



BACKGROUND GUIDE

WAMUNC XXIV

To Ourselves and Our Posterity:
The 2022 US Constitutional Convention

LETTER FROM THE CHAIR

Delegates,

Welcome to WAMUNC XXIV and to the Second Constitutional Convention of the United States of America! My name is Tommy Litchfield and I look forward to serving as your humble chair this weekend. I am a junior majoring in International Affairs at the Elliott School of the George Washington University. I am the chair of the International Affairs Society, the parent organization that hosts WAMUNC and her sister conference, GWCIA.

The premise of this committee is relatively straightforward: you and your fellow delegates have been assembled in Philadelphia to draft a new constitution for the United States. Although your positions list you as delegates from various states, territories, or districts of the United States, you are under no obligation to follow any perceived positions the delegates from those states would hold. This committee is an opportunity to develop ideas that you and your fellow delegates believe would genuinely improve the United States, without the imposition of outside political considerations.

I want this committee, and the document it produces, to be as delegate driven as possible. That being said, I remind delegates to be respectful of one another and of the real implications many political issues have on peoples' lives. If delegates can not be respectful while debating issues then I will intervene. Other than maintaining order and respect in committee, the only influence I will exert on committee is ensuring the orderly flow of business.

The background guide should provide you with a foundation on the current Constitution and its organization, but I would strongly encourage you to conduct your own research to determine what changes could or should be made. The best place to start is by reading the current constitution. If you have any questions, feel free to reach out to me via email.

Sincerely,

Tommy Litchfield

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COMMITTEE OVERVIEW

The original US Constitution is a relatively short document, containing about 4,500 words organized into seven articles. The 27 amendments total approximately 3,000 additional words, for a grand total of approximately 7,500 words in its current form. Modern constitutions can vary greatly in length, with the 1944 Constitution of Iceland counting just over 4,000 words while the 1949 Constitution of India has over 146,000 words. These documents were debated on and drafted by hundreds of people over several months or even years. This committee takes place over a long weekend and comprises a few dozen high schoolers so it is encouraged that any constitution produced is kept on the shorter side.

Understanding the current US Constitution is key to creating a new version of it. This guide will be organized into a breakdown of the Constitution and the key issues addressed by each article, as well as key amendments and the bill of rights. It is not necessary for the new constitution drafted by committee to follow the same format as the original, but this is the easiest point of comparison. This guide is not intended to cover every detail contained within the US Constitution, but rather an overview of topics which may make for interesting revisions.

Article I

Article I of the US Constitution outlines the legislative branch of the federal government. The Constitution describes a bicameral legislature, meaning there are two chambers within the legislative branch. These two chambers are the House of Representatives and the Senate. The members of the US House of Representatives are assigned to states proportional to their population while each state contributes two senators to the Senate, regardless of their population. This structure was decided on in the “Great Compromise” of the original Constitutional Convention, between large states who wished for one, proportionally allocated legislature and small states which wished for one legislature with seats allocated equally between states. Currently, elections for the entire House occur every other year, while Senators are elected in three “classes” to six year terms, with one class being up for election every other year.

The structure of the legislature is a hotly contested issue and is a likely topic for reform at the Convention. The House of Representatives is, according to the Constitution, not supposed to allocate representatives more than “one for every thirty Thousand” people, but the current ratio is much higher at one representative for every 750,000 or so Americans, much higher than other representative democracies. The US House of Representatives has not expanded in size since 1929, when it was set to 435 by an act of Congress. Changing the number of representatives or setting a fixed ratio of representatives to constituents is a possible reform.

Another key reform concerning the House is the issue of gerrymandering. Gerrymandering is the manipulation of electoral district boundaries for political gain and has become a common problem in the United States, where congressional districts are created by state legislatures. Two excellent examples of gerrymandering are Democrat controlled Maryland, where 32% of voters backed the Republican presidential candidate in 2020 but only one of eight representatives is Republican, and Republican controlled North Carolina, where 49% of voters backed the Democratic presidential candidate but only five of thirteen representatives is Democratic.

