States and the Nation

State Cohorts and Amendment Clusters in the Process of Federal Constitutional Amendment in the United States, 1869-1931

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In *Professional Ethics and Civic Morals,* Emile Durkheim (1957: 50) explains that the state is the organ of a particular form of collective consciousness. This consciousness is not

> so obscure and so indefinite as these collective representations that are spread throughout all societies–myths, religious or moral legends, and so on. . . . The representations that derive from the state are always more conscious of themselves, and of their causes and their aims. They have been concerted in a way that is less obscured. The collective agency which plans them realizes better what it is about.

In this paper, some of the collective representations of a particular state, a political federation, are viewed as the conscious productions of its legislative agencies. If the legislative actors producing collective federal representations are themselves agents of federal subunits, to what extent can their consciously and collectively produced federal level representations be shown to be a reflection of their subunits' collectively produced representations? There are at least two ways to estimate such reflection. First, one may show that federal legislators act more consistently as state agents on federal matters than they do as agents of other social units; as, say, party units. In this argument, federal legislators would have to be shown to take a state-instructed position more consistently than their party-instructed position. In a second way, the

way taken in this paper—a manner more congruent with Durkheim's notions on the significance of intermediate collectivities in differentiated social organizations—one could try to show that subunit delegations to federal legislatures take positions in situationally emergent blocs. For example, one could distinguish among federal subunits on some regional basis, and predict that an identical position would be taken by all delegations from any one region.

What are the relative merits of these two ways of making the point? The second research strategem is weaker than the first when it is unreasonable to assert the autonomy of the intermediate collectivity used in the analysis. Thus, to continue the example, unless one is able to show that a region is in fact a bounded social unit with some constraining potential on members, as well as showing that the unit so bound can effect the constraints, any social organization that exhibits effective agency will usually be a preferred unit of analysis. The test here is boundary and effective agency v. the lack of both. Organizations by definition exhibit agency and boundary, while categoric aggregations do not. For that reason, organizations are theoretically more fruitful analytical units.

However, organizational attributes are themselves variable. It is possible to think of some aggregations as exhibiting in some degree these characteristics of social organization. For example, a cohort is a population of similar social units that is exposed at some specific time to some similar environmental stimuli. Member units of a political federation find themselves dealing with a central government with interests somewhat independent of their own. Thus, they are a population confronted by similar stimuli. Further, these subunits may be differentiated into categoric subpopulations: larger or smaller, wealthier or poorer, older or younger. Of these differentiations, only the last-mentioned defines a cohort: a subpopulation that exhibits some obvious temporal ordering and boundary. A cohort, then, is an aggregate that exhibits one of the organizational characteristics mentioned above: boundary, but not agency.[1] Therefore, as a research device, it is somewhat more promising than an aggregate, and somewhat less powerful than a social organization.

The promise of the cohort as a unit of analysis increases where it is plausible to anticipate that some element akin to agency is operating within the cohort. Such is the case in research on political federations. Here the analytical power of a temporal cohort is enhanced when we are able to specify particular conditions and situations that should "energize" the collective representations of its constituent subunits in such a way that the emergence of a congruity in these collective representations occurs. One energizing condition for such emergent congruity among cohorts of members of political federations is the revision of the conditions of federation. Indeed, the only obvious qualification upon this energizing condition is that members in fact exhibit some minimum degree of autonomy within the federation. If autonomy is factual, emergent congruity is plausible.

Given member autonomy, in some situations emergent cohort congruity is clearly plausible. Constitutional revision is one such situation. This is because political federations often express their conditions of federation in constitutions, either written or unwritten. Constitutions may be thought of as social contracts that provide for the formalization of routine federal tasks as well as for the nonroutine, fundamental revision of the social contract itself. Where it can be shown that the process of constitutional revision is reasonably distinct from the day-to-day affairs of the political federation, we can interpret constitutional amendment as an extraordinary form of contract renegotiation. This contract renegotiation is of fundamental importance to all members of the federation, for any and all possible changes in the constitution are alterations in the structure of the interdependency that binds each member to the whole and thus to each other. Every time a constitutional revision occurs, each subunit in the federation undergoes a change in its relation to the central government. It is unthinkable that subunits of political federations can afford to treat federal constitutional change lightly; it is the very heart of the matter. This being the case, it is reasonable to view federal constitutional revisions as energizing an emergent congruity among subunit cohorts. Emergent congruity in cohorts is functionally and dynamically equivalent to agency in social organizations. Yet, because cohorts are situationally rather than continuously integrated, emergent congruity cannot be expected to produce as consistently effective constraints as agency does. With these general considerations in mind, let us now turn to the American experience.

The United States may be thought of as a federated formal organization. That is, a number of social units, the several states, have agreed to come together in a particular form of association. The nature of this association is spelled out, and regulated, by rules. The rules of any association are binding upon member units only if they originate in certain agreed-upon structural locations. In the case of the American political federation there are at least four structural locations where such rules may originate. First, the state representatives assembled in national congress create such rules. Second, the federal administrative and regulative agencies apply, enforce, and extend the rules to individual cases. Third, the federal courts elaborate and codify the rules. Finally, the Constitution itself specifies certain procedures by which formal amendments may be generated. In this report, the central research problem is: Under what conditions will the federated organization of the United States change its rules by the process of formal constitutional amendment?

