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# When a Popular Idea Meets Congress: The History of the Term Limit Debate in Congress

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**ABSTRACT:** *This paper examines the history of the term limit debate in the United States from the days of the Articles of Confederation through the 1990s. The research finds that the realities of the legislative process provide infertile ground for enacting congressional term limits. Advocates of term limits serving in Congress have not had the resources to overcome the obstacles presented by the legislative process. The findings contradict the conventional wisdom that Congress responds quickly to popular ideas that sweep the nation.*

The legislative term limit movement emerged as a significant political phenomenon in the early 1990s. Term limitation, however, was far from a new idea (see Petracca, 1992). In fact, the idea of placing limits on the amount of time an elected official spends in office has been debated since before the framing of the Constitution of the United States. The novelty of the Oklahoma term limit effort in 1990 was that it was successful and that it involved the mass electorate using the citizen initiative process. This paper surveys the history of the legislative term limit debate in the American political system and provides the reader with a context in which to place the term limit phenomenon of the 1990s. The present research also demonstrates the difficulties faced by term limit proposals in the "regular" legislative process.

## Limits in the Articles of Confederation and the Constitution

The delegates to the First and Second Continental Congresses did not have fixed terms of service. However, members of Congress under the Articles of Confederation (1776–1789) were selected by state legislatures annually with the restriction that "no person shall be capable of being a delegate for more than three years in any term of six years. . . ." (Articles of Confederation, Article V). Thus, the first national legislative body in the United States operated with term limitations.

During the life of the Articles of Confederation, the service of delegates who had violated the term restrictions was challenged many times. The Congress convened a Committee on Qualifications in 1784 to determine "whether any members were tarrying beyond their appointed terms" (Journal of the Continental Congress

1784, pp. 98–99). The Committee found Samuel Osgood of Massachusetts ineligible for service since he had served three years after the ratification of the Articles. Osgood withdrew from the House (Burnett, 1964). Other delegates were investigated, primarily for serving beyond the one year for which they had been elected. Some controversy ensued over the exact date of election for the delegates from Rhode Island, and they refused to vacate their seats. Concerned that prolonging the controversy might disrupt the proceedings of Congress, the Committee on Qualifications dropped the matter (Burnett, 1964). The inconveniences caused by term limits, a minor concern compared to other frustrations created by the Articles of Confederation, led to the calling of a convention to amend the Articles (Farrand, 1913, chap. 3). This convention eventually produced the Constitution in 1787.

The issue of limiting service in the legislative body to be created by the Constitution was discussed at the Constitutional Convention, but the delegates, many of whom had served in the term-limited Congress under the Articles, did not include term limits in the finished document. The "Virginia Plan" included a clause stipulating that members of the first branch of the national legislature not be eligible for reelection for a period of time after their terms had expired (U. S. Constitutional Convention, [1787] 1970). However, term limits for members of the national legislature were not incorporated into the Constitution.

Analysts differ on why the Founders chose to keep term limits out of the Constitution. Richardson (1991) reports that term limits and several other measures were characterized "as entering into too much detail for general proposition" (p. 44). According to the Federalist Papers, the delegates believed that in order to govern effectively, the members of the executive and legislative branches

needed to stay in office long enough to develop "a knowledge of the means by which t[he] object [of government] can best be obtained" (*Federalist* no. 62).

Petracca (1992) provides additional explanations for the Constitution's lack of term limits. Some delegates believed that since the terms of office in the House of Representatives were short (two years), mandatory rotation (or term limits) was unnecessary. It was inconceivable that representatives would win reelection many times and with short terms, House members would often return to their homes and mix with the people. Others, particularly the delegations from the New England states, did not think that rotation was necessary since instruction to representatives was the norm in that region. Constitutional safeguards, such as separation of powers, made mandatory rotation seem unnecessary. Finally, voluntary rotation was the practice in most state legislatures of the era and the delegates believed that the tradition would become the norm in the new national legislature.

James K. Coyne, a founder and former president of Americans to Limit Congressional Terms (ALCT) and a former U.S. representative from Pennsylvania, posits that term limits were not included in the Constitution because the delegates could not agree on the length of the limits. Thus, they "established the minimum qualifications for service in Congress—age, residency, and citizenship." "The delegates," Coyne argued in an interview, "fully expected states to enact different term limits to meet their different needs."

