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Amendment to Give Congress Coercive Power over the States and Their Citizens, 16 March 1781

A group of men dedicated to increasing the power of the central government was becoming influential in Congress by the time the Articles of Confederation were ratified on 1 March 1781. Consequently, on 6 March, James M. Varnum, James Madison, and James Duane were appointed “to prepare a plan to invest the United States in Congress assembled with full and explicit powers for effectually carrying into execution in the several states all acts or resolutions passed agreeably to the Articles of Confederation.” The committee’s report, largely in the handwriting of James Madison, was laid before Congress on 16 March.

The report, which proposed an amendment to the Articles to give Congress coercive authority, was referred to a “grand committee” on 2 May. This committee delivered a much milder report on 20 July. It suggested “That it be recommended to the several states to pass laws empowering the United States in Congress assembled to have use and exercise the right of laying embargoes in time of war, provided that such embargoes extend to all the states in the Union, and be laid for a term not exceeding sixty days, at any one time.

“And also

“That the quotas of monies called for by the United States in Congress assembled when voted by the respective states, be appropriated and vested specifically by the legislatures of the respective states for the use of the United States in Congress assembled. And that the taxes so appropriated be paid by the collectors in the first instance, to such person or persons as the United States in Congress assembled shall appoint for receiving the same.”

Congress responded by turning this report over to a three-man committee which issued a report on 22 August.

Whereas it is stipulated and declared in the 13th. Article of the Confederation “that every State shall abide by the determinations of the United States in Congress assembled on all questions which by this Confederation are submitted to them. And that the Articles of this Confederation shall be inviolably observed by every State”: by which Arti[c]le a general and implied power is vested in the United States in Congress assembled to enforce and carry into effect all the Articles of the said Confederation against any of the States which shall refuse or neglect to

abide by such their determinations, or shall otherwise violate any of the said Articles, but no determinate and particular provision is made for that purpose: And Whereas the want of such provision may be made a pretext to call into Question the Legality of measures which may be necessary for preserving the authority of the Confederation & for doing justice to the States which shall duly fulfill their foederal engagements, and it is moreover most consonant to the spirit of a free constitution that on the one hand all exercise of power should be explicitly and precisely warranted, and on the other that the penal consequences of a violation of duty should be clearly promulged and understood: and Whereas it is further declared by the said 13th. Article of the Confederation that no addition shall be made to the Articles thereof, Unless the same shall be agreed to in a Congress of the United States and be afterwards confirmed by the Legislatures of every State: The United States in Congress assembled having seriously & maturely deliberated on these considerations, and being desirous as far as possible to cement & invigorate the federal Union, that it may be both established on the most immutable basis, and be the more effectual for securing the immediate object of it, do hereby agree to, and recommend to the Legislatures of every State to confirm & to authorise their Delegates in Congress to subscribe, the following clause as an Additional Article to the 13 Articles of Confederation & perpetual Union:

It is understood & hereby declared that in case any one or more of the Confederated States shall refuse or neglect to abide by the determinations of the United States in Congress assembled or to observe all the Articles of the Confederation as required in the 13th. Article, the said United States in Congress assembled are fully authorised to employ the force of the United States as well by sea as by land to compel such State or States to fulfill their federal engagements, and particularly to make distraint on any of the effects Vessels and Merchandizes of such State or States or of any of the Citizens thereof wherever found, and to prohibit and prevent their trade and intercourse as well with any other of the United States and the Citizens there of, as with any foreign State, and as well by land as by sea, untill full compensation or compliance be obtained with respect to all Requisitions made by the United States in Congress assembled in pursuance of the Articles of Confederation.

And it is to be understood, and is hereby agreed and conceded that this Article shall be fully and absolutely binding and conclusive when all the States not actually in the Possession of the Enemy, shall enact the same

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