In this paper, one possible condition of change is advanced and evaluated. States entering the organization at different times may have differing views of the ongoing rules, and hence may have differential interests in constitutional amendments. If one way of articulating such interests is to participate in

amendment activity, then each state's prior amendment participation should decrease subsequent amendment seeking. Prior participation should engender present commitment. If this is the case then, when we group states into cohorts of amendment participation we should find a lower propensity to participate among older cohorts, among those states who have participated in previous amendment activity, thus becoming relatively more committed to the ongoing structure of rules within the federal organization. We will inspect three phases within the amendment process for evidence of these notions. Before moving to this, however, inasmuch as the argument is in principle more general, the next section explicates a sociology of American federalism as a special case of the general sociology of political federations, and perhaps, of federated organizations.[2]

FEDERATIONS, CONSTITUTIONS AND AMENDMENTS

The essence of a federal form of government is that it unites in a single, national political organization a number of diversified component polities so that certain identifying characteristics of these polities are preserved. In the American case, the component parts are the fifty states. One identifying characteristic of these component states is that they are all instances of the class of unitary territorial states. Such territorial states are, after Weber, those in which legitimate political authority and violence are asymmetrically distributed among the political units within the territory. The definitional distribution of this authority and violence is "sum-zero" in nature; the state government holds a monopoly of both political authority and violence within its borders. However, the American states are special cases of the class of unitary territorial states, because they do not hold monopolies, but rather, oligopolies, of such authority and violence. This oligopolistic nature of these states is, in part, a result of their delegation of certain spheres of territorial authority and violence to other political units, particularly municipal and other corporations, as well as the federal government.

For our purposes, the consequence of state delegations to community and economic corporations will be ignored. Rather we will emphasize the uniquely federal problem of integrating political equals that are unequal in other significant respects—say, economic development. This problem of maintaining orderly and predictable coordination among equal unequals may be solved in a variety of ways. The federation may refrain from intervening in affairs among the states, but this negative strategy may be self-limiting, for states may develop organizations intervening between the federation and the state. Eventually such intervening organizations (e.g., regions) may compete with the federation for dominance within the polity. Another solution to the integra-

tion problem involves the positive use of the federated state as a productive organization creating an "emergent order" regulating and controlling intra-federation relations. This solution is dualistic in form. It involves both a continually emerging consensual order among a plurality of contending and equal component units, and the structure of the federal organization itself.[3] By an order, I mean a set of ideas that may be used to legitimize social relationships. A political order legitimizes the use of authority in a nation-state. Such orders may be expressed in written or unwritten form, such as in a constitution. Once a federal constitution is established, it becomes "the structure of legitimization from which there is no appeal." Let us inspect the relationship between the emergent order and the constitutional order in the American federation.[4]

The emergent order is expressed in federal law. This legal order may be understood as a vehicle that defines and underlines agreed-upon claims and identifiable obligations that merit formal and authoritative federal validation and/or enforcement. In the American federation, this continually emerging legal order may develop at several locations in the organization's structure. Each of the three great departments of the national government can contribute a different element to the federal legal order. The judiciary can elaborate and extend agreed-upon claims and obligations. It can thus fit these new departures into a received system of abstract law and precedents, making new adaptations while preserving elements of the old. The legislature can bring together competing political forces for the purpose of effecting new elements of consensus through statutory law. Legislatures may be uniquely structured to be the engines of a new consensus fueled by political forces, for they can muster means of inquiry, and can create administrative agencies to execute, validate, and enforce legislative policy. Further, the relatively frequent circulation of members through legislative halls may make them less a hostage to history than the courts or the administrative agencies.[5] The executive department may be a set of administrative agencies that mold men, material, and money into social units aimed primarily at the validation and enforcement of the consensus expressed as legislative policy.[6] This legislative policy consensus, however, may be modified because the top elite of the executive department are nationally elected and appointed officials, who represent and articulate a different level of federation-wide consensus. Finally, it should be noted that this federal consensus does not necessarily imply uniformity of opinion. Rather, at all of these organizational locations, the courts, the legislature, and the executive agencies, specific levels of participant agreement are taken to be the sense of the body. Thus any locational consensus need not be one of unanimity. Rather an agreed-upon level of consensus is reached, and, as a result, the decision reached is taken to be binding within the federation.

What we have in the American case is this. On a day-to-day basis, the process of government is guided by an emergent federal order. This order is

the product of organizations that ultimately are structured and legitimized by the Constitution. In turn, the Constitution is the product of agreement by both drafters and ratifying states. Thus, there exist in the American federation two distinct, yet related, levels of consensus. There is agreement on the emergent federal order. Simultaneously, there is agreement on the basis of that emergent federal order. This second level of consensus is on the constitutional order.

It should be clear that the constitutional order is by its very nature a more stable set of rules and goals than the emergent federal order. Yet, to be more stable is not to be unchangeable. Indeed, most constitutions contain within them specific provisions for their modification (Livingston, 1955: chs. 1, 7). It is instructive to ask why might the drafters of federal constitutions be sensitive to the problems of amendment? First, there is the tactical need of procuring the necessary initial state ratifications. If drafters anticipate objections to the set of items in their version, then the amendment clause may be presented as a means of quickly and authoritatively revising the document. This anticipation probably varies directly with the degree of ratification unit autonomy. Moreover, federation may involve the reduction of the component units' political sovereignty. Clearly, the amendment clause provides a means of subsequently controlling and adjusting this reduction.[7] Second, there is the problem of changing social environments. Although the emerging federal order is one means of organizational adaptation to such changes, the obvious possibility exists that the changes will be sharp enough to warrant a revision of the basic constitution itself. Perhaps most drafters of federal constitutions assume that changes in the definition and distribution of functions between the central government and the component units, as well as the structure established to produce the emergent federal order, will, in time, become necessary. Should such occasions arise, the continued legitimacy of the constitution may rest partially on its ability to be directly modified. Third, drafters may anticipate the emergence of new subunits within the society. These subunits may be sufficiently different from the ratifying subunits as to reject major portions of either the emergent federal order or the constitutional order. With the admission of new members into the federation, the rules and goals of the constitution itself may seem less appropriate. The existence of the amendment process gives these new members equal access to a means of modifying the federal and constitutional orders. Given this equality of access, new members may find the hope of constitutional amendment a salve to the acceptance of undesirable elements. Fourth, the formally specified amendment process may act as a buffer separating the constitutional order from the emergent federal order. This occurs when the procedural mechanisms utilized to change each order are sufficiently different so as to make clear that changing one is not the same as changing the other. Finally, the amendment

