

9. Term Limits and the Need for a Citizen Legislature

Each member of Congress should

- commit to be a citizen legislator by limiting his or her time in office to no more than three additional terms in the House of Representatives and no more than two additional terms in the Senate and
- keep that commitment.

Americans are dissatisfied with Washington. Pollsters have found for almost four decades a steady decline in the proportion of citizens who believe Washington can be trusted to do what is right. Most people believe that politics has nothing to do with their lives or that it is run for the benefit of a few. Not surprisingly, a recent poll by Princeton Survey Research Associates revealed that only 12 percent of the electorate have a great deal of confidence in Congress as an institution.

Americans can reclaim their democracy. They can have a government that is accountable to their will, a government for and by the people. They can have a citizen legislature in Washington and in every statehouse in America. Citizen legislators will make laws that make sense to real people and revive our national faith in representative government.

How can we have citizen legislatures? The power of office has virtually put incumbents beyond the reach of the people. Restoring democracy requires term limits for incumbents. All members of Congress should pledge to limit their stay on Capitol Hill.

The People Support Term Limits

Members of Congress should listen to the good sense of the American people on this issue. For years national polls have found that three of four voters support term limits. Almost a decade after California term limited

its legislature, a poll found that 65 percent of California citizens supported term limits. According to Paul Jacob, executive director of U.S. Term Limits: “If the people of this country got a chance tomorrow to vote on term limits for members of Congress, you would see them rush to the nearest polling place.”

Indeed, the people had spoken loudly and clearly on term limits in virtually all of the initiative states that provided an opportunity to do so. Twenty-two states representing nearly half of Congress had term limited their delegations by 1994. The great majority of those states had opted to limit their representatives to three terms, and all of those states had limited their senators to two terms. Only 2 of the 22 states chose six terms for the House.

Another 18 states have limited the terms of their state legislators. Those limits passed by an average of 68 percent of the vote (Table 9.1). Moreover, every effort by incumbents to roll back term limits has been resisted by voters.

Despite the overwhelming support of the American people for term limits, the incumbent establishment has made it extremely difficult for the will of the people to be translated into law. When the Supreme Court declared that states could not limit the terms of their representatives in Washington, advocates of term limits petitioned the new Republican Congress—which had put term limits in its “Contract with America”—to pass a constitutional amendment to impose nationwide term limits. Incumbent members of Congress had an obvious conflict of interest on the issue, and they did not pass an amendment.

Take the Pledge

Americans believe term limits will make Congress a citizen legislature. But a Congress controlled by career politicians will never pass a term-limits amendment. So the term-limits movement, the most successful grassroots movement in decades, has set out to change Congress from a bastion of careerism into a citizen legislature, the best way it can—~~district~~ by district.

George Washington set the standard. Perhaps the most popular and powerful American of all time, Washington nevertheless stepped down after two terms as president. He handed back to the people the immense power and trust they had given to him—~~and~~ dramatically making the case that no one should monopolize a seat of power.

Table 9.1
State Legislative Term Limits

State	Year Passed	Limits (total years allowed)	Year Law Takes Effect	Percentage Voting Yes
Arizona	1992	House: 4 terms (8 years) Senate: 4 terms (8 years)	House: 2000 Senate: 2000	74%
Arkansas	1992	House: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1998 Senate: 2000	60%
California	1990	Assembly: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1996 Senate: 1998	52%
Colorado	1990	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 1998 Senate: 1998	71%
Florida	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	77%
Idaho	1994	House: 4 terms (8 years) Senate: 4 terms (8 years)	House: 2004 Senate: 2004	59%
Louisiana	1995	House: 3 terms (12 years) Senate: 3 terms (12 years)	House: 2007 Senate: 2007	76%
Maine	1993	House: 4 terms (8 years) Senate: 4 terms (8 years)	House: 1996 Senate: 1996	68%
Michigan	1992	House: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1998 Senate: 2002	59%
Missouri	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2002 Senate: 2002	75%
Montana	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	67%
Nevada	1994	Assembly: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2006 Senate: 2006	70%
Ohio	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	66%
Oklahoma	1990	12 year combined total for both houses	2002	67%
Oregon	1992	House: 3 terms (6 years) Senate: 2 terms (8 years)	House: 1998 Senate: 2000	70%
South Dakota	1992	House: 4 terms (8 years) Senate: 2 terms (8 years)	House: 2000 Senate: 2000	64%
Utah	1994	House: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2006 Senate: 2006	n/a
Wyoming	1992	House: 6 terms (12 years) Senate: 3 terms (12 years)	House: 2004 Senate: 2004	77%
Average percentage of vote				68%

SOURCE: U.S. Term Limits, http://www.termlimits.org/Current_Info/State_TL/index.html.

