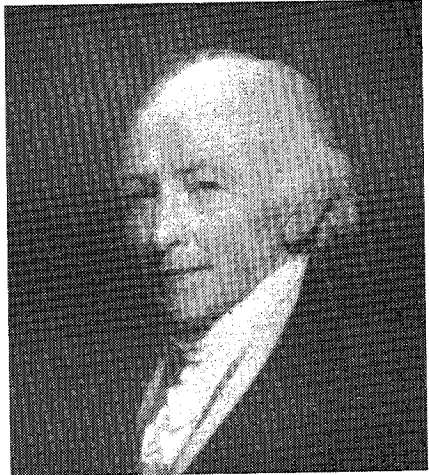
These questions notwithstanding, the documents do suggest the issues discussed in the July 28-31 Senate debates and illustrate the balancing of competing sectional interests to achieve compromise. The Schuyler manuscript reflects clear concessions to southern interests: the Senate retained the provision for the Chesapeake Bay lighthouse but dropped the committee language making construction of this facility contingent upon revenue cession by Maryland and Virginia. Control of river and harbor pilots would remain with the states, pending further congressional action. The Senate also concurred with the committee's amendment extending federal support to public piers, as requested by the Philadelphia merchants. An insertion in Otis' hand indicates that the effective date of the bill, August 15, 1789, was agreed to on the Senate floor. Another insertion, subsequently lined through, suggests that the Senate considered, but did not adopt, a floor amendment for the removal of obstructions from river mouths, ports, inlets and harbors.

The Senate agreed to the amended bill on July 31. On August 3, Otis delivered the bill to the House chamber. The House agreed to the Senate amendments on August 3, and its clerk informed the Senate the following day. The Committee on Enrolled Bills, a joint committee established on July 31, 1789, and one of two standing committees of the First Congress, oversaw the preparation of the official parchment copy of the bill. On August 6, after members of the committee notified their respective chambers that the bill was "perfected" and "truly inrolled," the Speaker of the House and the vice president signed the bill, Beckley affixed his certification that "this Act did originate in the House of Representatives," and the committee delivered the bill to the president "for his approbation." The Lighthouses Act became law the following day, when President Washington signed the enrolled bill. As the chamber of origin, the House received notice of the president's concurrence and sent its clerk Beckley upstairs to inform the Senate that "the President of the United States had affixed his signature."

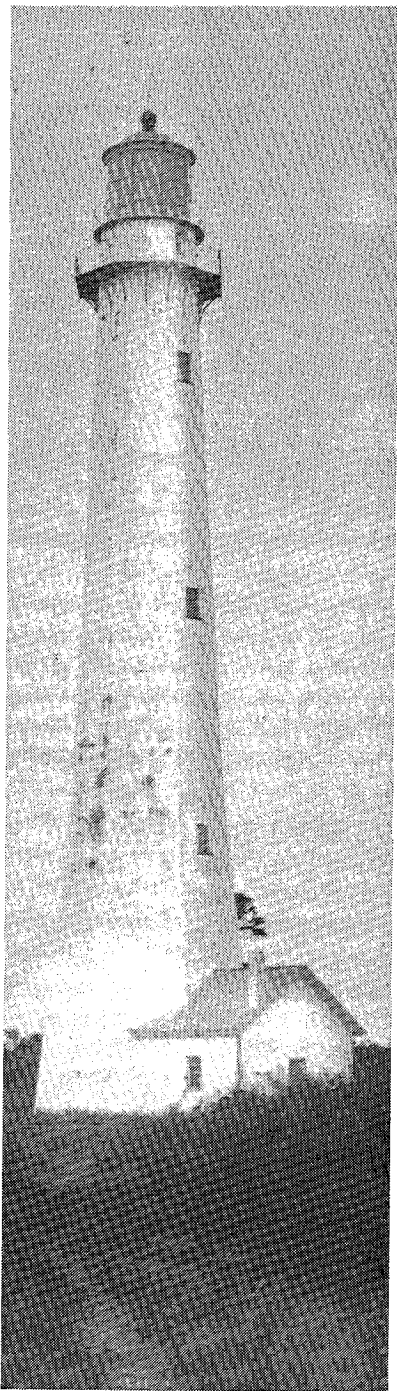
Senate Record-keeping Practices in the First Congress: The Legacy of Samuel Otis

The broadside and the Schuyler manuscript illustrate early Senate docketing and record-keeping procedures that the first secretary of the Senate, Samuel Allyne Otis, developed during the First Congress. Otis began his political career during the Revolution, first as a member and later as speaker of the Massachusetts house of representatives. After the war, Otis served as a delegate to the Continental Congress in 1787 and 1788. Otis was the brother of noted revolutionary James A. Otis and a close friend of John Adams. On April 8, 1789, following Vice President Adams' recommendation, the Senate elected Otis secretary of the Senate, a position he held until his death a quarter century later. During his long tenure as secretary, Otis was never absent while the Senate was in session. The Senate so esteemed Otis that, for one month after his death on April 22, 1814, the members of the Senate wore black crepe arm bands as a sign of official mourning. A more lasting testament to Otis' conscientious service is the remarkable fact that virtually all of the Senate records of the First Congress have survived to the present.

Samuel Allyne Otis



As secretary, Otis was responsible for keeping the Senate legislative journal and for maintaining the official records of the Senate. Otis kept a complete record of the Senate floor action on each bill, which he later entered in the legislative journal. To keep track of floor amendments to a bill, he noted additions and deletions, as appropriate, on the printed broadside of the bill. Otis exercised meticulous care in the arrangement and preservation of the Senate's records, filing related documents together as a package: all documents pertaining to



a particular bill were kept with the bill. During the First Congress, Otis also devised a specialized system for docketing bills. Under Otis' system, which remained consistent throughout his tenure, the chief clerk of the Senate customarily recorded the title and date of Senate passage of each bill on the reverse side of the document.