process is the only means of changing the constitutional order itself. The drafters, in outlining a required method of amendment, clearly established a unique means of limiting or extending the legitimacy of the constitutional order. While the federal order is subject to revision and modification by the coordinate units of the federal structure, the constitutional order is subject to such alteration only via the amending process. The drafters thus established a way in which the constitutional order could be extended without recourse to the mechanisms that produce the federal order. Indeed, the American amendment process itself seems intended to imitate the organizational sequence followed between 1789 and 1793, that of drafting by representatives and ratification by states. We may, therefore, think of a constitutional amendment as involving a quality of agreement unlike that expressed in the emergent federal order. That is, although the federal courts, the legislature, and the executive can and do create an emergent federal order that guides the day-to-day relationships between the national and state units of the federation, they cannot and do not create a stable constitutional order. This can be legitimately and ultimately accomplished only by the amendment process. The drafters of constitutions appear to define the matter this way, and it seems appropriate to subscribe to this view in this work.[8]

THE AMERICAN AMENDMENT PROCESS AND EXPERIENCE

Article V of the American Constitution provides that amendments may be proposed either by Congress or by a convention called by the states. The proposed amendments must be ratified either by the state legislatures or by state conventions, as specified by Congress. The convention proposal method has never been used, while state convention ratification has been specified only once.[9] Thus, the usual method of amendment involves Congressional proposal and state legislative ratification.

A total of twenty-five constitutional amendments have been generated by this process. The timing of these amendments exhibits a degree of nonrandomness. Fifteen were proposed to the states, and twelve were ratified by the states within the first fifteen years of the federation. These amendments are usually said to have involved basic adjustments in the nature of the central government as demanded by the component states. Between 1860 and 1870, four amendments were proposed to the states. The three ratified proposals are the well-known "post-Civil War" amendments. A third set of amendments was proposed to the states between 1909 and 1924. These amendments, known as the "Progressive era" amendments, were five in number, of which four were ratified. Two "new deal" amendments were proposed, and ratified, in 1932 and 1933. In the years between 1947 and 1965, four amendments were

proposed, all of which have been ratified. It is clear that congressional proposals to amend occur in temporal clusters, and that once amendments are sent to the states, the odds in favor of ratification are quite good (twenty-five in thirty).

In addition, the speed with which ratification occurs is impressive, especially since many state houses are not in continuous session. The time required to procure approval of the first 24 successful amendments ranges between 7 months (the twelfth) and 47 months (the twenty-second). The mean length of time is less than 19 months. Ratification is not only quick; it is also complete. The percentage of states that eventually ratified the first 22 amendments varies from a high of 100% (in 11 cases) to a low of 77%. The average is 93%.[10]

In sum, the American amendment experience exhibits four peculiarities:

(1) Congressional proposals to amend occur in temporal clusters;

(2) congressional proposal is usually followed by state ratification;

(3) when ratification occurs, the three-fourths level is quickly arrived at; and

(4) this three-fourths level is often greatly exceeded.

As a matter of convenience, we will analyze only the progressive era cluster. This cluster provides several fortuitous advantages. First, the cluster is separated by fifty years from the previous cluster, providing a reasonably long period of time within which to seek contributory phenomena. Second, this period begins at a time, 1869, when the territorial boundaries of all but three of the forty-eight ratification states were substantially fixed.[11] Third, the cluster contains but one restructuring amendment, the seventeenth; the other four are attempts to transfer functions to the central government. The asymmetry of these transfer attempts is a mixed blessing, for while these four proposals all involve transfer attempts in one direction only, it also implies that the forces behind these attempts were quite strong, and hopefully, strong enough to be uncovered easily.

This process usually involves a number of identifiable formal phases. First, a resolution to amend (RTA) is introduced into a chamber of congress. In the progressive cluster, 1,868 were introduced. Typically these RTA's were referred to committee, and processed. One option open to the committee is referral to the chamber floor, where it may be voted upon, a two-thirds vote being required for passage. Of the 1,868 RTA's, 42 came to a "first chamber" vote, usually a roll-call vote. Of these, 27 passed the first chamber and were sent to the other chamber. There a committee received the passed RTA with about the same options open to it. Of the 27 RTA's, only 10 came to a vote in the second chamber, and only 5 passed the second chamber in a form

common to that which passed the first chamber. These 5 common version RTA's were then sent to the states as congressionally proposed amendments. Four of these proposed amendments became a part of the constitutional order, while the fifth is, apparently, still pending. Thus, from 1,868 resolutions came 4 amendments.

RESOLUTIONS, ROLL-CALLS AND RATIFICATIONS

Resolutions to Amend

In this section, we discuss all resolutions to amend the constitution offered in Congress between the Fifteenth and Twentieth Amendments. This includes the forty-first to seventy-first congresses, meeting between 1968 and 1931. We will inspect these resolutions for evidence on the division of resolution activity within the federation. In general, we expect that those states participating in earlier amendment clusters are more satisfied with the constitution as is and, thus, will exhibit lower average amounts of resolution-introduction activity.

