

## Yet Another Multi-State Convention Uncovered

For many years, opponents of a convention for proposing amendments argued that the law governing such a convention was unknowable because the only precedent for such a gathering was the Constitutional Convention of 1787.

This was always an ignorant claim, since even high schoolers learn that Annapolis, Maryland hosted a “convention of states” the previous year. Russell Caplan’s book, *Constitutional Brinkmanship*, published nearly three decades ago, documented several other interstate and inter-colonial conventions as well. It was clear that those claiming the “only precedent” was the 1787 gathering had not done their homework.



In 2010 I uncovered more multi-state conventions, and 2013 published an article that listed 32 such gatherings from 1689 through 1787. Twenty-four of these were regional—or, to use the Founding-Era word, “partial”—conventions. The other six were national, or as the Founders would say, “general.” In that article I also analyzed in detail the records of fourteen of these conclaves. All of them employed pretty much the same set of protocols.

In addition, on this website I’ve discussed several conventions of states occurring after the Constitution was adopted: regional conventions at Hartford (1814), Nashville (1850), and Santa Fe (1922), and a general convention in Washington, D.C. (1861). The last of these was convened to draft a constitutional amendment. Yet, believe or not, some people are still asserting that “We have only one Precedent, the Convention in Philadelphia in 1787!”

**Now there’s more.** I recently obtained the journal for still another convention of states. Some have claimed that the proceedings for that assembly were never recorded, or perhaps had been lost. But I found them within the first volume of the journals of the Congress of the Confederate States of America.

The convention in question was held in 1861 in Montgomery, Alabama. It included only those southern states that failed to attend the convention in Washington, D.C. And while the purpose of the Washington meeting was to head off the Civil War, the purpose of the Montgomery meeting was much less desirable: to write a new Confederate Constitution and to serve as a provisional government until elections were held under that Constitution.

However regrettable its purpose, though, there is no denying that the Montgomery Convention is useful precedent. It demonstrates yet again the consistent understanding throughout our history of the law and rules governing multi-state conventions. While unionist states were applying the standard protocols at their gathering in Washington, seceding states were applying almost exactly the same set of protocols in Montgomery.

Here are some other facts about the Montgomery Convention of 1861:

- \* It was called by South Carolina and by Alabama—South Carolina sent out the initial invitation and fixed the topic. Alabama fixed the time and place.
- \* The other states participating were Mississippi, Louisiana, Florida, Georgia, and (belatedly) Texas.
- \* The calls and acceptances agreed on the two basic missions: (1) write a constitution for the seceding states and (2) serve as a provisional government until elections were held under that constitution.
- \* The calls and acceptances did differ in minor ways. Possibly the most important was that some stated that the new Confederate constitution should be based on the U.S. Constitution, while others omitted that term. This discrepancy did not prevent the meeting, and seems to have caused no problems.

\* The convention began on February 4, 1861, and eventually split its functions to fit its two missions. From February 28 to March 11, it acted as a constitutional convention and wrote a new basic charter. Throughout its entire timespan it served as a provisional government (much as the Second Continental Congress had done for the United States from 1775 to 1781).

\* The call suggested (and it was only a suggestion) that the convention proceed by one state/one vote, but that each state delegation consist of as many commissioners as the state had Senators and Representatives in the Federal Congress. The other states generally agreed to this formula.

\* The convention did, in fact, proceed under a one state/one vote rule, as has every other interstate convention for which the rule of suffrage is recorded. But the size and composition of each state committee (delegation) remained a prerogative for each state to determine.

\* The group elected its own officers and adopted its own rules. Like other all other conventions, it elected its president from among its members: [Howell Cobb of Georgia](#). Like nearly all other conventions, it chose a non-delegate as secretary—[Johnson J. Hooper of Alabama](#).

\* The convention stayed within its two missions, as defined by its call.

\* Upon completion of those missions, the gathering adjourned *sine die* (permanently).

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