As we know, term limits, or mandatory rotation, were not included in the Constitution by the Framers. However, the tenure of many state executives was limited. Voluntary rotation was the norm in state legislatures. George Washington, in refusing to run for a third term as President, established a voluntary rotation tradition lasting until 1940 when President Franklin Roosevelt successfully campaigned for a third term.

After the Constitution was ratified, the discussion of term limits at the national level did not reach the political agenda again until the 1940s with the debate surrounding Roosevelt's disregard of Washington's presidential precedent. The result of this debate was the 22nd Amendment limiting the President to two terms.

### Congressional Activity on Term Limits

There was little discussion of congressional term limits in the period from 1789 through the 1940s (Richardson, 1991). However, term limitation for members of

the new Congress was an issue early in the history of the body. During the First Congress (1789–1791), Representative Thomas Tucker of South Carolina, responding to Anti-Federalist arguments raised during the Constitution's ratification, introduced two proposals relating to congressional terms. The first would have restricted members of the House of Representatives to serving three consecutive terms during an eight-year period. The second resolution proposed reducing a Senator's term to one year and restricting him to five consecutive terms during a six-year period (*The Annals of Congress, 1789–1791*). The House did not vote on Tucker's proposals and there is no evidence that the proposals mobilized any public support.

Term limit debate did not resurface until the middle of the twentieth century. During the 150 years between term limit proposals in Congress, there was little interest among members of Congress for term limits, but not for the same reasons that contemporary members reject the proposal. Throughout the 19th Century, there was a tradition of voluntary rotation. Service in Congress was seen as a temporary stop on one's career path (Kernell, 1977). Price (1971) identifies the lack of a seniority system and the frequent shifts of party control as factors encouraging many members of the House who desired a career in politics to leave the House and seek seats in the Senate or in the Governor's Mansion. Even if a person had a desire to make the Congress his career, he would be dissuaded once he arrived in Washington. The city was "neither a pleasant nor a powerful place" (Hibbing, 1991, p. 4). A member of Congress had to endure "bitter and outrageous language, scathing ridicule, and sarcasm" from his colleagues (Price, 1971). The Congress of the 19th Century did not enjoy a great deal of power as Price (1971) describes: "in many respects the pre-1900 House was similar to the average current (1960s) state assembly."

When term limits emerged from obscurity to attract national public attention, it revolved around the issue of limiting the number of terms a President could serve. It is clear that proponents of presidential term limits were upset with Franklin Roosevelt's violation of Washington's two-term tradition. Because the American electorate had just elected President Roosevelt to four terms in office, the Congress, in proposing the twenty-second amendment, was acting contrary to the wishes of that electorate. In fact, the timing of the passage of the amendment suggests that it was an attempt by the Republican Party to reassert its control over government after regaining a congressional majority in 1946.

The history of the 22nd Amendment foreshadows the current congressional term limit process. Barnicle (1992) notes "Congress determined that presidential term limits could be enacted if presidential term limits received public support. Congress also determined that the ratification process was an adequate way to achieve public consent" (p.422). Thus, it did not matter that there was no public outcry for presidential term limits. The ratification process provided the necessary measure of public support without the people having to do anything.

The 22nd Amendment was ratified in 1951.<sup>1</sup> It should be noted "limitations on gubernatorial terms based upon fear of excessive executive power have always been fundamental to the constitutional design of state governments" (Beyle, 1992, p. 159). In fact, term-limit advocates reason that if the number of terms their governor, and now the President, may serve is limited, the terms of members of legislative bodies also should be limited.

### Twentieth Century Debate on Congressional Term Limits

After Representative Tucker's term limitation proposals met an apparently quiet death during the First Congress, congressional term limits were not discussed in Congress again until 1943, and then the discussion was a sidebar to the presidential term limit debate. Although the issue of congressional tenure had been debated for many years, Richardson (1991) notes that it was not until the 1970s that "length of service began to emerge as the dominant issue" (p. 45), rather than length of term.