From several sources[1 2] a list of 1,868 RTA's was compiled. Using these resolutions and some information on each state's congressional delegations, a state-specific index of RTA introduction propensity was created. It is the ratio of:

(1) the total number of RTA's introduced during the entire period (the forty-first through the seventy-first congresses) by all members of one state's delegations to;

(2) the number of introduction opportunities available to that delegation.

The denominator of this ratio depends upon an interpretation of a congressman's opportunities to propose RTA's. Although RTA's may be introduced at any time within any one session or term of Congress, and although the number of sessions within a Congress varies, the entire term of congress will be used as the unit of introduction opportunity. This is done on the assumption that it takes a full term of congress to complete a cycle of federal legislative activity and that identical RTA introductions by the same legislator are unlikely within the cyclical unit. If congresses are units of introduction exposure, then any state's RTA opportunity figure for the period is the sum of the terms of members in its delegation in all congresses within the period. One advantage of this is that the ratio itself directly controls for differences in state delegation size and the length of time each state is in the federation by using opportunity as the denominator.

It was noted above that Constitutional amendments seem to occur in clusters relatively distinct from one another. Let us classify states by their initial participation in these clusters. First, some seventeen states participated in some or all of the first or adjustment amendment cluster. These states were federation members prior to the proclamation of the Twelfth Amendment (September 25, 1804). These are members of oldest or "pre-twelfth" cohort. Second, twenty states entered the union between the proclamations of the Twelfth and Fifteenth Amendments (March 30, 1870). We will call these states the older or "pre-fifteenth" cohort. Finally, there are eleven states which joined the United States after the proclamation of the Fifteenth Amendment and before the proclamation of the Sixteenth Amendment (February 3, 1913). These are the younger or "post-fifteenth" cohort. How are these amendment-cluster cohorts of states ordered in their RTA introduction propensities? Recall that we hold that the various rules of the federation expressed in the Constitution are the results of compromises among the several states then members of the union, and that it is a condition of statehood that new members accept the Constitution in its entirety. This means that newer states which were not members to particular older compromises may seek to "reopen negotiations" on certain rules. *Hence, on the average, younger states should be the source of more resolutions than older states*, and the oldest states should introduce fewer than the other two cohorts. This is the case. As shown in Table 1, the mean state RTA rate is .1087 for the seventeen oldest states. For the twenty older states, it is .1348, while for the eleven younger states, it is .2835. As expected, the newest members of the federation are, on the average, clearly most active in their RTA activity, and the oldest members, on the average, are least active. A problem in interpretation arises at this juncture. Cohorts of states have been identified by relative age, as well as by the first cluster of amendments in which they participated. Is it possible that it is age and not participation in amendment cohorts that engenders commitment to established federation rules? The order of the figures in Table 1 would be the same if we merely divided the forty-eight states into equal-sized thirds, and retained the oldest, older, younger labels as age, not participation, cohorts. We can choose between the participation and age explanations if we can find some extension of the participation argument which does not flow from the age notion. We can show that age alone is not enough to explain the order in Table 1 by seeking other levels of order in the data which are implicit in the premise of participation and not implicit in the notion of age. One such implication is that each amendment cluster is an actual or symbolic resolution of certain specific problems experienced by some states and not others. Thus, a division of constitutional problems should exist among the three amendment cohorts. If this is so, each cohort should specialize in certain sorts of RTA proposals.

There should exist a division of labor in the proposal of RTA's which corresponds to this supposed cohort-graded division of constitutional problems. If a division of RTA labor were discovered, such a finding would support the idea that each amendment cohort has sought certain specific types of amendments, and not others, because such amendments would act as solutions to problems particular and peculiar to it as a set of like-situated units within the political federations.

TABLE 1

STATE COHORT RESOLUTION ACTIVITY LEVELS AND SELECTED RESOLUTION SPECIALIZATION

1A: Resolution Activity Levels

	Oldest States (n=17)	Older States (n=20)	Younger States (n=11)
	Mass., N.H., Vt., N.C., N.Y., Ga., Tenn., Ohio, Md., Del., Pa., N.H., Ky., R.I., Va., S.C., Conn.	Ore., Kan., Cal., Mo., Ind., Ill., Iowa, Ala., Mich., Tex., Nebr., Wis., Me., Fla., Minn., Nev., La., Ark., W. Va., Miss.	Okla., Ariz., Colo., N.M., Wash., Wyo., N.D., S.D., Mont., Idaho, Utah
Average State RTA Activity Propensities	.1087	.1348	.2835

1B: Cohort Specialization in the Content of Five Congressionally Proposed Amendments

	Oldest States (n=17)	Older States (n=20)	Younger States (n=11)
Income tax (61)	45.9[a]	42.6	11.5
Direct election of senators (174)	26.4	58.6[a]	14.9
Alcohol prohibition (59)	25.4	57.7[a]	16.9
Women suffrage (99)	14.1	33.3	52.5[a]
Child labor (85)	64.7[a]	24.8	10.5
Total in the five areas (478)	32.9	45.6	21.6
Total in all areas (1,868)	39.6	47.1	13.3

[a]This proportion is both the highest cohort contribution within the context area, and higher than the average cohort contribution, and indicates dual specialization.

