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## Amendment to Grant Commercial Powers to Congress 28 March 1785

As the post-war commercial depression deepened, many merchants, mostly in the Northern States, were convinced that the request of Congress of 30 April 1784 for temporary commercial powers would be inadequate even if the states ratified it. Merchants demanded an amendment to the Articles of Confederation giving Congress wider and permanent power over commerce.

Congress responded on 6 December 1784 by appointing a committee consisting of John Jay, Elbridge Gerry, James Monroe, Richard Dobbs Spaight, and William Houstoun to consider investing Congress with the power to regulate trade. The committee was renewed on 24 January 1785. Jay, who had become Secretary for Foreign Affairs, was replaced by William Samuel Johnson, and sometime later Rufus King replaced Gerry.

On 16 February the committee reported an amendment to the Articles of Confederation, but consideration was delayed until 28 March. Meanwhile, on 11 March, Congress instructed the committee “to report a circular letter to accompany the recommendation proposed in the report.” Congress considered the amendment on 28 March and debated it again on 13 and 14 July, but there was so much opposition that the amendment was never sent to the states.

The proposed amendment revived the antagonism between the “carrying states” of the North and the “planting states” of the South over the issue of trade regulation, an issue which had surfaced during the writing of the Articles of Confederation. It aroused, too, those who feared a powerful central government. James Monroe, a member of Congress, summarized the arguments of the opponents of the amendment as follows: “1. That it was dangerous to concentrate power, since it might be turned to mischievous purposes; that independent of the immediate danger of intoxication in those entrusted with it, and their attempts on the government, it put us more in the power of other nations. 2. That the interests of the different parts of the Union were different from each other, and that the regulations which suited the one would not the other part. That 8 states [i.e., the Northern States] were of a particular interest whose business it would be to combine to shackle and fetter the others [i.e., the Southern States]. 3. That all attacks upon the Confederation were dangerous and calculated, even if they did not succeed, to weaken it.”

That the first paragraph of the 9th of the Articles of Confederation be altered so as to read thus—viz

“The United States in Congress Assembled shall have the sole and exclusive right and power of determining, on peace and war, except in the cases mentioned in the sixth Article—of sending and receiving Ambassadors—entering into treaties and alliances—of regulating the trade of the States as well with foreign Nations, as with each other, and of laying such imposts and duties, upon imports and exports, as may be necessary for the purpose; provided that the Citizens of the States, shall in no instance be subjected to pay higher imposts and duties, than those imposed on the subjects of foreign powers; provided also that the Legislative power of the several States shall not be restrained from prohibiting the importation or exportation of any species of goods or commodities whatsoever, provided also that all such duties as may be imposed, shall be collected under the authority and accrue to the use of the State in which the same shall be payable. And provided lastly that every Act of Congress for the above purpose shall have the assent of nine States in Congress assembled—of establishing rules for deciding in all cases, what Captures on Land or Water, shall be legal, and in what manner prizes taken by Land or Naval forces in the service of the United States shall be divided or appropriated of granting Letters of Marque & reprisal in time of peace—appointing Courts for the trial of piracies and felonies, committed on the high seas, and establishing Courts for receiving and determining finally appeals in all cases of Captures, provided that no Member of Congress shall be appointed Judge of any of the said Courts” —

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