Term limit proposals have been introduced fairly regularly in the U.S. House and Senate since the 1940s; however, little action has been taken on these proposals by either chamber. Prior to the 104th Congress (1995–1996), there had been three floor votes on bills or amendments involving term limits, all in the Senate where nongermane amendments to bills are allowed (one in 1947, one in 1991, and one in 1993). There also had been only three congressional hearings on the subject of term limits, although the hearing during the 79th Congress primarily concerned presidential terms (see U.S. Congress. Senate. Committee on the Judiciary, 1945). In 1994, the Republican Party included term limits as one of the items of its "Contract with America." As a result, the House held hearings and voted on a term limit constitutional amendment during the first 100 days in March 1995. The term limit amendment was the only one of the ten Contract

items to be defeated in the House. The Senate also held hearings in 1995. Constitutional amendments providing for congressional term limits were defeated in the House in the 105th Congress (1997–1998) as well.

#### *Term Limit Advocates in Congress*

Since the 1940s, there have been a large number of term limit proposals introduced in Congress. Although Congress has passed no proposal, a pattern emerged from an analysis of the advocates. Typically, a member of Congress mentioned term limits in the course of campaigning for his or her first election and then introduce legislation during his or her first term in office. Occasionally, a member continued to be reelected and to reintroduce the same term limit proposal. Typically these proposals are never reported out of committee. An examination of some of the term limit proponents who served in Congress addresses the reasons for this situation.

#### *Senator "Pappy" O'Daniel*

During the 1947 Senate debate on a proposed amendment limiting a President to two consecutive terms, Senator W. Lee "Pappy" O'Daniel (D-TX) was the first modern-day senator who offered an amendment to the proposed amendment in the nature of a substitute. O'Daniel's substitute amendment included provisions lengthening the President's and Vice President's terms to six years, prohibiting the President and Vice-President from seeking reelection, and limiting the aggregate service of a member of Congress to six years (*Congressional Record*, 1947, pp. 1962–1963).

Senator O'Daniel's statement in proposing his substitute is remarkably similar to the arguments heard in today's term limit discussion:

I . . . find that there is among our people a deep-rooted suspicion that some public officials have more interest in doing the things that will get them reelected, instead of doing the things that are best for the rank and file of our people. . . . I do not entertain much hope of having my proposal adopted at this time, I do propose it in all sincerity, because I believe such an amendment to our Constitution would be highly beneficial to the people of the United States. . . .  
(*Congressional Record*, 1947, p. 1963)

Senator O'Daniel's proposal had little support among his colleagues in the Senate. The O'Daniel substitute was defeated with only its sponsor voting in the affirmative.

### *Representative "Wat" Arnold*

Another term limit advocate in the 1940's was Representative Samuel Washington ("Wat") Arnold of the First District of Missouri. In June of 1944, Rep. Arnold, a Republican, introduced a proposed constitutional amendment (H.R. 172) that went beyond O'Daniel's proposal. It limited members of the House and Senate, as well as the President, to six years in office. Arnold's arguments mirror Senator O'Daniel's statement as well as the present-day arguments:

I find that I am, by virtue of my election, enrolled as a Member of the strongest pseudo union in the world. The rights of protective employment, seniority, and the innumerable privileges of office are mine to use as I will; and the payment of my dues, in the form of periodic reelection by my constituents, promises to become increasingly painless with the passing years. By careful tending of political fences, I find that representation is expected to blossom from the promising bud of popular service to the full flower of professionalism in the art of purveying legislation by the years. (*Congressional Record*, 1944, p. 2950)

Arnold's electoral history offers some insight into his unusual support of term limits, especially at a time when few desired to limit the service of members of Congress. He was elected by a district "which ha[d] gone Democratic except in the Hoover landslide of 1928, for three generations." He defeated a long-term incumbent Democrat by 8,300 votes without making a campaign speech. Seeking to advance the issue, Arnold also planned to present the proposal to the committee writing the Republican platform in 1944 (*Congressional Record*, 1944, p. 2950).

Rep. Arnold provides evidence that members of Congress can change their minds on the value of term limits. In 1947, Arnold decided to seek a fourth term, in effect violating the three-term limit his proposal would impose. He said in a statement announcing his reelection bid that "it was all a mistake, . . . it takes three terms before a congressman gets enough seniority to be of much benefit to his district" (*Hannibal Labor Press*, 1947, p. 1).

