

Exploring Constitutional Amendments with the Serial Set

By Jan Oberla

Amending the U.S. Constitution is a frequent theme in the national discourse. It never seems to go out of style. Modern day legislators, pundits, and citizens may think they have new remedies for improving the nation by altering our founding document. Previous generations felt the same way. They also sought answers to problems of their day by offering additions or changes to the constitution. All amendment proposals must go through a rather arduous, drawn-out process, and history has shown that very few succeed, only seventeen since the original Bill of Rights. This can be viewed as good and bad: An easier path might lead to too many changes, and a more unwieldy structure of the government. A harder path could hinder the survival of potentially good solutions.

This difficulty does not deter hopefuls from making the effort. The Senate Web site presents a tally of well over 11,000 proposed amendments since the nation's founding, or an average of fifty per year.¹

What follows is a guide to sources for research in this fascinating field using one important government resource known as the Serial Set. Even a brief study will show that, in reality, there are few truly untried ideas. A look at these reveals insight into persistent concerns affecting U.S. citizens over the years. The format used and detail provided in scattered finding aids will vary. A complete inventory of every proposal in a single sequence does not exist.

In addition to the problem of no comprehensive list, researchers will find subject analysis to be difficult. Inconsistent language describes each resolution, so time-consuming linguistic analysis is needed to thoroughly classify them by subject.

Regulate campaign financing? Numerous proposals have been made.

Require a balanced budget? An early attempt was floated in 1936.

Reform the electoral process? It has been tried many times.

It is true that those who wish to amend the constitution have achieved some success in the latter category. The Seventeenth Amendment, for example, completed the obstacle course in 1913, resulting in direct election of senators; however, many other proposals, such as those to regulate terms for judges or to eliminate the electoral college, have fallen short of the mark repeatedly.

For those interested in exploration of this sort, options for identifying or tracking recent proposals are more plentiful now than ever before. The free, official Web site of Congress known as THOMAS is a great boon for browsing and searching for all types of legislative activity.² The debut in late 2012 of Congress.gov will lead to more options as they incorporate and enhance information now found on THOMAS.³ Currently, dates vary for each resource—bills, committee reports, treaties, nominations, and

¹ U.S. Senate, "[Measures Proposed to Amend the Constitution](http://www.senate.gov/pagelayout/reference/three_column_table/measures_proposed_to_amend_constitution.htm)," http://www.senate.gov/pagelayout/reference/three_column_table/measures_proposed_to_amend_constitution.htm (accessed September 10, 2012).

² Library of Congress, "[THOMAS](http://thomas.loc.gov/home/thomas.php)" homepage, <http://thomas.loc.gov/home/thomas.php> (accessed September 10, 2012).

³ Library of Congress, "[Congress.gov](http://beta.congress.gov/)" homepage, <http://beta.congress.gov/> (accessed September 10, 2012).

so on—but the focus is only on the last few decades. What about earlier years? Contrary to popular belief, everything is not on the Internet. Before the online tools became available, historical research was significantly aided by lists and resources found in the Serial Set, a national treasure for learning about the collective past.

Several types of material can be found in the Serial Set to facilitate constitutional study. Those cited below appear in different forms over the years. Some appear more frequently than others, but all seem to have been updated regularly:

- the U.S. Constitution itself, both in brief “pocket” format and in a hefty annotated version
- extensive details on the amendment process
- amendment documents useful in tracing legislative history
- discussion of specific amendment proposals
- ratification results on successful amendments
- lists of unratified amendments
- lists of proposals, periodically brought up to date with related material on issues and government actions, such as a recurring report, “Study of Constitutional Rights”⁴

The most useful of these will be explored here, but first, a little context is in order so that factors surrounding the constitutional amendment process may be better understood.

The Amendment Process

When events or popular sentiment demand change, it is important to know what the rules of the game are. Article V of the constitution specifies the two paths that may be taken for amendment:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth

⁴ *Study of Constitutional Rights*. Committee on Rules and Administration. Senate. 12532 S.rep.31, 88-1; 12662-1 S.rep.23, 89-1; 12710-1 S.rep.972, 89-2.

Other periodic publications on constitutional topics are found in the *Serial Set*. This list is not complete. Some seem to have been discontinued or renamed, but they serve as examples:

- Constitutional Amendments. Committee on the Judiciary. Senate. 12712-2 S.rep.1335, 89-2; 12752-1 S.rep.191, 90-1; 12794-1 S.rep.1173, 90-2; 12834-5 S.rep.615, 91-1; 12883-2 S.rep.1367, 91-2.
- Constitutional Rights. Committee on the Judiciary. Senate. 12533 S.rep.164, 88-1; 12618 S.rep.1016, 88-2; 12664 S.rep.501, 89-1; 12794-1 S.rep. 1171, 90-2.
- Constitution of the United States of America: Analysis and Interpretation, Analysis of Cases Decided by the Supreme Court of the U.S. to June 28, 2002 (14866 S.doc.17, 108-2). Contains annotations of Supreme Court decisions up to date of publication, historical notes, and research aids
- Selected Materials on the Twenty-Fifth Amendment (13023-2 S.doc.42, 93-1). Reports from consideration in previous Congresses and tributes following the death of President John F. Kennedy.

Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.⁵

Clearly, the framers of the constitution expected from the start that amendments would occur to meet the new challenges of a rapidly changing society or to better resolve existing issues.

Let us now look more closely at Serial Set resources on those proposals that passed muster. Later, we will review what is available on the majority that did not.

Serial Set Material on Successful Amendments

The founders achieved an amazing feat in crafting a flexible framework for government. Quite soon after ratification, however, a number of changes became necessary. Discussion of the First through the Tenth Amendments, now known as the Bill of Rights, began quickly. Disagreement at the Federal Convention on inclusion of certain provisions threatened on several fronts. Ultimately, as a compromise, these ten were added as amendments and ratified December 15, 1791.⁶

Many works describe or analyze these events, but the purpose here is to guide users to sources in their own areas of interest. It is hoped that laying out the obstacles in research will help in overcoming them. For instance, practices for documenting steps in the process may not be consistent in the early years. The now familiar resolution numbers assigned when a measure is introduced are elusive. Other key pieces of data can be sketchy and unclear. It should not be forgotten that each case was unique and often raised questions not encountered before.

These are challenges to scholars who rely heavily upon primary, official sources when investigating new and old amendments. It is not necessary to be a professional to locate and learn from these illuminating documents. A novice researcher in this area may find the way difficult, however, without guidance. Advice offered here does not serve as a complete roadmap to amendment research, but it will explore what can be found in the Serial Set, a resource commonly found in many public libraries and universities. Libraries are indispensable for this journey, especially those participating in the Federal Depository Library Program (FDLP). In this network of geographically dispersed libraries, government-produced sources can be consulted along with several commercial products that may be available. The FDLP system facilitates access to both print and online government material for all citizens and makes available knowledgeable staff to assist users.⁷

Success will vary depending on the period of one's research. Large gaps exist, as mentioned earlier. With that caveat in mind, a great deal of information can be found using freely available Web sites and print sources produced by the federal government. The Serial Set may be incomplete and inconsistent in some ways, but it greatly improves access to amendment materials from the years following 1817. Therefore, this period of coverage will be emphasized here. With these parameters, the first amendments one could expect to uncover would be to the immediate post-Civil War amendments, the

⁵ U.S. Const. art. V.

⁶ Amendments to the Constitution are on the website of the National Archives. The [Bill of Rights \(amendments 1-10\)](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html) are at http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html and [amendments 11-27](http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html) are found at http://www.archives.gov/exhibits/charters/constitution_amendments_11-27.html

⁷ U. S. Government Printing Office, "Federal Depository Library Program," <http://www.gpo.gov/libraries/> (accessed September 10, 2012).

Thirteenth (1865), Fourteenth (1868), and Fifteenth (1870). There are too many works to be listed here for exploring the development and difficulties concerning these amendments. Both together and separately, they are the subject of voluminous scholarly and popular works. The Serial Set, however, provides the basic material on the legislative route taken during the ratification process for these and other amendments. Due to inconsistencies cited above, and others, documents for the period following the Civil War are lacking. What one can explore is a sampling of representative materials from later periods rather than a chronology for each amendment.

Forms of documentation

Now let us look at some brief examples of the types that can be located for several of the proposal topics.

Committee Reports on Bills or Resolutions

In the most common current day use, Committee Reports reveal arguments and discussion preceding passage on specific bills. Views expressed are normally those of committee members rather than invited individuals, the latter being recorded in public hearings. Hearings are not typically included in the Serial Set. Even though amendment proposals are often brief, the full text does not typically appear in these reports. With date information located in the report or elsewhere, one can usually find the text of introduced resolutions reprinted in the Congressional Record or its predecessors.

In the example, *Proposing an amendment to the Constitution of the United States for the election of President and Vice President*, the text of the Senate Joint Resolution 2 was brief and therefore included (11379 H.rep.1858, 81-2). An earlier report, preceding the passage of the Twenty-second Amendment, includes several tables analyzing election data to support the call for improving the system (11300 H.rep.1011, 81-1). The Twenty-second Amendment did pass in the next Congress, and the report, *Proposing an amendment to the Constitution of the United States providing for the election of President and Vice President*, contains the favorable views of the committee (11488 S.rep.594, 82-1).

House and Senate Documents.

The category of Documents refers largely to housekeeping or reference materials used by members of Congress. The U.S. Constitution is a recurring publication (12989-2 H.doc.250, 92-2); another version is dated June 20, 2003 (14829 H.doc.95, 108-1). Many other versions can be found scattered in Serial Set volumes over the years. Amendments, ratified and unratified, are typically found with indexes to content in articles, sections, and clauses. See the Appendix A for examples from 1970 to 2008.

Messages from the President.

Messages from the president are known as executive documents, and as might be apparent from the name, contain communications from that branch to Congress.

Referring back to the Civil War–era amendments, it is possible to find several items in this category. In 1869, President Ulysses S. Grant responded to a request for totals on state ratification progress for the Fifteenth Amendment, (figure 8-1, 1416 H.ex.doc.15, 41-2). Following that, in 1871 President Grant forwarded a message concerning the final ratification of the Fifteenth Amendment (figure 8-2, 1466 S.ex.doc.2/1, 42-1).

Communications to the Congress from States, Transmitting Ratification Results.

1350 H.misc.doc.159, 40-2 contains a letter from the governor of North Carolina with the results of consideration (of the Fourteenth Amendment, called an “article” in this example) in his state (figure 8-3).

