

POLI100H: CONSTITUTIONAL CONVENTION EXERCISES
Spring, 2019

Poli100H focuses on understanding the intentions, successes, and shortcomings of the U.S. form of governance. As we will discuss, most aspects of the constitutional order were designed to preempt specific problems, such as an overbearing majority or an out-of-control executive. Of course, not everything worked as expected, and a patchwork of fixes (Amendments 11-27) were adopted along the way. Some of these corrected design flaws (12th Amendment). Some advanced political equality (13 and 19). Some restructured political institutions to make them more democratic (17). Some addressed pragmatic concerns (25). And more.

We will work together as a class to consider an array of amendments to the Constitution, and ultimately select one for adoption. (At least I hope we do!) The exercise—which we will undertake twice during the course of the semester, as noted on the syllabus—proceeds as follows.

Amendment proposal (One per student per convention, each 10% of course grade)

For each of our two conventions, each student must write a 1,200 (plus-or-minus 50)-word amendment proposal. The proposal should be divided into the following three sections:

- *Proposed text.* Here, simply present the text you would add to the Constitution. You should use language that is succinct and clear. You do not need any explicit justification in this section—just the text. (See the real amendments for examples.) The limit is 200 words, but you should feel no obligation to make your amendment that long. The 13th Amendment is only 43 words long, and most people think it is very good.
- *Discussion of problem.* You should write at some length about what problem your amendment would address. For instance, the authors of the 25th Amendment (on presidential disability) might have written about how there is no constitutional provision for a president to suspend his or her powers while being anesthetized for surgery. The authors of the 21st Amendment (ending Prohibition) might have reviewed data showing that prohibiting the sale of alcohol failed to decrease alcohol-related deaths. Look over our syllabus and you will find numerous implicit critiques of how well the Constitution is fulfilling its purpose.

I recommend you organize this section by making three distinct points (at least one paragraph each) about why a problem exists, and why addressing it is a high priority.

- *Explanation for the remedy.* Here, put on your Madison hat. Explain why your proposed solution is a good one. This is likely to require careful thought. Political rules are often subject to manipulation, and can have surprising unintended consequences. You should work to persuade your readers that you have thought these through and that your proposal is likely to work as intended.

Similar to the previous section, I recommend three distinct points, elaborating on why the proposal will work and addressing potential counterarguments, as appropriate.

Your proposal should reference and cite at least three reputable outside sources. Please use parenthetical citations, not footnotes. You should include a works cited section, but it does not count toward your word total.

You should upload your proposal to the Assignments tab on Sakai by the date indicated on the syllabus, but do NOT write your name on the proposal itself. Sakai tells me who wrote what, and keeping your name off the document will allow committees to evaluate the proposals anonymously.

Committee Report (One per group per convention, each 7.5% of course grade)

Students will be divided into six groups, and each group will be responsible for evaluating approximately four proposed amendments. Each group must select **one** proposal for further consideration. Then, the group must produce a committee report with the following components:

- Proposed amendment text. You can edit the initial proposal to make it better—either in terms of the writing, or in terms of what it actually would do. Or if you do not wish to edit it, you can simply copy and paste the original text and make a notation that there were no modifications required. Any edits must continue to hew to the 200-word limit.
- Cover memo. Briefly summarize what the amendment is intended to do, and why your group found it compelling. You can reference parts of the initial proposal (very succinctly) that make for a strong case. But try to add value. For instance, you can marshal additional information that the original author did not include, but which might bolster the case for your selected proposal. You can state the argument in clearer form. You can anticipate and address more potential counterarguments. You should also explain the rationale for any modifications you decided to make. This section should be 600 words, plus or minus 50.
- Comment on unselected proposals. Here, explain why the unselected proposals were not adopted. Perhaps you disagree with their objectives, or are unconvinced that the objectives would be achieved. Perhaps you simply do not see the problem they identify as being as high a priority as the proposal you chose. Note that there does not need to be anything “wrong” with the non-adopted proposals. Perhaps you simply thought they were less politically viable in the decision process described below.