### *Representative Thomas Curtis*

In the 1950s and 1960s, another Republican Representative from Missouri, Thomas B. Curtis, was a leading advocate of congressional term limits in Congress. During his 18 years in Congress, Rep. Curtis introduced his proposal nine times. Curtis' proposal would have limited members of Congress to 12 consecutive years of service. With a "2-year sabbatical," the member would become

eligible again for election to the "National Legislature." In introducing the measure in 1965, Curtis complained that his bill often "appeared in lists of legislation least likely to succeed." He argued that congressional term limits were necessary to alleviate "the detrimental aspects of the seniority system," and to allow representatives the opportunity to "mix" with their constituents (*Congressional Record*, 1963, pp. 722-723).

For all his attempts, Representative Curtis' proposal never progressed very far through the legislative process. The lack of success can be attributed to a number of factors. First, the proposals were referred to the House Judiciary Committee, chaired by Rep. Emmanuel Celler (D-NY), a product of the seniority system. Second, Rep. Curtis did not work very hard to encourage his colleagues or constituents to support the bill. Finally, Curtis was unwilling to follow his own proposal. In 1962, a constituent, noticing that Curtis was seeking a seventh consecutive term, inquired of the Congressman: "if you honestly believe in your proposal, why do you not now 'sit out' a term as you want to force your colleagues to do?" Rep. Curtis responded that by sitting out a term he would rob his constituents of the benefits of his seniority.<sup>2</sup>

### *Representative Bill Frenzel*

Term limit activity in Congress continued through the 1960s and into the 1970s. While short-term members of Congress introduced some term limit proposals, the tradition of members introducing and reintroducing the same proposal in multiple Congresses continued. One such Congressman was Representative Bill Frenzel, a Republican from Minnesota. Frenzel served in the House of Representatives for 20 years, 10 Congresses, and he introduced an 18-year term limit in each of those Congresses. According to Frenzel, public reaction to his proposals was very minor, owing, perhaps, to the fact that "term limits were often overshadowed by other events." He first introduced his proposal primarily because he had mentioned it in his initial campaign for Congress, a campaign in which he criticized the "immortal Congress." Term limits, he argued, would bring members of Congress to the level of "mortals," thus allowing them to legislate more appropriately. He told a Memorial Day audience in Edina, Minnesota, in 1971, "too often the effect of longevity in Congress is to promote the status quo and to establish a general condition of inertia" (Frenzel Press Release, 1971, p. 1).

Frenzel reports that the press and his constituents never made any serious inquiry about his longevity in office. "When I first announced that I was seeking a seat in

the U. S. Congress, I mentioned that I would stay only about five or six terms," he said in an interview. "The Minnesota press corps would occasionally ask about that suggestion after my seventh term, but, since they never paid attention to my term limit idea, I was never held to my proposal."

#### *Post-Watergate Term Limit Debate*

The post-Watergate era resulted in the first attempt to bring "grass-roots" pressure on Congress to enact term limits. In 1977, "four relatively freshman Members of Congress" became directors of "the newly-formed Foundation for the Study of Presidential and Congressional Terms." The members were Senators Dennis DeConcini (D-AZ) and John C. Danforth (R-MO) and Representatives John W. Jenrette (D-SC) and Robert W. Kasten (R-WI). When the freshmen members of Congress joined the Foundation, they expressed frustration at the inability to discuss term limits through the "Congressional route." Instead, they were trying "a new route - through the public."<sup>3</sup>

The Foundation for the Study of Presidential and Congressional Terms approached the subject of congressional term limits from a scholarly perspective. To draw the public's attention to term limits, the Foundation planned "a program of public forums such as college debates, speeches and essay contests." Additionally, there were plans to give the public the chance "to vote on the question of limiting both Congressional and Presidential terms" by putting the question on "eight or 10 statewide ballots" in 1978.<sup>4</sup> While these plans foreshadow several strategies employed by the term limit movement of the 1990s, there is no evidence that the public ever had the chance to vote on congressional term limits before 1990.