Miscellaneous Documents.

The 1865 document, Resolution on rule in ascertaining the three-fourths of the States necessary to ratification of constitutional amendment, (1210 S.misc.doc.23, 38-2) is procedural in nature and shows Senator Charles Sumner supplying information on “Concurrent resolutions declaring the rule in ascertaining the three-fourths of the several States required in the ratification of a constitutional amendment” (figure 8-4).

If document and report numbers are known, quite a bit of time can be saved in retrieving an item. Unfortunately, some authors may not cite them completely. Identification of relevant material is enhanced with several commercially published indexes that provide access via subject, title, bill number, and so forth. As one author points out, however, “Some sort of indexing has always been a part of the U.S. Serial Set. For instance, from 1817–1897 (15th through 54th congresses) a subject index was placed in each volume that began a report or document series within a congressional session.”⁸

Amendments as a response to current events. It should not really be surprising that some proposals for amendments become part of the U.S. Constitution in reaction to significant national events or tragedies. Presidential disability and succession in office, for example, was clarified after the assassination of President John F. Kennedy. The Twenty-fifth Amendment, addressing this issue, was adopted in 1967. Though slavery was a simmering and divisive issue from the start of the nation, the three amendments that followed the Civil War resulted in increased rights and status for African Americans. The Thirteenth, Fourteenth, and Fifteenth Amendments achieved ratification from 1865 through 1870.

Negative reaction to decisions of the U.S. Supreme Court may also be the source of calls for change. The Eleventh Amendment was “the first one adopted to overturn a Supreme Court decision and the only adopted amendment ever to address the judicial branch of government. The amendment spawned numerous cases that have both expanded and narrowed its apparent scope.”⁹

Many examples are summarized in a host of other works, including a handy treatment by constitutional scholar John Vile and therefore will not be examined here.¹⁰

Three controversies

In exploring these issues, researchers will begin to see debates arise on procedure as well as underlying philosophy and meaning of the proposals. Some are well known, but others are more obscure to most citizens.

1. Can it take “too long” to ratify?

By far, most ideas are introduced and set aside, where they will die without sufficient interest in that Congress. Yet they may be brought up again in subsequent sessions of Congress. A very unusual situation occurred when an idea came up and lingered... and lingered... until ratified 203 years later. This long-forgotten proposal to regulate midterm congressional pay increases was written by none other than James Madison and languished for decades as states slowly considered and ratified. It finally

8 Richard J. McKinney, “[An Overview of the U.S. Congressional Serial Set](http://www.ilsdc.org/sch-v/#Overview),” <http://www.ilsdc.org/sch-v/#Overview> (accessed September 10, 2012).

9 John R. Vile, *Encyclopedia of Constitutional Amendments, Proposed Amendments, and Amending Issues, 1789–1995*. 112-113. ABC-CLIO, Inc. Santa Barbara CA. 1996.

10 *Ibid.*

reached the finish line in 1992 as the Twenty-seventh Amendment, the last successful amendment to date.

The time allowed for ratification is an important consideration and was controversial in the case cited above. Officials, courts, and scholars did not know what to make of it. Prior Supreme Court rulings advanced the idea of “contemporaneous consensus,” indicating that prompt action on the measure was a natural expectation. Opinion still varies on this issue of legitimacy. If more than two hundred years have elapsed, that can hardly be described as contemporary. In the case of the Twenty-seventh Amendment, however, virtually everyone concluded that Congress should retain control in this realm and determine if such a lengthy gap really cast doubt on the validity of the outcome. After much debate, and during an election year when pay raises for public officials were an unpopular topic, the amendment was allowed to stand and was supported by an opinion of the U.S. Department of Justice Office of Legal Counsel.¹¹

2. Can the period set for ratification be extended?

Related to the matter above is another timing question. When a deadline for ratification has been specified, timeliness is clearly a concern. For many resolutions, past practice had been to specify a period of seven years within its language for states to consider and ratify. This was truly necessary in times when communication was slow and state legislatures may not have met as regularly as they do now. One danger here is that stated limits can actually contribute to an amendment’s demise. Such was the case for the Equal Rights Amendment, popularly known as the ERA. Variations of this idea had been around since 1923, but the latest effort in the 1970s did not obtain ratification by a sufficient number of states within the time period required. Even seven years was sufficient for opposition to organize and affect its fate. Supporters tried to extend the deadline. This was viewed as a dubious strategy though it may not have been unprecedented. This chapter closed when the allotted period ended in 1982, just three states shy of the two-thirds necessary for ratification.¹²

The story of proposals that came close but ultimately did not make it can be instructive. As stated earlier, these can garner varying amounts of attention over many years. Recent ideas are likely to be aired in congressional hearings and are certainly summarized in committee reports. One example titled Equal Rights for Men and Women, recommended passage of S.J. Res. 8, S.J. Res. 9, and H.J. Res. 208, (92nd Congress) proposing an amendment to the constitution ensuring equal rights under the law for men and women. A decade earlier, the same committee published the Equal Rights Amendment, Questions and Answers, prepared by the Research Department of the National Woman’s Party (12445 S. Doc. 164, 87-2.).¹³

3. Can an amendment be repealed?

Another well-known case that became an anomaly was prohibition, or the Eighteenth Amendment. Here, too, popular opinion shifted significantly on the effectiveness or wisdom of banning the manufacture, sale, or transportation of alcohol. It was debated, passed, and ratified rather quickly, only

¹¹ Congressional Quarterly Almanac, 1992, pp. 58–59, “Madison Amendment Surprises Lawmakers;” Congressional Pay Amendment, “[Memorandum Opinion for the Counsel to the President](http://www.justice.gov/olc/congress.17.htm),” <http://www.justice.gov/olc/congress.17.htm> (accessed September 10, 2012).