It must be emphasized that this interpretation is not deductible from an argument holding that the ordering of state-specific proposal rates is merely an artifact of the age-entry ordering of states. This being so, evidence of this nature enables us to move beyond such an argument, not so much by demonstrating its invalidity as by straining its deductive capacity. In Table 1B we show the cohort distribution of those RTA's that were similar to the five congressionally proposed progressive cluster amendments. A state cohort can be said to have specialized within a content area when two conditions exist. First, in that area, the cohort must have contributed an unusually high proportion of RTA's relative to its own average overall RTA contribution. This condition identifies disproportionate content area activity within any single cohort. But specialization also implies that such disproportionate activity occurs in a context in which other units exhibit a disproportionate lack of activity in the same endeavor. Therefore, a second condition of the cohort RTA division of labor exists. Not only must a cohort's proportional contribution be higher than its usual (mean) contribution, but it must also occur in a content area where the proportional contributions of the other two cohorts are lower than their usual RTA figures. In essence, the first disproportion shows specialization by the amendment cohort; the second disproportion shows specialization within the federation. If this methodology is accepted, the data in Table 1B show that each cohort seems to have specialized in only one or two of the successfully proposed amendments. Further, each specialization by amendment cohort coincides with a specialization within the federation. Therefore, in each of the five instances RTA activity meets both criteria—specialization by cohort and specialization within federation.

The distribution of dual specializations is itself remarkable, for it illuminates and contradicts a common interpretation of the progressive cluster amendments. Frequently the amendments in these five issues are seen as demands of the new western states. Instead, the RTA specialization data show us that the new western states, as a cohort, were the particular proponents of only one measure: woman suffrage. The direct election of senators and alcohol prohibition seem to have been older state concerns, while the income tax and child labor were oldest state specializations. Very clearly, the new western states were disproportionately active in seeking resolutions, yet they were particularly active in only one of the five congressionally proposed amendments. Therefore, while many "new western" amendments were suggested, few were chosen. The contribution of these states to the progressive amendment seems to have been that of raising the matter of amendment itself, rather than that of effectively demanding action in the five areas themselves. Thus, these states seem to have been successful general agitators for change itself, rather than principled proponents for the five specific amendments obtained. In the rhetoric of the Constitution as a social contract,

the younger cohort of states sought the opening of renegotiation, but was not able to order the outcomes of the renegotiations once started.

Roll Call Votes

Are these cohorts meaningful in the entire amendment process? If so, then we should expect similarly ordered variations to occur at the final passage vote stage. Therefore, when we classify the voting activity of all state delegations as more or less favorable to the resolution to amend under final vote, we would expect the eleven states to be most favorable to any and all constitutional changes. Further, the seventeen oldest states should be least favorable to such changes, while the twenty older states should take a cohort position somewhere in between these two. Notice that we here assert that the fact of constitutional change is more important on the average than the content of the change. Essentially our position is that the oldest states necessarily have something to lose in any change of the constitution, while the younger states necessarily have something to gain. The older states should experience intermediate gains and losses.

In the forty-first through seventy-first congresses, 44 RTA's came to a final roll call vote.[13] By final vote, I mean the last binding vote on an RTA, the outcome of the vote committing the chamber to the adoption or rejection of the measure, at least for that particular congress.

Not all final votes are by roll call. Of 52 final votes in the period, 8 were by voice vote and are necessarily excluded from this inspection. Of the rest, 42 were at the point of chamber passage. Two of the votes occurred at the point of accepting an amended version of a previously passed resolution. For our purposes, there are no important distinctions among these points, and all 44 final roll call votes will be treated as analytically identical. One additional identity will be assumed. On most of these final votes, a few members of Congress were not present at the time of the voting, but were willing to have a colleague announce their position for or against the resolution. Inasmuch as our interest is in the level of state delegation support for these resolutions, and not the actual outcomes of the chamber votes, these announcements are treated as identical to a vote on the measure.

When is a state delegation in favor of an RTA? A different measure of delegation support was developed for each chamber of Congress. In the case of the House, for each state delegation, we have computed the proportion of those voting or announcing support of the RTA. A supporting delegation is one in which a clear majority (51% or more) of those voting and announcing indicated "yea." An unsupportive delegation is one either tied (50% yea–50% nay), or gave a clear majority nay. In a few delegations no member voted and these delegations are omitted from the analysis. Once we had computed these

state delegation figures, we grouped the delegations into their cohorts and computed the proportion of each cohort's delegations that were supportive of the RTA's. These proportions are reported in line 1 of Table 2.

In the Senate, three delegation support positions can be identified. A Senate delegation is supportive (pro) when either both members vote or announce yea, or when one member votes yea while the other does not vote or the seat is vacant. A delegation is unsupportive (con) when both members vote nay, or when one member does so and is unopposed by the other member. An intermediate or pro-con position of support occurs only when a two-man Senate delegation splits: one yea–one nay, will be considered as unsupportive to the RTA. Senate delegations in which either or both members did not vote, or both seats were vacant are omitted from this analysis. Once each state delegation was assigned to either supportive or nonsupportive positions, the delegations were grouped into cohorts, and a cohort-supportive proportion computed. Line 4 of Table 2 shows the proportion of state delegations in the Senate that supported the RTA's.

For comparative purposes, Table 2 shows two additional sets of cohort proportions. Lines 2 and 5 list the chamber-specific cohort proportion supportive of the RTA's that occurred in the five areas in which amendments were eventually submitted to the states for ratification. We will compare these figures with the RTA introduction figures in these areas reported in Table 1 as well as the all-RTA figures of which they are a subset. In addition, we have listed a set of bill figures, the use of which will be made clear below.