Even though the Foundation apparently was unable to hold statewide votes on congressional terms, the organization continued to function through the early 1980s. A document published by the foundation in 1980 indicates that it was "a National Heritage Foundation" (Foundation for the Study of Presidential and Congressional Terms, 1980). A review of its 1980 Board of Directors is instructive. Griffin Bell was a director as was his colleague in the Carter Administration, Cyrus Vance. Former Representative Thomas B. Curtis (R-MO) also served as a director. By 1981, the foundation appears to have ceased operation. It can claim some success in bringing the subject of congressional term limits to public attention through congressional hearings.

The post-Watergate era also witnessed the first congressional hearings on term limits. Interestingly, the

hearings were scheduled at the insistence of now Senator Dennis DeConcini (D-AZ). Previously, it had been the Republican minority in Congress that actively supported term limits. The late 1970s were a time of increased distrust of government. In fact, the committee that held the term limit hearings had earlier heard testimony on the subject of establishing a "national voter initiative." In opening the hearings, Senator DeConcini stated many of the arguments for term limits found in today's debate. Incumbency in the House and Senate was becoming a problem, DeConcini argued, and had resulted in an increased "rigidity in government." Term limits would break up the "cozy triangles or subgovernments" that had emerged in government. The electorate would be offered new alternatives at the ballot box, as persons from various walks of life would be drawn to public service (U. S. Congress. Senate. Committee on the Judiciary. Subcommittee on the Constitution 1978, pp. 4-6).

The 1978 hearing did not result in Congress proposing a constitutional term limit amendment to the states. Although Senator DeConcini continued to support term limits and introduce proposals in the Senate throughout his career, he did not make any additional effort to develop a movement among the American people. Experts from the Foundation for the Study of Presidential and Congressional Terms presented testimony at the congressional term limit hearing, as did former Representative Curtis. George Will and the *Wall Street Journal* editorialized against the suggestion that congressional tenure needed to be limited. Political scientists, including Norman Ornstein and Thomas Mann, argued that term limits were a bad idea. The congressional hearings in 1978 failed to energize any portion of the mass electorate to demand congressional term limits.

#### **Congressional Term Limit Activity in States During the the 1980s**

The 1980s witnessed a transformation of congressional term limit activity. Members of Congress still introduced term limit measures and the press, the public, and their colleagues largely still ignored the proposals, but a term limit murmur began to emit from the states. In 1983, the Utah legislature passed a resolution calling for a constitutional convention on congressional term limits. South Dakota's legislature passed similar legislation in 1989 (Richardson, 1991). In 1991, similar resolutions were introduced in Arizona, Arkansas, Maryland, Montana, Oregon, Rhode Island, Florida, and North Dakota. Almost

all resolutions were tabled or died in committee (Richardson, 1993). Much of the congressional term limit legislation introduced in state legislatures after 1991 were attempts to direct attention away from citizen initiatives on term limits.

### *The Class of 1980*

The coattails of Ronald Reagan in 1980 brought a sizable number of Republicans to Congress. Like Rep. Bill McCollum of Florida, many campaigned on a program that included term limits and a number continued their association with term limit legislation. Rep. Tommy Hartnett (R-SC), who introduced the term limit platform plank in 1988, was a member of the Republican Class of 1980. Unlike McCollum and Hartnett, many Republican freshmen were defeated in the mid-term election of 1982. One of these unlucky freshmen was a representative from southeastern Pennsylvania, James K. Coyne. He eventually became president of Americans to Limit Congressional Terms in the 1990s. Another similarly unfortunate Republican freshman was John Napier of South Carolina.

In 1980, Napier campaigned for a seat in the House advocating a simple two-part plan. First, he wanted to ensure that Congress operated under the same laws it enacted for others. The second part of Napier's platform was congressional term limitations. His proposal included a limit of six two-year terms for members of the House and two six-year terms for Senators. This position is interesting considering that Napier's Democratic opponent, John Jenrette, was one of the founding directors of the Foundation for the Study of Presidential and Congressional Terms in 1977. Napier was successful in his campaign for Congress largely because Jenrette had been implicated in the ABSCAM scandal of the late 1970s.