Your group should write approximately 200 words per non-adopted proposal, discussing its strengths and limitations.

Compile your committee report followed by the original proposal into a SINGLE neatly-formatted PDF document and upload it to the Forum sections on Sakai, for the full class to review.

Comment Period (One comment per student, graded as part of the initial proposal)

After the six proposals have been posted to Sakai, you should read all six and write a 150-word comment on one of them—not one you worked on. Don’t overthink this. Simply write about what you like about the proposal, or what you do not like about it. This exercise is mostly to make get you thinking about the proposals independently before our in-class discussion of them. Completion of this task is part of your constitutional amendment grade.

Conventions

Twice in the semester, we will have an in-class convention to consider the proposals offered. Each group will provide a succinct (5-minutes, no slides) oral presentation about why they chose the proposal they did. Then, we will engage in a discussion on the merits. At the end of the discussion and the disposition of any proposed modifications, the full class will vote on each proposal in two stages. First there will be an up-or-down vote on each proposal: should the proposal be adopted or not? Following precedent for constitution amendments, there is a two-thirds super-majority requirement here. Second, for all proposals that survive the first round, the class will vote (via a [Borda count](#)) on which proposal is the *most* compelling. The winner of this second round is the adopted proposal.

The group that sponsored the winning proposal—as well as the proposal’s original author—will receive a grading bonus on the related assignments.

As you might perceive, the goals of this assignment are 1) to think critically about the Constitution—including possibilities and perils related to reform; 2) to work collaboratively to strengthen each other’s ideas; and 3) to engage in perspective taking. (You will need to think not only about what reforms you might like, but also about what will be compelling to our full class.)

Examples

Trouble getting started? Here are some questions to contemplate. These quandaries are have the potential to be addressed in some way by constitutional amendment. How satisfied are you with...

1. Life tenure for Supreme Court justices?
2. The structure of primary elections in the United States (presidential and congressional)?
3. The lack of term limits for members of Congress?
4. First Amendment protections for journalists and journalism in the United States?
5. Aspects of congressional procedure including...
 - a. how the filibuster works in the Senate?
 - b. the influential role of party leaders?
 - c. rules for overriding a presidential veto?
6. The size of the federal government and the breadth of issues it manages?
7. The relative power and spheres of influence for the federal versus state governments?
8. Aspects of presidential power including...
 - a. flexible use of executive orders?
 - b. presidential war powers?
 - c. executive privilege?
 - d. the ability to make recess appointments?
9. The increasing size of the national debt?
10. Non-discrimination policy in the United States, including as it applies to...
 - a. law enforcement?
 - b. job hiring and college admissions?
 - c. marriage rights?
 - d. the provision of good and services (e.g. [this](#))?
11. The frequency of federal elections?

12. Campaign finance laws in the United States?
13. Rules about how congressional districts are drawn (and related issues of gerrymandering)?
14. The disproportionate influence of small-population states via the Senate? (Though look carefully at Article V before tackling this one.)
15. Privacy rights in the United States?
16. How the U.S. president is elected in the United States, including...
 - a. the disproportionate influence of small states in the Electoral College?
 - b. the winner-take-all nature of state electoral votes?
17. How the House of Representatives would be able to reconstitute itself in the case of a disaster that killed most of its members? ([It would be hard.](#))
18. The ability to remove a Supreme Court justice from office should he or she fall ill and be in a vegetative state. (It might be impossible, because impeachment normally requires a crime.)
19. The size of the Supreme Court?
20. Age requirements for federal offices (president, senator, House member)?
21. The requirement that a U.S. president be a natural born citizen?
22. The order of presidential succession, should the president and vice-president both die?

That list is just to get your wheels turning and convey that there is a multitude of directions you can go with this assignment.