¹² Congressional Quarterly Almanac, 1982, p. 377, “ERA Dies Three States Short of Ratification.”

¹³ 12971-1 S.rep.689, 92-2).

to be repealed when the public mood switched course within a few years. This is the only instance of the introduction and repeal of a constitutional amendment.¹⁴

If viewed as just another piece of legislation that can obviously be rethought and rescinded, this is not a true controversy. However the reverence we hold for the constitution contributes to the significance of any attempts to alter its fabric. It is much more common to find proposals to add language rather than subtract it. On occasion, states have attempted to withdraw their approval, without success.

Serial Set Material on Proposed Amendments

What about the numerous other ideas offered for amendments that have fallen short of the goal? On its Web site, the Senate estimates that from 1789 through December 2010, there have been 11,447 measures proposed. In that listing, the years 1789–1990 combined for— a total of 10,431 proposed amendments.¹⁵

Putting this data together and breaking out the available compiled information from THOMAS (coverage begins with the 93rd Congress, 1973–74) one can see a more detailed picture. As stated earlier, many are contemplated, but rarely do they succeed. Nonetheless, they could be fruitful ground for study by a host of academic disciplines. A curious scholar would very likely be intrigued by peaks and valleys in proposals over time. The graph below shows quite a significant spike in the 1990s. Overlaying additional socioeconomic data might lead to theories on reasons for desired change.

Year	Congress	# of Proposed Amendments
2009–2010	111th Congress	75
2007–2008	110th	66
2005–2006	109th	72
2003–2004	108th	77
2001–2002	107th	77
1999–2000	106th	71
1997–1998	105th	118
1995–1996	104th	152
1993–1994	103rd	155
1991–1992	102nd	153
1989–1990	101st	37

¹⁴ Thomas Heard, “Proposed Constitutional Amendments as a Research Tool: The Example of Prohibition,” *Law Library Journal* 84, no. 3 (Summer 1992): 499–508.

¹⁵ [Measures Proposed to Amend the Constitution](http://www.senate.gov/pagelayout/reference/three_column_table/measures_proposed_to_amend_constitution.htm) (U.S. Senate), http://www.senate.gov/pagelayout/reference/three_column_table/measures_proposed_to_amend_constitution.htm (accessed September 10, 2012).

Year	Congress	# of Proposed Amendments
1987–1988	100th	30
1985–1986	99th	25
1983–1984	98th	32
1981–1982	97th	33
1979–1980	96th	34
1977–1978	95th	32
1975–1976	94th	33
1973–1974	93rd	41

To reiterate, researchers may be disappointed that there is no complete list of every proposed amendment in a single source. Information on the disparate sources follows.

Most of the material presented here deals with the more common type of amending proposals, via congressional action. The alternate route to amending—state conventions—is also the subject of a few items within the Serial Set.

Constitutional Conventions

Though never used, this “second way” of amending the constitution has elicited some interest. A few documents addressing this topic are:

Ratification of constitutional amendments by conventions (9665 S.doc.181, 72-2).

Letter commenting on the convention method of ratifying amendments, from Hon. William Clark, U.S. District Judge for the District of New Jersey (9665 S.doc.181, 72-2).

Federal Constitutional Convention Procedures Act (12929-3 S.rep.336, 92-1).

July 31, 1971, Committee on the Judiciary. Senate.

Recommends passage of a resolution to provide procedures for calling constitutional conventions for proposing amendments in accordance with Article V of the Constitution.

Constitutional Convention Implementation Act of 1984 (13562 S.rep.594, 98-2).

August 10, 1984, Committee on the Judiciary. Senate.

Recommends passage with amendments of S. 119, the Constitutional Convention Implementation Act of 1984, to establish procedures for implementation of Article V of the U.S. Constitution, requiring Congress to call a federal constitutional convention, upon petition by two-thirds of the state legislatures, for the purpose of proposing constitutional amendments.

Constitutional Convention Implementation Act of 1985 (13622 S.rep.135, 99-1).

September 10, 1985, Committee on the Judiciary. Senate.

Recommends passage with amendments of S. 40, the Constitutional Convention Implementation Act of 1985, to establish procedures for implementation of Article V of the U.S. Constitution, requiring Congress to call a federal constitutional convention upon petition by two-thirds of the state legislatures for the purpose of proposing constitutional amendments.

The Ames List and other helpful research aids

Before the advent of online sources, the study of proposed constitutional amendments was quite laborious. Tools that are necessary to trace the path of an idea from proposal to ratification were not widely available. Researchers would need access to original documents, of course in printed form, and these were found in congressional offices in Washington, D.C. In addition, researchers would need to consult records for details on ratification in each individual state for a thorough investigation.