The tradition of a two-term limit for the president lasted uninterrupted for almost a century and a half. When it was broken by Franklin D. Roosevelt, Congress moved to codify the term limit by proposing the Twenty-Second Amendment to the Constitution, which the states ratified in just 12 short months. The presidential term limit remains tremendously popular.

We can establish such a tradition in Congress. In recent years, candidates serious about changing the culture of Washington have pledged to limit themselves to three terms in the House or two terms in the Senate.

Those pledges have resonated with the voters who understand that a lawmaker's career interests do not always coincide with the interests of the people back home. A poll by Fabrizio-McLaughlin and Associates asked, "Would you be more likely to vote for a candidate who pledges to serve no more than three terms in the House, or a candidate who refuses to self limit?" Seventy-two percent of respondents said they would be more likely to vote for the self-limiter.

Self-limiters serve their constituents well. Rep. Matt Salmon of Arizona, in reaffirming the pledge he made in 1994 to serve only three terms in the House, said: "The independence that comes from limiting my terms has enabled me to vote against the bloated budget deal of 1997, and to challenge my own Party's leadership when I feel it would be best for the people of Arizona. Instead of looking ahead to my own career in the House, I am able to put my Arizona constituents first."

Self-limiters also resist Washington's culture of spending. Rep. Mark Sanford of South Carolina will step down at the end of the 106th Congress after three terms. Sanford sought to limit spending on highways, a traditional pork-barrel item, and respected federalism by leaving gasoline tax revenue to the states, letting them fund and manage their own roads. Another citizen-legislator from the class of 1994, Rep. Tom Coburn of Oklahoma, fought against the culture of spending in Congress. Both were able to vote for spending limits because of the freedom of conscience afforded by their term-limit pledge.

Not surprisingly, self-limiters have spearheaded opposition to pork-barrel spending and committee budget increases. They have demanded honest accounting and sought real solutions to the crisis of Social Security and Medicare and other seemingly intractable problems—so often used by professional politicians as political footballs.

Although 1998 set a new low in competitive elections for Congress, with few open seats and incumbents of both parties avoiding controversial

issues, the term limits pledge played a major role in competitive races. When the dust settled on the 1998 elections, about 10 percent of the U.S. House of Representatives were under self-imposed term limits mandating that they depart by January 2005. A slightly larger percentage of U.S. senators is under two-term limits.

Term Limits on Committee Chairs

Most laws begin life in congressional committees led by powerful chairs who act as gatekeepers for floor votes on legislation. For decades the average tenure of a committee chair was about 20 years. The seniority system allowed entrenched politicians from the least competitive districts to wield power over other members, not on the basis of merit, but because of their longevity. In the past the only way to lose a chair was by death, resignation, retirement, or electoral defeat.

The seniority system increased the level of pork-barrel spending and blocked much needed change. For example, in a Cato Institute Policy Analysis, “Term Limits and the Republican Congress,” Aaron Steelman examined 31 key tax and spending proposals in the 104th and 105th Congresses. He found that junior Republicans in Congress were “more than twice as likely to vote for spending or tax cuts as were senior Republicans.” Steelman pointed out that “veteran Republican legislators have proven they are comfortable with big government. It is unlikely that fundamental change in Washington will occur while they continue to control legislative debate and action.”

For those reasons, in 1995 the Speaker of the House decided to limit the terms of House committee chairs to three terms, totaling six years. Those limits are an important dent in a corrupt system. Term limits on those powerful positions make the House more responsible and open the way for newer members to influence policy. The 107th Congress should retain term limits on committee chairs in the House and extend them to Senate committee chairs.