Napier reported he was introduced to the idea of rotation or term limits while working for Senator Strom Thurmond of South Carolina. During Napier's first couple of years as a Senate staffer, he noticed that good senators were quitting the chamber in frustration. On their way out, these senators would often remark that the "system works best when people move in and out." The comments inspired Napier to research the idea of rotation. His belief in the wisdom of rotation was honed during a stint as a counsel on a Senate committee charged with writing a Code of Ethics in 1977. Napier also was inspired by the words of former Senator Howard Baker (R-TN) who often would wax eloquent on the virtues of the "citizen legislator" in speeches on the Floor or in

committee. To Napier, it seemed only natural to include term limits in his campaign program in 1980.

Rep. Napier followed through with his term limit proposal by introducing a bill in his first year in office. The bill (H.J. Res. 270) was cosponsored by three supporters of term limits, Representatives Bill McCollum, Tommy Hartnett, and Dan Coats of Indiana. The bill was buried in the House Judiciary Committee although Napier's local press and constituents, according to the former congressman, received it favorably. Rep. Napier was not received as favorably overall. In 1982, Democrat Robin Tallon defeated him. According to Napier, the district was not "designed for a Republican."

### *Committee on Limiting Terms*

During the 1980s, members of Congress again made some effort toward developing a term limit movement among the public. A group of Republican House members from the "Class of 1980" organized the Committee on Limiting Terms (COLT) in 1985. The group's objective "was to form something where we could go out . . . and reach the public and try to stimulate support for this concept [of term limits]" (*Congressional Record*, 1988, H9566 [4 October]).

COLT's organization was largely the effort of Rep. McCollum. He recounted in an interview that he and some of his colleagues noticed a need for "some vehicle to raise money for the term limit effort." They decided that a group had to "begin preparing a plan to realize the enactment of term limits." This group would provide a stable organization controlled by members of Congress, who are accountable to voters. Originally, COLT promoted a call for a limited constitutional convention to enact term limits.

In an interview, Rep. McCollum reported that COLT was not involved in the term limit movement after the 1992 campaign. He believed that a group of members of Congress should be involved, but his attempts to bring COLT into the developing term limit phenomenon were rebuffed by term limit advocates outside of Congress. In 1992, COLT joined with Common Sense, Inc., and shared an executive director with that organization. Common Sense also served as a fundraiser for COLT, but by November 1992, Rep. McCollum realized that fundraising efforts were not very productive. McCollum and COLT ended the partnership with Common Sense. In 1994, COLT maintained a mailing list of potential financial contributors and the group distributed a "pledge" to congressional candidates asking for their support for a constitutional amendment limiting mem-

bers of Congress to 12 years in the House and 12 years in the Senate. Rep. McCollum continued to work for term limits in Congress through informal meetings with other term limit supporters. According to McCollum, mobilizing the public to support an issue requires funds and "we [COLT] weren't getting any."

### *Congressional Term Limits and the GOP Platform*

During the summer of 1988, an event occurred that sparked the term limit movement lasting into the 1990s. For the first time in history, a major party platform included a plank calling for a constitutional amendment limiting congressional terms. Offered "almost lightheartedly" to the Republican Convention platform committee by former Representative Tommy Hartnett of South Carolina, the measure was approved, to Hartnett's surprise. In support of his proposal, Hartnett argued that members of the House and Senate seek reelection "unwilling to discipline [federal] spending, so the only way we can discipline spending is to discipline the members of Congress themselves . . . , make 'em live under the laws they pass."<sup>5</sup> In 1992, an identical term limit proposal appeared in the Republican platform. Neither the 1988 platform nor the one in 1992 specified the length of the term limit.

### *Representative Bill McCollum*

Despite the largely unsuccessful effort at mobilizing the public, Rep. McCollum resembles the other members of Congress examined here. He was first elected in 1980, running on a platform that included term limits. He has introduced a 12-year term limit amendment in each Congress since 1981 and every proposal has met a silent death. With the activity created by the term limit movement of the 1990s, Rep. McCollum recently has worked harder at advocating his proposal. He submitted two discharge petitions in the 102nd and 103rd Congresses; neither collected the requisite number of signatures. He also organized a number of "Special Orders," press conferences, and discussion sessions for members of Congress on the subject of term limits. His term limit proposal was one of the options which was part of the "Contract with America" and which was subsequently defeated.

