

Sec. 2—Powers, Duties of the President Cl. 2—Treaties and Appointment of Officers

the post offices.”⁴²³ Congress has also approved, usually by resolution, other executive agreements, such as the annexing of Texas and Hawaii and the acquisition of Samoa.⁴²⁴ A prolific source of executive agreements has been the authorization of reciprocal arrangements between the United States and other countries for the securing of protection for patents, copyrights, and trademarks.⁴²⁵

Reciprocal Trade Agreements.—The most copious source of executive agreements has been legislation which provided authority for entering into reciprocal trade agreements with other nations.⁴²⁶ Such agreements in the form of treaties providing for the reciprocal reduction of duties subject to implementation by Congress were frequently entered into,⁴²⁷ but beginning with the Tariff Act of 1890,⁴²⁸ Congress began to insert provisions authorizing the Executive to bargain over reciprocity with no necessity of subsequent legislative action. The authority was widened in successive acts.⁴²⁹ Then, in the Reciprocal Trade Agreements Act of 1934,⁴³⁰ Congress authorized the President to enter into agreements with other nations for reductions of tariffs and other impediments to international trade and to put the reductions into effect through proclamation.⁴³¹

The Constitutionality of Trade Agreements.—In *Field v. Clark*,⁴³² legislation conferring authority on the President to conclude trade agreements was sustained against the objection that it attempted an unconstitutional delegation “of both legislative and treaty-making powers.” The Court met the first objection with an extensive review of similar legislation from the inauguration of government under the Constitution. The second objection it met with a curt rejection: “What has been said is equally applicable to the objection that the third section of the act invests the President with treaty-making power. The Court is of opinion that the third section of the act of October 1, 1890, is not liable to the objection that it

⁴²³ Id. at 38–40. The statute was 1 Stat. 232, 239, 26 (1792).

⁴²⁴ McClure at 62–70.

⁴²⁵ Id. at 78–81; S. Crandall, *supra* at 127–31; *see* CRS Study, *supra* at 52–55.

⁴²⁶ Id. at 121–27; W. McClure, *supra* at 83–92, 173–89.

⁴²⁷ Id. at 8, 59–60.

⁴²⁸ § 3, 26 Stat. 567, 612.

⁴²⁹ Tariff Act of 1897, § 3, 30 Stat. 15, 203; Tariff Act of 1909, 36 Stat. 11, 82.

⁴³⁰ 48 Stat. 943, § 350(a), 19 U.S.C. §§ 1351–1354.

⁴³¹ *See* the continued expansion of the authority. Trade Expansion Act of 1962, 76 Stat. 872, § 201, 19 U.S.C. § 1821; Trade Act of 1974, 88 Stat. 1982, as amended, 19 U.S.C. §§ 2111, 2115, 2131(b), 2435. Congress has, with respect to the authorization to the President to negotiate multilateral trade agreements under the auspices of GATT, constrained itself in considering implementing legislation, creating a “fast-track” procedure under which legislation is brought up under a tight timetable and without the possibility of amendment. 19 U.S.C. §§ 2191–2194.

⁴³² 143 U.S. 649 (1892).