Additionally, this is a daunting task because of the sheer volume of proposals. Fortunately, over the years, lists were compiled and appeared in the Serial Set with periodic updates.

The first comprehensive list of proposed amendments was made possible in 1897 by the American Historical Association. The list was published in volume 3550 of the Serial Set along with the association's annual report. If one is accustomed to seeing only the typical congressional committee reports of today, this may seem a bit unusual. These reports continued for several decades and are evidence of the great variety of miscellaneous items widely disseminated to the public through the Serial Set. The list, with extensive discussion and detail classifying the many types of proposals, was prepared by Herman Vandenburg Ames. The preface to *Proposed Amendments of the Constitution of the United States during the First Century of its History* states he received the Justin Winsor prize of \$100 for his efforts, awarded by a committee of the association (3550-2, H.doc.353 pt. 2, 54-2). Ames received his M.A. and Ph.D. from Harvard. After studies abroad, he taught at the University of Michigan and Ohio State University before his achieving tenure at the University of Pennsylvania.

Dr. Ames did future scholars an invaluable service by personally visiting offices and officials and meticulously recording details relevant on virtually every proposal. He acknowledges the possibility that some would not be found due to the wide dispersal of state proposals and other factors. Despite that, his document is over four hundred pages and deserves a closer look. Ames divides the work into four periods, from 1789 to 1889, with an overview of each. He then breaks proposals into categories, which are quite valuable to assist location of specific content—proposed amendments affecting the form of government by legislative, executive and judicial branches, and by general powers. Authors of some subsequent lists followed this useful framework.

The bulk of the work is devoted to explaining the amending process and to exhaustive historical notes on every aspect of its creation—procedural issues, proponents, conditions in the political climate, and more. As instructive as the essay material is, the “calendar,” is fascinating by itself. Almost one-fourth of the document, it consists of an inventory of each proposal—numbered and categorized, with citations necessary for retrieval and with brief information on legislative action and references to congressional debate, if any, in the Congressional Record and its predecessors.

The texts themselves are not included. This is unfortunate, but understandable, as this would have been a tremendous task to reprint them. Numbered 1–1736, they range from “Reservation of nondelegated powers” to “Power of Congress to make uniform laws for marriage and divorce.” An extensive bibliography and index conclude this very impressive work.

Subsequent lists

The next list found in the Serial Set lays out a numbered list from 1889 but carried through to 1926. *Proposed Amendments of the Constitution of the United States* was prepared under direction of the Legislative Reference Service, Library of Congress. Researchers may prefer to use the Musmanno work cited below for reasons given there, but this one is an alternate source to identify resolutions.

In the prefatory note, Legislative Reference Service Director H. H. B. Meyer refers to a theory on the changing interest in one proposal. He cites the rise of the Populist Party as a possible reason for a peak in submissions regarding direct election of senators. Not surprisingly, this group favored a larger role of citizens in their government. Also, his statement that the “trend of public opinion may be studied to a remarkable extent in these lists” bears repeating (8546 S.doc.93, 69-1). This work consists only of a list showing the date of introduction, resolution number, sponsor, sponsor’s state, brief subject, and a combined author/subject index.

Overlapping slightly with the title above is a work by Michael A. Musmanno (9017 H.doc.551, 70-2). In years that followed this monograph, Musmanno served as an officer in the Naval Reserve, as a justice of the Pennsylvania Supreme Court and as a judge at the Nuremberg War Crimes Trials.

Musmanno extends the coverage by two years, taking it from 1889 to 1928 following the format set out by Herman Ames. Musmanno adds a brief discussion by topic summarizing changes in sentiment in each area over the period. Browsing the topics is much more manageable in this smallish volume, and it is fascinating to stumble upon such surprises as a proposal to change the name of the country.

Section headings in this work are listed below to give a better picture of the most popular subjects considered:

Legislative

- Changing the time of the sessions of Congress
- Extra and biennial sessions
- Election of representatives
- Apportionment of representatives
- Terms of representatives
- Permitting members of Congress to hold seats in the President’s Cabinet
- Terms of senators
- Rules of the Senate

Executive

- Changing date of Inauguration Day
- Presidential electors
- Election of president and vice president by a general direct vote; also general electoral vote
- Terms of the president and vice president
- President self succession
- One-term presidency
- Six-year presidential term
- Settlement of contested presidential elections
- The question of ex-presidents
- The veto power
- Power of removal
- Election of executive officials

- Abolition of life tenure
- Pertaining to the presidency
- Succession to the presidency
- Vice presidents

Judiciary

- Term of judges
- Removal of judges
- Election of judges
- Judges to be ineligible for other offices
- Composition of courts
- Jurisdiction of the courts
- Power of the Supreme Court to declare laws unconstitutional

Powers of the Government

- Powers of Congress
- Bearing of weapons
- Impeachment
- Land legislation
- Marriage and divorce
- Divorces
- Miscegenation
- Money
- Export duties
- Import duties
- Trusts and monopolies
- Protection of trademarks
- The treaty-making power
- War powers
- The army
- The militia
- Military pensions
- Prohibition of polygamy
- Protection to labor
- Child labor
- Lotteries
- Insurance
- Treason

Limits on powers of Congress

- Prohibition of special legislation
- Expenditures-appropriation bills
- Claims against the United States
- Chartering corporations

As one can see, many of these topics are still familiar today. On the final page, it is interesting to note that additional copies were once available for 30 cents!

