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Introduction to the Actions of Congress in Calling for a Convention

The idea of a constitutional convention stemmed from the debate over the creation of state governments in 1776. In several states citizens argued that the revolutionary bodies that had taken the place of the colonial governments could not write constitutions. They insisted that only conventions elected for the purpose could do so and that the constitutions could not go into effect until they had been approved by the people. As a result, the first constitutions of some of the states, including Pennsylvania, Maryland, and Massachusetts, were written by constitutional conventions.

The idea that a constitutional convention should be the means of creating a central government for the United States was widespread by 1780. Military defeats, economic stress, and the refusal of Maryland to ratify the Articles of Confederation led some men to propose military dictatorship, while others, including General Nathanael Greene, General John Sullivan, and Thomas Paine, suggested that a “general” or “continental” convention be called. The most comprehensive proposal for a convention to create a strong central government, one backed by military power and public creditors, was made by Alexander Hamilton on 3 September of that year.

For a time after the ratification of the Articles of Confederation in March 1781, the proponents of a powerful central government tried to increase the power of Congress under the Articles, but the idea of a convention was not abandoned. In the summer of 1782 both houses of the New York legislature adopted resolutions on the deplorable “state of the nation,” particularly in financial matters, and requested Congress to call “a general convention of the states, specially authorized to revise and amend the Confederation, reserving a right to the respective [state] legislatures, to ratify their determinations.”

Congress submitted the proposal to various committees between August 1782 and the middle of 1783, but by then the opponents of a strong central government were regaining control of Congress. The final result was a committee report on 2 September 1783 which recommended that further consideration of a convention be dropped until the states had responded to Congress’s request of 18 April 1783 for the power to collect import duties.

By the end of 1783 the supporters of a strong central government—a “national” government—were becoming convinced that they could never achieve their goal under the rules prescribed by the Articles of Confederation. Therefore they turned increasingly to the idea of a constitutional convention, an idea expressed in newspapers, pamphlets, and private letters.

Proposals for a convention came to naught until 21 January 1786 when the Virginia legislature elected eight commissioners to meet with delegates from other states to consider the prob-

lems of trade and to consider the preparation of an act to give Congress power to regulate trade. On 19 February, Edmund Randolph, the chairman of the Virginia delegation, sent the resolution to the executives of each of the states and informed them that the proposed convention would meet at Annapolis, Maryland on the first Monday in September 1786.

Some men, particularly New Englanders, suspected the motives behind the call. Rufus King commented that it did not come from those who favored a common commercial system for the United States. Stephen Higginson, a Boston merchant, declared that the men elected to the convention wanted to combine “political objects” with “commercial” ones. They were all “esteemed great aristocrats . . . few of them have been in the commercial line, nor is it probable they know or care much about commercial objects.”

Nine states elected delegates, but delegates from four states—Massachusetts, New Hampshire, Rhode Island, and North Carolina—did not attend.¹ The delegates who did attend were Alexander Hamilton and Egbert Benson from New York; Abraham Clark, William C. Houston, and James Schureman from New Jersey; Tench Coxe from Pennsylvania; George Read, John Dickinson, and Richard Bassett from Delaware; and Edmund Randolph, James Madison, and St. George Tucker from Virginia. All but four of the delegates—Benson, Schureman, Coxe, and Tucker—were later elected to the Constitutional Convention of 1787, although Clark refused to attend.

The delegates met on 11 September, elected John Dickinson chairman, wrote a report, and adjourned on 14 September. The report was addressed to the legislatures of the five states represented at Annapolis, and copies were sent to Congress and to the executives of the other states.

The report called upon the states to elect delegates to meet in convention at Philadelphia on the second Monday in May “to devise such further provisions as shall appear to them necessary to render the constitution of the Foederal Government adequate to the exigencies of the Union. . . .” The report raised grave doubts in the minds of some supporters of a strong central government such as John Jay. They believed that a convention could have no legal or constitutional standing unless it were called by the Confederation Congress. There were others who believed that the only legal method of proposing changes was that prescribed by the constitution-in-being: the Articles of Confederation. Therefore, the action of Congress on the report of the Annapolis Convention would be of crucial importance; and, for a time, it was uncertain what Congress would do, if anything at all.