The US Senate’s rules, structure, and very existence are all potential areas for reform. The Senate is notoriously obstructionist as most laws require 60 votes to pass the 100 member chamber. The right of senators to speak for an unlimited time unless 60 members vote to end debate, known as the filibuster, means a minority of senators can prevent popular legislation from being put to a vote. Finally, the imbalance in representation in the Senate is a source of complaints from many in larger states. The state of Wyoming, with a population of under 600,000, gets the same number of senators as California, with a population of nearly 40 million.

There is also an argument to be made that the US Senate should not exist as a full legislative body at all. Many other democracies, notably the United Kingdom and France, have reduced their upper legislative chamber to a mostly advisory committee while their lower chamber (in America’s case the House of Representatives) is the only

real legislative body. Delegates are under no obligation to maintain the Senate, the House, or any other aspect of the current Constitution, and the adoption of an alternative legislative form is entirely possible and the exploration of such ideas is strongly encouraged.

Of course, there are many powerful counter-arguments against all of these proposed changes to the Senate, starting with the original purpose of the Senate being to represent the states themselves and not the citizens of the states (state legislatures elected US Senators prior to the ratification of the 17th Amendment in 1913). Furthermore, the purpose of the original “Great Compromise” was to give smaller states political relevance and prevent them from being pushed aside by larger states.

A final issue affecting both chambers is the issue of term limits. Currently there are no limits to how long a representative or senator can stay in office or how many times they can seek reelection. The US president is currently limited to two Presidential terms by the 22nd Amendment, but the Congress is held to no similar standard. Such a measure may be worthy of consideration of this body.

Article II

Article II of the US Constitution outlines the powers and responsibilities of the President and Vice President. The President of the United States serves as both the head of state and head of government for the United States of America. A head of state serves as a country’s highest representative, and typically is a ceremonial role. A head of government is the functional leader of the executive branch of government, typically overseeing a cabinet. The role of head of state and head of government are combined into one office in the Presidency of the United States.

Section 1 details the election of the President and Vice President via the electoral college, and is a portion of the Constitution previously subject to revision and likely up for debate at this Convention. In the original constitution, electors cast two votes with the candidate receiving the most votes (as long as it was a majority) becoming President and the candidate with the second most votes becoming Vice President. In 1803, the 12th Amendment modified the electoral college so that electors cast separate votes for President and Vice President. If the original system were in place today, the result of the 2020 Presidential Election would have seen Joe Biden serving as President and Donald Trump serving as Vice President!

The process by which electors are chosen is entirely up to the states, with the majority of states and the District of Columbia (granted electoral college votes by the 23rd Amendment) assigning all their electors to the candidate who receives the most votes in their state, a system known as first past the poll. Even if a candidate wins a state by only one vote, all the electoral college votes will go to them. This system has meant that twice in recent history, the 2000 and 2016 elections, the winner of the election did not win the nation-wide popular vote. There are many arguments for and against the electoral college and it is up to delegates to decide whether to keep, modify, or discard the system, but some key alternatives or modifications worth considering include the abolishment of the electoral college and employing a simple national popular vote for President or a use of the Nebraska/Maine system, in which electors are assigned by congressional district and a final electoral vote going to the winner of the state popular vote. There are many alternative methods used across the world to elect Presidents and delegates are encouraged to research alternative methods of election.

Of course, it is not necessary to have a President at all in the new constitution. If delegates wish, they can seek to employ a different system for the head of state (considered the and head of government. Alternatives include the adoption of a parliamentary system with a prime minister elected from within the parliament to serve as head of government with a “figurehead” President serving primarily as a ceremonial

head of state. Should delegates wish to pursue such a system, a key aspect to consider is which powers belong to the head of state and which belong to the head of government. Two good examples for comparison and further research are the French and German governments with the French President enjoying significant power and the German President having very little real power.

Other aspects of the executive branch worth considering are the term lengths and limits for the executive branch, how the legislature can exercise oversight over the executive, and what specific powers and responsibilities the executive should hold with regards to vetoes, use of military force, etc.

