

The 1967 Convention: Myths and Reality

New York State Bar Association
Albany, NY
September 26, 2016
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1965 - Why Was It Called

- The U.S. Supreme Court's decisions requiring "one person, one vote" redistricting of the Congress and state legislatures.
 - *Baker v. Carr*; *Reynolds v. Sims*; *WMCA v. Lomenzo*
- The Johnson Landslide in 1964 gave Democrats a two-house legislative majority for the first time since the Great Depression.
- Urban areas demanding assistance.
- Nelson Rockefeller signed legislation putting the Question on the November ballot.
- Voters approved by narrow margin of 237,000.

1966 - Election of At-Large Delegates

- 15 delegates were elected at-large statewide
 - Republicans had been widely favored to win, with a slate headed by the popular U.S. Senator Jacob Javits.
 - Only 2 Republicans on the at-large slate were elected due to their acceptance of endorsement from the Conservative Party.
 - 10 Democrats with Liberal Party endorsement and 3 Liberals with Democratic endorsement were elected.

1966 - Election of District Delegates

- 171 district delegates elected – 3 each from the 57 state senatorial districts then in existence.
- Voters simultaneously elected a majority of Republican senators and a Democratic majority of district delegates.
- Democrats won 13 delegate seats in 9 districts that were sending Republicans to the Senate. People actually split their votes.
- Final lineup: Democrats – 101; Republicans - 85

Myth: Legislators Were Most of the Delegates

- Only 13 of the 186 delegates in 1967 were sitting legislators – 7% of the total.
- However, those 13 included most of the legislative leadership on both sides of the aisle.
 - Speaker of the Assembly
 - Majority Leader of the Senate
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 - Minority Leader of the Assembly
 - Chair of the Senate Judiciary Committee
- The legislative leaders became the Convention leaders – a major problem from the start.

Myth: Judges Are Ineligible To Serve

- Retiring chief judge of the Court of Appeals, two sitting associate judges and one retired judge on the Court were elected.
- Presiding judges of the First and Second Departments.
- Sitting or retired Judges from Supreme Court, Surrogate's Court, Family Court, County Court, NYC Civil or Criminal Courts, justice courts.
- 28 of the 186 delegates or 15% of the total.

Myth: Never Enough Attorneys

- The dominant occupation: lawyers and judges comprised 124 of the 186 delegates or 2/3 of the total.
- Other occupations:
 - Farmer – 1
 - Insurance, Real Estate – 10
 - Other Business – 21
 - Labor Union, Laborer – 6
 - Academics, Social Workers, Others -- 24

Myth: Local Governments Were Unrepresented

- Past and future mayors of New York City: Robert Wagner, Jr., Abe Beame, David Dinkins
- Mayors of Rochester, Syracuse and Albany: Frank Lamb, William Walsh and Erastus Corning II
- County Executive of Monroe County: Gordon Howe
- Chair of the Board of Equalization and Assessment and former Comptroller and Lt. Governor Frank Moore

Myth: No Federal Government Connection

- Current and former Members of Congress: John Murphy and Eugene Keogh
- Member of U.S. Delegation to the United Nations: Marietta Tree
- Former Deputy U. S. Attorney General: William vanden Heuvel

Myth: Widespread Debate in the General Election

- Relatively little attention to issues.
- Legislative apportionment being handled by the courts.
- The most significant issue for the public, especially in the New York City suburbs, was the proposal to repeal the so-called Blaine Amendment in the Education Article that prohibits financial aid to religiously-affiliated schools.
 - Result after the election: 120/186 reported as pledged to repeal.
- Many judges and candidates in safe districts chose not to campaign at all.

Myth: Consensus on a Reform Agenda

- With the single exception of the proposed repeal of the Blaine Amendment, the election campaigns produced little consensus on anything else.
- The Republicans were generally comfortable with the existing provisions of the document.
- The Democrats were deeply divided over many of the revisions being suggested by various bar associations, good government groups and academics.

Myth: Nothing Got Done Except Repeal of Blaine

- Executive Branch

- Governor given reorganization authority subject to legislative veto.
- No significant change to powers of State Comptroller and Attorney General.
- Public Service Commission – four members to be appointed by the Governor for six-year terms; three by the legislature in joint session.
- Department of Criminal Justice was proposed, debated and rejected.

Myth: Legislature Untouched

- Legislature
 - Senate size fixed at 60.
 - Apportionment to reflect equal population.
 - A five-member commission to redistrict legislative and Congressional districts, chaired by an appointee of the Court of Appeals. Membership by legislators would be barred.
 - Gerrymandering of any type prohibited.
 - Increased terms of office and term limits rejected.
 - Initiative and referendum rejected.
 - Legislature's authority generally enhanced.

Myth: Judiciary Untouched

- Judiciary
 - Comprehensive court merger rejected.
 - Appointment of Court of Appeals rejected.
 - Centralized administration of the judiciary by the Court of Appeals.
 - Statewide financing of all courts, with a 10-year phased-in state takeover of local contributions to the court system.
 - The institution of district courts, with protections for justice courts.
 - More modern consideration of religious considerations in the adoption of children.

Myth: The Bill of Rights Untouched

- Discrimination prohibited on the basis of age, sex or physical or mental handicap.
- Repeal of Blaine Amendment accompanied by insertion of Federal First Amendment and citizen right to sue for unconstitutional expenditures.
- Electronic eavesdropping or surveillance for law enforcement purposes constitutionally limited.
- An explicit constitutional guarantee of the right to counsel at every stage of the proceeding in all criminal matters.
- Legislature authorized to reduce voting age to 18.

Reality: Fiscal Policy Directions Were Controversial

- All public assistance and Medicaid costs not paid for by the national government would be borne by the state, phased in over ten years.
- Community economic development responsibilities including housing would be constitutionally specified and supported.
- The popular referendum requirement for the approval of state debt would be replaced by a constitutional limit linked to aggregate receipts.

Reality: Other Outcomes

- Conservation
 - Adirondack and Catskill Preserves to remain “forever wild.”
 - Conservation Bill of Rights adopted.
- Labor
 - Right of employees to bargain collectively retained.
 - Public pensions not to be impaired; civil service protections continued.
- Education
 - State aid to be based on attendance, pupils with special needs, and total local tax burden; equality of opportunity guaranteed.
 - Legislature to define a system of higher education, including both public and private institutions and financial aid.
 - SUNY and CUNY recognized and protected.

Reality: Debate on Presentation

- Last day of the Convention: September 26
- Republicans demanded separate submission
 - An omnibus amendment
 - The repeal of Article XI, Section 3 (Blaine)
 - Elimination of the debt referendum
 - Transfer of welfare programs to the state
 - The new Judiciary Article
- Democrats prevail on a single package, 94-82.
 - The most fundamental, and perhaps most costly, decision of the Convention.

Reality: The Ratification Campaign

- Media uniformly opposed to single package.
- Good government groups opposed for lack of major court restructuring and legislative reform.
- Civil liberty and civil rights groups opposed to repeal of Blaine Amendment.
- Fiscal conservatives opposed to state takeover of welfare and court costs, elimination of debt referendum.
- New York City and other local governments failed to achieve significant additional home rule.
- Result: Constitution rejected in all 62 counties, received only 27.9% of the votes cast.

Reflections Going Forward

- Successful Constitutional Conventions require:
 - Widespread agreement on a core reform agenda at the time of the Call of the Convention and especially when electing delegates.
 - Recognized champions for reform: governors, business and labor leaders, good government and civil rights/liberties groups, bar associations, media proponents.
 - Avoidance of legislative dominance, especially if legislative reform is a major public concern.