Rep. McCollum faced an interesting situation in 1992. Since his freshman year in Congress, he had proposed constitutional amendments limiting congressional terms to 12 years. In 1992, he was running for reelection to a seventh term that would not be allowed under his proposal. Rep. McCollum's opponent in the 1992 general election was a spokesman for "Eight is Enough," the

1992 term limit initiative campaign in Florida. The opponent, Mike Kovaleski, challenged McCollum on his apparent hypocrisy in calling for term limits without limiting himself. Rep. McCollum responded in familiar fashion, arguing that he could do more for Florida and the cause of term limits by staying in the House. With his experience and seniority, he would hurt his district by leaving.<sup>6</sup>

Before leaving the case of Rep. McCollum it is instructive to note that he was fairly active in term limit discussions in the House during the first session of the 103rd Congress in 1993. During the second session (1994), however, he became more deeply involved in "crime" issues important to his constituents in Florida. With the resignation of Minority Leader Robert Michel of Illinois and the ascension of Newt Gingrich of Georgia, Rep. McCollum actively campaigned for the position of Minority Whip.

### *The Contract with America and the US Supreme Court*

Members of Congress continue to introduce term limit legislation, which continues to face institutional and political barriers. One small victory was achieved in the fall of 1993, when the House Subcommittee on Civil and Constitutional Rights began hearings on term limits. A second round of hearings was held in early summer 1994.

In 1994, Republican candidates for the U.S. House of Representatives included a vote on congressional term limits as one item on "the Contract with America" (Gimpel 1996). When the party gained control of both Houses of Congress for the first time in 40 years, the Republican leadership was forced to bring term limits to a floor vote. Two Republican proposals were offered; the first (by Rep. McCollum) provided for a limit of 12 years in the House and 12 in the Senate, the second (by Rep. Bob Inglis of South Carolina) provided for only six years in the House and 12 in the Senate. Both proposals, and a number of alternatives, failed to garner the 290 votes necessary for a constitutional amendment.

In its 1995 ruling in *U.S. Term Limits v. Thornton* the U.S. Supreme Court voided the congressional term limit measures enacted in 22 states from 1991 through 1994. The Court found state-enacted congressional term limits violated the qualifications clause of Article I by adding a qualification for members of Congress. The result of this ruling is that any congressional term limits must be enacted through the amending process that requires a two-thirds vote of the House and Senate and ratification



by three-quarters of the states. Since the Thornton ruling, the House defeated constitutional amendments proposing term limits in 1997.

There has been little action on term limit legislation since the 105th Congress (1997–1998).

### Explaining the Failure of Term Limit Legislation

The failure of term limit legislation in Congress cannot be attributed to a lack of popular support for term limits. Public opinion data demonstrate that the idea has had popular support since the 1940s. Except at one point in 1955, the public has supported the concept of congressional term limits. However, not until the 1990s has public opinion been as overwhelmingly in support of term limits. Term limit advocates make a proper claim when they argue that “everyone (except incumbent officeholders) support term limits.” Term limit opponents argue Americans already have the power to limit politician’s terms in office. It is exercised every election day. While it is clear that the electorate has supported term limits for a number of years, two questions remain. Why did a movement not form before circa 1990? Why does the massive support of term limits not impact the legislative process?

#### Resources

Any explanation for the failure of term limit legislation to be acted on by Congress must include two factors: a lack of resources, and the political nature of term limit proposals. The first factor, a lack of resources, leaves more congressional term limit proponents in Congress unable to overcome the many institutional challenges faced by proposals. It is a rare member of Congress whose sole program is term limits. Usually, term limits are part of an agenda that includes other congressional reform issues, general government reform, and other ideas. The member of Congress must rally support for these other issues as well as for term limits, and term limits usually is the least important issue on the agenda. As Copeland (1993) found, members of Congress typically spend much more time on other proposals. Promoting a term limit proposal takes an enormous amount of time when the proposal does not have the support of either party’s leadership. It also is difficult for a member of Congress to find the resources to initiate a “movement” outside Congress.