Article III

Article III establishes the Supreme Court of the United States and empowers Congress to create subordinate courts. The judicial branch receives the shortest treatment of the three branches in the original Constitution, so the key focus on Article III for the purpose of this committee will be the organization of the Supreme Court. The Supreme Court of the United States is the highest court in the land, serving as the final say in cases brought before them. The court primarily handles appeals from lower federal courts and from state supreme courts, but has original jurisdiction on certain cases. The court's current role as the arbiter of constitutionality and its ability to strike down laws as unconstitutional is not explicitly mentioned in the Constitution, rather the Supreme ruled itself that it had that power in *Marbury v. Madison*.

The current court has nine justices who are appointed by the President and approved by the Senate. Justices, as well as federal judges appointed to lower courts, serve for life. The process of court appointments has become increasingly political over the previous few decades as Supreme Court rulings have been central to advancing American political agendas. Racial segregation in schools was outlawed by the Court in *Brown v. Board of Education*, abortion rights were guaranteed in *Roe v. Wade*, and gay marriage was legalized at the national level in *Obergefell v. Hodges*.

The current system of appointment and approval, life terms for justices and judges, as well as clarifying language on the role of the courts are all areas open for discussion and reform in committee. The increasing use of court rulings to enact political change is considered undemocratic by many, as is the fact that “court packing” - the process of adding additional justices to the Supreme Court at any time, as there is no set number of justices - is still a legal process available to a President and Senate unsatisfied by the current Court’s political leanings. Such issues should be subject to further research and debate by delegates.

Clauses IV-VIII

The final four clauses of the Constitution are more nuanced and less important to this committee, due to the time limits and lack of expertise delegates face in the realm of Constitutional law. Article IV outlines the relationships between states and the citizens of those states including provisions for recognizing the laws of other states and allowing for the extradition of wanted persons between states. This article is not incredibly important to revise for delegates unless there is a desire to drastically alter the relationship between the US national government and the US states. Federalism is a key part of the US system of governance and it is within the power of this committee to alter the relationship between the state and national governments.

Article V details the process by which the Constitution is amended. A 2/3rds vote of the Senate and House, as well as adoption of the amendment by 3/4ths of the state legislatures or state constitutional conventions is currently required to amend the constitution. Delegates can amend this as they see fit.

Article VI ensures a continuity of treaties and agreements from the original Articles of Confederation to the first US Constitution and binds all members of government to take an oath to the United States. A continuity clause of some form will be necessary in the new constitution.

Article VII outlines the ratification of the Constitution. A similar article will also be necessary in the new constitution.

The Bill of Rights and other Amendments

The Bill of Rights are the first ten amendments to the US Constitution, which were ratified shortly after the ratification of the Constitution. Many founding fathers wanted to include a Bill of Rights in the original Constitution while others believed the protections offered within the main body of the Constitution were sufficient. It would appear that the wisdom of the former group was correct, as the Bill of Rights have been cited countless times in court cases to protect the rights of Americans.

If delegates choose to include a bill of rights, it is necessary to consider what, if any, changes should be made to the current bill of rights. Delegates may wish to expand certain rights, to restrict others, to remove some rights, and to add new ones entirely. It is up to the delegates to review the current Bill of Rights and develop ideas on issues such as freedom of speech, freedom of religion, the right to bear arms, and the rights guaranteed to those suspected of a crime.

As for the Bill of Rights and the other seventeen amendments, any ideas from those amendments should be integrated into the main body of the new constitution either in the articles they relate to or in a new article. Remember, a bill of rights included in committee will have rights listed under an article and section, not as “*n* amendment rights.”

CONCLUSION

This guide is by no means a treatise on Constitutional law or an extensive analysis of the current Constitution. Rather, this guide is intended to inspire ideas about what a new constitution could look like and what issue areas may appeal to individual delegates. It is not necessary to memorize the Constitution before committee or to have an entire new constitution planned out (remember, pre-writing is forbidden!). Instead, take time before committee to research the current American constitution, as well as the constitutions and structures of government for other countries around the world. Links to some resources are provided below, and feel free to reach out with any questions!

FURTHER READING

US Constitution - <https://www.archives.gov/founding-docs/constitution-transcript>

German Basic Law (English) - https://www.gesetze-im-internet.de/englisch_gg/

French Constitution of 1958 (English) -

<https://www2.assemblee-nationale.fr/langues/welcome-to-the-english-website-of-the-french-national-assembly>