By 20 September Congress received the report of the Annapolis Convention, and on 11 October it appointed a grand committee of ten members (three states being absent) to consider the report. New England delegates, and particularly those from Massachusetts, opposed the appointment of the committee. Rufus King, a Massachusetts delegate, then at home, told the Massachusetts House of Representatives on 11 October 1786: “The Confederation was the act of the people. No part could be altered but by consent of Congress and confirmation of the several legislatures. Congress therefore ought to make the examination first, because if it was done by a convention, no legislature could have a right to confirm it.” Nathan Dane, another Massachusetts delegate and a member of the grand committee, told the Massachusetts House that he suspected the Annapolis Convention wanted to discard the federal system and replace it with another. As a result of the opposition, and of the poor attendance common at the end of the federal year, Congress took no further action in the fall of 1786.

According to the Articles of Confederation, the federal year began on the first Monday in November, but in practice it began after the first of January. Congress did not have a quorum for the new federal year until 12 February 1787. By then, several states, including Virginia, had elected delegates to the proposed convention.

Even more important was the fact that by February 1787 the political climate had changed radically as a result of agrarian outbursts throughout the United States. In April 1786 a paper money party, whose members were looked upon as “Levellers” in other states, captured control of the government of Rhode Island. By February 1787, it was widely reported that the Rhode Island legislature was considering a bill for the equal distribution of all property every thirteen years. In September 1786 New Hampshire farmers surrounded the legislature at Exeter, and some of them shouted for the abolition of debts and taxes and for the equal distribution of property. Sheriffs in Pennsylvania, Virginia, and South Carolina found it difficult and often impossible to collect taxes, and some of them in Pennsylvania were beaten up by irate farmers. The violence culminated dramatically in Massachusetts with the armed uprising known as Shays’s Rebellion.

It was against this background of mounting tension that the Confederation Congress considered the report of the Annapolis Convention, although many members of Congress still remained skeptical of a constitutional convention. On 13 February 1787 Congress added two delegates to the grand committee which had been appointed in October 1786. Six days later the committee, by a one-vote majority, endorsed the report of the Annapolis Convention without qualification by recommending that the states send delegates to the proposed convention on the second Monday in May, and that the convention devise provisions to render the federal government “adequate to the exigencies of the Union. . . .”

When Congress took up the committee report on 21 February, the New York delegates moved to postpone the report in order to consider a motion based on instructions they had received from their legislature. The instructions directed the delegates to propose that a convention be called “for the purpose of revising the Articles of Confederation . . . to render them adequate to the preservation and support of the Union.” The New York instructions and motion thus ignored the report of the Annapolis Convention; and proposed that Congress take the lead by calling a convention at an unspecified time and place. They also ignored the actions of the states that had already elected delegates to a convention. The New York motion to postpone the report was rejected.

The Massachusetts delegates then moved that the committee report be postponed to consider a Massachusetts motion, and Congress agreed. The motion proposed that Congress call a convention “for the sole and express purpose of revising the Articles of Confederation,” with the “alterations and provisions” to go into effect when approved by Congress and by the states. However, the motion implicitly acknowledged the call of the Annapolis Convention by providing that the “delegates who shall have been appointed by the several states” should meet in Philadelphia on the second Monday in May.

The Massachusetts motion based the call on quite different grounds than the report from Annapolis, since it sharply and specifically limited the purpose of the Convention. Furthermore, the preamble based the call on the grounds that the Articles of Confederation contained provision for altering them, that experience had revealed defects in them, and that several states, particularly

New York, had suggested a convention. The Massachusetts motion passed by a vote of eight states to one. The “no” vote came from the Connecticut delegates, who consistently opposed a convention.

1. Connecticut, Maryland, South Carolina, and Georgia did not elect delegates.

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