Among the resources available to advocates of term limits are those members of Congress who support

**Table.** Support for term limits in the U.S. House of Representatives, 105th Congress, by political party and number of terms served (N=427).

| Political Party        | Support for Term Limits |      |
|------------------------|-------------------------|------|
|                        | Yes                     | No   |
| Democrats              | 18.5                    | 81.5 |
| Republicans            | 79.3                    | 20.7 |
| Number of Terms Served |                         |      |
| One                    | 51.4                    | 48.6 |
| 2–4                    | 64.4                    | 35.6 |
| 5 or more              | 34.5                    | 65.5 |

Source: House Roll Call 21, 105th Congress, First Session (Corbett, 1999, p. 162).

the concept. Many term limit supporters in Congress, though, have tended to be less senior members of the Republican Party. Interestingly, Republicans in leadership positions tend to look at term limits with disfavor or support the idea because of its political value. The long thin line of term limit supporters includes many who change their point of view as they gain seniority or those who campaigned on term limits solely in order to win the election.

The second leg on which an explanation of congressional term limit failure rests is purely political. Commentators of all political stripes have recognized that members of Congress will not vote for something that is not in their best interest. On its face, voting to enact term limits would appear to not be in the best interest of a member of Congress. However, if it seems that a large segment of the electorate supports the concept of term limits (as it does), then a vote for term limits would be self-serving. In the words of one congressional observer, “half of the term limit bills introduced in any one Congress are introduced for purely political reasons.” Congressional candidates, in their zeal to run against the institution, often invoke term limits in campaign speeches and advertisements, usually to wild applause. When they reach the Floor of the House or Senate, among the first pieces of legislation they introduce may be a proposed constitutional amendment limiting congressional terms. It is rare that the proposal

receives any additional promotion from the Representative or Senator.

The political challenges faced by supporters of term limits become clear when the amending process is considered. To become an amendment, the proposal must be approved by two-thirds of both Houses of Congress. It then must be ratified by three-quarters of the states. Roll call data from two term limit votes in the House presents several of the obstacles faced in this process, while also indicating where support for term limits may be found in the House. Examining the 1995 vote, Mitchell (1996) finds that 70% of House members elected since 1992 voted in the affirmative on the amendment while 59% of those elected since 1982 supported term limits. Only 29% of the members of the House first elected before 1982 voted "yes" on the constitutional amendment. Data from the 1997 vote are presented in the table above.

Republican House members support term limits while Democrats largely oppose the idea. A second, but not surprising, characteristic of term limits support is that more senior members are more likely to oppose term limits. Of course, a sizable number of newer members of Congress are Republican.

## **The Cold, Barren Ground**

Term limitation is an old idea that burst on the American political agenda in the 1990s in a different form than it assumed in the past. Term limits have been discussed at the elite level for a long time without the mass public demanding to be involved. Except for the members of COLT, members of Congress have not attempted to mobilize the mass electorate for term limits.

The legislative arena is cold, barren ground for enacting term limits. The term limit phenomenon of the 1990s experienced its greatest success when it avoided the legislative process and focused instead on the more fertile ground it found in direct democracy. Through the direct democratic instrument of the citizen initiative, term limit activists were able to tap into the discontent of the American electorate.

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## **Notes**

1. Only two states, Oklahoma and Massachusetts, did not ratify the 22nd Amendment.
2. Lawrence W. Barron to Hon. Thomas B. Curtis, 22 August 1962. Thomas B. Curtis Papers, Western Historical Manuscript Collection, Ellis Library, University of Missouri-Columbia, Columbia, Missouri; Hon. Thomas B. Curtis to Lawrence W. Barron, 6 September 1962. Thomas B. Curtis Papers, Western Historical Manuscript Collection,

Ellis Library, University of Missouri-Columbia, Columbia, Missouri.

3. Mimi Noel, "A New Try to Limit Congressional Terms," Roll Call, 27 October 1977.
4. Noel, "A New Try."
5. David S. Broder, "GOP Moderates Rebuffed On Softening of Platform," Washington Post, 11 August 1988.
6. Mike Oliver, "Trying to Make a Name for Himself," Orlando Sentinel, 29 October 1992.

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