The 37th "Convention of States" Discovered!

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Recently a professor teaching constitutional law at a prestigious university wrote in one of the nation's top newspapers that we should oppose an Article V convention of states in part because the 1787 Constitutional Convention is "the only precedent we have."

As occurs too often among law professors, he obviously had not researched the subject before writing. If he had, he would have discovered that in Russel Caplan's 1988 Oxford University Press book on amendments conventions, the author identified several conventions of states that assembled during the Founding Era. Moreover, in 2013, *Florida Law Review* published my survey of the many American inter-colonial and interstate conventions before and during that period. In addition, this website has documented five conventions of states held since the Founding Era.

The generation that ratified the Constitution applied the term "convention" to a diplomatic gathering of three or more American colonies or states. The term did not include (1) negotiations between only two governments, (2) meetings of governors not formally authorized, or (3) continuing bodies, such as the United Colonies of New England (1643-84), the Second Continental Congress (1775-1781), or the Confederation Congress (1781-89).

Conventions might be limited to colonies or states or they might include other sovereign entities, such as the British Crown or Indian tribes. Among synonyms for "convention" were *congress*, *council*, and *committee*. Often two synonyms were used in conjunction, as in "a committee or convention held at Boston." The word "congress" to describe a convention fell out of use soon after creation of the Confederation Congress.

My *Florida Law Review article* identified the following American intergovernmental conventions up to and including the 1787 Constitutional Convention:

* Albany (1677) (Indian negotiations)
* Boston (1689) (defense issues)
* Albany (1689) (Indian negotiations)
* New York City (1690) (defense)
* New York City (1693) (defense)

* Albany (1694) (Indian negotiations)
* New York City (1704) (defense)
* Boston (1711) (defense)
* Albany (1722) (Indian negotiations)
* Albany (1744) (defense)
* Lancaster, PA (1744) (Indian negotiations)
* Albany (1745) (defense)
* Albany (1745) (Indian negotiations)
* New York City (1747) (defense)
* Albany (1751) (Indian negotiations)
* Albany (1754) (Indian negotiations and a plan of colonial union)
* Boston(?) (1757) (defense)
* New York City (1765) (response to Stamp Act)
* Fort Stanwyx (Rome, NY) (1768) (Indian negotiations)
* New York City (1774) (response to British actions)
* Providence, RI (1776-77) (paper currency and public credit)
* York Town, PA (1777) (price control)
* Springfield, MA (1777) (economic issues)
* New Haven, CN (1778) (price controls and other responses to inflation)
* Hartford, CN (1779) (economic issues)
* Philadelphia (1780) (price controls)
* Boston (1780) (conduct of Revolutionary War)
* Hartford (1780) (conduct of Revolutionary War)
* Providence, RI (1781) (war supply)
* Annapolis, MD (1786) (trade)
* Philadelphia (1787) (revise the political system)

Thus, I had found 20 inter-governmental conventions from before Independence and 11 after Independence. Here are the conventions held after the Constitution was ratified:

* Hartford, CN (1814) (response to War of 1812)
* Nashville, TN (1850) (Southern response to the North)
* Washington, DC (1861) (propose a constitutional amendment)
* Montgomery, AL (1861) (write the Confederate constitution)
* Santa Fe, NM (1922) (negotiate the Colorado River Compact)

That totals 36 in all. But there's more: Between Independence and ratification of the Constitution, several other conventions were formally called or applied for, but never met. They were to address such issues as taxes, currency inflation, and improvements to interstate navigation. The official records pertaining to their applications and calls provide additional guidance on the subject.

Now a 37th convention has surfaced: **The Albany Council of 1684**.

I had heard of the Albany Council because one of my sources mentioned it—but only as a meeting of two colonies with the Iroquois. It turns out, however, that a third colony also participated, thereby qualifying it as a convention.

The colonial governments participating were those of New York, Virginia, and Massachusetts. The Iroquois participants were the Mohawk, Cayuga, Onondaga, Oneida, and Seneca tribes. New York and Virginia were represented by their governors, and Massachusetts by a prominent New Yorker especially commissioned for the purpose: Stephanus Van Cortlandt. The issues were varied: Virginia was unhappy with Indian depredations on its territory. The Senecas complained that the French Canadian governor was arming and inciting the Senecas' enemies. Massachusetts had a number of proposals to promote. All parties wanted to strengthen the "covenant chain" among them. One result of the convention was an Iroquois-colonial treaty.

The records of the convention are in longhand on parchment, and available in the Library in Virginia in Richmond. They are entitled *Proceedings of a Council at Albany, New York, with the Sachems of Three Indian Nations, 1684 July 31*—but as the records indicate, the number of Indian nations participating was actually five.

6 comments

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