In Table 2, lines 1 and 4, we see that our expectations are met in both chambers. Delegations from the post-fifteenth cohort are most favorable to all RTA's, while delegations from the pre-fifteenth and the pre-twelth cohorts are respectively less and least favorable. In the resolution-introduction data, we found striking cohort specialization in those five areas in which amendments were eventually submitted for ratification. If this specialization is the result of intercohort negotiation, then we would expect negotiation to make itself felt in the delegation support data. What we should see is a general inflation in the levels of support for RTA's in these five areas. In the House figures (line 2) we find this inflation, while in the Senate (line 5) we do not. Apparently negotiation is more usual in the House than in the Senate. Notice, too, that the intervals between the cohort proportions are larger in the Senate than in the House, and that the largest intervals occur in the Senate. Perhaps state interests are so keenly felt in the upper chamber that they act as a constraint in both negotiations and voting.

A question of interpretation arises here. How do we know that these ordered outcomes are the reflections of state-cohort interests on constitutional issues? For example, if state cohorts are age-graded units, and are not amendment-participation-related units, we would expect a similar ordering.

TABLE 2

PROPORTIONS OF DELEGATIONS SUPPORTING RESOLUTIONS AND BILLS

	Amendment Cohorts[a]					
	Oldest States		Older States		Younger States	
	%	(n)	%	(n)	%	(n)
House delegations in favor of all (26) RTAs	61.4	(428)	66.2	(504)	88.3	(162)
House delegations in favor of 11 "proposed area" RTAs	70.6	(187)	80.5	(220)	96.3	(108)
House delegations in favor of 26 bills	73.4	(436)	72.4	(504)	81.5	(162)
Senate delegations in favor of all (18) RTAs	49.7	(288)	69.9	(345)	83.3	(150)
Senate delegations in favor of 9 proposed area RTAs	42.3	(142)	63.9	(176)	84.1	(82)
Senate delegations in favor of 18 bills	66.1	(280)	75.6	(303)	74.3	(148)

[a] For states in each cohort, see Table 1.

Can we show that the constitutional issue has energized an emergent congruity beyond that of the age-graded cohort? One way of showing this is by comparing the observed cohort RTA support levels with cohort support levels on legislative bills. For every RTA final roll call vote, we selected a matching roll call vote on the passage of a bill. Selection was made at random from all roll call votes occurring in the same session as the RTA final vote. In effect, this holds constant a host of personnel and structural party, state, and national features. No attempt was made to control for the content of the bills and, as in the case of the RTA's, a great variety of issues is included. The proportions supporting the bills were computed, grouped by cohort, and the cohort proportions of support derived are exhibited in lines 3 and 6 of Table 2. The ordering of the cohort proportion is strikingly different on these bills. In the House, the oldest and older cohort levels of support on bills are virtually identical. In like manner, in the Senate, the older and younger cohort proportions are quite similar. In contrast, constitutional issues seem to break apart these intercohort similarities. Apparently some factor beyond the usual amount of delegation support is causing the shifts in these cohort proportions, and sharpening cohort differentiation. All other things equal, the constitutional content of the RTA is the cause here.

State Ratification

If during the same congress both chambers act favorably upon the same resolution, the issue is proposed to the states for ratification action. Is it possible to evaluate the thesis of cohort effects at this stage of the amendment process? We may consider the act of ratification itself as an indicator of support if that act is one of the three-fourths majority required for federal ratification. Our expectation here is that the cohorts of states will exhibit ordered degrees of support for these congressionally referred proposals. Specifically, legislatures of the younger states should be more likely than those of the older states to ratify these proposals in a federally meaningful way, while legislatures from the oldest states should be least likely to do so. For each of the cohorts, the proportion of state legislatures ratifying the congressionally proposed resolutions in a federally meaningful way was computed.[14] These proportions are shown in Table 3. The expected order obtains in all but one case, that of the Sixteenth Amendment. The order occurs even when we separate the child labor ratifications into those occurring in the 1920s and 1930s. Presumably the former are issue-oriented, while the latter are responses to the Depression and the New Deal. Notice, too, that the overall proportions, those on all five of the proposals, are in the expected order. Notice finally that only the oldest states are strikingly underrepresented in the ranks of the ratifiers. Is it accidental that the exception to this order is the Sixteenth Amendment? This is the first successful amendment in 44 years, the first of the progressive era cluster. If each of the amendment clusters marks the

TABLE 3

PROPORTIONS OF EACH COHORT RATIFYING PROGRESSIVE CLUSTER AMENDMENTS IN A FEDERALLY MEANINGFUL WAY

	Successful Amendments				Child Labor[a]			
Cohort[b]	16[c]	17	18[c]	19	20s	30s	Both	All
Younger (11)	.91	.91	.91	1.00	.27	.63	.91	.93
Older (20)	.95	.80	.85	.80	.15	.50	.65	.81
Oldest (17)	.53	.59	.65	.53	.00	.29	.29	.52
Total (48)	.79	.75	.79	.75	.13	.46	.58	.73

[a]The child labor proposal went to the states in 1924. In the 1930's the impact of the Depression and the exhortations of FDR apparently led to renewed interest in the amendment.

[b]For states in these cohorts, see Table 1.

[c]Three states ratified on the same day to tie for 36th state.

beginning of the start of a congressional renegotiation, then perhaps this beginning must be very strongly supported at the state level. This notion of extraordinary state support is useful in explaining the timing of the cluster itself. The relatively high and low proportions shown by the younger and oldest cohorts respectively suggest an enduring structure of support, and lack of support, for amendments. This structure is similar to that shown by the resolution proposal data. However, in each case the older states are a "swing bloc." On RTA's they vote like their elders. On ratification, they look like their juniors. This difference in the relative level of support by the older states might be interpreted as indexing a shift in the amendment position of these states. One essential element in the renegotiation process may be the movement of these states from a relatively anti-amendment position to a relatively pro-amendment position. In any case, our original expectations are largely met by the ratification data.