A manuscript dealer's consultant, who recognized that the broadside was docketed according to Otis' system, first identified the broadside and the Schuyler document as Senate records. The cursive script of chief Senate clerk Benjamin Bankson appears on the reverse side of the broadside recording the bill's original title, "An Act for the Establishment & Support of Light Houses, Beacons & Buoys," and the date on which the bill was "Read the *third* time" and agreed to by the Senate "with amendments," July 31, 1789. Subsequent examination has confirmed this appraisal, largely on the basis that the broadside is "marked up" in Otis' characteristic fashion. The arrangement of the documents, which have remained together for over two centuries, is also typical of Otis.

Tybee Light Station, Georgia.

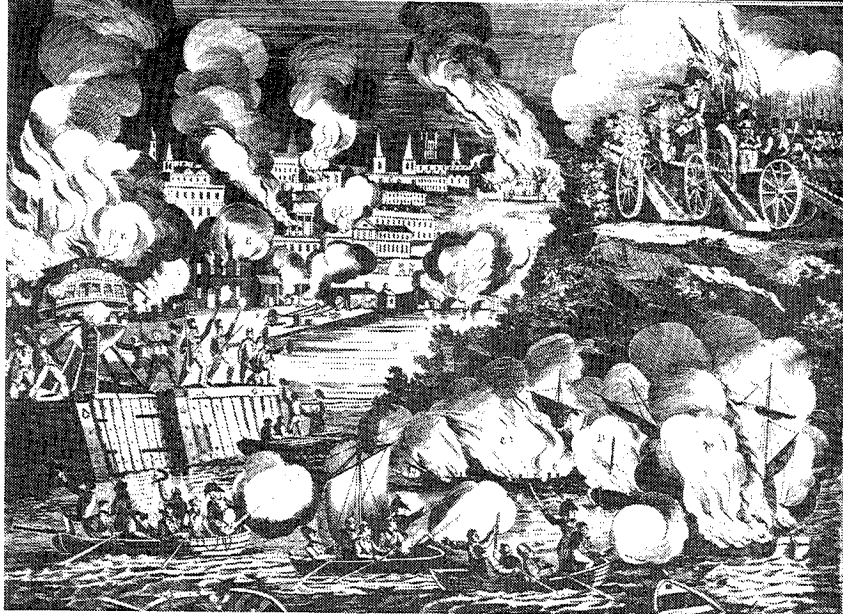
The Lighthouses Act: 1789 to the Present

The Senate Lighthouses Act documents were in Otis' custody during the First Congress and were discovered in a manuscript dealer's collection two centuries later. The details of their curious odyssey—when or how they were removed from the Senate's records and where they were from that time to the present—are unknown. However, the Senate housed its records of the First Congress in several locations from 1789 until 1937, when it transferred the early Senate records to the National Archives.

During the first and second sessions of the First Congress, the Senate met in the second floor chamber of New York City's Federal Hall. The Lighthouses Act documents were probably kept with other first and second session documents at Federal Hall, under the watchful eyes of Otis and his staff. When the capital moved from New York City to Philadelphia after the second session, Otis arranged and supervised the transfer of the Senate's records in time for the third session, which convened December 6, 1790. Otis moved the Senate records again in 1800, when Congress relocated to its permanent home in the District of Columbia. The records travelled by boat from Philadelphia to Alexandria, Virginia, where they were loaded onto a cart for the final leg of their journey to the Capitol. There they remained in Otis' custody until his death on April 22, 1814.

The Senate had not elected a successor by the time the British invaded Washington and set fire to the Capitol on the evening of August 24, 1814. As the British forces advanced, Lewis Machen, one of Otis' clerks, loaded the Senate records onto a hired farm wagon and set out for his farm near Centreville, Virginia. The records remained safely in the Virginia countryside until the third session of the Thirteenth Congress convened in September 1814, but they did not have a permanent home until much later. During the rebuilding of the Capitol, Congress met first at





The Taking of the City of Washington in America. British troops burned the Capitol on the evening of August 24, 1814.

Blodgett's Hotel and later in the Brick Capitol, located on the current site of the Supreme Court Building. Congress did not return to the Capitol until December 1819. During this period, Senate records were the responsibility of Charles Cutts, who served as secretary from October 12, 1814, to December 12, 1825.

Otis' nineteenth-century successors were less vigilant guardians of the Senate's records. They stored documents in the Capitol basement, which was damp, moldy, and overrun with roaches and vermin. As the collection grew, documents were stuffed into every available space, in no particular order or arrangement. The early records continued to deteriorate in the basement of the Capitol until the fall of 1904, when Senate file clerk Bayard C. Ryder and his assistants began cleaning and rearranging the papers of the first forty congresses. Ryder ultimately transferred these records to the new attic file room created during the 1903 renovation of the Capitol roof, but many of the early records remained scattered throughout the Capitol. In 1927, Senate file clerk Harold Hufford began an exhaustive records search of the Capitol after finding a document signed by Vice President John C. Calhoun on the floor of a basement storage room. For the remainder of his career, first as a Senate clerk and later as director of the legislative section of the National Archives, Hufford was a faithful custodian of the Senate's early records. In 1937, the Senate transferred the records of the First Congress and other early Senate documents to the National Archives, where they remain—an invaluable resource for legislators, citizens and students of our nation's past.

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