The last group of lists found in the *Serial Set* are those compiled by the Senate Library. These lists, though invaluable for their inventory, were simply tables with the occasional addition of other brief data. In all of the Senate Library lists, there are several useful appendixes and indexes (not always listed in the same order).

In 11992 S.doc.65, 85-1, the years 1926 to 1957 are recorded. They do not contain much in the way of explanation or analysis. The author index begins on p. 162. During the period covered in this edition, one can see that Senator Robert C. Byrd (WV) offered seven proposals. Senator Byrd became known for carrying a pocket-sized Constitution everywhere and later was largely responsible for designating September 17 each year as Constitution Day.¹⁶

Territorial powers

- Admission of territories into the United States
- The District of Columbia

Federal taxation

- Direct taxes
- Inheritance taxes
- Taxation of state securities, federal and state officers, and stock dividends
- Taxation of corporations by states
- Uniformity of taxation an capitation tax

Initiative referendum and recall

- The initiative, referendum, and recall
- The initiative and referendum
- The recall

The Question of aliens

- Right to vote at federal elections
- Japanese aliens
- Excluding states from consideration of alien questions
- Religion
- Recognizing the deity in the Constitution
- Proposition to change the name of the country
- Cumulative voting
- Fortunes

¹⁶ Consolidated Appropriations Act of 2005, Public Law 108-477.

1926 to 1963 are covered in 12445 S.doc.163, 87-2. A quick glance at the subject index in Appendix B (p. 244) reveals the most commonly used topics. Proposals, for example, contained language in some form similar to “Equal Rights for Men and Women” a total of 326 times, more than any other single subject in the scope of this list.

The last component in this Senate Library series is the volume including the data from 1963 to 1969 (12840 S.doc.38, 91-1). Appendix D in this volume (p. 92) is a legislative history chart of resolutions showing which ones received any sort of action. Few were even reported out of the committee.

After this, the Congressional Research Service took up the task of compiling data on proposed amendments. Unfortunately, these updates appear to have ceased. Online tools offer more flexibility in full-text searching for desired subjects but fewer of the advantages one has in a browsable list. The variety of authors and formats detailed may be confusing. For the convenience of users, available lists are summarized by time in Appendix B. The listing includes superseded versions as they may be useful in case a particular volume is unavailable.

Additional material on the Constitution, proposed amendments and related issues

Congressional committees frequently investigate or gather information on constitutional topics. They may study a broad range of issues or focus on one in particular. One example of the former was a recurring issuance of the Senate Judiciary Committee, Subcommittee on Constitutional Amendments. It contains commentary on those constitutional amendments existing up to the time and issues surrounding them. It may discuss current conditions and suggest drafting language to remedy perceived problems. The identifying report number will change according to the date and Congress when it is updated. For an example, see *Constitutional Amendments* (12931-1 S.rep.501, 92-1) and *Study of matters pertaining to constitutional amendments* (12710-1 S.rep.989, 89-2).

In times past, reports or documents might contain an occasional essay on amendment proposals or controversies of the day. These are much less likely to appear in the more recent years of the Serial Set. One such instance was the publication of *Shall We Change Our Plan of Government?*, an address by N. C. Young. The author was a member of the North Dakota Supreme Court, arguing in 1912 against such “direct government” measures as recall, referendum, and initiative (6178 S.doc.865, 62-2).

Another chapter in this type of debate carried on within congressional documents came several years later, in 1922. In *The Constitution Is the Higher Law*, Preston Shinn responds to articles by Walter Clark, chief justice of the North Carolina Supreme Court (noted earlier) on constitutional powers (7988 S.doc.234, 67-2). These documents appear to have been submitted by members of Congress in the interest of a public airing of ideas.

A few more examples of single-issue documents or special topics follow:

Opposition to the Proposed Balanced Budget Amendment to the Constitution of the United States of America, Communication from the President is “a letter in writing to reaffirm his opposition” of this resolution (14235 H.doc.223,103-2).

Proposed Amendment to the Constitution of the U.S., Message from the President transmits a proposed joint resolution to amend the constitution to grant the president authority to reduce or veto specific items of spending authority and to veto substantive provisions contained in appropriation bills (line item veto, 13993 H.doc.179, 101-2).

French Declaration of the Rights of Man and of the Citizen and the American Bill of Rights, a Bicentennial Commemoration, 1789–1989 (13913 S.doc.9, 101-1), was prepared for the bicentennial of the adoption of the French Declaration of the Rights of Man and the Citizen and the American Bill of Rights. It includes the texts of the French Declaration, American Bill of Rights, and historical notes.

Senate of the Roman Republic: Addresses on the History of Roman Constitutionalism (14209 S.doc.23, 103-2). In the context of a proposed constitutional amendment to grant the president line-item veto power, Sen. Byrd (D-WVa) spoke on the history of ancient Rome relevant to their constitutional system and Senate.

Proceedings at Enshrining of Declaration of Independence, Constitution of U.S., and Bill of Rights presents material from this occasion on February 16, 1953 (11675 S.doc.13, 83-1).

Articles that may have used Serial Set for source material

Contributing authors to this book were asked if they could locate books or articles that had made use of information found in the Serial Set. It may be difficult to draw that conclusion for several reasons.