SUMMARY AND DISCUSSION

The data at three distinct phases of the amendment process reveal specific cohort regularities. At the point of resolution introduction, final roll call voting, and state ratification, the cohorts of the eleven younger states, the twenty older states, and the seventeen oldest states show consistently ordered average levels of participation. In the first case, delegations from the younger states are the most active in introducing amendment resolutions, while those from the oldest states are the least active. Second, on roll call votes, delegations from the younger states support constitutional changes most often while those from oldest states support changes least often. Finally, federally meaningful ratification occurs proportionately most frequently among the younger states, and least frequently among the oldest states. Of course, in each of these cases the older states' figure is at some intermediate level.

What is the bedrock of this observed order? Although age labels have been used to identify the cohorts—oldest, older, and younger—age per se is probably not the basis of the order. Age, even when considered in its collective sense (that of a generation), is an attribute; without some specification of some effective process, it is not an argument that leads anywhere. In contrast, a view of the Constitution as a social contract with amendment participation as renegotiation of that contract leads us to the notion of cohort interest and specialization. Each of the ordered differences noted above is an instance of such specialization. In addition, we found cohort specialization in the content of the resolutions within the five issue areas that Congress eventually acted upon. This specialization seems related to the constitutional content of the resolutions as seen in the finding that roll call votes on resolutions reveal this

order, while legislative bills do not. Thus, age itself is interesting only as an index of the three amendment participation cohorts.

The data we have inspected represent average levels of political action within the period 1869-1931. In our search for order, we chose to lump together each cohort's actions. Doing this masks entirely too many temporal features within the period. Some of these will be explored at a later time. At present, however, it is possible to move beyond the observed data to anticipate the shape of data yet unorganized. In doing this, we will be guided by our overall theoretical position and the findings noted above, but the reader must keep in mind that the tourbook is necessarily speculative.

We have seen that the younger states exhibit quite a high demand for amendments, generally considered. Yet given the size of the majorities required for constitutional amendments, and the size of the younger state cohort, this younger state demand cannot, of itself, suffice. Therefore, the support of the older and oldest state cohorts is crucial for both issue and cluster articulation. This union of interests is apparently a necessary condition for any amendment. This intercohort unity may be thought of as formally similar to the notion of emergent congruity within cohorts. Thus, it may be that two levels of emergent congruity are associated with all amendments and clusters. One congruence occurs within cohorts, while the other occurs among cohorts. The emergence of the intercohort congruence would account for the beginning of the cluster, and its demise would account for the cluster ending.

We have suggested that differential participation in prior amendments is the basis of emergent congruence within cohorts. What is the cause of the emergence of an intercohort congruence sufficient to initiate a constitutional cluster? The answer may be rooted in the differences between the federal and constitutional orders noted above. Clusters may begin when the structure of the federation seems incapable of continuing to produce the emergent federal order. When the structure of the federation itself is at stake, amendment clusters may seem to be one way of guaranteeing the continuance of the structure and its product. When this "crisis of production" is over, either by the proposing of amendments or by some other way, additional amendments may be seen as useless tinkering, the possibilities of amendment are decreased, and the cluster ends.

When are the federal structure and its capacity to generate the emergent federal order likely to be threatened? Two sorts of threats are clear. First, external agents may threaten the federal organization itself. Warfare implies the possibility of victims as well as victors, and the political structure of losing powers is always fair game for victors. Thus, during wartime, or the credible threat of such, federal agents may well be ready to put aside cohort and other domestic differences to come to terms with the external threats. Second, and organizationally more interesting, is the possibility of federal units exceeding

their legitimate limits of operation. Should this occur, other federal units, or the states as vested interests within the federation, may judge their shared interests within the federation's division of labor to be sufficiently threatened to move to check the excessive unit.

It must be emphasized that these federal production crises do not directly generate constitutional amendments or clusters. They merely prepare the parties for contractual bargaining. They seem necessary but not sufficient. They supply one condition under which intracohort congruity can be asserted and developed. Given these crises, some states are more ready to participate in amendment creation than are others. This political structure of cohort-specific differential propensity may be rooted in the economic meaning of federal statehood. The states, as were the original colonies, are devices for the economic development, organization, and exploitation of a physical territory. The age of a state, especially those formed after the Constitution was adopted, is an accidental index of its economic development. This is so because states were usually organized according to a political formula that fitted political complexity to population size, and thus to the surplus potential of the indigenous social organization. States entering the union between amendment clusters were at relatively similar levels of economic development. Younger states, being the least developed, were economically dependent upon the oldest and older states, while being their political equals. This economic inequality may have taken the form of "internal imperialism" identified by greenbackers, populists, and some progressives. Thus the high pro-amendment activity by the younger cohort states as well as the low pro-amendment activity by oldest states may be a reflection of the latent structure of economic inequality between metropole and colony when both are formal political equals. The essentially economic tensions of internal colonialism are apparent in the usual politics of federalism and provide a usual part of the dynamics of the ordinary emergent federal order, as do other economic and sectional cleavages.[15] Usually it is unthinkable that these political forces be expressed within the constitutional order, for this order provides the framework within which these tensions are articulated. Once a federal production crisis occurs, the constitutional order becomes available for revision, constitutional change is thinkable, and the usual tensions of the political-economic organization of federalism are channeled by the emergent congruencies that exist and are created within amendment participation cohorts. Thus it may be the interaction of the federal crises and the structure of intrafederal inequalities that give rise to amendments in cluster.

