

this State as to the expediency of increasing the powers of Congress, not merely as to commercial Objects, but generally.”⁷³

Even more ominous in early 1787 was the specter of the Union’s partition into three or four separate regional confederacies, an idea that, Madison wrote, “after long confinement to individual speculations & private circles, is beginning to shew itself in the Newspapers.” By the time Congress decided to act on the Annapolis report, seven states had already voted to send delegates, with more likely to follow. Congress, jealous of its prestige but confronted with the inevitable, acceded to the states by issuing, on February 21, 1787, its call for the Philadelphia Convention:

Whereas there is provision in the Articles of Confederation and perpetual Union for making alterations therein by the Assent of a Congress of the United States and of the Legislatures of the several States. . . .

Resolved that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several States be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the States render the federal Constitution adequate to the exigencies of Government and the preservation of the Union.

That day Madison wrote to Washington: “Congrs. have been much divided and embarrassed on the question whether their taking an interest in the measure would impede or promote it.”⁷⁴

The Annapolis and Philadelphia gatherings were a rebuke to the inactivity and “imbecillity” of Congress. At Philadelphia, George Mason said: “I consider the federal government as in some measure dissolved by the meeting of this Convention.” Washington, doubting the “legallity of this Convention,” was persuaded to attend in part because of his conviction that Congress was not the “most efficacious channel for . . . alterations” and the other mode, as the “shortest course,” was to be preferred. “Otherwise, like a house on fire, whilst the most regular mode of extinguishing it is contended for, the building is reduced to ashes.”⁷⁵

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Philadelphia and After

Drafting Article V

The adjustment of shared power between central and state governments continued at the Philadelphia Convention, which met from May 14 until September 17, 1787, in the East Room of Pennsylvania’s State House. When article V was shaped the delegates were occupied by three major concerns: (1) who could propose amendments; (2) whether ratification by the states should be required and, if so, by what fraction; and (3) what limits to place on the scope of the amending power.¹

The Power to Propose

Article V began as the thirteenth of fifteen proposals together known as the Randolph or Virginia Plan, the work of Madison but presented to the convention on May 29 by the Governor of Virginia, Edmund Randolph:

Resd. that provision ought to be made for the amendment of the Articles of Union whensoever it shall seem necessary, and that the assent of the National Legislature ought not to be required thereto.

The exclusion of Congress was the result of its failure to propose amendments in the immediately preceding years. When several dele-