One can make assumptions based on sources available in certain years. For instance, in a dissertation on the ratification process written in 1996 the author cited Senate reports from 1941, 1942, 1954, and 1973. In 1996, online sources for congressional documents had not fully developed yet. Westlaw or LexisNexis may have had files where the text could be retrieved. Individual reports could have been obtained in printed form, possibly from commercial publications such as U.S. Code Congressional and Administrative News. These choices were available, but one cannot tell which the author would have at hand. Ph.D. students, however, would likely have access to the Serial Set located in their library rather than the other sources more commonly found in a law library.¹⁷

Another complication is citation formats that do not require designating “Serial Set” in the citation. The most important element of the citation would be House or Senate, material type, Congress, session, date (e.g. S. Doc. 65, 85th Cong., 1st Sess., 1957)—details taken from the original, individual form of publication. Generally, one is likely to be safe in making an assumption that if older reports or documents are vital to research, and an online version is unavailable, the author would have located them in their compiled format. Additionally, important works such as Ames and others are often reprinted as monographs, so researchers may use those versions or the many options now available online. A bit more explanation of the unique characteristics of the Serial Set is found on the site *A Century of Lawmaking for a New Nation*.¹⁸ This Law Library of Congress–produced site makes available U.S. congressional documents and debates from 1774 to 1873. Digitized, full text copies of congressional reports and documents can be located for the years specified only.¹⁹

¹⁷ Susan Ellis, “Why ratify? How the progressive amendments to the Constitution were ratified then, and what that process means to us now,” Dissertation, University of Michigan, 1996.

¹⁸ Library of Congress, *U.S. Serial Set*, <http://memory.loc.gov/ammem/amlaw/lwss.html> (accessed September 10, 2012).

¹⁹ Library of Congress, “*A Century of Lawmaking for a New Nation*,” <http://memory.loc.gov/ammem/amlaw/> (accessed September 10, 2012).

Additional resources

As stated earlier, the Congressional Research Service (CRS) took up the job of continuing lists of proposed amendments and was the best source outside of the Serial Set before the appearance of online data. In addition, CRS writes reports on individual issues for the use of members of Congress, and often investigates issues on individual amendment proposals. Currently, there is no freely available online or print source for these, but members of Congress can be contacted for copies, or they are collected by various commercial vendors.

Summary

Why look at this data from the past? Citizens and Congress can benefit from historical perspective on efforts to change the U.S. Constitution. Other public officials have roles to play in consideration of proposals, too. At times, the attorney general has been asked for comment on specific proposals. A 1961 opinion by Attorney General Robert F. Kennedy commented on the question of presidential inability.²⁰

In this event, it could be instructive to evaluate previous language and history. Social researchers might want to correlate reemergence of certain topics to economic conditions, population changes, shifting attitudes, and so on, to see what trends may exist. It seems logical that balanced-budget proposals would flourish in hard economic times, but a reliable source of data such as that found in the Serial Set may provide evidence. Thus, a researcher can find a vast amount of fascinating material to compare, analyze, and interpret the various proposals.

Due to the enduring importance and relevance of the U.S. Constitution to citizens, it is certainly not difficult to locate information regarding amendments. Scores of treatments can be easily retrieved in bookstores, libraries, and online—authoritative or opinionated, scholarly or popular. A much smaller subset of material on the proposed amendments highlighted above shows how diverse the topics can be and how tenacious their proponents are.

The study of proposed amendments can be particularly fascinating. It illuminates thinking on hot-button issues at different periods of U.S. history. It can also show that concern for many topics may persist but are thorny enough to defy easy resolution. The process of amending the most basic founding document is difficult for a reason, often taking decades to run the course. Finding consensus in a diverse country requires a lot of effort. It is heartening to know, however, that much thought is still given to using this mechanism for peaceful and gradual change for the betterment of all.

²⁰ 42 Op. Att'y Gen. 69 1961–1974.

Appendix A - The Constitution, 1970-2008

The U.S. Constitution has been printed in various House and Senate documents over the years, usually at least once in each Congress. It can appear separately, or along with other reference materials used by legislators, such as the rules manuals. These versions always include the ratified amendments and quite frequently lists of proposed amendments up to that time. Examples:

Constitution of United States.

Text of original copy, with addition of historical notes. This edition is dated May 13, 1954 (figure 8-5). 11759 S.doc.126, 83-2.

Constitution of the United States of America

14642 H.doc.214, 106-2 (Included in this document is an illustration: "Scene at the Signing of the Constitution of the United States" p. iv).

Constitution of the United States of America, analysis and interpretation

12980-7 S.doc.82, 92-2; 13067-12 S.doc.134, 93-2; 13140-2 S.doc.200, 94-2; 13231 S.doc.26, 96-1; 13314 S.doc.64, 96-2; 13611 S.doc.16, 99-1; 13721 S.doc.9, 100-1; 13854 S.doc.43, 101-1; 13969 S.doc.36, 101-2; 14152 S.doc.6, 103-1; 14328 S.doc.14, 104-2; 14553 S.doc.8, 106-1; 14618 S.doc.27, 106-2; 14866 S.doc.17, 108-2.