We are now in a position to judge the relative shifts in the stability of both the constitutional and federal orders and the intra- and intercohort emergent congruities. In the beginning of this paper, the constitutional order was seen as more stable than the federal order. Yet even the more fluid federal order is

considerably more stable than either form of cohort congruence. Both levels of congruence are usually low and fluid because no mechanism exists to create, monitor, or extend cohort consciousness. In a sense, the federal structure has preempted the possibility of such mechanisms. Without formal cohort organization and with formal federal organization, cohort consciousness must remain lower than federal consciousness. Yet as the data and the facts of the progressive era amendment cluster show, something like inter- and intra-cohort congruence emergence did occur. Presumably, these congruences emerged because the consciousness expressed in these amendments was rooted in part in the fact of federal expansion and internal colonialism. With the admission of Arizona and New Mexico in 1912, the land mass of the contiguous continental federation had been politically and economically organized. With the enactment of the progressive era cluster, the tension of differential economic organization within entry cohort would decrease as the economy nationalized and decolonialized. With this, the potential decreased for entry cohorts operating as a basis for energizing the amendment process.

Thus it is our judgment that a hierarchy of order stability existed in the period 1869-1931. First in stability was the constitutional order, followed by the federal order. Third came the intracohort order based on the internal colonialism of differential economic development. Finally, and least stable, was the intercohort order based on a crisis of federal order production. With the decline of internal colonialism, one structure of amendment generation is removed from the amendment process. It is an open question as to what new structural tension, if any, will take its place in this hierarchy of order stability.

NOTES

1. For a general discussion of the notion of cohort, see Ryder (1965).

2. It is curious that very few sociologists pay much attention to federations, since many notions of social integration assume properties and processes very similar to these. For example, the notion of an informal social contract is implied in most versions of pluralism. For a critical review, see Van den Berghe (1967). For two explicit sociological treatments of federal organization, see Durkheim (1957) and Sills (1957: ch. 1, esp. 8ff.).

3. This notion of a federal state is a variant of that proposed by Greer and Orleans (1964: 809-810). Their definitions stress a plural, not a federal, dimension.

4. In this work, I have chosen to analyze the relationship between ideational orders and the state. In doing this, I take no position on the relationship between violence and

these orders. In the United States, I assume the Civil War made it clear to all states that their membership in the federation was irrevocable, while the aftermath of that war made it clear that states remained quite autonomous in other respects. However, the matter is of great interest. What about violence and the state? In federated states, the notion of the "monopoly of legitimate violence" is especially germane because there exist a number of locations in which legitimate control of some of the means of violence can occur. In the United States, both citizens and states are allowed such control. The analytical problem is then to determine whether or not a tendency toward the establishment of a federal monopoly of violence has occurred. Although data on this problem has not yet been systematically and exhaustively organized, some specialists in racial conflict and industrial labor relations seem to hold the view that such a tendency exists. See Waskow (1966), Kerr (1964: 322-327), and Taft (1966).

5. For some of the problems associated with the functioning of administrative agencies and legislative committees, see Hamilton (1967) and Shils (1951).

6. This discussion of these contributions follows closely that of Selznick's essay (1968).

7. Federation involves not only a potential reduction in member sovereignty, but also a potential increase. If member X's sovereignty is decreased by accepting the possibility of federal intervention in its affairs, its sovereignty is also increased, for federation provides a mechanism by which X may join with Y, to sponsor federal intervention in Z. The act of federation thus creates new amounts of sovereignty, the use of which then becomes the object of the politics of federations.

8. It may seem that since the American Supreme Court "informally" amends the Constitution, the argued separation between a federal order and a constitutional order is somewhat artificial. In our view, it is necessary merely to see that federal judicial interpretation and the exercise of delegated legislative sovereignty are structurally and dynamically distinct from the matter of formal constitutional amendment, and that neither is its empirical equivalent. If the federal emergent order is viewed as distinct from the constitutional order, then the two may be linked by interpretation and legislation as well as amendment. The answer to the complex question of the functional equivalence of the three processes is of no consequence for our present problem if the fact of structural and processual differences is granted. One gain of such a grant is the possibility of interaction among the several processes. It should be noted that the persistence of the view that courts and legislatures amend constitutions may be related to the fact that the fifty states do not exhibit as sharp a cleavage between their constitutional and emergent legal orders. In the United States, state constitutions are revised and rewritten much more frequently than the federal constitution, and the state courts and the state legislatures may come closer to informally amending state constitutions. Thus, the argument at the federal level may well be an analogy based on state-located experiences and images.

9. Livingston (1955: ch. 5). This was for the ratification of the Twenty-first, or Repeal, Amendment.

10. Computed from data in Livingston (1955: ch. 5).

11. By 1870, the boundaries of 45 states and territories yet to become states were fixed substantially as they are today. For a brief description of boundary changes after 1830, see Lee et al. (1957-64: 101-104).

12. Congressional resolutions to amend were found in the following: Ames (1897); Tansill (1926); as well as the indexes of the *Congressional Record*.

13. Roll-call votes were identified in the documents mentioned in note 12, and by inspection of the legislative histories in the several congressional records, as well as in the chamber journals.

14. State ratifications are shown in U.S. Congress, Senate (1931) and Long (1967: 458).

15. Hay (1967) describes the structure of internal colonialism as well as documenting its congressional politics. He does not use the term "internal colonialism." For an explicit discussion, see Casanova (1965).

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