Why We Need a Citizen Legislature

Why are term limits so popular? Americans believe that career legislators and professional politicians have created a gaping chasm between themselves and their government. For democracy to work, it must be representative—a government of, by, and for the people. Democracy in America requires a citizen legislature.

To be a citizen legislator, a member of Congress should not be far removed from the private sector. The members of the House of Representatives, in particular, should be close to the people they represent. As Rhode Island's Roger Sherman wrote at the time of our nation's founding: "Representatives ought to return home and mix with the people. By remaining at the seat of government, they would acquire the habits of the place, which might differ from those of their constituents." In the era of year-round legislative sessions, the only way to achieve that objective is through term limits.

What should be the limit on terms? Some observers have proposed as many as six terms (or 12 years) for the House. Three terms for the House is better for several reasons. America is best served by a Congress whose members are there out of a sense of civic duty but who would rather live their lives in the private sector, holding productive jobs in civil society, far removed from government and politics. Such individuals might be willing to spend two, four, or even six years in Washington, but not if the legislative agenda is being set by others who have gained their authority through seniority. Twelve-year "limits," which amount to a mini-career, do little to remove this major obstacle to a more diverse and representative group of Americans seeking office.

We already have hard evidence that short, three-term limits will enhance the democratic process: Proposition 140 in California, which was passed by the voters there in 1990 and limited the state assembly to three two-year terms. The 1992 assembly elections witnessed a sharp increase in the number of citizens seeking office, with a remarkable 27 freshmen elected to the 80-member lower house of the California legislature. In an article on that freshman class, the *Los Angeles Times* said: "Among the things making the group unusual is that most of them are true outsiders. For the first time in years, the freshman class does not include an abundance of former legislative aides who moved up the ladder to become members. . . . Among the 27 are a former U.S. Air Force fighter pilot, a former sheriff-coroner, a paralegal, a retired teacher, a video store owner, a businesswoman-homemaker, a children's advocate, an interior designer, a retired sheriff's lieutenant, and a number of businessmen, lawyers, and former city council members."

A 1996 scholarly study of the California legislature by Mark Petracca of the University of California at Irvine found that the strict term limits Californians passed in 1990 had had the following consequences:

- Turnover in both legislative chambers had increased markedly.
- The number of incumbents seeking reelection had dropped sharply.

- The percentage of elections in which incumbents won reelection had dropped significantly.
- The number of women in both houses had increased.
- The number of uncontested races had declined.
- The number of candidates seeking office in both chambers had increased.
- The winning margin of incumbents had declined.

While perhaps not attractive to people seeking to be career politicians, all those developments please the great majority of Americans who favor a return to citizen legislatures.

Similarly, a three-term limit for the U.S. House of Representatives will return control of the House—not just through voting, but also through participation—to the people. We must make the possibility of serving in Congress a more attractive option for millions more Americans.

Many people reason that experienced legislators have brought us the huge deficit and such undesirable episodes as the \$300 billion savings-and-loan bailout. The latter disaster is a good example of why the common sense of Americans rooted in the private sector should inform Congress.

It's likely that a Congress picked by lottery would have refused to expand federal deposit insurance as part of the necessary move to deregulate the thrift industry. "Inexperienced" legislators would have said, in effect, yes, do deregulate, but for goodness sake don't ask the American taxpayer to pay for any bad investments the thrift institutions make—that's a license to speculate. But our experienced legislators apparently thought they could repeal the laws of economics, raising the level of federal deposit insurance and extending it to the deposit rather than the depositor, thus allowing the wealthiest people in the nation to spread their deposits around with utter indifference to the financial soundness of the institutions in which they invested. We are still paying the price for such legislative hubris.

A second reason for shorter term limits is that the longer one is in Congress, the more one is exposed to and influenced by the "culture of ruling" that permeates life inside the Beltway. Groups like the National Taxpayers Union have shown that the longer people serve in Congress, the bigger spenders and regulators they become. That is just as true of conservatives as it is of liberals. It is also understandable. Members of Congress are surrounded at work and socially by people who spend other people's money and regulate their lives. It is the unusual individual—although such people do exist—who is not subtly but surely affected by that culture.