Constitution of the United States of America, as amended

12944-2 H.doc.157, 92-2; 13072-1 H.doc.215, 93-2; 13791 H.doc.94, 100-1; 14105 H.doc.188, 102-2; 15110 H.doc.50, 110-1.

Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States (Rules and Manual of House of Representatives)

11774 H.doc.507, 83-2; 12901 H.doc.439, 91-2; 12994 H.doc.384, 92-2; 13079 H.doc.416, 93-2; 13152 H.doc.663, 94-2; 13213-8 H.doc.403, 95-2; 13358 H.doc.398, 97-1; 13479 H.doc.271, 97-2; 13585 H.doc.277, 98-2; 13697 H.doc.279, 99-2; 13889 H.doc.248, 100-2; 14007 H.doc.256, 101-2; 14123 H.doc.405, 102-2; 14253 H.doc.342, 103-2; 14364 H.doc.272, 104-2; 14506 H.doc.358, 105-2; 14658 H.doc.320, 106-2; 14772 H.doc.284, 107-2; 14910 H.doc.241, 108-2.

Pocket Constitution/Constitution and Declaration

130779 H.doc.414, 93-1; 14395 S.doc.11, 105-2; 14643 H.doc.215, 106-2; 14998 S.doc.17, 109-2; 15111 H.doc.51, 110-1.

United States Constitution, with analytical index, unratified amendments

11689 H.doc.211, 83-1.

Appendix B - Compiled lists of proposed amendments (by dates of coverage)

Up to 1889.

The proposed amendments to the Constitution of the United States during the first century of its history, by Herman V. Ames. (3550-2 H.doc.353 pt. 2, 54-2).

December 4, 1889–July 2, 1926.

The proposed amendments to the Constitution of the United States during the first century of its history, by Herman V. Ames. (3550-2 H.doc.353 pt. 2, 54-2).

December 4, 1889–1929.

Proposed amendments to the Constitution of the United States: a monograph on the resolutions introduced in Congress proposing amendments to the Constitution of the United States of America. Prepared by M. A. Musmanno. (9017 H.doc.551, 70-2).

December 4, 1889–March 4, 1927. United States. Congress. Senate. Library.

A calendar of amendments proposed to the Constitution of the United States from December 4, 1889 to March 4, 1927. GPO. Washington DC. 1927.

December 6, 1926–August 26, 1935.

United States. Congress. Senate. Library. Proposed amendments to the Constitution of the United States: introduced in Congress from December 6, 1926, to August 26, 1935. GPO. Washington DC. 1935.

December 6, 1926–August 26, 1935. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States: introduced in Congress from December 6, 1926, to August 26, 1935. GPO. Washington DC. 1935.

December 6, 1926–June 20, 1936. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States: introduced in Congress from December 6, 1926 to June 20, 1936. GPO. Washington DC. 1936.

December 6, 1926–January 3, 1941. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States introduced in Congress from December 6, 1926, to January 3, 1941. GPO. Washington DC. 1941.

December 6, 1926–December 19, 1944. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States introduced in Congress from the 69th Congress, 2d session through the 78th Congress, December 6, 1926, to December 19, 1944. GPO. Washington DC. 1944.

December 6, 1926–January 3, 1947. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States introduced in Congress from the 69th Congress, 2nd session through the 79th Congress, December 6, 1926, to January 3, 1947. GPO. Washington DC. 1947.

December 6, 1926–January 3, 1957. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States, introduced in Congress from the 69th Congress, 2d session, through the 84th Congress, 2d session, December 6, 1926, to January 3, 1957. GPO. Washington DC. 1957.

December 6, 1926–January 1963.

Proposed amendments to the Constitution of the United States of America, introduced to Congress from the 69th Congress, 2d session, through the 87th Congress, 2d session, December 6, 1926, to January 3, 1963 / revised by the Senate Library under the direction of Felton M. Johnston, secretary of the Senate [and] Richard D. Hupman, librarian (12445 S.doc.163, 87-2).

January 3, 1947–January 3, 1953. United States. Congress. Senate. Library.

Proposed amendments to the Constitution of the United States introduced in Congress from the 80th Congress, January 3, 1947, through the 82nd Congress to January 3, 1953. GPO. Washington DC. 1953.

January 1963–January 1969.

Proposed amendments to the Constitution of the United States of America, introduced in Congress from the 88th Congress, 1st session through the 90th Congress, 2d session, January 9, 1963, to January 3, 1969/compiled by the Senate Library under the direction of Francis R. Valeo, secretary of the Senate, Richard D. Hupman, librarian [and] Roger K. Haley, compiler. (12840 S.doc.38, 91-1).

January 1969–December 1984.

Proposed amendments to the Constitution of the United States introduced in Congress from the 91st Congress, 1st session, through the 98th Congress, 2nd session, January 1969–December 1984/by Richard A. Davis, analyst in American National Government, Government Division. CRS Report.

1985–1990.

Proposed amendments to the U.S. Constitution: 99th–101st Congresses (1985–1990)/Daryl B. Harris, analyst in American National Government, Government Division. Major Studies and Issue Briefs of the Congressional Research Service, 1992. CRS Report.

1989–current Congress. THOMAS

The full text of legislation is available to browse from 1989 to the current Congress. Bill summary and status can be browsed from the 1973 to the current Congress. (NOTE: It was announced in late 2012 that Congress.gov will replace and expand THOMAS data.)