Three terms rather than six would better serve as an antidote to the growing “professionalization” of the legislative process. As Mark Petracca has written:

Whereas representative government aspires to maintain a proximity of sympathy and interests between representative and represented, professionalism creates authority, autonomy, and hierarchy, distancing the expert from the client. Though this distance may be necessary and functional for lawyers, nurses, physicians, accountants, and social scientists, the qualities and characteristics associated with being a “professional” legislator run counter to the supposed goals of a representative democracy. Professionalism encourages an independence of ambition, judgment, and behavior that is squarely at odds with the inherently dependent nature of representative government.

Finally, shorter limits for the House will enhance the competitiveness of elections and, as noted above, increase the number and diversity of Americans choosing to run for Congress. The most competitive races (and the ones that bring out the largest number of primary candidates) are for open seats.

At least a third of all House seats will be open each election under three-term limits, and it is probable that as many as half will not feature an incumbent seeking reelection. We also know from past experience that women and minorities have greater electoral success in races for open seats.

The incentives for a citizen legislature are significantly stronger with shorter term limits. Six-term limits are long enough to induce incumbents to stick around for the entire 12 years. Three-term limits are short enough to prompt incumbents to return to the private sector before spending six years in the House. Under a three-term limit, we will witness a return to the 19th-century norm of half the House being freshmen—a true citizen legislature.

The second most competitive races are incumbents’ first attempts at reelection and the races just before retirement. Thus, under a three-term limit, virtually all races for the House of Representatives will be more competitive than is the case today or would be the case under six-term limits.

The members of a true citizen legislature literally view their time in office as a leave of absence from their real jobs or careers. Their larger ambitions lie in the private sector and not in expanding the ambit of government. Citizen legislators are true public servants, not the new masters of the political class.

State Legislative Term Limits Are Working

Term limits are taking effect all over the country in state legislatures and at the local level—and they are working. The shrill predictions of the political class are becoming a joke as term limits begin to accomplish exactly what supporters argued they would. Congress should take note.

- The first session of the California Legislature (after term limits fully took effect for the assembly) was hailed as one of the best ever. Dan Walters, a columnist with the *Sacramento Bee* and no fan of term limits, wrote,

One would have to go back a long way, perhaps decades, to find a legislative session that produced as much . . . but maybe what happened this year indicates that the advocates of term limits were not as wrong-headed as many thought about freeing the Legislature from boss rule.

- Dan Schnur, a former aide to Gov. Pete Wilson, said:

Career politicians warned of the public policy catastrophe that was bound to occur if the governing process was left in the hands of amateurs. In fact, this year's Legislature, which includes a huge majority of members elected under term limits, was responsible for the most productive session in a generation. With the ranks of the career politicians dwindling and the Legislature dominated by members with stronger ties to their constituents in their own communities than to the special interests in the state Capitol . . . the amateur politicians had managed to pass . . . the largest state tax cut in a generation.

- A black candidate from Arkansas told *USA Today* that term limits was the most important legislation for minorities since the Civil Rights Act.
- In Ohio, term limits opened the way for other campaign and ethics reforms. The head of Ohio Common Cause, who fought against the term-limits amendment, later admitted to the *Wall Street Journal* that term limitation deserved credit, saying it “created a kind of public interest momentum.”
- In Maine and Oregon, term limits have opened the way for the election of each state's first woman speaker of the house. (Not a single committee in either chamber of Congress is headed by a woman.) California term limits led to the first Hispanic speaker as

well as a doubling of the number of Hispanic representatives in the legislature.

- *Term Limits in the State Legislatures*, a comprehensive scholarly study, found that term limits have produced legislators less concerned with grabbing pork for their districts and that term-limited legislators place “higher priority than do their non-limited counterparts on the needs of the state as a whole and on the demands of conscience relative to more narrow district interests.”
- Two economists, Stephanie Owings and Rainald Borck, found that citizen state legislatures lead to lower government spending. By reducing legislative professionalization, term limits offer the chance to limit the scope of government.
- Stuart Rothenberg recently noted in *Roll Call* that “term limits seem to have accomplished one thing in almost all of the states that have adopted them: increasing political competition by upping the number of open legislative seats. More competitive primaries have meant an upswing in voter interest and, at least in Michigan, a slight increase in open-seat turnout.”
- *USA Today* reported that state term limits have also increased political competition at the national level. In the 18 states that limit legislative terms, 39 legislators (2.2 per state) filed as candidates for Congress in 2000. In the 32 states without term limits, 57 legislators (1.8 per state) ran for Congress.

Term limits are also reducing the power of lobbyists and special interests and opening up the political process to new people from all walks of life. Term limits are working. Congress can’t hold out forever.

Conclusion

In the introductory essay in *The Politics and Law of Term Limits*, coauthors Ed Crane and Roger Pilon wrote:

Stepping back from these policy arguments, however, one sees a deeper issue in the term-limits debate, an issue that takes us to our very foundations as a nation. No one can doubt that America was dedicated to the proposition that each of us is and ought to be free—free to plan, and live his own life, as a private individual, under a government instituted to secure that freedom. Thus, implicit in our founding vision is the idea that most human affairs take place in what today we call the private sector. That sector—and this is the crucial point—is primary: government comes from it, not the other way around. When we send men and women to Congress to “represent”

us, therefore, we want them to understand that they represent us, the overwhelming number of Americans who live our daily lives in that private sector. Moreover, we want them to remember that it is to that private world that they must return, to live under the laws they have made as our representatives. That, in essence, is the message implicit in the growing call for term limits. It is not simply or even primarily a message about “good government.” Rather, it is a message about the very place of government in the larger scheme of things. Government is meant to be our servant, to assist us by securing our liberty as we live our essentially private lives. It is not meant to be our master in some grand public adventure.

The term-limits movement is not motivated by disdain for the institution of Congress. It is motivated by a sincere desire on the part of the American people to regain control of the most representative part of the federal government. Resistance to this movement on the part of elected federal legislators only underscores the image of an Imperial Congress.

Those who sign the Term Limits Declaration are on the record as citizen legislators. Increasingly, that pledge will make the difference in winning competitive seats in Congress. Already, in just the first year of the campaign, more than 55 members of the House and Senate are under self-imposed limits. Term-limits groups predict that that number will climb to 100 members by 2000 and as high as 150 members by 2002. The seniority system, rotten at its core, cannot survive a Congress where more and more members are under term limits. Nor can wrong-headed policies and wasteful spending projects survive a Congress with so many citizen legislators.

Make no mistake: term limits remain an issue to be reckoned with. Public support is even stronger and deeper for candidates’ making personal term-limits commitments than for a term-limits amendment. Voters seek to replace career politicians with dedicated citizen legislators as the best solution to what ails us in Washington. Political leaders who understand the problems created by a permanent ruling elite in Washington—or who simply want to abide by the overwhelming will of their constituents—will pledge to serve no more than three additional terms in the House or two in the Senate.

Suggested Readings

- Crane, Edward H., and Roger Pilon, eds. *The Politics and Law of Term Limits*. Washington: Cato Institute, 1994.
- Bandow, Doug. “The Political Revolution That Wasn’t: Why Term Limits Are Needed Now More Than Ever.” Cato Institute Policy Analysis no. 259, September 5, 1996.

- Carey, John M., Richard G. Niemi, and Lynda W. Powell, *Term Limits in the State Legislatures*. Ann Arbor: University of Michigan Press, 2000.
- Elhauge, Einer. “What Term Limits Do That Ordinary Voting Cannot.” Cato Institute Policy Analysis no. 328, December 16, 1998.
- O’Keefe, Eric. *Who Rules America? The People vs. the Political Class*. Spring Green, Wis.: Citizen Government Foundation, 1999.
- O’Keefe, Eric, and Aaron Steelman. “The End of Representation: How Congress Stifles Electoral Competition.” Cato Institute Policy Analysis no. 279, August 20, 1997.
- Owings, Stephanie, and Rainald Borck. “Legislative Professionalism and Government Spending: Do Citizen Legislators Really Spend Less?” *Public Finance Review* 23 (2000): 210–25.
- Steelman, Aaron. “Term Limits and the Republican Congress.” Cato Institute Briefing Paper no. 41, October 27, 1998.

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